

**CITY OF CHARLES TOWN**

**Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program);and  
Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)**

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**CITY OF CHARLES TOWN**  
**COMBINED WATERWORKS AND SEWERAGE SYSTEM**  
**REVENUE BONDS, SERIES 2009 A**  
**(WEST VIRGINIA DWTRF PROGRAM); AND**  
**COMBINED WATERWORKS AND SEWERAGE SYSTEM**  
**REVENUE BONDS, SERIES 2009 B**  
**(WEST VIRGINIA DWTRF PROGRAM/ARRA)**

**BOND ORDINANCE**

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CITY OF CHARLES TOWN

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING WATERWORKS PORTION OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY OF CHARLES TOWN AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF CHARLES TOWN OF NOT MORE THAN \$1,665,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM); AND NOT MORE THAN \$1,665,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF CHARLES TOWN:

ARTICLE I

**STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS**

Section 1.01.      Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 8, Article 20 and Chapter 16, Article 13 C of the West Virginia Code of 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

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

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

B.      The Issuer presently owns and operates, through the City of Charles Town Utility Board (the "Board") a combined municipal waterworks and sewerage system (the "System"). However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain additions, betterments and

improvements existing waterworks portion of the System of the Issuer, consisting of installation of radio read water metering, leak detection and water line repair, together with all necessary appurtenances (collectively, the "Project") (the existing combined waterworks and sewerage system of the Issuer, the Project and any further additions, betterments and improvements thereto are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The Issuer intends permanently finance the costs of acquisition and construction of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority (the "Authority"), which administers the West Virginia Drinking Water Treatment Revolving Fund.

D. It is deemed necessary for the Issuer to issue its Combined Waterworks and Sewerage System Revenue Bonds, in the total aggregate principal amount of not more than \$10,700,000 in two or more series (collectively, the "Series 2009 Bonds") initially planned to be (i) the Combined Waterworks and Sewerage System Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) in the aggregate principal amount of not more than \$1,655,000 (the "Series 2009 A Bonds") and (ii) the Combined Waterworks and Sewerage System Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA) in the aggregate principal amount of not more than \$1,655,000, (the "Series 2009 B Bonds") to permanently finance a portion of the costs of acquisition and construction of the Project, and pay the costs of issuance thereof. Such costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest, if any, upon the Series 2009 Bonds prior to and during acquisition or construction and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Reserve Accounts (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority including the Administrative Fee (as hereinafter defined) for the Series 2009 Bonds; discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2009 Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof, provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2009 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

E. The period of usefulness of the System after completion of the Project is not less than 22 years.

F. It is in the best interests of the Issuer that its Series 2009 A Bonds be sold to the Authority pursuant to the terms and provisions of a ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the West Virginia Bureau for Public Health (the "BPH"), and that the Series 2009 B Bonds be sold to the Authority pursuant to the terms of a ARRA Assistance Agreement by and between the Issuer and the Authority on behalf of the BPH both in the form satisfactory to the respective parties (collectively the "ARRA Assistance Agreement") approved hereby if not previously approved by resolution of the Issuer.

G. There are outstanding obligations of the Issuer which will rank on a parity with the Series 2009 Bonds as to liens, pledge, source of and security for payment, as follows:

- (1) Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B, dated November 18, 1987, issued in the original aggregate principal amount of \$413,629 (the "Series 1987 B Bonds");
- (2) Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-1, dated May 4, 1988, issued in the original aggregate principal amount of \$295,916 (the "Series 1988 B-1 Bonds");
- (3) Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-2, dated May 20, 1988, issued in the original aggregate principal amount of \$558,000 (the "Series 1988 B-2 Bonds");
- (4) Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, dated April 13, 1989, issued in the original aggregate principal amount of \$117,480 (the "Series 1989 B Bonds");
- (5) Combined Waterworks and Sewerage System Refunding Revenue Bonds, Series 1998, dated May 15, 1998, issued in the original aggregate principal amount of \$10,355,000 (the "Series 1998 Refunding Bonds");
- (6) Combined Waterworks and Sewerage System Design Revenue Bonds, Series 1998 (West Virginia SRF Program), dated September 29, 1998, issued in the original aggregate principal amount of \$437,601 (the "Series 1998 Design Bonds");
- (7) Combined Waterworks and Sewerage System Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated June 22, 2000, issued in the original aggregate principal amount of \$3,163,781 (the "Series 2000 A Bonds");
- (8) Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 A (West Virginia Water Development Authority), dated August 22, 2002, issued in the original aggregate principal amount of \$1,100,000 (the "Series 2002 A Bonds");
- (9) Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund), dated August 22, 2002, issued in the original aggregate principal amount of \$3,600,000 (the "Series 2002 B Bonds");
- (10) Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 C (Insured), dated December 1, 2002, issued in the original aggregate principal amount of \$4,135,000 (the "Series 2002 C Bonds");
- (11) Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A (AMT - Uninsured), dated January 1, 2003, issued in the original aggregate principal amount of \$1,000,000 (the "Series 2003 A Bonds");

- (12) Combined Waterworks and Sewerage System Revenue Bonds, Series 2005 A (Taxable), dated June 15, 2005, issued in the original aggregate principal amount of \$2,355,000 (the "Series 2005 A Bonds");
- (13) Combined Waterworks and Sewerage System Revenue Bonds, Series 2006 A (Taxable), dated January 19, 2006, issued in the original aggregate principal amount of \$1,830,000 (the "Series 2006 A Bonds"); and
- (14) Combined Waterworks and Sewerage System Revenue Bonds, Series 2006 B (Tax-Exempt), dated July 27, 2006, issued in the original aggregate principal amount of \$2,000,000 (the "Series 2006 B Bonds").

The Issuer also has outstanding its Combined Waterworks and Sewerage System Bond Anticipation Notes, Series 2007 A, dated April 11, 2007, issued in the original aggregate principal amount of \$1,070,000 (the "Series 2007 A Notes"). The Series 2007 A Notes are secured solely by the Surplus Revenues of the System and the proceeds of a subsequent series of bonds to be issued by the Issuer for the purpose of permanently financing the costs of the project temporarily financed by the proceeds of such Series 2007 A Notes. The proceeds of the Series 2007 A Notes are not secured by the Gross Revenues or Net Revenues of the System. The Series 2009 A Bonds and the Prior Bonds shall be senior and prior with respect to lien on and source of and security for payment to the Series 2007 A Notes.

The Series 1987 B Bonds, the Series 1988 B-1 Bonds, the Series 1988 B-2 Bonds, the Series 1989 B Bonds, the Series 1998 Refunding Bonds, the Series 1998 Design Bonds, the Series 2000 A Bonds, the Series 2002 A Bonds, the Series 2002 B Bonds, the Series 2002 C Bonds, the Series 2003 A Bonds, the Series 2005 A Bonds, the Series 2006 A Bonds, and the Series 2006 B Bonds are hereinafter collectively called the "Prior Bonds." The ordinances which authorized the issuance of the Prior Bonds are herein collectively referred to as the "Prior Ordinances."

The Series 2009 A Bonds shall be issued on a parity with one another and with the Prior Bonds, all of which shall have a first lien position with respect to pledge and source of and security for payment and in all other respects. The Issuer has met the coverage requirements for issuance of parity bonds of the Prior Bonds and the Prior Ordinances and has substantially complied with all other parity requirements, except to the extent that noncompliance with any such other parity requirements is not of a material nature.

Prior to the issuance of the Series 2009 A Bonds, the Issuer will obtain (i) the certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met; and (ii) the written consent of the Registered Owners of the Prior Bonds to the issuance of the Series 2009 A Bonds on a parity with such Prior Bonds if required by the Prior Ordinances.

Other than the Prior Bonds and the Series 2007 A Notes, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

H. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all costs of operation and maintenance of the System, the principal of and interest on the Series 2009 Bonds and the Prior Bonds and to make payments into all funds and accounts and other payments provided for herein.

I. The Issuer has complied with all requirements of West Virginia law and the ARRA Assistance Agreement relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 2009 Bonds, or will have so complied prior to issuance of any thereof, including, among other things, the approval of the Project and the financing thereof by the Council and the obtaining of a Certificate of Public Convenience and Necessity from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 2009 Bonds or such final order will not be subject to appeal.

J. The Project has been reviewed and determined to be technically and financially feasible by the Council as required under Chapter 31, Article 15A of the West Virginia Code of 1931, as amended.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2009 Bonds by the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Bondholders of any and all of such Series 2009 Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds and by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

“Act” means, collectively, Chapter 8, Article 20 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended and in effect on the date of enactment hereof.

“Administrative Fee” means the Administrative Fee required to be paid pursuant to the ARRA Assistance Agreement for the 2009 Bonds.

“ARRA Assistance Agreement” means, the ARRA Assistance Agreement heretofore entered, or to be entered into by and between the Issuer and the Authority, on behalf of BPH, providing for the purchase of the Series 2009 Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by the Supplemental Resolution.

“Authority” means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2009 Bonds, or any other agency, board or department of the State that succeeds to the functions of the Authority, acting in its administrative capacity and upon authorization from the BPH under the Act.

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

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

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

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

“Bonds” means, collectively, the Series 2009 Bonds and the Prior Bonds and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another ordinance of the Issuer.

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

“BPH” means the West Virginia Bureau for Public Health, a division of the West Virginia Department of Health and Human Resources, or any successor thereto.

“Clerk” means the Clerk of the Issuer.

“Closing Date” means the date upon which there is an exchange of the Series 2009 Bonds for all or a portion of the proceeds of the Series 2009 Bonds from the Authority.

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

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

“Consulting Engineers” means Black & Veatch, Gathersburg, Maryland, or any qualified engineer or firm of engineers, licensed by the State, that shall at any time hereafter be procured by the Issuer as Consulting Engineers for the System, or portion thereof, in accordance with Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended; provided however, that the Consulting Engineers shall not be a regular, full-time employee of the State or any of its agencies, commissions, or political subdivisions.

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

“Depository Bank” means the bank designated as such in the Supplemental Resolution, and its successors and assigns, which shall be a member of FDIC.

“DWTRF Regulations” means the DWTRF regulations set forth in the West Virginia Code of State Regulations, as amended from time to time.

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

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

“Governing Body” means the Town Council of the Issuer, as it may now or hereafter be constituted.

“Grants” means any grants committed to the Project.

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

“Gross Revenues” means the aggregate gross operating and non-operating revenues of the System, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that “Gross Revenues” does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined, purchased pursuant to Article 8.01 hereof), or any Tap Fees, as hereinafter defined.

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

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

“Issuer” means the City of Charles Town, a municipal corporation and political subdivision of the State of West Virginia, in Jefferson County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

“Mayor” means the Mayor of the Issuer.

“Net Proceeds” means the face amount of the Series 2009 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 2009 Bonds Reserve Account.

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

“Operating Expenses” means the reasonable, proper and necessary costs of repair, operation and maintenance of the System, and includes, without limiting the generality of the

foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, the Administrative Fee, fees and expenses of the Authority, fiscal agents, the Depository Bank, the Registrar and Paying Agent (all as herein defined), payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Outstanding" when used with reference to Bonds or Prior Bonds and as of any particular date, describes all Bonds or Prior Bonds theretofore and thereupon being authenticated and delivered except (i) any Bond or Prior Bond cancelled by the Bond Registrar or Registrar for the Prior Bonds, at or prior to said date; (ii) any Bond or Prior Bond, for the payment of which monies, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder, and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Article X hereof; (iv) any Prior Bond deemed to have been paid; and (v) for purposes of consents or other action by a specified percentage of Bondholders, or holders of any Bonds or Prior Bonds registered to the Issuer.

"Parity Bonds" means Parity Bonds issued under the provisions and within the limitations prescribed by Section 7.07 hereof.

"Paying Agent" means the Commission or such other entity or authority as may be designated as a Paying Agent by the Issuer in the Supplemental Resolution with the written consent of the Authority and the BPH.

"Prior Bonds" means, collectively, the Series 1987 B Bonds, the Series 1988 B-1 Bonds, the Series 1988 B-2 Bonds, the Series 1989 B Bonds, the Series 1998 Design Bonds, the Series 1998 Refunding Bonds, the Series 2000 A Bonds, the Series 2002 A Bonds, the Series 2002 B Bonds, the Series 2002 C Bonds, the Series 2003 A Bonds, the Series 2005 A Bonds, the Series 2006 A Bonds, and the Series 2006 B Bonds.

"Prior Ordinance" means the ordinances of the Issuer, as supplemented by the supplemental resolutions of the Issuer, authorizing the Prior Bonds.

"Project" means the Project as described in Section 1.02B hereof.

"Qualified Investments" means and includes any of the following, unless otherwise set forth in the Supplemental Resolution:

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

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

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

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

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

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

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

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

"Registrar" means the Bond Registrar.

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

“Renewal and Replacement Fund” means the Depreciation Account created by the Prior Ordinance.

“Reserve Accounts” means, collectively, the reserve accounts established for the Prior Bonds, the Series 2009 A Bonds.

“Reserve Requirement” means, collectively, the respective amounts required to be on deposit in any Reserve Account for the Prior Bonds, and the Series 2009 Bonds.

“Revenue Fund” means the Revenue Fund established by the Prior Ordinance.

“Series 1987 B Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B, dated November 18, 1987, issued in the original aggregate principal amount of \$413,629.

“Series 1988 B-1 Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-1, dated May 4, 1988, issued in the original aggregate principal amount of \$295,916.

“Series 1988 B-2 Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-2, dated May 20, 1988, issued in the original aggregate principal amount of \$558,000.

“Series 1989 B Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, dated April 13, 1989, issued in the original aggregate principal amount of \$117,480.

“Series 1998 Refunding Bonds” means the Issuer’s Combined Waterworks and Sewerage System Refunding Revenue Bonds, Series 1998, dated May 15, 1998, issued in the original aggregate principal amount of \$10,355,000.

“Series 1998 Design Bonds” means the Issuer’s Combined Waterworks and Sewerage System Design Revenue Bonds, Series 1998 (West Virginia SRF Program), dated September 29, 1998, issued in the original aggregate principal amount of \$437,601.

“Series 2000 A Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated June 22, 2000, issued in the original aggregate principal amount of \$3,163,781.

“Series 2002 A Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 A (West Virginia Water Development Authority), dated August 22, 2002, issued in the original aggregate principal amount of \$1,100,000.

“Series 2002 B Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund), dated August 22, 2002, issued in the original aggregate principal amount of \$3,600,000.

“Series 2002 C Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 C (Insured), dated December 1, 2002, issued in the original aggregate principal amount of \$4,135,000.

“Series 2003 A Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A (AMT - Uninsured), dated January 1, 2003, issued in the original aggregate principal amount of \$1,000,000.

“Series 2005 A Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 2005 A (Taxable), dated June 15, 2005, issued in the original aggregate principal amount of \$2,355,000.

“Series 2006 A Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 2006 A (Taxable), dated January 19, 2006, issued in the original aggregate principal amount of \$1,830,000.

“Series 2006 B Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 2006 B (Tax-Exempt), dated July 27, 2006, issued in the original aggregate principal amount of \$2,000,000.

“Series 2007 A Notes” mean’s the Issuer’s Combined Waterworks and Sewerage System Bond Anticipation Notes, Series 2007 A, dated April 11, 2007, issued in the original aggregate principal amount of \$1,070,000.

“Series 2009 Bonds” means collectively the Series 2009 A Bonds and Series 2009 B Bonds.

“Series 2009 A Bonds” means the Combined Waterworks and Sewerage System Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), of the Issuer, authorized by this Bond Legislation.

“Series 2009 A Bonds Reserve Account” means the Series 2009 A Bonds Reserve Account established in Section 5.02 hereof.

“Series 2009 A Bonds Reserve Requirement” means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2009 A Bonds in the then current or any succeeding year.

“Series 2009 A Bonds Sinking Fund” means the Series 2009 A Bonds Sinking Fund established by Section 5.02 hereof.

“Series 2009 Bonds Construction Trust Fund” means the Series 2009 Bonds Construction Trust Fund established by Section 5.01 hereof.

“Series 2009 B Bonds” means the Combined Waterworks and Sewerage System Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), of the Issuer, authorized by this Bond Legislation.

“Series 2009 B Bonds Reserve Account” means the Series 2009 B Bonds Reserve Account established in Section 5.02 hereof.

“Series 2009 B Bonds Reserve Requirement” means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2009 B Bonds in the then current or any succeeding year.

“Series 2009 B Bonds Sinking Fund” means the Series 2009 B Bonds Sinking Fund established by Section 5.02 hereof.

“Sinking Funds” means, collectively, the respective reserve accounts established for the Prior Bonds and the Series 2009 Bonds.

“State” means the State of West Virginia.

“Supplemental Resolution” means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article “the,” refers specifically to the supplemental resolution authorizing the sale of the Series 2009 A Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2009 A Bonds, and not so included may be included in another Supplemental Resolution.

“Surplus Revenues” means the Net Revenues not required by the Bond Legislation or the Prior Ordinance to be set aside and held for the payment of or security for the Bonds or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund, the Sinking Funds and the Reserve Accounts.

“System” means collectively, the existing combined waterworks and sewerage system of the Issuer, and shall include any additions, betterments and improvements thereto hereafter acquired or constructed for the System from any sources whatsoever.

“Tap Fees” means the fees, if any, paid by prospective customers of the System in order to connect thereto.

“West Virginia DWTRF Program” means the West Virginia Drinking Water Treatment Revolving Fund Program established by the State, administered by BPH and funded by capitalized grants awarded to the State pursuant to the Federal Safe Drinking Water Act, as amended, for the purpose of establishing and maintaining a permanent perpetual fund for the acquisition, construction and improvement of drinking water projects.

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

## ARTICLE II

### AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01.      Authorization of Acquisition and Construction of the Project.  
There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost not to exceed \$1,665,000, and ordered in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2009 A Bonds and the Series 2009 B Bonds, hereby authorized, shall be applied as provided in Article VI hereof.

The cost of the Project is estimated not to exceed \$1,665,000 of which not more than \$1,665,000 will be obtained from proceeds of the Series 2009 A Bonds, and not more than \$1,665,000 will be obtained from the proceeds of the Series 2009 B Bonds.

## ARTICLE III

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

Section 3.01.      Authorization of Bonds. For the purposes of paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 2009 Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the negotiable Series 2009 Bonds of the Issuer. The Series 2009 Bonds shall be issued in two series, each as a single bond, designated respectively as “Combined Waterworks and Sewerage System Revenue Bonds, Series 2009 A (West Virginia DWTRF Program)”, in the principal amount of not more than \$1,665,000, and “Combined Waterworks and Sewerage System Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA)”, in the principal amount of not more than \$1,665,000 and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2009 Bonds remaining after funding of the Reserve Accounts (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in or credited to the Series 2009 Bonds Construction Trust Fund established by Section 5.01 hereof.

Section 3.02.      Terms of Bonds. The Series 2009 Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the ARRA Assistance Agreement. The Series 2009 Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 2009 Bonds, if any, shall be paid by check or draft of the Paying Agent or its agent, mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 2009 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 debt service schedule attached, representing the aggregate principal amount of the Series 2009 Bonds. The Series 2009 Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. Such Bonds shall be dated and shall bear interest, if any, as specified in a Supplemental Resolution.

Section 3.03. Execution of Bonds. The Series 2009 Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Clerk. In case any one or more of the officers who shall have signed or sealed the Series 2009 Bonds shall cease to be such officer of the Issuer before the Series 2009 Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any such Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 2009 Bonds shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 hereof shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Series 2009 Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2009 Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting the Series 2009 Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 2009 Bonds remain outstanding, the Issuer, through the Bond Registrar or its agent, shall keep and maintain books for the registration and transfer of such Bonds.

The registered Series 2009 Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Series 2009 Bonds or transferring the registered Bonds are exercised, Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2009 Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 2009 Bonds shall not, in any event, be or constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No holder or holders of the Series 2009 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2009 Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues; Lien Position with Respect to Prior Bonds. The payment of the debt service on the Series 2009 Bonds shall be secured by a first lien on the Net Revenues derived from the System, on a parity with the lien on the Net Revenues in favor of the Holders of the Prior Bonds. The Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 2009 Bonds and the Prior Bonds and to make all other payments hereinafter set forth, are hereby irrevocably pledged to such payments as they become due.

Section 3.09.      Delivery of Bonds. The Issuer shall execute and deliver the Series 2009 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2009 A Bonds to the original purchasers upon receipt of the documents set forth below:

A. If other than the Authority, a list of the names in which the Series 2009 Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;

B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2009 Bonds to the original purchasers;

C. An executed and certified copy of the Bond Legislation;

D. Executed copies of the ARRA Assistance Agreement; and

E. The unqualified approving opinion of bond counsel on the Series 2009 Bonds.

Section 3.10.      Form of Bonds. The text of the Series 2009 Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF SERIES 2009 A BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF CHARLES TOWN  
COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS,  
SERIES 2009 A  
(WEST VIRGINIA DWTRF PROGRAM)

No. AR-1

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

KNOW ALL MEN BY THESE PRESENTS: That on this the \_\_\_\_ day of \_\_\_\_\_, 2009, the CITY OF CHARLES TOWN, a municipal corporation and political subdivision of the State of West Virginia in Jefferson County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, the principal of, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 200\_\_, to and including \_\_\_\_\_ 1, 20\_\_ as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference with interest payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 20\_\_, to and including \_\_\_\_\_ 1, 20\_\_, at an interest rate of 2% per annum as set forth on said EXHIBIT B. This Bond shall not be subject to the SRF Administrative fee (as defined in the hereinafter describe Bond Legislation).

Principal and interest installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of The Huntington National Bank, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated \_\_\_\_\_, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the waterworks portion of the existing combined waterworks and sewerage system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing combined waterworks and sewerage system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on \_\_\_\_\_, 2009, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S

- (1) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1987 B, DATED NOVEMBER 18, 1987, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$413,629 (THE "SERIES 1987 B BONDS");
- (2) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1988 B-1, DATED MAY 4, 1988, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$295,916 (THE "SERIES 1988 B-1 BONDS");
- (3) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1988 B-2, DATED MAY 20, 1988, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$558,000 (THE "SERIES 1988 B-2 BONDS");
- (4) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 B, DATED APRIL 13, 1989, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$117,480 (THE "SERIES 1989 B BONDS");
- (5) COMBINED WATERWORKS AND SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1998, DATED MAY 15, 1998, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$10,355,000 (THE "SERIES 1998 REFUNDING BONDS");
- (6) COMBINED WATERWORKS AND SEWERAGE SYSTEM DESIGN REVENUE BONDS, SERIES 1998 (WEST VIRGINIA SRF PROGRAM), DATED SEPTEMBER 29, 1998, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$437,601 (THE "SERIES 1998 DESIGN BONDS");

- (7) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2000 A (WEST VIRGINIA SRF PROGRAM), DATED JUNE 22, 2000, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$3,163,781 (THE "SERIES 2000 A BONDS");
- (8) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED AUGUST 22, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,100,000 (THE "SERIES 2002 A BONDS");
- (9) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2002 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED AUGUST 22, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$3,600,000 (THE "SERIES 2002 B BONDS");
- (10) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2002 C (INSURED), DATED DECEMBER 1, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$4,135,000 (THE "SERIES 2002 C BONDS");
- (11) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2003 A (AMT - UNINSURED), DATED JANUARY 1, 2003, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,000,000 (THE "SERIES 2003 A BONDS");
- (12) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2005 A (TAXABLE), DATED JUNE 15, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,355,000 (THE "SERIES 2005 A BONDS");
- (13) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2006 A (TAXABLE), DATED JANUARY 19, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,830,000 (THE "SERIES 2006 A BONDS"); AND
- (14) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2006 B (TAX-EXEMPT), DATED JULY 27, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,000,000 (THE "SERIES 2006 B BONDS"); AND
- (15) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA), DATED \_\_\_\_\_, 2009, ISSUED SIMULTANEOUSLY IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$ \_\_\_\_\_ (THE "SERIES 2009 B BONDS").

THE SERIES 1987 B BONDS, THE SERIES 1988 B-1 BONDS, THE SERIES 1988 B-2 BONDS, THE SERIES 1989 B BONDS, THE SERIES 1998 REFUNDING BONDS, THE SERIES 1998 DESIGN BONDS, THE SERIES 2000 A BONDS, THE SERIES 2002 A BONDS, THE SERIES 2002 B BONDS, THE SERIES 2002 C BONDS, THE SERIES 2003 A BONDS, THE SERIES 2005 A BONDS, THE SERIES 2006 A BONDS, AND THE SERIES 2006 B BONDS ARE HEREINAFTER COLLECTIVELY CALLED THE "PRIOR BONDS."

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenue in favor of the Holders of the Prior Bonds and the Series 2009 B Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2009 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all Bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2009 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds and the Series 2009 B Bonds; provided however, that so long as there exists in the Series 2009 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Prior Bonds and the Series 2009 B Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance described in the Bond

Legislation, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

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

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

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the CITY OF CHARLES TOWN has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Clerk, and has caused this Bond to be dated as of the day and year first written above.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: \_\_\_\_\_, 2009.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

\_\_\_\_\_  
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$		(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

TOTAL \$ \_\_\_\_\_

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

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

Dated: \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

(FORM OF SERIES 2009 B BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF CHARLES TOWN  
COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS,  
SERIES 2009 B  
(WEST VIRGINIA DWTRF PROGRAM/ARRA)

No. BR-1

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

KNOW ALL MEN BY THESE PRESENTS: That on this the \_\_\_\_ day of \_\_\_\_\_, 2009, the CITY OF CHARLES TOWN, a municipal corporation and political subdivision of the State of West Virginia in Jefferson County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, the principal of, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 200\_\_, to and including \_\_\_\_\_ 1, 20\_\_ as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference with interest payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 20\_\_, to and including \_\_\_\_\_ 1, 20\_\_, at an interest rate of 2% per annum as set forth on said EXHIBIT B. This Bond shall not be subject to the SRF Administrative fee (as defined in the hereinafter describe Bond Legislation).

Principal and interest installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of The Huntington National Bank, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated \_\_\_\_\_, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the waterworks portion of the existing combined waterworks and sewerage system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on \_\_\_\_\_, 2009, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S:

- (1) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1987 B, DATED NOVEMBER 18, 1987, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$413,629 (THE "SERIES 1987 B BONDS");
- (2) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1988 B-1, DATED MAY 4, 1988, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$295,916 (THE "SERIES 1988 B-1 BONDS");
- (3) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1988 B-2, DATED MAY 20, 1988, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$558,000 (THE "SERIES 1988 B-2 BONDS");
- (4) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 B, DATED APRIL 13, 1989, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$117,480 (THE "SERIES 1989 B BONDS");
- (5) COMBINED WATERWORKS AND SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1998, DATED MAY 15, 1998, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$10,355,000 (THE "SERIES 1998 REFUNDING BONDS");
- (6) COMBINED WATERWORKS AND SEWERAGE SYSTEM DESIGN REVENUE BONDS, SERIES 1998 (WEST VIRGINIA SRF PROGRAM), DATED SEPTEMBER 29, 1998, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$437,601 (THE "SERIES 1998 DESIGN BONDS");

- (7) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2000 A (WEST VIRGINIA SRF PROGRAM), DATED JUNE 22, 2000, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$3,163,781 (THE "SERIES 2000 A BONDS");
- (8) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED AUGUST 22, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,100,000 (THE "SERIES 2002 A BONDS");
- (9) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2002 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED AUGUST 22, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$3,600,000 (THE "SERIES 2002 B BONDS");
- (10) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2002 C (INSURED), DATED DECEMBER 1, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$4,135,000 (THE "SERIES 2002 C BONDS");
- (11) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2003 A (AMT - UNINSURED), DATED JANUARY 1, 2003, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,000,000 (THE "SERIES 2003 A BONDS");
- (12) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2005 A (TAXABLE), DATED JUNE 15, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,355,000 (THE "SERIES 2005 A BONDS");
- (13) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2006 A (TAXABLE), DATED JANUARY 19, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,830,000 (THE "SERIES 2006 A BONDS");
- (14) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2006 B (TAX-EXEMPT), DATED JULY 27, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,000,000 (THE "SERIES 2006 B BONDS"); AND
- (15) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM), DATED \_\_\_\_\_, 2009, ISSUED SIMULTANEOUSLY HERewith IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$ \_\_\_\_\_ (THE "SERIES 2009 A BONDS").

THE SERIES 1987 B BONDS, THE SERIES 1988 B-1 BONDS, THE SERIES 1988 B-2 BONDS, THE SERIES 1989 B BONDS, THE SERIES 1998 REFUNDING BONDS, THE SERIES 1998 DESIGN BONDS, THE SERIES 2000 A BONDS, THE SERIES 2002 A BONDS, THE SERIES 2002 B BONDS, THE SERIES 2002 C BONDS, THE SERIES 2003 A BONDS, THE SERIES 2005 A BONDS, THE SERIES 2006 A BONDS, AND THE SERIES 2006 B BONDS ARE HEREINAFTER COLLECTIVELY CALLED THE "PRIOR BONDS."

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenue in favor of the Holders of the Prior Bonds and the Series 2009 A Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2009 B Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all Bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2009 B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds and the Series 2009 A Bonds; provided however, that so long as there exists in the Series 2009 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Prior Bonds and the Series 2009 A Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance described in the Bond

Legislation, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

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

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

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the CITY OF CHARLES TOWN has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Clerk, and has caused this Bond to be dated as of the day and year first written above.

[SEAL]

\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_

Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: \_\_\_\_\_, 2009.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

\_\_\_\_\_  
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$		(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

TOTAL \$ \_\_\_\_\_

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

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

Dated: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

Section 3.11.        Sale of Bonds; Approval and Ratification of Execution of ARRA Assistance Agreement. The Series 2009 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the ARRA Assistance Agreement. If not so authorized by previous ordinance or resolution, the Mayor is specifically authorized and directed to execute the ARRA Assistance Agreement in the form attached hereto as “Exhibit A” and made a part hereof, and the Clerk is directed to affix the seal of the Issuer, attest the same and deliver the ARRA Assistance Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed. The ARRA Assistance Agreement, including all schedules and exhibits attached thereto, is hereby approved and incorporated in this Bond Legislation.

Section 3.12.        “Amended Schedule A” Filing. Upon completion of the acquisition and construction of the Project, the Issuer will file with the Authority and the BPH a schedule the form of which will be provided by the BPH, setting forth the actual costs of the Project and sources of funds therefor.

**ARTICLE IV**

**[RESERVED]**

**ARTICLE V**

**FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF**

**Section 5.01. Establishment of Funds and Accounts with Depository Bank.**

The following special funds or accounts are hereby created with (or continued if previously established by the Prior Ordinance) and shall be held by the Depository Bank, separate and apart from all other funds or accounts of the Depository Bank or the Issuer and from each other:

- (1) Revenue Fund (established by the Prior Ordinance);
- (2) Reserve Account (established by the Prior Ordinance for Series 1975 Bonds);
- (3) Renewal and Replacement Fund (established by the Prior Ordinance);
- (4) Rebate Fund (established by Prior Ordinance); and
- (5) Series 2009 Bonds Construction Trust Fund.

**Section 5.02. Establishment of Funds and Accounts with Commission.**

The following special funds or accounts are hereby created (or continued if previously established by Prior Ordinance) with and shall be held by the Commission, separate and apart from all other funds or accounts of the Commission or the Issuer and from each other:

- (1) Series 1987 B Bonds Sinking Fund (established by Prior Ordinance);
- (2) Series 1987 B Bonds Reserve Account (established by Prior Ordinance);
- (3) Series 1988 B-1 Bonds Sinking Fund (established by Prior Ordinance);
- (4) Series 1988 B-1 Bonds Reserve Account (established by Prior Ordinance);
- (5) Series 1988 B-2 Bonds Sinking Fund (established by Prior Ordinance);
- (6) Series 1988 B-2 Bonds Reserve Account (established by Prior Ordinance);
- (7) Series 1989 B Bonds Sinking Fund (established by Prior Ordinance);

- (8) Series 1989 B Bonds Reserve Account (established by Prior Ordinance);
- (9) Series 1998 Design Bonds Sinking Fund (established by Prior Ordinance);
- (10) Series 1998 Design Bonds Reserve Account (established by Prior Ordinance);
- (11) Series 1998 Refunding Bonds Sinking Fund (established by Prior Ordinance);
- (12) Series 1998 Refunding Bonds Reserve Account (Refunding) (established by Prior Ordinance);
- (13) Series 2000 A Bonds Sinking Fund (established by Prior Ordinance);
- (14) Series 2000 A Bonds Reserve Account (established by Prior Ordinance);
- (15) Series 2002 A Bonds Sinking Fund (established by Prior Ordinance);
- (16) Series 2002 A Bonds Reserve Account (established by Prior Ordinance);
- (17) Series 2002 B Bonds Sinking Fund (established by Prior Ordinance);
- (18) Series 2002 B Bonds Reserve Account (established by Prior Ordinance);
- (19) Series 2002 C Bonds Sinking Fund (established by Prior Ordinance);
- (20) Series 2002 C Bonds Reserve Account (established by Prior Ordinance);
- (21) Series 2003 A Bonds Sinking Fund (established by Prior Ordinance);
- (22) Series 2003 A Bonds Reserve Account (established by Prior Ordinance);
- (23) Series 2005 A Bonds Sinking Fund (established by Prior Ordinance);
- (24) Series 2005 A Bonds Reserve Account (established by Prior Ordinance);
- (25) Series 2006 A Bonds Sinking Fund (established by Prior Ordinance);

- (26) Series 2006 A Bonds Reserve Account (established by Prior Ordinance);
- (27) Series 2006 B Bonds Sinking Fund (established by Prior Ordinance);
- (28) Series 2006 B Bonds Reserve Account (established by Prior Ordinance);
- (29) Series 2007 A Note Payment Fund (established by Prior Ordinance);
- (30) Series 2009 A Bonds Sinking Fund;
- (31) Series 2009 A Bonds Reserve Account;
- (32) Series 2009 B Bonds Reserve Account; and
- (33) Series 2009 B Bonds Sinking Fund.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System and all parts thereof shall be deposited upon receipt by the Issuer in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner provided in this Bond Legislation. All monies in the Revenue Fund shall be disposed of only in the following manner and order of priority:

(1) The Issuer shall first, each month, transfer from the Revenue Fund an amount sufficient to pay all current Operating Expenses of the System.

(2) The Issuer shall next, each month on or before the due date, transfer from the Revenue Fund and simultaneously remit: (i) to the Commission on the first day of the month the amounts required to be paid by Prior Ordinance for the interest on the Series 1998 Design Bonds, Series 1998 Refunding Bonds, Series 200a Bonds, Series 2002 A Bonds, Series 2002 B Bonds, Series 2002 C Bonds, Series 2003 A Bonds, Series 2005 Bonds, and Series 2006 Bonds; (ii) to the Commission on the first day of the month, commencing 4 months prior to the first date of payment of interest of the Series 2009 A Bonds for deposit in the Series 2009 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of interest which will mature and become due on the Series 2009 A Bonds on the next ensuing quarterly interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2009 A Bonds Sinking Fund and the next quarterly interest payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly interest payment date, the required amount of interest coming due on such date; and (iii) to the Commission on the first day of the month, commencing 4 months prior to the first date of payment of interest of the Series 2009 B Bonds for deposit in the Series 2009 B Bonds Sinking Fund, an amount equal to 1/3rd of the amount of interest which will mature and become due on the Series 2009 B Bonds on the next ensuing quarterly interest payment date;

provided that, in the event the period to elapse between the date of such initial deposit in the Series 2009 B Bonds Sinking Fund and the next quarterly interest payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly interest payment date, the required amount of interest coming due on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit (i) to the Commission the amounts required to be paid by the Prior Ordinance for the principal on the Prior Bonds; (ii) to the Commission commencing 4 months prior to the first date of payment of principal of the Series 2009 A Bonds for deposit in the Series 2009 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2009 A Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2009 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date; and (iii) to the Commission commencing 3 months prior to the first date of payment of principal of the Series 2009 B Bonds for deposit in the Series 2009 B Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2009 B Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2009 B Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit (i) to the Commission for deposit in the respective Reserve Accounts for the Prior Bonds the amounts required by Prior Ordinance; (ii) to the Commission commencing 4 months prior to the first date of payment of principal of the Series 2009 A Bonds, if not fully funded upon issuance of the Series 2009 A Bonds, for deposit in the Series 2009 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2009 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2009 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2009 A Bonds Reserve Requirement; and (iii) to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2009 B Bonds, if not fully funded upon issuance of the Series 2009 B Bonds, for deposit in the Series 2009 B Bonds Reserve Account, an amount equal to 1/120th of the Series 2009 B Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2009 B Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2009 B Bonds Reserve Requirement.

(5) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any reserve account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in as provided herein. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided that, any deficiencies in any reserve account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

Monies in the Series 2009 A Bonds Sinking Fund and the Series 2009 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2009 Bonds as the same shall become due. Monies in the Series 2009 A Bonds Reserve Account and the Series 2009 B Bonds Reserve Account shall be used only for the purposes of paying principal of and interest, if any, on the Series 2009 Bonds as the same shall come due, when other monies in the Series 2009 A Bonds Sinking Fund and the Series 2009 B Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on monies in the Series 2009 A Bonds Sinking Fund, the Series 2009 B Sinking Fund, the Series 2009 A Bonds Reserve Account and the Series 2009 B Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2009 Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2009 Bonds and then to the next ensuing principal payment due thereon, all on a pro rata basis.

Any withdrawals from the Series 2009 A Bonds Reserve Account or the Series 2009 B Bonds Reserve Account which result in a reduction in the balance of such accounts to below the respective Reserve Requirements, shall be subsequently restored from the first Net Revenues available after all required payments have been made in full in the priority as set forth above, all on a prorata basis.

As and when additional Bonds ranking on a parity with the Series 2009 Bonds are issued, provision shall be made for additional payments into the respective sinking fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve account in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the Series 2009 A Bonds Sinking Fund, the Series 2009 B Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account or the Series 2009 B Bonds Reserve Account, when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2009 Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

Principal, interest or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Prior Bonds, the Series 2009 A Bonds and the Series 2009 B Bonds, in accordance with the principal amounts then outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2009 A Bonds Sinking Fund, the Series 2009 B Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account and the Series 2009 B Bonds Reserve Account, created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited. The Issuer shall make the necessary arrangements whereby required payments into said accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Monies in the Series 2009 A Bonds Sinking Fund, the Series 2009 B Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account and the Series 2009 B Bonds Reserve Account, shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2009 A Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account, the Series 2009 B Bonds Sinking Fund and the Series 2009 B Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2009 Bonds under the conditions and restrictions set forth herein.

B. The Issuer 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 Commission the required principal, interest, if any, and reserve payments with respect to the Series 2009 A Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. The Issuer shall also 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 Commission the Administrative Fee as set forth in the Schedule Y attached to the ARRA Assistance Agreement for the Series 2009 Bonds.

C. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as herein above provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such other period as required by law, such excess shall be considered as surplus revenues (the "Surplus Revenues"). Surplus Revenues may be used for any lawful purpose of the System.

D. The Issuer shall complete the "Monthly Payment Form," a form of which is attached to the ARRA Assistance Agreement, and submit a copy of said form along with a copy of its payment check to the Authority by the 5th day of such calendar month.

E. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay their respective charges and fees then due. In the case of payments to the Commission under this Section, the Issuer shall, if required by the Authority at anytime, make the necessary arrangements whereby such required payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required.

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

G. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as herein above provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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

## ARTICLE VI

### **BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS**

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the monies received from the sale of the Series 2009 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2009 Bonds, there shall be deposited with the Commission in the respective Bonds Reserve Accounts, the amount, if any, set forth in the Supplemental Resolution for funding of the respective Bonds Reserve Account.

B. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2009 A Bonds, such monies shall be deposited with the Depository Bank in the Series 2009 Bonds Construction Trust Fund and applied solely to payment of the costs of the Project in the manner set forth in Section 6.02 hereof and, until so expended, are hereby pledged as additional security for the Series 2009 A Bonds.

C. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2009 B Bonds, such monies shall be deposited with the Depository Bank in the Series 2009 Bonds Construction Trust Fund and applied solely to payment of the costs of the Project in the manner set forth in Section 6.02 hereof and, until so expended, are hereby pledged as additional security for the Series 2009 B Bonds.

D. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2009 Bonds shall be expended as approved by the BPH.

Section 6.02. Disbursement from the Bond Construction Trust Fund. On or before the Closing Date, the Issuer shall have delivered to the Authority and the BPH a report listing the specific purposes for which the net proceeds of the Series 2009 Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for the costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Series 2009 Bonds Construction Trust Fund shall be made only after submission to the approval from the BPH, of a certificate, signed by an Authorized Officer stating that:

- (A) None of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;
- (B) 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) Each of such costs has been otherwise properly incurred; and
- (D) Payment for each of the items proposed is then due and owing.

Pending such application, monies in the Series 2009 Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

## ARTICLE VII

### ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2009 Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 2009 Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2009 Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2009 Bonds shall not be nor constitute a corporate indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of the Series 2009 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2009 Bonds, or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Position with Respect to Prior Bonds. The payment of the debt service on the Series 2009 Bonds shall be secured by a first lien on the Net Revenues derived from the System, on a parity with the lien on the Net Revenues in favor of the Holders of the Prior Bonds. The Net Revenues in an amount sufficient to pay the principal of and interest, if any, on the Series 2009 Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal and the Issuer shall supply an opinion of counsel to such effect. Such rates and charges shall be sufficient to comply with the requirements of the ARRA Assistance Agreement and the Issuer shall supply a certificate of certified public accountant to such effect. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the water rate ordinance of the Issuer enacted on April 15, 2008 and the sewer rate ordinance of the Issuer enacted August 7, 2006 which rates are incorporated herein by reference as a part hereof.

So long as the Series 2009 Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Bond Legislation and in compliance with the ARRA Assistance Agreement. In the event the schedule of rates and charges initially established for the System in connection with the Series 2009 B Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the ARRA Assistance Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the ARRA Assistance Agreement.

Section 7.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, lease, mortgage or in any manner dispose of or encumber the System, or any part thereof, except as provided in the Prior Ordinance and as provided herein and with the written consent of the Authority and the BPH. So long as the Series 2009 Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority and the BPH, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding, in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2009 Bonds, immediately be remitted to the Commission for deposit in the Series 2009 A Bonds Sinking Fund,

and the Series 2009 B Bonds Sinking Fund respectively and pro rata with respect to the principal amount of each of the Bonds then outstanding and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the Series 2009 A Bonds and the Series 2009 B Bonds in accordance with Article X hereof. Any balance remaining after the payment of the Bonds and interest, if any, thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor is not in excess of \$10,000, the Issuer shall, by resolution duly adopted, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, in writing, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property in accordance with the laws of the State. The proceeds derived from any such sale, lease or other disposition of such property, in excess of \$10,000 and not in excess of \$50,000, shall be deposited in the Renewal and Replacement Fund. The payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Bond Legislation.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom shall be in excess of \$50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in Section 7.07 hereof, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2009 Bonds. All obligations issued by the Issuer after the issuance of the Series 2009 Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Series 2009 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2009 Bonds, and the interest, if any, thereon, upon any of the income and revenues of the System pledged for payment of the Series 2009 Bonds and the interest, if any, thereon in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the Authority and the BPH prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System or from any grants for the Project, or any other obligations related to the Project or the System.

Section 7.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinance shall be applicable. In addition, no additional Parity Bonds payable out of the revenues of the System, shall be issued after the issuance of the Series 2009 Bonds pursuant to this Ordinance, without the prior written consent of the Authority and the BPH and without complying with the conditions and requirements herein provided (unless less restrictive than the provisions of the Prior Ordinance).

All Parity Bonds issued hereafter shall be on a parity in all respects with the Series 2009 Bonds.

No Parity Bonds shall be issued except for the purposes of financing the costs of design, acquisition and construction of additions, betterments or improvements to the System or refunding the Bonds issued pursuant hereto, or both such purposes.

No such Parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Clerk a written statement by Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of such additional Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall be not less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

- (1) The Bonds then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Bond Legislation then Outstanding; and
- (3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to the date of issuance of such Parity Bonds and shall not exceed the amount to be stated in a certificate of the Independent

Certified Public Accountants, which shall be filed in the office of the Clerk of the Issuer prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period herein above referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, as stated in a certificate filed with the Clerk, on account of increased rates, rentals, fees and charges for the System enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to issuance of such Parity Bonds.

All the covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Series 2009 Bonds and the Holders of any Parity Bonds theretofore or subsequently issued from time to time within the limitations of and in compliance with this section. All the Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Net Revenues of the System, and their source of and security for payment from said Net Revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien on the revenues of the System of which is subject to the prior and superior lien of the Series 2009 Bonds on such revenues. Any such subordinate bonds, notes, certificates or other obligations shall be payable from the Net Revenues remaining after all payments required to be made in accordance with this Bond Legislation have first been paid. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or equally, as to lien and source of and security for payment from such revenues, with the Series 2009 Bonds except in the manner and under the conditions provided in this section.

No Parity Bonds shall be issued at any time, however, unless all of the payments into the respective funds and accounts provided for in this Bond Legislation on account of the Bonds then Outstanding, and any other payments provided for in this Bond Legislation, shall have been made in full as required to the date of issuance of the Parity Bonds and the Issuer is then in full compliance with all the covenants, agreements and terms of this Bond Legislation and every ordinance supplemental thereto, or shall have fully corrected any delinquency or deficiency in such payments.

Section 7.08.      Books; Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Authority and the BPH, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Authority and the BPH such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

The Issuer shall permit the Authority and the BPH, or their agents and representatives, to inspect all records pertaining to the operation and maintenance of the System at all reasonable times following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

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

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the Public Service Commission of West Virginia. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Issuer. The Issuer shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Issuer shall be reported to such agent of the Issuer as the Issuer shall direct.

The Issuer shall file with the Authority and the BPH, or any other original purchaser of the Series 2009 Bonds, and shall mail in each year to any Holder or Holders of the Series 2009 Bonds, requesting the same, an annual report containing the following:

- (A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.
- (B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation and the status of all said funds and accounts.
- (C) The amount of any bonds, notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants (and to the extent legally required in compliance with the applicable OMB Circular, or any successor thereof, and the Single Audit Act, or any successor thereof), and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 2009 Bonds and shall submit the report to the Authority and the BPH, or any other original purchaser of the Series 2009 Bonds. Such audit report submitted to the Authority and the BPH shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the ARRA Assistance Agreement and this Bond Legislation and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the ARRA Assistance Agreement and the Act, the Issuer 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 by the Consulting Engineers. 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 Issuer.

The Issuer shall permit the Authority and the BPH, 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 and commencement of operation of the Project, the Issuer shall also provide the Authority and the BPH, 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 BPH with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to the issuance of the Series 2009 Bonds, rates or charges for the use of the services and facilities of the System will be fixed and established, all in the manner and form required by law, and a copy of such rates and charges so fixed and established shall at all times be kept on file in the office of the Clerk of the Issuer, which copy will be open to inspection by all interested parties. The schedule or schedules of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds and accounts created hereunder. Such schedule or schedules of rates and charges shall be revised from time to time, whenever necessary, so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule or schedules of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System, (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2009 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2009 Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the reserve requirement are on deposit respectively in the Series 2009 A Bonds Reserve Account and Series 2009 B Bonds Reserve Account and reserve accounts for obligations on a parity with the Series 2009 Bonds, including the Prior Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2009 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2009 Bonds, including the Prior Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinance currently in effect.

The Issuer hereby covenants to commence enactment of such ordinance or ordinances as shall be required to increase the rates and charges for the services and facilities of the System within 30 days following a determination of the Issuer that less than the above-required coverage exists or in the event that the annual audit report shows less than the above-required coverage, such increase to provide rates and charges sufficient to produce such required coverage.

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority and the BPH within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a registered professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of a registered professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority, the BPH and to any Holder of any Bonds who shall file his or her address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him or her and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Authority, the BPH and any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for two years following the completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the ARRA Assistance Agreement, and forward a copy of such report to the Authority and the BPH by the 10th day of each month.

Section 7.11. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineers in the form attached to the ARRA Assistance Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Authority and the BPH, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the BPH is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the Authority and the BPH 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 engineer shall certify to the Authority, the BPH and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall require the Consulting Engineers to submit As-Built Plans, as defined in the DWTRF Regulations, to the Issuer within 60 days of the completion of the Project. The Issuer shall notify the BPH in writing of such receipt.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the DWTRF Regulations, to the Issuer when the Project is 90% completed. The Issuer shall at all times provide operation and maintenance of the System in compliance with all State and Federal standards. The Issuer shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator to operate the System during the entire term of the ARRA Assistance Agreement. The Issuer shall notify the BPH in writing of the certified operator employed at the 50% completion stage.

Section 7.12. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, rates, rentals and other charges, if not paid, when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services of the System to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law.

Section 7.14. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of either shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer, and any such department, agency, instrumentality, officer or employee. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 2009 Bonds remain Outstanding, the Issuer will, as

an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the greater of the fair appraised value or the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. In the event of any damage to or destruction of any portion of the System, the proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repair or reconstruction of such damages or destroyed portion or for the other purposes provided herein for the Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the ARRA Assistance Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the prime contractor and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than \$1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than \$500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of not less than 100% of the amount of any construction contract and to be required of each contractor dealing directly with the Issuer and such payment bonds will be filed with the Clerk of the County Commission of the County in which such work is to be performed prior to commencement of construction of any additions, extensions or improvements for the System in compliance with West Virginia Code, Section 38-2-39.

(4) FIDELITY BONDS will be provided as to every officer and employee of the Board or the Issuer having custody of the revenues or of any other funds of the System, in an amount at least equal to the total funds in the custody of any such person at any one time.

(5) FLOOD INSURANCE, if the System facilities are or will be located in designated special flood or mudslide-prone areas and to the extent available at reasonable cost to the Issuer.

(6) BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

B. The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount 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. The Issuer shall verify such bonds prior to commencement of construction.

The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project; provided that the amounts and terms of such coverage are satisfactory to the Authority and the BPH, and the Issuer shall verify such insurance prior to commencement of construction. In the event the ARRA Assistance Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear.

Section 7.16. Mandatory Connections. The mandatory use of the sewerage portion of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 20-day notice of the availability of the System, pay the rates and charges established therefor.

Any such house, dwelling or building from which emanates sewage or water-borne waste matter and which is not so connected with the System is hereby declared and found to be a hazard to the health, safety, comfort and welfare of the inhabitants of the Issuer and a public nuisance which shall be abated to the extent permitted by law and as promptly as possible by proceedings in a court of competent jurisdiction.

Section 7.17. Completion of Project; Permits and Orders. The Issuer will complete the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all federal and state requirements and standards.

The Issuer will obtain all permits required by state and federal laws for the acquisition and construction of the Project, all orders and approvals from the Public Service

Commission of West Virginia and the BPH necessary for the acquisition and construction of the Project and the operation of the System and all approvals for the issuance of the Series 2009 Bonds required by State law, with all appeal periods having expired without successful appeal.

Section 7.18.      Compliance with ARRA Assistance Agreement and Law. The Issuer shall perform, satisfy and comply with all the terms and conditions of the ARRA Assistance Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer will provide the BPH with copies of all documents submitted to the Authority. The Issuer also agrees to comply with all applicable laws, rules and regulations issued by the Authority, the BPH or other state, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

Section 7.19.      [RESERVED]

Section 7.20.      Securities Law Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual 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 (17 CFR Part 240).

Section 7.21.      Contracts; Change Orders; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2009 Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the BPH for written approval. The Issuer shall obtain the written approval of the BPH before expending any proceeds of the Series 2009 Bonds held in "contingency" as set forth in the schedule attached to the certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the BPH before expending any proceeds of the Series 2009 Bonds made available due to bid or construction or project underruns.

C. The Issuer shall list the funding as being provided by the BPH and the Authority in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any ground breaking or dedication of the Project.

Section 7.22.      Statutory Mortgage Lien. For the further protection of the Holders of the Series 2009 Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 2009 Bonds and shall be on a parity with the statutory mortgage lien in favor of the Holders of the Prior Bonds.

## ARTICLE VIII

### INVESTMENT OF FUNDS

Section 8.01.      Investments. Any monies held as a part of the funds and accounts created by this Bond Legislation, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, the need for such monies for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

Any investment shall be held in and at all times deemed a part of the fund or account in which such monies were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission, the Depository Bank, or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own investment or trust department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, or more often as reasonably requested by the Issuer, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2009 Bonds are Outstanding and as long thereafter as necessary to assure the exclusion of interest, if any, on the Series 2009 Bonds from gross income for federal income tax purposes.

Section 8.02.      Certificate as to Use Proceeds; Covenants as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2009 Bonds as a condition to issuance of the Series 2009 Bonds.

In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the Series 2009 Bonds as may be necessary in order to maintain the status of the Series 2009 Bonds as governmental bonds; (ii) that it shall not take, or permit or suffer to be taken, any action with respect to the Issuer's use of the proceeds of the Series 2009 Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority or the BPH, as the case may be, from which the proceeds of the Series 2009 Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed

necessary by the Issuer, or requested by the Authority or the BPH, to ensure compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Resolution.

The Issuer shall annually furnish to the Authority, information with respect to the Issuer's use of the proceeds of the Series 2009 Bonds and any additional information requested by the Authority.

## ARTICLE IX

### DEFAULT AND REMEDIES

Section 9.01.      Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2009 Bonds:

- (1) If default occurs in the due and punctual payment of the principal of or interest, if any, on any Series 2009 Bonds;
- (2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 2009 Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2009 Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Registrar, the Paying Agent or any other Paying Agent or a Holder of a Bond;
- (3) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America; or
- (4) If default occurs with respect to the Prior Bonds or the Prior Ordinance.

Section 9.02.      Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds; (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Registered Owners of the Series 2009 Bonds shall be on a parity with those of the Registered Owners of the Prior Bonds.

Section 9.03.      Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond

Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds, any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might do.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Bond Legislation for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Bond Legislation shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers herein above conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the completion of the Project and the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

## ARTICLE X

### **PAYMENT OF BONDS**

Section 10.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid, to the Holders of the Series 2009 Bonds, the principal of and interest, if any, due or to become due thereon, if any, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2009 Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2009 Bonds from gross income for federal income tax purposes.

## ARTICLE XI

### **MISCELLANEOUS**

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2009 Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2009 Bonds, no material modification or amendment of this Ordinance, or of any ordinance, resolution or order amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2009 Bonds shall be made without the consent in writing of the Registered Owners of the Series 2009 Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of the Series 2009 Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 2009 Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the excludability of interest on the Series 2009 Bonds from gross income of the holders thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution or the Series 2009 Bonds.

Section 11.04. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

Section 11.05. Notices. All notices to be sent to the Issuer, the Authority or the BPH shall be in writing and shall be deemed to have been given when delivered in person or mailed by first class mail, postage prepaid, addressed as follows:

ISSUER:

City of Charles Town  
P.O. Box 14  
Charles Town, West Virginia 25414  
Attention: City Manager

AUTHORITY:

Water Development Authority  
180 Association Drive  
Charleston, West Virginia 25311-1571  
Attention: Director

BPH:

West Virginia Bureau for Public Health  
One Davis Square, Suite 200  
Charleston, West Virginia 25301  
Attention: Environmental Engineering

All notices to be sent to the BPH hereunder, shall also be sent to the Authority.

Section 11.06. Conflicting Provisions Repealed. All ordinances, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed; provided that, this Section shall not be applicable to the Prior Ordinance. In the event of any conflict between this Ordinance and the Prior Ordinance, the Prior Ordinance shall control (unless less restrictive) so long as the Prior Bonds are outstanding.

Section 11.07. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption 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 Clerk and members of the Governing Body were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 11.08. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in the *Spirit of Jefferson Advocate*, a newspaper of general circulation in the City of Charles Town, there being no newspaper published therein, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Bonds, and that any person interested may appear before the Governing Body upon a date certain, not less than ten days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

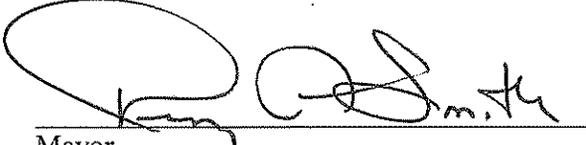
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Section 11.09 Effective Date. This Ordinance shall take effect immediately following the public hearing hereon.

Passed on First Reading: July 20, 2009

Passed on Second Reading: August 3, 2009

Passed on Final Reading  
Following Public  
Hearing: September 21, 2009



Ken Smith

Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the CITY OF CHARLES TOWN on the 21st day of September, 2009.

Dated: January 13, 2010.

[SEAL]

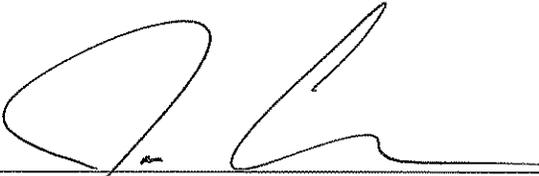
  
Clerk

EXHIBIT A

ARRA Assistance Agreement included in bond transcript as Document 3

CITY OF CHARLES TOWN

Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA DWTRF PROGRAM), AND COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) OF THE CITY OF CHARLES TOWN; APPROVING AND RATIFYING THE ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the council (the "Governing Body") of the City of Charles Town (the "Issuer") has duly and officially adopted and enacted a bond ordinance, effective September 21, 2009 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING WATERWORKS PORTION OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY OF CHARLES TOWN AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF CHARLES TOWN OF NOT MORE THAN \$1,665,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM); AND NOT MORE THAN \$1,665,000 IN

ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Ordinance when used herein;

WHEREAS, the Bond Ordinance provides for the issuance of Combined Waterworks and Sewerage System Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) in an aggregate principal amount not to exceed \$1,665,000 (the "Series 2009 A Bonds") and Combined Waterworks and Sewerage System Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA) in an aggregate principal amount not to exceed \$1,665,000 (the "Series 2009 B Bonds" and together with the Series 2009 A Bonds, the "Series 2009 Bonds"), and has authorized the execution and delivery of the ARRA Assistance Agreement relating to the Series 2009 A Bonds and Series 2009 B Bonds, including all schedules and exhibits attached thereto, by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health for the Series 2009 A Bonds and Series 2009 B Bonds (the "ARRA Assistance Agreement"), all in accordance with Chapter 8, Article 20 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), and in the Bond Ordinance it is provided that the form of the ARRA Assistance Agreement and the exact principal amount, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price and other terms of the Series 2009 Bonds should be established by a supplemental resolution pertaining to the Series 2009 Bonds; and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Combined Waterworks and Sewerage System Revenue Bonds, Series 2009 A and Combined Waterworks and Sewerage System Revenue Bonds, Series 2009 B were not issued in 2009, but will be issued in 2010;

WHEREAS, the Governing Body desires to redesignate the Combined Waterworks and Sewerage System Revenue Bonds, Series 2009 A and Combined Waterworks and Sewerage System Revenue Bonds, Series 2009 B as Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A and Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B;

WHEREAS, the ARRA Assistance Agreement has been presented to the Issuer;

WHEREAS, the Bonds are proposed to be purchased by the Authority pursuant to the ARRA Assistance Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the ARRA Assistance Agreements be approved and ratified by the Issuer, that the exact principal amounts, the dates, the maturity dates, the redemption provisions, the interest rates, the interest and principal payment dates and the sale price of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

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

Section 1. Section 2.01 of the Ordinance is hereby revised in its entirety Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of \$1,012,458, and ordered in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2010 A Bonds and the Series 2010 B Bonds, hereby authorized, shall be applied as provided in Article VI hereof.

The cost of the Project is estimated not to exceed \$1,012,458 of which \$912,458 will be obtained from proceeds of the Series 2010 A Bonds and \$100,000 will be obtained from the proceeds of the Series 2010 B Bonds.

Section 2. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), of the Issuer, originally represented by a single Bond, numbered AR-1, in the principal amount of \$912,458. The Series 2010 A Bonds shall be dated the date of delivery thereof, shall finally mature March 1, 2031, and shall bear interest at the rate of 2% per annum. The principal and interest of the Series 2010 A Bonds shall be payable quarterly, on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2011 to and including March 1, 2031, and in the amounts as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Series 2010 A Bonds. The Series 2010 A Bonds shall be subject to redemption upon the written consent of the Authority and the BPH, and upon payment of the redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2010 A Bonds. The Series 2010 A Bonds are not subject to the Administrative Fee as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement.

Section 3. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Combined

Waterworks and Sewerage System Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), of the Issuer, originally represented by a single Bond, numbered BR-1, in the principal amount of \$100,000. The Series 2010 B Bonds shall be dated the date of delivery thereof, shall finally mature March 1, 2031, and shall bear interest at the rate of 2% per annum. The principal and interest of the Series 2010 B Bonds shall be payable quarterly, on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2011 to and including March 1, 2031, and in the amounts as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Series 2010 B Bonds. The Series 2010 B Bonds shall be subject to redemption upon the written consent of the Authority and the BPH, and upon payment of the redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2010 B Bonds. The Series 2010 B Bonds are not subject to the Administrative Fee as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement.

Section 4. All other provisions relating to the Series 2010 Bonds and the text of each series of the Series 2010 Bonds shall be in substantially the form provided in the Bond Ordinance.

Section 5. The Issuer does hereby authorize, approve, ratify and accept the ARRA Assistance Agreement, copy of which is incorporated herein by reference, and the execution and delivery of the ARRA Assistance Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby accepts and agrees to all covenants and representations made in the ARRA Assistance Agreement and in the applications to the Authority and the BPH. The price of the Series 2010 Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Series 2010 Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 6. The Issuer does hereby appoint and designate The Huntington National Bank, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Bonds under the Bond Ordinance and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 7. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds under the Bond Ordinance.

Section 8. The Issuer does hereby appoint and designate United Bank, Inc., Charles Town, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 9. Series 2010 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2010 A Bonds Sinking Fund, as capitalized interest.

Section 10. Series 2010 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2010 A Bonds Reserve Account.

Section 11. The balance of the proceeds of the Series 2010 A Bonds shall be deposited in or credited to the Series 2010 Bonds Construction Trust Fund as received from the BPH from time to time for payment of the costs of the Project, including, without limitation, costs of issuance of the Series 2010 A Bonds and related costs.

Section 12. Series 2010 B Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2010 B Bonds Sinking Fund, as capitalized interest.

Section 13. Series 2010 B Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2010 B Bonds Reserve Account.

Section 14. The balance of the proceeds of the Series 2010 B Bonds shall be deposited in or credited to the Series 2010 Bonds Construction Trust Fund as received from the BPH from time to time for payment of the costs of the Project, including, without limitation, costs of issuance of the Series 2010 B Bonds and related costs.

Section 15. The Mayor and the Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered on or about, January 13, 2010, to the Authority pursuant to the ARRA Assistance Agreement.

Section 16. The Special Conditions of the ARRA Assistance Agreement are attached as Exhibit A and hereby accepted and incorporated herein.

Section 17. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Series 2010 Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 18. The Issuer does hereby approve and authorize all contracts relating to the financing, acquisition and construction of the Project.

Section 19. The Issuer hereby determines to invest all monies in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such monies to be invested in such repurchase agreements or time accounts until further directed in writing by the Issuer. Monies in the Series 2010 A Sinking Fund and the Series 2010 B Sinking Fund shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 20. The Issuer shall serve the additional customers at the locations(s) as set forth in Certificate of Engineer. The Issuer shall not reduce the amount of additional customers served by the project without the prior written approval of the Authority. Following completion of the Project the Issuer shall certify to the Authority the number of customers added to the System.

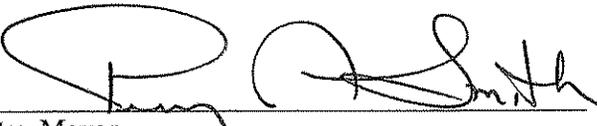
Section 21. The Issuer shall perform an annual maintenance audit which maintenance audit shall be submitted to the Authority and the Public Service Commission of West Virginia.

Section 22. The Charles Town Utility Board is authorized to approve all invoices and pay requests for the project.

Section 23. This Supplemental Resolution shall be effective immediately following adoption hereof.

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Adopted this 4th day of January, 2010.

By:   
Its: Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the City of Charles Town on the 4th of January, 2010.

Dated: January 13, 2010.

[SEAL]

  
Clerk

12.16.09  
144220.00022

EXHIBIT A

SPECIAL CONDITIONS – ARRA FUNDED PROJECTS

A. PUBLIC RELEASE REQUIREMENT – The Local Entity agrees to include, when issuing statements, press releases, requests for proposals, bid solicitations, groundbreaking or project dedication program documents and other documents describing projects or programs funded in whole or in part with Federal money, (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. AUDIT REQUIREMENT (Supplement to Article IV 4.1 (b) (xi) — Effective October 1, 2003, the Local Entity that receives \$500,000 or more (in federal funds) in a fiscal year must obtain audits in accordance with the Single Audit Act and the applicable OMB Circular or any successor thereto. Financial statement audits are required once all funds have been received by the Local Entity.

C. BUY AMERICAN CERTIFICATION – The Local Entity shall cause the contractor(s) to comply with, and provide certification of, the Buy American provisions of the ARRA in accordance with final guidance from the EPA.

D. ASSET MANAGEMENT – The Local Entity shall develop and implement an asset management plan in accordance with guidelines issued by BPH and as approved by BPH.

E. CONTRACTS – The Local Entity shall enter into contracts or commence construction by January 28, 2010.

F. LOGO – The Local Entity must display the ARRA logo in a manner that informs the public that the project is an ARRA investment.

G. LOBBYING – The Local Entity shall comply with Title 40 CFR Part 34, New Restrictions on Lobbying and shall submit certification and disclosure forms as required by BPH.

H. PURCHASING REQUIREMENTS – The Local Entity shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C.6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

I. SUSPENSION AND DEBARMENT – The Local Entity shall comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled “Responsibilities of Participants

Regarding Transactions (Doing Business with Other Persons). To the extent required by BPH, the Local Entity shall provide certifications as to compliance.

J. REPORTING – The Local Entity shall comply with all requests for data related to the use of the funds provided under this agreement, including the information required in section 1512 of ARRA when requested by BPH.

K. INSPECTOR GENERAL REVIEWS – The Local Entity shall allow any appropriate representative of the Office of US Inspector General to (1) examine its records relating to the Project and this ARRA Assistance Agreement and (2) interview any officer or employee of the Local Entity.

L. FALSE CLAIMS – The Local Entity must promptly refer to EPA's Inspector General any credible evidence that a principal, employee, agent, sub-grantee contractor, subcontractor, loan recipient, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds provided under this ARRA Assistance Agreement.

M. LIMIT ON FUNDS – The Local Entity shall not use funds for particular activities for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

N. WAGE RATES – The Local Entity shall require that all laborers and mechanics employed by its contractors and subcontractors be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor (DOL) in accordance with subchapter IV of chapter 32 of title 40, United States Code. The Local Entity must require that contractors and subcontractors obtain wage determinations from DOL and comply with DOL guidance and regulations implementing wage rate requirements applicable to ARRA funds.

O. OFFICE OF MANAGEMENT AND BUDGET (OMB) GUIDANCE – The Local Entity acknowledges and agrees that this ARRA Assistance is subject to all applicable provisions of implementing guidance for the American Recovery and Reinvestment Act of 2009 issued by the United States Office of Management and Budget, including the Initial Implementing Guidance for the American Recovery and Reinvestment Act (M-09-10) issued on February 18, 2009 and available on [www.recovery.gov](http://www.recovery.gov), and any subsequent guidance documents issued by OMB.

P. DISADVANTAGED BUSINESS ENTERPRISE – Pursuant to 40 CFR, Section 33.301, the Local Entity agrees to make good faith efforts whenever procuring construction, equipment, services and supplies, and to require that prime contractors also comply. The Local Entity shall provide BPH with MBE/WBE participation reports semi-annually.

Q. CIVIL RIGHTS – The Local Entity shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and a variety of program-specific

statutes with nondiscrimination requirements. The Local Entity shall also comply with Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religion, and sex discrimination in employment), the Americans with Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and Local Entities, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting race, color, national origin, age, family status, and disability discrimination in housing), as well as any other applicable civil rights laws.

R. BOND DESIGNATION – Each Local Bond contain “(WVDWTRF Program/ARRA)” in the bond name.

S. USER RATES – The Local Entity shall covenant that it will not reduce its approved customer rates for at least eighteen months after completion of the Project or (a) until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses or (b) new rates have been established by order of the Public Service Commission. The Local Entity shall notify the Authority and the BPH of any action to reduce rates during the eighteen months following completion of construction of the Project.

DWTRF – ARRA  
(12/09)

ARRA ASSISTANCE AGREEMENT

THIS DRINKING WATER TREATMENT REVOLVING FUND ARRA ASSISTANCE AGREEMENT (the “ARRA Assistance Agreement”), made and entered into in several counterparts, by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the “Authority”), acting under the direction of the WEST VIRGINIA BUREAU FOR PUBLIC HEALTH, a division of the West Virginia Department of Health and Human Resources (the “BPH”), and the local entity designated below (the “Local Entity”).

CITY OF CHARLES TOWN  
(2009W-1116)

W I T N E S S E T H:

WHEREAS, the United States Congress under Section 1452 of the Safe Drinking Water Act, as amended (the “Safe Drinking Water Act”), has provided for capitalization grants to be awarded to states for the express purpose of establishing and maintaining drinking water treatment revolving funds for the construction, acquisition and improvement of drinking water systems;

WHEREAS, the United States Congress has provided additional capitalization grant funding under the Clean Water Act through the American Recovery and Reinvestment Act of 2009 (the “ARRA”);

WHEREAS, pursuant to the provisions of Chapter 16, Article 13C of the Code of West Virginia, 1931, as amended (the “Act”), the State of West Virginia (the “State”) has established a drinking water treatment revolving fund program (the “Program”) to direct the distribution of loans and funding assistance to eligible Local Entities pursuant to the Safe Drinking Water Act and the ARRA;

WHEREAS, under the Act the BPH is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency (“EPA”) to accept capitalization grant awards (U.S. General Services

Administration; Catalog of Federal Domestic Assistance, 32nd Edition §66.458 (1998)) and BPH has been awarded capitalization grants to partially fund the Program;

WHEREAS, the ARRA provides that at least fifty percent (50%) of the funds provided through the capitalization grant be provided as negative interest loans or principal forgiveness (the "ARRA Assistance");

WHEREAS, the Act establishes a permanent perpetual fund known as the "West Virginia Drinking Water Treatment Revolving Fund" (hereinafter the "Fund"), which fund is to be administered and managed by the Authority under the direction of the BPH;

WHEREAS, pursuant to the Act, the Authority and BPH are empowered to make loans from the Fund to Local Entities for the acquisition or construction of drinking water projects by such Local Entities, all subject to such provisions and limitations as are contained in the Safe Drinking Water Act, the ARRA and the Act;

WHEREAS, the Local Entity constitutes a local entity as defined by the Act;

WHEREAS, the Local Entity is included on the BPH State Project Priority List and the Intended Use Plan and has met BPH's pre-application requirements for the Program;

WHEREAS, the Local Entity is authorized and empowered by the statutes of the State to acquire, construct, improve, operate and maintain a drinking water project and to finance the cost of acquisition and construction of the same by borrowing money to be evidenced by revenue bonds issued by the Local Entity;

WHEREAS, the Local Entity intends to construct, is constructing or has constructed such a drinking water project at the location and as more particularly described and set forth in the Application, as hereinafter defined (the "Project");

WHEREAS, the Local Entity has completed and filed with the Authority and BPH 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 BPH are willing to lend the Local Entity the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Local Entity with moneys held in

the Fund, subject to the Local Entity'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 Entity, BPH 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 entity," and "project" have the definitions and meanings ascribed to them in the Act, the ARRA, or in the DWTRF 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 BPH to the Local Entity through the purchase of Local Bonds, as hereinafter defined, pursuant to this ARRA Assistance Agreement.

1.4 "Local Act" means the official action of the Local Entity required by Section 4.1 hereof, authorizing the Local Bonds.

1.5 "Local Bonds" means the revenue bonds to be issued by the Local Entity 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 ARRA Assistance 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 drinking water facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Safe Drinking Water Act and administered by BPH.

1.9 “Project” means the drinking water project hereinabove referred to, to be constructed or being constructed by the Local Entity in whole or in part with the net proceeds of the Local Bonds or being or having been constructed by the Local Entity 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 “DWTRF Regulations” means the regulations set forth in the West Virginia Code of State Regulations.

1.11 “System” means the drinking water system owned by the Local Entity, 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 ARRA Assistance 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 Entity by the Consulting Engineers, the BPH 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 ARRA Assistance Agreement and the Local Act, the Local Entity 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 Entity 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 Entity, 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 BPH and the Authority.

2.4 The Local Entity agrees that the Authority and BPH 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 Entity further agrees that the Authority and BPH and their respective duly authorized agents shall, prior to, during 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 BPH with respect to the System pursuant to the pertinent provisions of the Act.

2.5 The Local Entity 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 Entity shall permit the Authority and BPH, 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 Entity shall submit to the Authority and BPH 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 Entity agrees that it will permit the Authority and BPH and their respective agents to have access to the records of the Local Entity 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 Entity 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 and shall verify or have verified such bonds prior to commencement of construction.

2.8 The Local Entity 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 BPH

and shall verify or have verified such insurance prior to commencement of construction. Until the Project facilities are completed and accepted by the Local Entity, the Local Entity or (at the option of the Local Entity) 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 Entity, 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 Entity on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds are outstanding.

2.9 The Local Entity shall provide and maintain competent and adequate engineering services satisfactory to the Authority and BPH 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 engineer shall certify to the Authority, BPH and the Local Entity 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.

2.10 The Local Entity shall at all times provide operation and maintenance of the System in compliance with any and all State and federal standards. The Local Entity shall employ qualified operating personnel properly certified by the State and shall retain such a certified operator(s) to operate the System during the entire term of this ARRA Assistance Agreement.

2.11 The Local Entity hereby covenants and agrees to comply with all applicable laws, rules and regulations issued by the Authority, BPH 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 Entity, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project, shall each month complete a Monthly Financial Report, the form of which is attached hereto as Exhibit A and incorporated herein by reference, and forward a copy by the 10th of each month to BPH and the Authority.

2.13 The Local Entity, during construction of the Project, shall complete Payment Requisition Forms, the form of which is attached hereto as Exhibit B and incorporated herein by reference, and forward such forms to BPH in compliance with the Local Entity's construction schedule.

2.14 The Local Entity shall serve the additional customers, if any, at the location(s) as set forth in Schedule X. The Local Entity shall not reduce the number of additional customers served by the project without the prior written approval of the Authority Board. Following completion of the Project the Local Entity shall certify to the Authority the number of customers added to the System.

2.15 The Local Entity shall perform an annual maintenance audit which maintenance audit shall be submitted to the Authority and the Public Service Commission of West Virginia (the "PSC").

### ARTICLE III

#### Conditions to Loan; Issuance of Local Bonds

3.1 The agreement of the Authority and BPH to make the Loan is subject to the Local Entity's fulfillment, to the satisfaction of the Authority and BPH, 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 Entity shall have delivered to BPH and 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 Entity shall have performed and satisfied all of the terms and conditions to be performed and satisfied by it in this ARRA Assistance Agreement;

(c) The Local Entity 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 Entity 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

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Loan will refund an interim construction financing, the Local Entity 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 BPH shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit C;

(e) The Local Entity 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 BPH shall have received a certificate of the Consulting Engineers to such effect;

(f) The Local Entity shall have obtained all requisite orders of and approvals from the PSC and the West Virginia Infrastructure and Jobs Development Council (the "IJDC") necessary for the construction of the Project and operation of the System, with all requisite appeal periods having expired without successful appeal, and the Authority and BPH shall have received an opinion of counsel to the Local Entity, which may be local counsel to the Local Entity, bond counsel or special PSC counsel but must be satisfactory to the Authority and BPH, to such effect;

(g) The Local Entity shall have obtained any and all approvals for the issuance of the Local Bonds required by State law, and the Authority and BPH shall have received an opinion of counsel to the Local Entity, which may be local counsel to the Local Entity, bond counsel or special PSC counsel but must be satisfactory to the Authority and BPH, to such effect;

(h) The Local Entity 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 without successful appeal, and the Authority and BPH shall have received an opinion of counsel to the Local Entity, which may be local counsel to the Local Entity, bond counsel or special PSC counsel but must be satisfactory to the Authority and BPH, to such effect;

(i) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof, and the Authority and BPH shall have received a certificate of the accountant for the Local Entity, or such other person or firm experienced in the finances of local entities and satisfactory to the Authority and BPH, 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 BPH shall have received a certificate of the Consulting Engineers, or such other person or firm experienced in the financing of drinking water projects and satisfactory to the Authority and BPH, to such effect, such certificate to be in form and substance satisfactory to the Authority and BPH, and evidence satisfactory to the Authority and BPH of such irrevocably committed grants.

3.2 Subject to the terms and provisions of this ARRA Assistance Agreement, the rules and regulations promulgated by the BPH, including the DWTRF 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 Entity and the Local Entity shall accept the Loan from the Authority, and in furtherance thereof it is agreed that the Local Entity 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 ARRA Assistance 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 Entity by written notice to the Authority, which written notice shall be given not less than ten (10) business days prior to the date designated.

3.5 The Local Entity understands and acknowledges that it is one of several local entities which have applied to the Authority and BPH for loans from the Fund to finance drinking water projects and that the obligation of the Authority to make any such loan is subject to the Local Entity's fulfilling all of the terms and conditions of this ARRA Assistance Agreement on or prior to the Date of Loan Closing and to the requirements of the Program. The Local Entity 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 execution of this ARRA Assistance Agreement, the Authority may purchase the bonds of other local entities set out in the State Project Priority List, as defined in the DWTRF Regulations. The Local

Entity further specifically recognizes that all loans will be originated in conjunction with the DWTRF Regulations and with the prior approval of BPH or such later date as is agreed to in writing by the BPH.

3.6 The Local Entity shall provide BPH with the appropriate documentation to comply with the special conditions regarding the public release requirements established by federal and State regulations as set forth in Exhibit D attached hereto at such times as are set forth therein.

#### ARTICLE IV

Local Bonds; Security for Loan;  
Repayment of Loan; Interest on Loan;  
Fees and Charges

4.1 The Local Entity shall, as one of the conditions of the Authority and BPH to make the Loan, authorize the issuance of and issue the Local Bonds pursuant to an official action of the Local Entity in accordance with the Local Statute, which shall, as adopted or 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. Such gross revenues 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 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 Entity 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 a pledge of either the gross or net revenues, as applicable, of the System as provided in the Local Act;

(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 is funded (whether by Local Bond proceeds, monthly deposits or otherwise) at an amount equal to 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 Entity will complete the Project and operate and maintain the System in good condition;

(iv) That, except as otherwise required by State law or the DWTRF Regulations, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized from such sale, mortgage, lease or other disposition 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 the 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 Entity 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 prior written consent of the Authority and BPH;

(vi) That the Local Entity 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 Entity will not render any free services of the System;

(viii) That the Authority may, by proper legal action, compel the performance of the duties of the Local Entity 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 Entity will not grant any franchise to provide any services which would compete with the System;

(xi) That the Local Entity shall annually, within six months of the end of the fiscal year, 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 BPH. If the Local Entity receives \$500,000 or more (in federal funds) in a fiscal year, the audit shall be obtained in accordance with the Single Audit Act (as amended from time to time) and the applicable OMB Circular (or any successor thereto). Financial statement audits are required once all funds have been received by the Local Entity. The audit shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the Local Entity's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements;

(xii) That the Local Entity shall annually adopt a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding fiscal year and shall submit a copy of such budget to the Authority and BPH 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 Entity 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) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim funding of such Local Entity, the proceeds of which were used to finance the construction of the Project; provided that, with the prior written consent of the Authority and BPH, 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 Entity may authorize redemption of the Local Bonds with 30 days written notice to BPH and the Authority;

(xvi) That the West Virginia Municipal Bond Commission (the "Commission") shall serve as paying agent for all Local Bonds;

(xvii) That the Local Entity 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 Commission the required interest, principal and reserve account payment. The Local Entity shall complete the Monthly Payment Form, attached hereto as Exhibit E and incorporated herein by reference, and submit a copy of said form along with a copy of the check or electronic transfer to the Authority by the 5th day of such calendar month. When required by the Authority, the Local Entity shall make monthly payments to the Commission by electronic transfer;

(xviii) That, if required by the Authority and BPH and, unless it qualifies for an exception to the provisions of Section 148 of the Internal Revenue Code of 1986, as amended, which exception shall be set forth in an opinion of bond counsel, the Local Entity will furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Internal Revenue Code of 1986, as amended, a certificate with respect to its rebate calculations and, at any time, any additional information requested by the Authority;

(xix) That the Local Entity 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 and BPH, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and BPH is sufficient to pay the costs of acquisition and construction of the Project and all permits required by federal and State laws for construction of the Project have been obtained;

(xx) That the Local Entity shall, to the full extent permitted by applicable law and the rules and regulations of the PSC, terminate its services to any customer of the System who is delinquent in payment of charges for services provided by the System and will not restore such services until all delinquent charges for the services of the System have been fully paid; and

(xxi) That the Local Entity shall submit all proposed change orders to the BPH for written approval. The Local Entity shall obtain the written approval of the BPH before expending any proceeds of the Local Bonds held in "contingency" as set forth in the final Schedule A attached to the certificate of the Consulting Engineer. The Local Entity shall obtain the written approval of the BPH before expending any proceeds of the Local Bonds available due to bid/construction/project underruns.

The Local Entity hereby represents and warrants that the Local Act has been or shall be duly adopted or enacted in compliance with all necessary corporate and other action and in accordance with applicable provisions of law. All legal matters incident to the authorization, issuance, validity, 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 F.

4.2 The Loan shall be secured by the pledge and assignment by the Local Entity, as effected by the Local Act, of the fees, charges and other revenues of the Local Entity from the System.

4.3 At least two and one half percent (2.5%) 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 Entity 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 Entity, the BPH 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 DWTRF 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 Entity. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series.

4.5 As provided by the DWTRF Regulations, the Local Entity agrees to pay from time to time, if required by the Authority and BPH, the Local Entity's allocable share of the reasonable administrative expenses of the BPH and the Authority relating to the Program. Such administrative expenses shall be determined by the BPH and the Authority and shall include, without limitation, Program expenses, legal fees paid by the BPH and the Authority and fees paid for any bonds or notes to be issued by the Authority for contribution to 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 Entity; Imposition and Collection of User Charges; Payments To Be Made by Local Entity to the Authority

5.1 The Local Entity hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this ARRA Assistance Agreement and the Local Act. The Local Entity 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 and will take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and in compliance with the provisions of Subsections 4.1(a) and 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 required sums set forth in the Local Act and this ARRA Assistance Agreement, the Local Entity 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 (or where applicable, immediately file with the PSC for a rate increase) and take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and this ARRA Assistance Agreement.

5.3 In the event the Local Entity defaults in any payment due to the Authority pursuant to this ARRA Assistance Agreement, 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 Entity hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Local Entity, 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 charges of the System.

## ARTICLE VI

### Other Agreements of the Local Entity

6.1 The Local Entity hereby acknowledges to the Authority and BPH its understanding of the provisions of the Act, vesting in the Authority and BPH certain powers, rights and privileges with respect to drinking water projects in the event of default by local entities in the terms and covenants of this ARRA Assistance Agreement, and the Local Entity hereby covenants and agrees that, if the Authority should hereafter have recourse to said rights and powers, the Local Entity 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 ARRA Assistance Agreement.

6.2 The Local Entity hereby warrants and represents that all information provided to the Authority and BPH in this ARRA Assistance 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 BPH shall have the right to cancel all or any of their obligations under this ARRA Assistance Agreement if (a) any representation made to the Authority and BPH by the Local Entity in connection with the Loan shall be incorrect or incomplete in any material respect or (b) the Local Entity has violated any commitment made by it in its Application or in any supporting documentation or has violated any of the terms of the Act, the DWTRF Regulations or this ARRA Assistance Agreement.

6.3 The Local Entity 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 Entity hereby covenants that, if required by the Authority and BPH, 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 Entity fails to make any such rebates as required, then the Local Entity 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 BPH may at any time, in their sole discretion, cause the rebate calculations prepared by or on behalf of the Local Entity to be monitored or cause the rebate calculations for the Local Entity to be prepared, in either case at the expense of the Local Entity.

6.6 The Local Entity hereby agrees to give the Authority and BPH prior written notice of the issuance by it of any other obligations to be used for the System, payable from the revenues of the System or from any grants for the Project or otherwise related to the Project or the System.

6.7 The Local Entity hereby agrees to file with the Authority and BPH upon completion of acquisition and construction of the Project a schedule in substantially the form of Amended Schedule B to the Application, setting forth the actual costs of the Project and sources of funds therefore.

## ARTICLE VII

### Miscellaneous

7.1 Schedules X and Y shall be attached to this ARRA Assistance 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 Entity supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority.

7.2 If any provision of this ARRA Assistance 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 ARRA Assistance Agreement, and this ARRA Assistance Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

7.3 This ARRA Assistance 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 ARRA Assistance Agreement.

7.4 No waiver by any party of any term or condition of this ARRA Assistance 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 ARRA Assistance Agreement.

7.5 This ARRA Assistance Agreement 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 ARRA Assistance Agreement, notwithstanding the date hereof, the Local Entity 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 ARRA Assistance Agreement shall terminate upon the EARLIER of:

(i) written notice of termination to the Local Entity from either the Authority or BPH and the Project contracts were not executed by January 28, 2010;

(ii) the end of ninety (90) days after the date of execution hereof by the Authority or such later date as is agreed to in writing by the BPH if the Local Entity has failed to deliver the Local Bonds to the Authority;

(iii) termination by the Authority and BPH pursuant to Section 6.2 hereof; or

(iv) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Local Entity to the Authority or BPH;

(v) but further provided that the Authority and BPH reserve the right to terminate this ARRA Assistance Agreement upon five days written notice if the Local Bonds are not issued and the Project is not under written contract by January 28, 2010.

In the event funds are not available to make all of the Loan, the responsibility of the Authority and BPH to make all the Loan is terminated; provided further that the obligation of the Local Entity to repay the outstanding amount of the Loan made by the Authority and BPH is not terminated due to such non-funding on any balance of the Loan. The BPH agrees to use its best efforts to have the amount

contemplated under this ARRA Assistance Agreement included in its budget. Non-funding of the Loan shall not be considered an event of default under this ARRA Assistance Agreement.

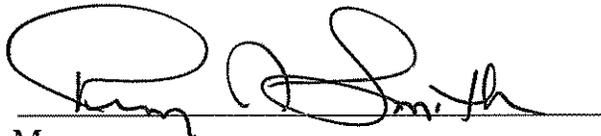
IN WITNESS WHEREOF, the parties hereto have caused this ARRA Assistance Agreement to be executed by their respective duly authorized officers as of the date executed below by the Authority.

CITY OF CHARLES TOWN

(SEAL)

Attest:

  
Its: Recorder

By:   
Its: Mayor  
Date: January 13, 2010

WEST VIRGINIA WATER  
DEVELOPMENT AUTHORITY

(SEAL)

Attest:

  
Its: Secretary-Treasurer

By:   
Its: Executive Director  
Date: January 13, 2010

EXHIBIT A

MONTHLY FINANCIAL REPORT

Name of Local Entity \_\_\_\_\_  
 Name of Bond Issue(s) \_\_\_\_\_  
 Type of Project \_\_\_\_\_ Water \_\_\_\_\_ Wastewater \_\_\_\_\_  
 Fiscal Year \_\_\_\_\_ Report Month \_\_\_\_\_

<u>Item</u>	<u>Current Month</u>	<u>Total Year To Date</u>	<u>Budget Year To Date</u>	<u>Budget Year To Date Minus Total Year To Date</u>
1. Gross Revenues	_____	_____	_____	_____
2. Operating Expenses	_____	_____	_____	_____
3. Bond Payments:				
<u>Type of Issue</u>	_____	_____	_____	_____
Clean Water SRF	_____	_____	_____	_____
Drinking Water TRF	_____	_____	_____	_____
Infrastructure Fund	_____	_____	_____	_____
Water Development Authority	_____	_____	_____	_____
Rural Utilities Service	_____	_____	_____	_____
Economic Development	_____	_____	_____	_____
Administration	_____	_____	_____	_____
Other (Identify)	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
4. Renewal and Replacement Fund Deposits	_____	_____	_____	_____

\_\_\_\_\_  
 Name of Person Completing Form

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Telephone

## INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

Item 1 You will need a copy of the current fiscal year budget adopted by the Local Entity to complete Items 1 and 2. In Item 1, provide the amount of actual **Gross Revenues** for the current month and the total amount year-to-date in the respective columns. Divide the budgeted annual Gross Revenues by 12. For example, if Gross Revenues of \$1,200 are anticipated to be received for the year, each month the base would be increased by \$100 ( $\$1,200/12$ ). This is the incremental amount for the Budget Year-to-Date column.

Item 2 Provide the amount of actual **Operating Expenses** for the current month and the total amount year-to-date in the respective columns. Any administrative fee should be included in the Operating Expenses. Divide the budgeted annual Operating Expenses by 12. For example, if Operating Expenses of \$900 are anticipated to be incurred for the year, each month the base would be increased by \$75 ( $\$900/12$ ). This is the incremental amount for the Budget Year-to-Date column.

Item 3 Provide the **Bond Payments (principal, interest and reserve account)** for all the outstanding bonds of the Local Entity according to the source of funding. For example, Clean Water State Revolving Fund loan from Department of Environmental Protection, Drinking Water Treatment Revolving Fund loan from Bureau for Public Health, Infrastructure Fund loan from Infrastructure and Jobs Development Council, or a loan from the Water Development Authority, etc.

Item 4 Provide the amount deposited into the **Renewal and Replacement Fund** each month. This amount is equal to 2.5% of Gross Revenues minus the total reserve account payments included in Item 3. If Gross Revenues are \$1,200, then \$30 (2.5% of \$1,200), LESS the amount of all reserve account payments in Item 3 should be deposited into the Renewal and Replacement Fund. The money in the Renewal and Replacement Fund should be kept separate and apart from all other funds of the Local Entity.

**The Local Entity must complete the Monthly Financial Report and forward it to the Water Development Authority by the 10<sup>th</sup> day of each month, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project.**

**EXHIBIT B**

**PAYMENT REQUISITION FORM**

<b>- WATER TREATMENT UPGRADE PROJECT</b>									
<b>DWTRF FUNDING</b>									
		APPROVED		REVISED	PAID	REQUESTED			
	CLASSIFICATION	BUDGET	ADJUSTMENTS	BUDGET	PRIOR TO THIS DRAW	THIS REQUEST	PAID TO DATE	BALANCE	REMAINING
1	Construction & Cons. Cont.								
	a. Contract 1 - Contractor Name	0	0	0	0	0	0	0	0
	b. Contract 2 - Contractor Name	0	0	0	0	0	0	0	0
	c. Contract 3 - Contractor Name	0	0	0	0	0	0	0	0
	g. Construction contingency	0	0	0	0	0	0	0	0
2	Technical Services								
	a. Basic Engineering Design	0	0	0	0	0	0	0	0
	b. Inspection	0	0	0	0	0	0	0	0
	c. Special Services	0	0	0	0	0	0	0	0
3	Legal/Fiscal								
	a. Legal	0	0	0	0	0	0	0	0
	b. Accounting	0	0	0	0	0	0	0	0
4	Administrative								
	a. Administrative Expenses	0	0	0	0	0	0	0	0
	b. Tap Fees	0	0	0	0	0	0	0	0
	c. Accounting	0	0	0	0	0	0	0	0
	d. Registrar Fee	0	0	0	0	0	0	0	0
5	Sites & Other Lands	0	0	0	0	0	0	0	0
6	WV DOH Fees	0	0	0	0	0	0	0	0
7	Interest	0	0	0	0	0	0	0	0
8	Contingency	0	0	0	0	0	0	0	0
9	Miscellaneous (Equipment)	0	0	0	0	0	0	0	0
10	TOTAL of Lines 1 through 9	0	0	0	0	0	0	0	0

<b>OTHER FUNDING</b>									
		APPROVED		REVISED	PAID	REQUESTED			
	CLASSIFICATION	BUDGET	ADJUSTMENTS	BUDGET	PRIOR TO THIS DRAW	THIS REQUEST	PAID TO DATE	BALANCE	REMAINING
1	Construction & Cons. Cont.								
	a. Contract 1 - Contractor Name	0	0	0	0	0	0	0	0
	b. Contract 2 - Contractor Name	0	0	0	0	0	0	0	0
	c. Contract 3 - Contractor Name	0	0	0	0	0	0	0	0
	g. Construction contingency	0	0	0	0	0	0	0	0
2	Technical Services								
	a. Basic Engineering Design	0	0	0	0	0	0	0	0
	b. Inspection	0	0	0	0	0	0	0	0
	c. Special Services	0	0	0	0	0	0	0	0
3	Legal/Fiscal								
	a. Legal	0	0	0	0	0	0	0	0
	b. Accounting	0	0	0	0	0	0	0	0
4	Administrative								
	a. Administrative Expenses	0	0	0	0	0	0	0	0
	b. Tap Fees	0	0	0	0	0	0	0	0
	c. Accounting	0	0	0	0	0	0	0	0
	d. Registrar Fee	0	0	0	0	0	0	0	0
5	Sites & Other Lands	0	0	0	0	0	0	0	0
6	WV DOH Fees	0	0	0	0	0	0	0	0
7	Interest	0	0	0	0	0	0	0	0
8	Contingency	0	0	0	0	0	0	0	0
9	Miscellaneous (Equipment)	0	0	0	0	0	0	0	0
10	TOTAL of Lines 1 through 9	0	0	0	0	0	0	0	0

<b>TOTAL FUNDING</b>									
						PAID	REQUESTED		
	CLASSIFICATION	APPROVED		REVISED	PRIOR TO	THIS	PAID TO	BALANCE	
		BUDGET	ADJUSTMENTS	BUDGET	THIS DRAW	REQUEST	DATE	REMAINING	
1	Construction & Cons. Cont.								
	a. Contract 1 - Contractor Name	0	0	0	0	0	0	0	0
	b. Contract 2 - Contractor Name	0	0	0	0	0	0	0	0
	c. Contract 3 - Contractor Name	0	0	0	0	0	0	0	0
	g. Construction contingency	0	0	0	0	0	0	0	0
2	Technical Services								
	a. Basic Engineering Design	0	0	0	0	0	0	0	0
	b. Inspection	0	0	0	0	0	0	0	0
	c. Special Services	0	0	0	0	0	0	0	0
3	Legal/Fiscal								
	a. Legal	0	0	0	0	0	0	0	0
	b. Accounting	0	0	0	0	0	0	0	0
4	Administrative								
	a. Administrative Expenses	0	0	0	0	0	0	0	0
	b. Tap Fees	0	0	0	0	0	0	0	0
	c. Accounting	0	0	0	0	0	0	0	0
	d. Registrar Fee	0	0	0	0	0	0	0	0
5	Sites & Other Lands	0	0	0	0	0	0	0	0
6	WV DOH Fees	0	0	0	0	0	0	0	0
7	Interest	0	0	0	0	0	0	0	0
8	Contingency	0	0	0	0	0	0	0	0
9	Miscellaneous (Equipment)	0	0	0	0	0	0	0	0
10	TOTAL of Lines 1 through 9	0	0	0	0	0	0	0	0

EXHIBIT C

FORM OF CERTIFICATE OF CONSULTING ENGINEER

\_\_\_\_\_  
(Issuer)

(Name of Bonds)

I, \_\_\_\_\_, Registered Professional Engineer, West Virginia License No. \_\_\_\_\_, of \_\_\_\_\_ Consulting Engineers, \_\_\_\_\_, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of \_\_\_\_\_ to the \_\_\_\_\_ system (the "Project") of \_\_\_\_\_ (the "Issuer"), to be constructed primarily in \_\_\_\_\_ County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words used herein and not defined herein shall have the same meaning set forth in the bond \_\_\_\_\_ adopted or enacted by the Issuer on \_\_\_\_\_, and the ARRA Assistance Agreement by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), dated \_\_\_\_\_.

2. The Bonds are being issued for the purposes of (i) \_\_\_\_\_, and (ii) paying certain issuance and other costs in connection therewith.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by BPH and any change orders approved by the Issuer, BPH and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least \_\_\_\_\_ years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in Schedule B attached hereto as Exhibit A, and my firm<sup>1</sup> has ascertained that all successful bidders have made required provisions

<sup>1</sup>If another responsible party, such as the Issuer's attorney, reviews the insurance and payment bonds, then

for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the BPH and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) as of the effective date thereof<sup>2</sup>, the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the ARRA Assistance Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by BPH; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature and seal on this \_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

[SEAL]

By: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

West Virginia License No. \_\_\_\_\_

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insert the following: [and in reliance upon the opinion of \_\_\_\_\_, Esq.] and delete "my firm has ascertained that".

<sup>2</sup>If the Rule 42 Exhibit and/or rate structure was prepared by an accountant, then insert the following: "In reliance upon the certificate of \_\_\_\_\_ of even date herewith," at the beginning of (ix).

## EXHIBIT D

### SPECIAL CONDITIONS – BASE PROGRAM

The Local Entity agrees to include, when issuing statements, press releases, requests for proposals, bid solicitations, groundbreaking or project dedication program documents 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 Local Entity shall complete the form attached as Exhibit D-1 and submit to the BPH prior to the Closing.

### SPECIAL CONDITIONS – ARRA FUNDED PROJECTS

The Local Entity shall include the following covenants in its bond authorizing documents:

A. **PUBLIC RELEASE REQUIREMENT** – The Local Entity agrees to include, when issuing statements, press releases, requests for proposals, bid solicitations, groundbreaking or project dedication program documents and other documents describing projects or programs funded in whole or in part with Federal money, (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. **AUDIT REQUIREMENT** (Supplement to Article IV 4.1 (b) (xi)) – Effective October 1, 2003, the Local Entity that receives \$500,000 or more (in federal funds) in a fiscal year must obtain audits in accordance with the Single Audit Act and the applicable OMB Circular or any successor thereto. Financial statement audits are required once all funds have been received by the Local Entity.

C. **BUY AMERICAN CERTIFICATION** – The Local Entity shall cause the contractor(s) to comply with, and provide certification of, the Buy American provisions of the ARRA in accordance with final guidance from the EPA.

D. ASSET MANAGEMENT – The Local Entity shall develop and implement an asset management plan in accordance with guidelines issued by BPH and as approved by BPH.

E. CONTRACTS – The Local Entity shall enter into contracts or commence construction by January 28, 2010.

F. LOGO – The Local Entity must display the ARRA logo in a manner that informs the public that the project is an ARRA investment.

G. LOBBYING - The Local Entity shall comply with Title 40 CFR Part 34, New Restrictions on Lobbying and shall submit certification and disclosure forms as required by BPH.

H. PURCHASING REQUIREMENTS – The Local Entity shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

I. SUSPENSION AND DEBARMENT – The Local Entity shall comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled “Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons). To the extent required by BPH, the Local Entity shall provide certifications as to compliance.

J. REPORTING – The Local Entity shall comply with all requests for data related to the use of the funds provided under this agreement, including the information required in section 1512 of ARRA when requested by BPH.

K. INSPECTOR GENERAL REVIEWS – The Local Entity shall allow any appropriate representative of the Office of US Inspector General to (1) examine its records relating to the Project and this ARRA Assistance Agreement and (2) interview any officer or employee of the Local Entity.

L. FALSE CLAIMS – The Local Entity must promptly refer to EPA’s Inspector General any credible evidence that a principal, employee, agent, sub-grantee contractor, subcontractor, loan recipient, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws

pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds provided under this ARRA Assistance Agreement.

M. **LIMIT ON FUNDS** – The Local Entity shall not use funds for particular activities for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

N. **WAGE RATES** – The Local Entity shall require that all laborers and mechanics employed by its contractors and subcontractors be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor (DOL) in accordance with subchapter IV of chapter 32 of title 40, United States Code. The Local Entity must require that contractors and subcontractors obtain wage determinations from DOL and comply with DOL guidance and regulations implementing wage rate requirements applicable to ARRA funds.

O. **OFFICE OF MANAGEMENT AND BUDGET (OMB) GUIDANCE** – The Local Entity acknowledges and agrees that this ARRA Assistance is subject to all applicable provisions of implementing guidance for the American Recovery and Reinvestment Act of 2009 issued by the United States Office of Management and Budget, including the Initial Implementing Guidance for the American Recovery and Reinvestment Act (M-09-10) issued on February 18, 2009 and available on [www.recovery.gov](http://www.recovery.gov), and any subsequent guidance documents issued by OMB.

P. **DISADVANTAGED BUSINESS ENTERPRISE** – Pursuant to 40 CFR, Section 33.301, the Local Entity agrees to make good faith efforts whenever procuring construction, equipment, services and supplies, and to require that prime contractors also comply. The Local Entity shall provide BPH with MBE/WBE participation reports semi-annually.

Q. **CIVIL RIGHTS** – The Local Entity shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and a variety of program-specific statutes with nondiscrimination requirements. The Local Entity shall also comply with Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religion, and sex discrimination in employment), the Americans with Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and Local Entities, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting race, color, national origin, age, family status, and disability discrimination in housing), as well as any other applicable civil rights laws.

R. **BOND DESIGNATION** – Each Local Bond contain “(WVDWTRF Program/ARRA)” in the bond name.

S. USER RATES – The Local Entity shall covenant that it will not reduce its approved customer rates for at least eighteen months after completion of the Project or (a) until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses or (b) new rates have been established by order of the Public Service Commission. The Local Entity shall notify the Authority and the BPH of any action to reduce rates during the eighteen months following completion of construction of the Project.

# EXHIBIT D-1

For DBHR Use Only  
Grant Number: \_\_\_\_\_

**West Virginia Department of Health and Human Resources  
Subrecipient (Grantee) Information Form**  
Please see the instructions for completion of the Subrecipient (Grantee) Information Form.

**1. Subrecipient (Grantee) Name**

**2. Subrecipient (Grantee) Location (Street Address, City State and Zip Code)**

**3. Subrecipient (Grantee) 9-Digit DUNS Number**

**4. Subrecipient (Grantee) Type (Please check one box only)**

<input type="checkbox"/> State Government <input type="checkbox"/> County Government <input type="checkbox"/> City or Township Government <input type="checkbox"/> Special District Government <input type="checkbox"/> Regional Organization <input type="checkbox"/> U.S. Territory or Possession <input type="checkbox"/> Independent School District <input type="checkbox"/> Public/State Controlled Institution of Higher Learning <input type="checkbox"/> Indian/Native American Tribal Government (Federally Recognized) <input type="checkbox"/> Indian/Native American Tribal Government (Other than Federally Recognized) <input type="checkbox"/> Indian/Native American Tribally Designated Organization <input type="checkbox"/> Public/Indian Housing Authority	<input type="checkbox"/> Nonprofit with 501(c)(3) IRS Status (Other than Institution of Higher Education) <input type="checkbox"/> Nonprofit without 501(c)(3) IRS Status (Other than Institution of Higher Education) <input type="checkbox"/> Private Institution of Higher Education <input type="checkbox"/> Individual <input type="checkbox"/> For-Profit Business (Other than Small Business) <input type="checkbox"/> Small Business <input type="checkbox"/> Hispanic-serving Institution <input type="checkbox"/> Historically Black Colleges and Universities (HBCUs) <input type="checkbox"/> Tribally Controlled Colleges and Universities (TCCUs) <input type="checkbox"/> Alaska Native and Native Hawaiian Serving Institutions <input type="checkbox"/> Non-domestic (non-US) entity <input type="checkbox"/> Other (Please explain) _____
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**5. Primary Performance Location (Street Address, City State and Zip Code)**

**6. Names, Titles and Total Compensation for the 5 Most Highly Compensated Officers**

Officer Name	Title	Total Compensation

**NOTE: This form must be signed by an individual no lower than the Executive Director or Chief Financial Officer.**

Printed Name \_\_\_\_\_ Title \_\_\_\_\_  
 Signature \_\_\_\_\_ Date \_\_\_\_\_ Phone # \_\_\_\_\_

DBHR Finance A-1000

## EXHIBIT D-2

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**ADDENDUM  
FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT  
AMERICAN RECOVERY AND REINVESTMENT ACT**

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**A. Purpose and Summary**

The purpose of this Addendum is to ensure that recipients of grant awards from the West Virginia Department of Health and Human Resources understand their responsibilities under the Federal Funding Accountability and Transparency Act of 2006 and the American Recovery and Reinvestment Act of 2009, as may be applicable.

As part of these responsibilities, and as condition for execution of this Grant Agreement, Grantees must remain current in the Central Contractor Registration (CCR) database (<http://www.ccr.gov>) at all times during which they have active DHHR grant awards. The CCR database is the repository for standard information about Federal financial assistance applicants, recipients and subrecipients. Grantees must update or renew their CCR registration at least once per year to maintain an active status.

In order to register in the Central Contractor Registration database, Grantees must first obtain a valid Data Universal Numbering System (DUNS) Number from Dun and Bradstreet at <http://www.dnb.com>. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and for validating the address and point of contact information for Federal assistance applicants, recipients and subrecipients.

Additional information about obtaining a DUNS number and maintaining registration with the CCR are included on the websites referenced above and on the attached instructions for Completion of the Subrecipient (Grantee) Information Form. As further explained within this Addendum, the attached Subrecipient (Grantee) Information Form must be completed by the Grantee and submitted to the DHHR during the negotiation (pre-award) stage of the grant cycle.

**B. Federal Funding Accountability and Transparency Act of 2006**

The Federal Funding Accountability and Transparency Act of 2006, Public Law 109-282, hereinafter referred to as the Transparency Act, is an Act of Congress that requires full disclosure to the public of all entities or organizations receiving Federal funds. The Transparency Act directed the Office of Management and Budget (OMB), by January 1, 2008, to ensure the existence and operation of a single searchable website, accessible to the public at no cost, which includes for each Federal award:

1. The amount of the award;
2. Information including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source, and an award title descriptive of the purpose of each funding action;
3. The name and location of the recipient and the primary location of performance;
4. A unique identifier of the recipient and any parent agency (DUNS Number); and
5. Any other relevant information specified by the OMB

The Transparency Act also required the OMB, by July 1, 2007, to commence a pilot program to test the collection of and access to data about subgrants and to determine how to implement a subaward-reporting program across the Federal Government. Thereafter, the Transparency Act required the OMB to terminate the pilot program by January 1, 2009 and, subject to extensions, replace it with a permanent system of ensuring that data regarding subawards is disclosed in the same manner as data regarding other Federal awards.

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**ADDENDUM  
FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT  
AMERICAN RECOVERY AND REINVESTMENT ACT**

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**C. American Recovery and Reinvestment Act of 2009**

The American Recovery and Reinvestment Act of 2009, Public Law 111-5, hereinafter referred to as the ARRA, is an economic stimulus package enacted by the 111<sup>th</sup> United States Congress and signed into law by President Barack Obama on February 17, 2009. The ARRA is intended to provide a stimulus to the U.S. economy in the wake of the economic downturn and includes Federal tax relief; expansion of unemployment benefits and other social welfare provisions; and domestic spending on education, health care, and infrastructure, including the energy sector. The ARRA provides for unprecedented levels of transparency and accountability so that the public will be able to know how, when and where their tax dollars are being spent. Specific information and requirements under the ARRA are as follows:

1. Funding provided from the Federal Government through the ARRA is "one-time only" funding and, to maximize the transparency and accountability of ARRA funds, organizations receiving funding under the ARRA must maintain records that identify adequately the source and application of those funds.
2. Section 1512(c) of the ARRA requires quarterly reporting on the use of funds. The data elements proposed for reporting the information described in Section 1512(c) were published in the Federal Register on April 1, 2009 (74 FR 14824). The reporting requirements under Section 1512(c) of the ARRA currently apply only to entities receiving ARRA funds directly from the Federal Government, sometimes referred to as primary recipients.
3. Section 1512(h) of the ARRA requires recipients of ARRA funds, and their first-tier recipients [subrecipients] to register in the Central Contractor Registration (CCR) database at <http://www.ccr.gov>. In order to register in the CCR, a valid Data Universal Numbering System (DUNS) Number is required, as further described within this Addendum and within the Instructions for Completion of the Subrecipient [Grantee] Information Form.
4. Section 1605 of the ARRA requires that projects funded by the ARRA for the construction, alteration, maintenance, or repair of a public building or public work use American iron, steel, and manufactured goods in the project unless one of the specified exemptions applies. The ARRA provides that this requirement be applied in a manner consistent with U.S. obligations under international agreements. Definitions of "manufactured good," "public building and public work," and other terms as they pertain to the Buy American guidance in 2 CFR part 175 are found in § 175.140 and § 175.150.
5. Section 1606 of the ARRA requires the payment of Davis-Bacon Act (40 U.S.C. 31) wage rates to "laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government" pursuant to the ARRA.
6. Grantees bound by the Single Audit Act Amendments of 1996 and OMB Circular A-133, *Audits of States, Local Governments and Nonprofit Organizations*, must separately identify the expenditures for Federal awards under the ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. This requirement shall be accomplished by identifying expenditures for Federal awards made under the ARRA separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC. Additional information regarding the Federal audit requirements of OMB Circular A-133 is located within Exhibit F of the DHHR Grant Agreement and the Source of Funds Schedule, attached to this Grant Agreement as Exhibit B, identifies whether the funds awarded under this grant are being made available through appropriations under the ARRA.

**ADDENDUM  
FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT  
AMERICAN RECOVERY AND REINVESTMENT ACT**

**D. DHHR Reporting to the Federal Government**

At present time, direct reporting to the Federal Government lies solely at the primary recipient level. Therefore, while subrecipients of grant awards from the DHHR do not have to report data directly to the Federal Government, the DHHR, as a primary recipient and pass-through entity of Federal awards, does have a responsibility to report on certain data elements regarding its subgrant activities. As such, the DHHR is required to report the following information to the Federal Government with respect to its subawards:

1. Subrecipient OIGNS number
2. Award number or other identifying number
3. Subrecipient name
4. Subrecipient location
5. Subrecipient type
6. Amount of subaward disbursed
7. Total amount of subaward
8. Subaward date
9. Subaward project/grant period
10. Primary performance location
11. Names and total compensation of the five most highly compensated officers of the entity

**E. Subrecipient (Grantee) Information Form**

Both the Transparency Act and the ARRA address the primary recipient's requirements to report information on the subawards it makes to subrecipient (Grantee) organizations. To ensure completeness and consistency in accounting for the funds received and subawarded by the West Virginia Department of Health and Human Resources (DHHR) to DHHR Grantees, the DHHR has developed a standardized form in which Grantees shall be required to complete and submit to the DHHR during the negotiation (pre-award) stage of the grant cycle. The DHHR will not process the Grant Agreement or commit any of the funds related thereto until the Grantee submits a signed copy of the Subrecipient (Grantee) Information Form.

**F. Future Informational Updates and Regulatory Requirements**

Currently, the rules, regulations and guidance issued by the Federal Government with respect to the oversight, accountability and reporting requirements associated with the Transparency Act and the ARRA are a work-in-progress. As referenced in the aforementioned sections of this Addendum, there are a number of reporting requirements (data elements) for which the DHHR, as a primary recipient of Federal funds, must report directly to the Federal Government. While the Federal Government has not currently placed specific reporting obligations on all subrecipients (Grantees), by all indications, these requirements are forthcoming from the Executive Office of the President or through the release of individual Federal agency regulations. Therefore, as additional information becomes available and the Federal Government provides more details on managing Federal funds, the DHHR will transmit the information or requirements to its grant community through an update to this memorandum or by other determinable means to ensure overall compliance with the Transparency Act and the ARRA.

**G. Sources of Information / Websites**

Federal Funding Accountability and Transparency Act of 2005  
<http://www.usaspending.gov/>

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**APPENDIX**  
**FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT**  
**AMERICAN RECOVERY AND REINVESTMENT ACT**

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[http://trwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109\\_cong\\_bills&docid=f:s2590enr.bt.pdf](http://trwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:s2590enr.bt.pdf)

American Recovery and Reinvestment Act of 2009

<http://www.recovery.gov/>

[http://trwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111\\_cong\\_bills&docid=f:h1enr.pdf](http://trwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1enr.pdf)

[http://www.whitehouse.gov/omb/assets/memoranda\\_fy2009/m09-10.pdf](http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-10.pdf)

[http://www.whitehouse.gov/omb/assets/memoranda\\_fy2009/m09-13.pdf](http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-13.pdf)

<http://www.recovery.wv.gov/>

Interim Final Guidance from the OMB – Requirements for Implementing Sections 1512, 1605, and 1606 of the American Recovery and Reinvestment Act of 2009 for Financial Assistance Awards – published in the Federal Register, Volume 74, Number 77, April 23, 2009, pages 18449-53

<http://www.gpoaccess.gov/fr>

EXHIBIT E

MONTHLY PAYMENT FORM

West Virginia Water Development Authority  
180 Association Drive  
Charleston, WV 25311

Re: [Name of bond issue]

Ladies and Gentlemen:

The following deposits were made to the West Virginia Municipal Bond Commission

on behalf of \_\_\_\_\_ on \_\_\_\_\_.  
[Local Entity] [Date]

Sinking Fund:

Interest \$ \_\_\_\_\_

Principal \$ \_\_\_\_\_

Total: \$ \_\_\_\_\_

Reserve Account: \$ \_\_\_\_\_

Witness my signature this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
[Name of Local Entity]

By: \_\_\_\_\_  
Authorized Officer

Enclosure: wire transfer form

EXHIBIT F

OPINION OF BOND COUNSEL FOR LOCAL ENTITY

[To Be Dated as of Date of Loan Closing]

West Virginia Water Development Authority  
180 Association Drive  
Charleston, WV 25311

West Virginia Bureau for Public Health  
815 Quarrier Street, Suite 418  
Charleston, WV 25301-2616

Ladies and Gentlemen:

We are bond counsel to \_\_\_\_\_(the "Local Entity"), a

\_\_\_\_\_.

We have examined a certified copy of proceedings and other papers relating to the authorization of a (i) ARRA Assistance Agreement dated \_\_\_\_\_, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), between the Local Entity and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), and (ii) the issue of a series of revenue bonds of the Local Entity, dated \_\_\_\_\_(the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Local Bonds are issued in the principal amount of \$\_\_\_\_\_, in the form of one bond, registered as to principal and interest to the Authority, with principal and interest payable quarterly on March 1, June 1, September 1, and December 1 of each year, beginning \_\_\_\_\_1, \_\_\_\_\_, and ending \_\_\_\_\_1, \_\_\_\_\_, all as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued for the purposes of (i) \_\_\_\_\_, and (ii) 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 adopted or enacted by the Local Entity on \_\_\_\_\_, as supplemented by the supplemental resolution duly adopted by the Local Entity on \_\_\_\_\_(collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the ARRA

Assistance Agreement 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 ARRA Assistance 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 ARRA Assistance Agreement has been duly authorized by and executed on behalf of the Local Entity and is a valid and binding special obligation of the Local Entity, enforceable in accordance with the terms thereof.

2. The ARRA Assistance Agreement inures to the benefit of the Authority and the BPH and cannot be amended so as to affect adversely the rights of the Authority or the BPH or diminish the obligations of the Local Entity without the consent of the Authority and the BPH.

3. The Local Entity is a duly organized and validly existing \_\_\_\_\_, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt or enact the Local Act and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Act and all other necessary orders and resolutions have been legally and effectively adopted or enacted by the Local Entity and constitute valid and binding obligations of the Local Entity, enforceable against the Local Entity in accordance with their terms. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

5. The Local Bonds have been duly authorized, issued, executed and delivered by the Local Entity to the Authority and are valid, legally enforceable and binding special obligations of the Local Entity, payable from the gross or net revenues of the System set forth in the Local Act and secured by a first lien on and pledge of the gross or net revenues of the System, all in accordance with the terms of the Local Bonds and the Local Act.

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 LOCAL BONDS

A. Series A Bonds (Base Program)

Principal Amount of Local Bonds	\$912,458
Purchase Price of Local Bonds	\$912,458

The Local Bonds shall bear interest at the rate of two percent (2%) per annum. Commencing June 1, 2011, principal of and interest on the Local Bonds is payable quarterly, with no administrative fee. Quarterly payments will be made on March 1, June 1, September 1 and December 1 of each year as set forth on the Schedule Y attached hereto and incorporated herein by reference.

The Local Entity shall submit its payments monthly to the Commission with instructions that the Commission will make quarterly payments to the Authority at such address as is given to the Commission in writing by the Authority. If the Reserve Account is not fully funded at closing, the Local Entity 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 Commission. The Local Entity shall instruct the 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 Local Bonds are fully registered in the name of the Authority as to principal and interest, if any, and the Local Bonds shall grant the Authority a first lien on the gross or net revenues of the Local Entity's system as provided in the Local Act.

The Local Entity may prepay the Local Bonds in full at any time at the price of par upon 30 days' written notice to the Authority and BPH. The Local Entity shall request approval from the Authority and BPH in writing of any proposed debt which will be issued by the Local Entity on a parity with the Local Bonds which request must be filed at least 60 days prior to the intended date of issuance.

As of the date of the ARRA Assistance Agreement, the Local Bonds are on a parity as to liens, pledge and source of and security for payment with the following obligations of the Local Entity:

- (i) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B, dated November 18, 1987, issued in the original aggregate principal amount of \$413,629;

- (ii) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-1, dated May 4, 1988, issued in the original aggregate principal amount of \$295,916;
- (iii) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-2, dated May 20, 1988, issued in the original aggregate principal amount of \$558,000;
- (iv) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, dated April 13, 1989, issued in the original aggregate principal amount of \$117,480;
- (v) City of Charles Town Combined Waterworks and Sewerage System Refunding Revenue Bonds, Series 1998, dated May 15, 1998, issued in the original aggregate principal amount of \$10,355,000;
- (vi) City of Charles Town Combined Waterworks and Sewerage System Design Revenue Bonds, Series 1998 (West Virginia SRF Program), dated September 29, 1998, issued in the original aggregate principal amount of \$437,601;
- (vii) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated June 22, 2000, issued in the original aggregate principal amount of \$3,163,781;
- (viii) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 A (West Virginia Water Development Authority), dated August 22, 2002, issued in the original aggregate principal amount of \$1,100,000;
- (ix) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund), dated August 22, 2002, issued in the original aggregate principal amount of \$3,600,000;
- (x) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 C (Insured), dated December 1, 2002, issued in the original aggregate principal amount of \$4,135,000;
- (xi) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A (AMT - Uninsured), dated January 1, 2003, issued in the original aggregate principal amount of \$1,000,000;

- (xii) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2005 A (Taxable), dated June 15, 2005, issued in the original aggregate principal amount of \$2,355,000;
- (xiii) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2006 A (Taxable), dated January 19, 2006, issued in the original aggregate principal amount of \$1,830,000 (the "Series 2006 A Bonds");
- (xiv) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2006 B (Tax-Exempt), dated July 27, 2006, issued in the original aggregate principal amount of \$2,000,000; and
- (xv) Series B Bonds issued in the aggregate principal amount of \$100,000 issued simultaneously with the Series 2009 A Bonds.

The Issuer also has outstanding its Combined Waterworks and Sewerage System Bond Anticipation Notes, Series 2007 A, dated April 11, 2007, issued in the original aggregate principal amount of \$1,070,000 (the "Series 2007 A Notes"). The Series 2007 A Notes are secured solely by the Surplus Revenues of the System and the proceeds of a subsequent series of bonds to be issued by the Issuer for the purpose of permanently financing the costs of the project temporarily financed by the proceeds of such Series 2007 A Notes. The proceeds of the Series 2007 A Notes are not secured by the Gross Revenues or Net Revenues of the System. The Series 2009 A Bonds and the Prior Bonds shall be senior and prior with respect to lien on and source of and security for payment to the Series 2007 A Notes.

**B. Series B Bonds (ARRA)**

Principal Amount of Local Bonds \$100,000  
Purchase Price of Local Bonds \$100,000

The Local Bonds shall bear interest at the rate of two percent (2%) per annum. Commencing June 1, 2011, principal of and interest on the Local Bonds is payable quarterly, with no administrative fee. Principal payment shall begin on September 1, 2011, and shall be made quarterly thereafter (March 1, June 1, September 1 and December 1 of each year) as set forth on Schedule Y attached hereto and incorporated herein by reference.

The Local Entity shall submit its payments monthly to the Commission with instructions that the Commission will make quarterly payments to the Authority at

such address as is given to the Commission in writing by the Authority. If the Reserve Account is not fully funded at closing, the Local Entity 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 Commission. The Local Entity shall instruct the 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 Local Bonds are fully registered in the name of the Authority as to principal and interest, if any, and the Local Bonds shall grant the Authority a first lien on the gross or net revenues of the Local Entity's system as provided in the Local Act.

The Local Entity may prepay the Local Bonds in full at any time at the price of par upon 30 days' written notice to the Authority and BPH. The Local Entity shall request approval from the Authority and BPH in writing of any proposed debt which will be issued by the Local Entity on a parity with the Local Bonds which request must be filed at least 60 days prior to the intended date of issuance.

As of the date of the ARRA Assistance Agreement, the Local Bonds are on a parity as to liens, pledge and source of and security for payment with the following obligations of the Local Entity:

- (i) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B, dated November 18, 1987, issued in the original aggregate principal amount of \$413,629;
- (ii) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-1, dated May 4, 1988, issued in the original aggregate principal amount of \$295,916;
- (iii) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-2, dated May 20, 1988, issued in the original aggregate principal amount of \$558,000;
- (iv) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, dated April 13, 1989, issued in the original aggregate principal amount of \$117,480;
- (v) City of Charles Town Combined Waterworks and Sewerage System Refunding Revenue Bonds, Series 1998, dated May 15, 1998, issued in the original aggregate principal amount of \$10,355,000;

- (vi) City of Charles Town Combined Waterworks and Sewerage System Design Revenue Bonds, Series 1998 (West Virginia SRF Program), dated September 29, 1998, issued in the original aggregate principal amount of \$437,601;
- (vii) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated June 22, 2000, issued in the original aggregate principal amount of \$3,163,781;
- (viii) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 A (West Virginia Water Development Authority), dated August 22, 2002, issued in the original aggregate principal amount of \$1,100,000;
- (ix) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund), dated August 22, 2002, issued in the original aggregate principal amount of \$3,600,000;
- (x) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 C (Insured), dated December 1, 2002, issued in the original aggregate principal amount of \$4,135,000;
- (xi) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A (AMT - Uninsured), dated January 1, 2003, issued in the original aggregate principal amount of \$1,000,000;
- (xii) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2005 A (Taxable), dated June 15, 2005, issued in the original aggregate principal amount of \$2,355,000;
- (xiii) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2006 A (Taxable), dated January 19, 2006, issued in the original aggregate principal amount of \$1,830,000 (the "Series 2006 A Bonds");
- (xiv) City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2006 B (Tax-Exempt), dated July 27, 2006, issued in the original aggregate principal amount of \$2,000,000; and
- (xv) Series A Bonds issued in the aggregate principal amount of \$912,458 issued simultaneously with the Series 2009 B Bonds.

The Issuer also has outstanding its Combined Waterworks and Sewerage System Bond Anticipation Notes, Series 2007 A, dated April 11, 2007, issued in the original aggregate principal amount of \$1,070,000 (the "Series 2007 A Notes"). The Series 2007 A Notes are secured solely by the Surplus Revenues of the System and the proceeds of a subsequent series of bonds to be issued by the Issuer for the purpose of permanently financing the costs of the project temporarily financed by the proceeds of such Series 2007 A Notes. The proceeds of the Series 2007 A Notes are not secured by the Gross Revenues or Net Revenues of the System. The Series 2009 A Bonds and the Prior Bonds shall be senior and prior with respect to lien on and source of and security for payment to the Series 2007 A Notes.

Number of New Customers To Be Served: 0  
Location: N/A

**SCHEDULE Y**  
**DEBT SERVICE SCHEDULES**

City of Charles Town					
20 Years					
2.0% Interest Rate					
		Dated Date	1/13/10		
		Delivery Date	1/13/10		
Period Ending	Principal	Coupon	Interest	Debt Service	
1/13/10					
6/1/11	9,304	2.000%	4,562.29	13,866.29	
9/1/11	9,351	2.000%	4,515.77	13,866.77	
12/1/11	9,398	2.000%	4,469.02	13,867.02	
3/1/12	9,445	2.000%	4,422.03	13,867.03	
6/1/12	9,492	2.000%	4,374.80	13,866.80	
9/1/12	9,539	2.000%	4,327.34	13,866.34	
12/1/12	9,587	2.000%	4,279.65	13,866.65	
3/1/13	9,635	2.000%	4,231.71	13,866.71	
6/1/13	9,683	2.000%	4,183.54	13,866.54	
9/1/13	9,732	2.000%	4,135.12	13,867.12	
12/1/13	9,780	2.000%	4,086.46	13,866.46	
3/1/14	9,829	2.000%	4,037.56	13,866.56	
6/1/14	9,878	2.000%	3,988.42	13,866.42	
9/1/14	9,928	2.000%	3,939.03	13,867.03	
12/1/14	9,977	2.000%	3,889.39	13,866.39	
3/1/15	10,027	2.000%	3,839.50	13,866.50	
6/1/15	10,077	2.000%	3,789.37	13,866.37	
9/1/15	10,128	2.000%	3,738.98	13,866.98	
12/1/15	10,178	2.000%	3,688.34	13,866.34	
3/1/16	10,229	2.000%	3,637.45	13,866.45	
6/1/16	10,280	2.000%	3,586.31	13,866.31	
9/1/16	10,332	2.000%	3,534.91	13,866.91	
12/1/16	10,383	2.000%	3,483.25	13,866.25	
3/1/17	10,435	2.000%	3,431.33	13,866.33	
6/1/17	10,488	2.000%	3,379.16	13,867.16	
9/1/17	10,540	2.000%	3,326.72	13,866.72	
12/1/17	10,593	2.000%	3,274.02	13,867.02	
3/1/18	10,646	2.000%	3,221.05	13,867.05	
6/1/18	10,699	2.000%	3,167.82	13,866.82	
9/1/18	10,752	2.000%	3,114.33	13,866.33	
12/1/18	10,806	2.000%	3,060.57	13,866.57	
3/1/19	10,860	2.000%	3,006.54	13,866.54	
6/1/19	10,914	2.000%	2,952.24	13,866.24	
9/1/19	10,969	2.000%	2,897.67	13,866.67	
12/1/19	11,024	2.000%	2,842.82	13,866.82	
3/1/20	11,079	2.000%	2,787.70	13,866.70	
6/1/20	11,134	2.000%	2,732.31	13,866.31	
9/1/20	11,190	2.000%	2,676.64	13,866.64	
12/1/20	11,246	2.000%	2,620.69	13,866.69	
3/1/21	11,302	2.000%	2,564.46	13,866.46	
6/1/21	11,359	2.000%	2,507.95	13,866.95	
9/1/21	11,416	2.000%	2,451.15	13,867.15	
12/1/21	11,473	2.000%	2,394.07	13,867.07	
3/1/22	11,530	2.000%	2,336.71	13,866.71	

City of Charles Town					
20 Years					
2.0% Interest Rate					
Period Ending	Principal	Coupon	Interest	Debt Service	
6/1/22	11,588	2.000%	2,279.06	13,867.06	
9/1/22	11,646	2.000%	2,221.12	13,867.12	
12/1/22	11,704	2.000%	2,162.89	13,866.89	
3/1/23	11,762	2.000%	2,104.37	13,866.37	
6/1/23	11,821	2.000%	2,045.56	13,866.56	
9/1/23	11,880	2.000%	1,986.45	13,866.45	
12/1/23	11,940	2.000%	1,927.05	13,867.05	
3/1/24	11,999	2.000%	1,867.35	13,866.35	
6/1/24	12,059	2.000%	1,807.36	13,866.36	
9/1/24	12,120	2.000%	1,747.06	13,867.06	
12/1/24	12,180	2.000%	1,686.46	13,866.46	
3/1/25	12,241	2.000%	1,625.56	13,866.56	
6/1/25	12,302	2.000%	1,564.36	13,866.36	
9/1/25	12,364	2.000%	1,502.85	13,866.85	
12/1/25	12,426	2.000%	1,441.03	13,867.03	
3/1/26	12,488	2.000%	1,378.90	13,866.90	
6/1/26	12,550	2.000%	1,316.46	13,866.46	
9/1/26	12,613	2.000%	1,253.71	13,866.71	
12/1/26	12,676	2.000%	1,190.64	13,866.64	
3/1/27	12,739	2.000%	1,127.26	13,866.26	
6/1/27	12,803	2.000%	1,063.57	13,866.57	
9/1/27	12,867	2.000%	999.55	13,866.55	
12/1/27	12,931	2.000%	935.22	13,866.22	
3/1/28	12,996	2.000%	870.56	13,866.56	
6/1/28	13,061	2.000%	805.58	13,866.58	
9/1/28	13,126	2.000%	740.28	13,866.28	
12/1/28	13,192	2.000%	674.65	13,866.65	
3/1/29	13,258	2.000%	608.69	13,866.69	
6/1/29	13,324	2.000%	542.40	13,866.40	
9/1/29	13,391	2.000%	475.78	13,866.78	
12/1/29	13,458	2.000%	408.82	13,866.82	
3/1/30	13,525	2.000%	341.53	13,866.53	
6/1/30	13,593	2.000%	273.91	13,866.91	
9/1/30	13,661	2.000%	205.94	13,866.94	
12/1/30	13,729	2.000%	137.64	13,866.64	
3/1/31	13,798	2.000%	68.99	13,866.99	
	<b>912,458</b>		<b>196,874.80</b>	<b>1,109,332.80</b>	

City of Charles Town					
20 Years					
2.0% Interest Rate					
		Dated Date	1/13/10		
		Delivery Date	1/13/10		
Period Ending	Principal	Coupon	Interest	Debt Service	
1/13/10					
6/1/11	1,020	2.000%	500.00	1,520.00	
9/1/11	1,025	2.000%	494.90	1,519.90	
12/1/11	1,030	2.000%	489.78	1,519.78	
3/1/12	1,035	2.000%	484.63	1,519.63	
6/1/12	1,040	2.000%	479.45	1,519.45	
9/1/12	1,045	2.000%	474.25	1,519.25	
12/1/12	1,051	2.000%	469.03	1,520.03	
3/1/13	1,056	2.000%	463.77	1,519.77	
6/1/13	1,061	2.000%	458.49	1,519.49	
9/1/13	1,067	2.000%	453.19	1,520.19	
12/1/13	1,072	2.000%	447.85	1,519.85	
3/1/14	1,077	2.000%	442.49	1,519.49	
6/1/14	1,083	2.000%	437.11	1,520.11	
9/1/14	1,088	2.000%	431.69	1,519.69	
12/1/14	1,093	2.000%	426.25	1,519.25	
3/1/15	1,099	2.000%	420.79	1,519.79	
6/1/15	1,104	2.000%	415.29	1,519.29	
9/1/15	1,110	2.000%	409.77	1,519.77	
12/1/15	1,116	2.000%	404.22	1,520.22	
3/1/16	1,121	2.000%	398.64	1,519.64	
6/1/16	1,127	2.000%	393.04	1,520.04	
9/1/16	1,132	2.000%	387.40	1,519.40	
12/1/16	1,138	2.000%	381.74	1,519.74	
3/1/17	1,144	2.000%	376.05	1,520.05	
6/1/17	1,149	2.000%	370.33	1,519.33	
9/1/17	1,155	2.000%	364.59	1,519.59	
12/1/17	1,161	2.000%	358.81	1,519.81	
3/1/18	1,167	2.000%	353.01	1,520.01	
6/1/18	1,173	2.000%	347.17	1,520.17	
9/1/18	1,178	2.000%	341.31	1,519.31	
12/1/18	1,184	2.000%	335.42	1,519.42	
3/1/19	1,190	2.000%	329.50	1,519.50	
6/1/19	1,196	2.000%	323.55	1,519.55	
9/1/19	1,202	2.000%	317.57	1,519.57	
12/1/19	1,208	2.000%	311.56	1,519.56	
3/1/20	1,214	2.000%	305.52	1,519.52	
6/1/20	1,220	2.000%	299.45	1,519.45	
9/1/20	1,226	2.000%	293.35	1,519.35	
12/1/20	1,232	2.000%	287.22	1,519.22	
3/1/21	1,239	2.000%	281.06	1,520.06	
6/1/21	1,245	2.000%	274.86	1,519.86	
9/1/21	1,251	2.000%	268.64	1,519.64	
12/1/21	1,257	2.000%	262.38	1,519.38	
3/1/22	1,264	2.000%	256.10	1,520.10	



**RESERVED**

**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 7<sup>th</sup> day of August, 2009.

CASE NO. 09-0872-W-PC

CITY OF CHARLES TOWN,

Petition for determination that the funding and installation of a new water meter reading system and the installation of certain water main valves and other associated facilities within the City's water system constitute ordinary repairs and replacements of an existing water system and in the usual course of business for which no certificate of convenience and necessity is required under W.Va. Code §24-2-11.

**COMMISSION ORDER**

The Commission determines that the project proposed by the City of Charles Town ("Charles Town") is in the usual course of business and does not require a certificate of convenience and necessity ("Certificate").

**BACKGROUND**

On May 29, 2009, Charles Town petitioned for a determination that a project to reduce unaccounted for water loss ("UFW") is construction in the usual course of business that does not require a Certificate. Charles Town developed the project in response to a Commission directive in Case No. 05-1184-W-CN. (Recommended Decision November 22, 2005, adopted by the Commission February 14, 2006). It plans to replace existing water meters with radio read meters, conduct a leak detection program and abandon obsolete or redundant mains. Charles Town expects to pay for the project with \$1,655,000 in loan funds from the American Recovery and Reinvestment Act of 2009 ("Stimulus") at a rate of two percent per year for twenty years. See, Petition.

Commission Staff ("Staff") filed a final memorandum recommending that the Commission determine that the project is construction in the usual course of business and decline to require a Certificate. Staff noted that debt service on project is within Charles Town's cash flow and the proposal directly addresses its current UFW of 34.8%. See, August 3, 2009 Staff Memorandum.

## DISCUSSION

The Commission agrees with the Staff recommendation and determines that the project Charles Town proposed is construction in the usual course of business. Under W.Va. Code §24-2-11, an entity proposing to construct utility facilities must obtain a Certificate unless that project is an extension in the usual course of business. The Commission determines if a project is an extension in the usual course of business on a case by case basis and considers factors including (a) the estimated project cost in proportion to total utility revenues, (b) level of project complexity, (c) type of proposed funding, (d) factors driving the project, (e) project urgency, (f) competency and experience of utility staff or involved consultants, (g) regulatory history of the applicant and (h) risks/benefits of the project. See, South Putnam Public Service District, Case No. 04-0034-PWD-PC (Recommended Decision March 17, 2004, Final April 6, 2004). In this case, the project does not involve the addition of new customers, but replacement of existing meters and retirement of outdated lines to reduce a significant problem with UFW that the Commission directed Charles Town to address in Case No. 05-1184-W-CN. The project is funded by a Stimulus loan that will not increase rates. Therefore, applying the South Putnam factors, the Commission concludes that the project does not require a Certificate or other Commission approval.

The Commission takes this opportunity to remind Charles Town of its obligation in the November 22, 2005 Recommended Decision in Case No. 05-1184-W-CN to file annual reports detailing its progress in reducing UFW. The Commission will require Charles Town to continue filing those reports until it reduces its UFW to 15% or less.

## FINDINGS OF FACT

1. Charles Town petitioned for a determination that a proposed project to reduce UFW is construction in the usual course of business that does not require a Certificate See, Petition.
2. Charles Town plans to replace existing water meters with radio read meters, conduct a leak detection program and abandon obsolete or redundant mains. Id.
3. Staff recommended that the Commission determine that the project is construction in the usual course of business and decline to require a Certificate. Staff noted that the project is within Charles Town's cash flow and directly addresses its UFW problem. See, August 3, 2009 Staff Memorandum.

## CONCLUSION OF LAW

The project described in the Petition Charles Town filed is construction in the usual course of business and does not require a Certificate under W.Va. Code §24-2-11.

ORDER

IT IS THEREFORE ORDERED that the Project described in the Petition from Charles Town is in the usual course of business and does not require a Certificate.

IT IS FURTHER ORDERED that Charles Town shall continue to file annual reports on its efforts to reduce UFW until it achieves a UFW rate of 15% or less.

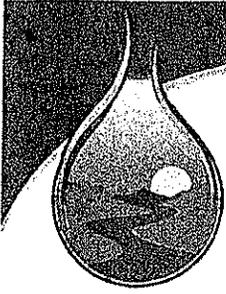
IT IS FURTHER ORDERED that on entry of this Order this case shall be removed from the Commission docket of open cases.

IT IS FURTHER ORDERED that the Commission Executive Secretary serve a copy of this Order on all parties by United States First Class Mail and on Staff by hand delivery.

A True Copy Testes

  
Sandra Siquita  
Executive Secretary

MJM/sek  
090872c.wpd



# WEST VIRGINIA

Infrastructure & Jobs Development Council

Gov. Joe Manchin, III  
Chairman

July 16, 2009

Kenneth Lowe, Jr.  
Public Member

Jane Arnett  
Charles Town Utility Board  
P.O. Box 359  
Charles Town, WV 25414

Dwight Calhoun  
Public Member

David "Bones" McComas  
Public Member

Re: City of Charles Town/Charles Town Utility Board  
Water Project 2009W-1116

Ron Justice  
Public Member

Dear Ms. Arnett:

Angela K. Chestnut, P.E.  
Executive Director

The West Virginia Infrastructure and Jobs Development Council (Infrastructure Council) has reviewed the Charles Town Utility Board's (Board) preliminary application to comply with WV PSC Order in Case 05-1184-W-CN to reduce water loss through automatic water meter reading-radio read installation, district metering, leak detection and abandonment of obsolete mains (Project).

Barbara J. Pauley  
Administrative Secretary

Based on the findings of the Water Technical Review Committee, the Infrastructure Council has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act. The Board should carefully review the enclosed comments of the Water Technical Review Committee as the Board may need to address certain issues raised in said comments as it proceeds with the Project.

Upon consideration of the preliminary application, the Infrastructure Council determined that the Board should pursue \$1,655,000 Drinking Water Treatment Revolving Fund American Recovery and Reinvestment Act assistance to fund this Project. Please contact the West Virginia Bureau for Public Health at 304-558-6749 for specific information on the steps the Board needs to follow to apply for these funds. **Please note that this letter does not constitute funding approval from this agency.**

If you have any questions regarding this matter, please contact the Angela Chestnut at 304-558-4607 (X201).

Sincerely,



Kenneth Lowe, Jr.

Enclosure

cc: Bob Decrease, P.E., BPH (w/o enclosure) (via e-mail)  
Region IX Eastern Panhandle Regional Planning & Development Council  
Peter J.H. Thompson, P.E., Black & Veatch

CITY OF CHARLES TOWN

Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS

On the 13th day of January, 2010, the undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, and the undersigned Mayor of the City of Charles Town (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the date hereof, the Authority received the Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), of the Issuer, in the principal amount of \$912,458, numbered AR-1 (the "Series 2010 A Bonds") and the Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), in the principal amount of \$100,000, numbered BR-1 (the "Series 2010 B Bonds"), each issued as a single, fully registered Bond, and dated January 13, 2010.

2. At the time of such receipt, all the Series 2010 A Bonds and Series 2010 B Bonds had been executed by the Mayor and the Clerk of the Issuer by their respective manual signatures, and the official seal of the Issuer had been affixed upon the Series 2010 Bonds.

3. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Series 2010 A Bonds, of the sum of \$89,545, being a portion of the principal amount of the Series 2010 A Bonds. The balance of the principal amount of the Series 2010 A Bonds will be advanced by the Authority and the West Virginia Bureau for Public Health to the Issuer as acquisition and construction of the Project progresses.

4. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Series 2010 B Bonds, of the sum of \$-0-, being a portion of the principal amount of the Series 2010 B Bonds. The balance of the principal amount of the Series 2010 B Bonds will be advanced by the Authority and the West Virginia Bureau for Public Health to the Issuer as acquisition and construction of the Project progresses

[Remainder of Page Intentionally Blank]

Dated as of the day and year first written above.

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

By: Carol A. Cummings  
Its: Authorized Representative

CITY OF CHARLES TOWN

By: Ron Smith  
Its: Mayor

12.15.09  
144220.00022

CITY OF CHARLES TOWN

Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

The Huntington National Bank,  
as Bond Registrar  
Charleston, West Virginia

Ladies and Gentlemen:

There are delivered to you herewith on this 13th day of January, 2010:

(1) Bond No. AR-1, constituting the entire original issue of the City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), in the principal amount of \$912,458 (the "Series 2010 A Bonds") and Bond No. BR-1 constituting the entire Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA) in the principal amount of \$100,000 (the "Series 2010 B Bonds"), both dated January 13, 2010 (collectively the "Series 2010 Bonds"), executed by the Mayor and Clerk of the City of Charles Town (the "Issuer") and bearing the official seal of the Issuer, authorized to be issued under and pursuant to a Bond Ordinance duly enacted by the Issuer on September 21, 2009, and a Supplemental Resolution duly adopted by the Issuer on January 4, 2010 (collectively, the "Bond Legislation");

(2) A copy of the Bond Legislation authorizing the above-captioned Bonds, duly certified by the Clerk of the Issuer;

(3) Executed counterparts of an ARRA Assistance Agreement for the Series 2010 Bonds, dated January 13, 2010 by and between the Issuer and the West Virginia Water Development Authority, on behalf of the West Virginia Bureau for Public Health (the "ARRA Assistance Agreement"); and

(4) Executed opinion of nationally recognized bond counsel regarding the validity of the ARRA Assistance Agreement and the Series 2010 Bonds.

You are hereby requested and authorized to deliver the Series 2010 Bonds to the Authority upon payment to the Issuer of the sum of \$89,545, representing a portion of the principal amount of the Series 2010 A Bonds. You are further hereby requested and authorized to deliver the Series 2010 B Bonds to the Authority upon payment to the Issuer of the sum of \$-0-, representing a portion of the principal amount of the Series 2010 B Bonds. Prior to such delivery of the Series 2010 Bonds, you will please cause the Series 2010 Bonds to be authenticated and registered by an authorized officer, as Bond Registrar, in accordance with the form of Certificate of Authentication and Registration thereon.

Dated as of the day and year first written above.

CITY OF CHARLES TOWN

By:   
Its: Mayor

12.16.09  
144220.00022

# SPECIMEN

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF CHARLES TOWN

COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2010 A  
(WEST VIRGINIA DWTRF PROGRAM)

No. AR-1

\$912,458

KNOW ALL MEN BY THESE PRESENTS: That on this the 13th day of January, 2010, the CITY OF CHARLES TOWN, a municipal corporation and political subdivision of the State of West Virginia in Jefferson County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of NINE HUNDRED TWELVE THOUSAND FOUR HUNDRED FIFTY-EIGHT DOLLARS (\$912,458), 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, the principal of, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2011, to and including March 1, 2031 as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference with interest payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2011, to and including March 1, 2031, at an interest rate of 2% per annum as set forth on said EXHIBIT B. This Bond shall not be subject to the SRF Administrative fee (as defined in the hereinafter describe Bond Legislation).

Principal and interest installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of The Huntington National Bank, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated January 13, 2010.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the waterworks portion of the existing combined waterworks and sewerage system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing combined waterworks and sewerage system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 and Chapter 16, Article 13C of the

West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on September 21, 2009, and a Supplemental Resolution duly adopted by the Issuer on January 4, 2010 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S:

- (1) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1987 B, DATED NOVEMBER 18, 1987, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$413,629 (THE "SERIES 1987 B BONDS");
- (2) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1988 B-1, DATED MAY 4, 1988, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$295,916 (THE "SERIES 1988 B-1 BONDS");
- (3) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1988 B-2, DATED MAY 20, 1988, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$558,000 (THE "SERIES 1988 B-2 BONDS");
- (4) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 B, DATED APRIL 13, 1989, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$117,480 (THE "SERIES 1989 B BONDS");
- (5) COMBINED WATERWORKS AND SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1998, DATED MAY 15, 1998, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$10,355,000 (THE "SERIES 1998 REFUNDING BONDS");
- (6) COMBINED WATERWORKS AND SEWERAGE SYSTEM DESIGN REVENUE BONDS, SERIES 1998 (WEST VIRGINIA SRF PROGRAM), DATED SEPTEMBER 29, 1998, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$437,601 (THE "SERIES 1998 DESIGN BONDS");
- (7) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2000 A (WEST VIRGINIA SRF PROGRAM), DATED JUNE 22, 2000, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$3,163,781 (THE "SERIES 2000 A BONDS");
- (8) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED AUGUST 22, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,100,000 (THE "SERIES 2002 A BONDS");

(9) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2002 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED AUGUST 22, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$3,600,000 (THE "SERIES 2002 B BONDS");

(10) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2002 C (INSURED), DATED DECEMBER 1, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$4,135,000 (THE "SERIES 2002 C BONDS");

(11) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2003 A (AMT - UNINSURED), DATED JANUARY 1, 2003, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,000,000 (THE "SERIES 2003 A BONDS");

(12) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2005 A (TAXABLE), DATED JUNE 15, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,355,000 (THE "SERIES 2005 A BONDS");

(13) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2006 A (TAXABLE), DATED JANUARY 19, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,830,000 (THE "SERIES 2006 A BONDS");

(14) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2006 B (TAX-EXEMPT), DATED JULY 27, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,000,000 (THE "SERIES 2006 B BONDS");

(15) COMBINED WATERWORKS AND SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2009 A (TAX-EXEMPT), DATED DECEMBER 1, 2009, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$7,120,000 ("SERIES 2009 A BONDS"); AND

(16) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA DWTRF PROGRAM/ARRA), DATED JANUARY 13, 2010, ISSUED SIMULTANEOUSLY IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$100,000 (THE "SERIES 2010 B BONDS").

THE SERIES 1987 B BONDS, THE SERIES 1988 B-1 BONDS, THE SERIES 1988 B-2 BONDS, THE SERIES 1989 B BONDS, THE SERIES 1998 REFUNDING BONDS, THE SERIES 1998 DESIGN BONDS, THE SERIES 2000 A BONDS, THE SERIES 2002 A BONDS, THE SERIES 2002 B BONDS, THE SERIES 2002 C BONDS, THE SERIES 2003 A BONDS, THE SERIES 2005 A BONDS, THE SERIES 2006 A BONDS, THE SERIES 2006 B BONDS AND THE SERIES 2009 A BONDS ARE HEREINAFTER COLLECTIVELY CALLED THE "PRIOR BONDS."

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenue in favor of the Holders of the Prior Bonds and the Series 2010 B Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2010 A Bonds Reserve

Account”), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all Bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2010 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds and the Series 2010 B Bonds; provided however, that so long as there exists in the Series 2010 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Prior Bonds and the Series 2010 B Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the

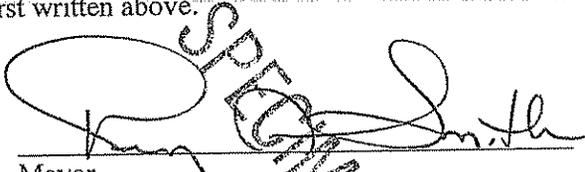
Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

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

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the CITY OF CHARLES TOWN has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Clerk, and has caused this Bond to be dated as of the day and year first written above.

[SEAL]

  
\_\_\_\_\_  
Mayor

ATTEST  
  
\_\_\_\_\_  
Clerk

**SPECIMEN**

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2010 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: January 13, 2010.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

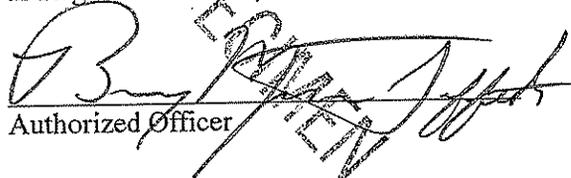
  
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$ 89,545	January 13, 2010	(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

TOTAL \$ \_\_\_\_\_

EXHIBIT B

DEBT SERVICE SCHEDULE

**BOND DEBT SERVICE**  
City of Charles Town  
20 Years  
2.0% Interest Rate

Dated Date 1/13/2010  
Delivery Date 1/13/2010

Period Ending	Principal	Coupon	Interest	Debt Service
1/13/2010				
6/1/2011	9,304	2.000%	4,562.29	13,866.29
9/1/2011	9,351	2.000%	4,515.77	13,866.77
12/1/2011	9,398	2.000%	4,469.02	13,867.02
3/1/2012	9,445	2.000%	4,422.03	13,867.03
6/1/2012	9,492	2.000%	4,374.80	13,866.80
9/1/2012	9,539	2.000%	4,327.34	13,866.34
12/1/2012	9,587	2.000%	4,279.65	13,866.65
3/1/2013	9,635	2.000%	4,231.71	13,866.71
6/1/2013	9,683	2.000%	4,183.54	13,866.54
9/1/2013	9,732	2.000%	4,135.12	13,867.12
12/1/2013	9,780	2.000%	4,086.46	13,866.46
3/1/2014	9,829	2.000%	4,037.56	13,866.56
6/1/2014	9,878	2.000%	3,988.42	13,866.42
9/1/2014	9,928	2.000%	3,939.03	13,867.03
12/1/2014	9,977	2.000%	3,889.39	13,866.39
3/1/2015	10,027	2.000%	3,839.50	13,866.50
6/1/2015	10,077	2.000%	3,789.37	13,866.37
9/1/2015	10,128	2.000%	3,738.98	13,866.98
12/1/2015	10,178	2.000%	3,688.34	13,866.34
3/1/2016	10,229	2.000%	3,637.45	13,866.45
6/1/2016	10,280	2.000%	3,586.31	13,866.31
9/1/2016	10,332	2.000%	3,534.91	13,866.91
12/1/2016	10,383	2.000%	3,483.25	13,866.25
3/1/2017	10,435	2.000%	3,431.33	13,866.33
6/1/2017	10,488	2.000%	3,379.16	13,867.16
9/1/2017	10,540	2.000%	3,326.72	13,866.72
12/1/2017	10,593	2.000%	3,274.02	13,867.02
3/1/2018	10,646	2.000%	3,221.05	13,867.05
6/1/2018	10,699	2.000%	3,167.82	13,866.82
9/1/2018	10,752	2.000%	3,114.33	13,866.33
12/1/2018	10,806	2.000%	3,060.57	13,866.57
3/1/2019	10,860	2.000%	3,006.54	13,866.54
6/1/2019	10,914	2.000%	2,952.24	13,866.24
9/1/2019	10,969	2.000%	2,897.67	13,866.67
12/1/2019	11,024	2.000%	2,842.82	13,866.82
3/1/2020	11,079	2.000%	2,787.70	13,866.70
6/1/2020	11,134	2.000%	2,732.31	13,866.31
9/1/2020	11,190	2.000%	2,676.64	13,866.64
12/1/2020	11,246	2.000%	2,620.69	13,866.69
3/1/2021	11,302	2.000%	2,564.46	13,866.46
6/1/2021	11,359	2.000%	2,507.95	13,866.95
9/1/2021	11,416	2.000%	2,451.15	13,867.15
12/1/2021	11,473	2.000%	2,394.07	13,867.07
3/1/2022	11,530	2.000%	2,336.71	13,866.71

**BOND DEBT SERVICE**  
City of Charles Town  
20 Years  
2.0% Interest Rate

Period Ending	Principal	Coupon	Interest	Debt Service
6/1/2022	11,588	2.000%	2,279.06	13,867.06
9/1/2022	11,646	2.000%	2,221.12	13,867.12
12/1/2022	11,704	2.000%	2,162.89	13,866.89
3/1/2023	11,762	2.000%	2,104.37	13,866.37
6/1/2023	11,821	2.000%	2,045.56	13,866.56
9/1/2023	11,880	2.000%	1,986.45	13,866.45
12/1/2023	11,940	2.000%	1,927.05	13,867.05
3/1/2024	11,999	2.000%	1,867.35	13,866.35
6/1/2024	12,059	2.000%	1,807.36	13,866.36
9/1/2024	12,120	2.000%	1,747.06	13,867.06
12/1/2024	12,180	2.000%	1,686.46	13,866.46
3/1/2025	12,241	2.000%	1,625.56	13,866.56
6/1/2025	12,302	2.000%	1,564.36	13,866.36
9/1/2025	12,364	2.000%	1,502.85	13,866.85
12/1/2025	12,426	2.000%	1,441.03	13,867.03
3/1/2026	12,488	2.000%	1,378.90	13,866.90
6/1/2026	12,550	2.000%	1,316.46	13,866.46
9/1/2026	12,613	2.000%	1,253.71	13,866.71
12/1/2026	12,676	2.000%	1,190.64	13,866.64
3/1/2027	12,739	2.000%	1,127.26	13,866.26
6/1/2027	12,803	2.000%	1,063.57	13,866.57
9/1/2027	12,867	2.000%	999.55	13,866.55
12/1/2027	12,931	2.000%	935.22	13,866.22
3/1/2028	12,996	2.000%	870.56	13,866.56
6/1/2028	13,061	2.000%	805.58	13,866.58
9/1/2028	13,126	2.000%	740.28	13,866.28
12/1/2028	13,192	2.000%	674.65	13,866.65
3/1/2029	13,258	2.000%	608.69	13,866.69
6/1/2029	13,324	2.000%	542.40	13,866.40
9/1/2029	13,391	2.000%	475.78	13,866.78
12/1/2029	13,458	2.000%	408.82	13,866.82
3/1/2030	13,525	2.000%	341.53	13,866.53
6/1/2030	13,593	2.000%	273.91	13,866.91
9/1/2030	13,661	2.000%	205.94	13,866.94
12/1/2030	13,729	2.000%	137.64	13,866.64
3/1/2031	13,798	2.000%	68.99	13,866.99
	<b>912,458</b>		<b>196,874.80</b>	<b>1,109,332.80</b>

(Form of)

ASSIGNMENT

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

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

Dated: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
In the presence of:

\_\_\_\_\_

# SPECIMEN

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF CHARLES TOWN  
COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2010 B  
(WEST VIRGINIA DWTRF PROGRAM/ARRA)

No. BR-1

\$100,000

KNOW ALL MEN BY THESE PRESENTS: That on this the 13th day of January, 2010, the CITY OF CHARLES TOWN, a municipal corporation and political subdivision of the State of West Virginia in Jefferson County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of ONE HUNDRED THOUSAND DOLLARS (\$100,000), 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, the principal of, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2011, to and including March 1, 2031 as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference with interest payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2011, to and including March 1, 2031, at an interest rate of 2% per annum as set forth on said EXHIBIT B. This Bond shall not be subject to the SRF Administrative fee (as defined in the hereinafter describe Bond Legislation).

Principal and interest installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of The Huntington National Bank, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated January 13, 2010.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the waterworks portion of the existing combined waterworks and sewerage system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 and Chapter 16, Article 13C of the West Virginia Code of

1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on September 21, 2009, and a Supplemental Resolution duly adopted by the Issuer on January 4, 2010 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S:

- (1) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1987 B, DATED NOVEMBER 18, 1987, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$413,629 (THE "SERIES 1987 B BONDS");
- (2) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1988 B-1, DATED MAY 4, 1988, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$295,916 (THE "SERIES 1988 B-1 BONDS");
- (3) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1988 B-2, DATED MAY 20, 1988, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$558,000 (THE "SERIES 1988 B-2 BONDS");
- (4) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 B, DATED APRIL 13, 1989, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$117,480 (THE "SERIES 1989 B BONDS");
- (5) COMBINED WATERWORKS AND SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1998, DATED MAY 15, 1998, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$10,355,000 (THE "SERIES 1998 REFUNDING BONDS");
- (6) COMBINED WATERWORKS AND SEWERAGE SYSTEM DESIGN REVENUE BONDS, SERIES 1998 (WEST VIRGINIA SRF PROGRAM), DATED SEPTEMBER 29, 1998, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$437,601 (THE "SERIES 1998 DESIGN BONDS");
- (7) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2000 A (WEST VIRGINIA SRF PROGRAM), DATED JUNE 22, 2000, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$3,163,781 (THE "SERIES 2000 A BONDS");
- (8) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED AUGUST 22, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,100,000 (THE "SERIES 2002 A BONDS");

- (9) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2002 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED AUGUST 22, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$3,600,000 (THE "SERIES 2002 B BONDS");
- (10) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2002 C (INSURED), DATED DECEMBER 1, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$4,135,000 (THE "SERIES 2002 C BONDS");
- (11) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2003 A (AMT - UNINSURED), DATED JANUARY 1, 2003, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,000,000 (THE "SERIES 2003 A BONDS");
- (12) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2005 A (TAXABLE), DATED JUNE 15, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,355,000 (THE "SERIES 2005 A BONDS");
- (13) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2006 A (TAXABLE), DATED JANUARY 19, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,830,000 (THE "SERIES 2006 A BONDS");
- (14) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2006 B (TAX-EXEMPT), DATED JULY 27, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,000,000 (THE "SERIES 2006 B BONDS");
- (15) COMBINED WATERWORKS AND SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2009 A (TAX-EXEMPT), DATED DECEMBER 1, 2009, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$7,120,000 ("SERIES 2009 A BONDS"); AND
- (16) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA DWTRF PROGRAM), DATED JANUARY 13, 2010, ISSUED SIMULTANEOUSLY IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$912,458 (THE "SERIES 2010 A BONDS").

THE SERIES 1987 B BONDS, THE SERIES 1988 B-1 BONDS, THE SERIES 1988 B-2 BONDS, THE SERIES 1989 B BONDS, THE SERIES 1998 REFUNDING BONDS, THE SERIES 1998 DESIGN BONDS, THE SERIES 2000 A BONDS, THE SERIES 2002 A BONDS, THE SERIES 2002 B BONDS, THE SERIES 2002 C BONDS, THE SERIES 2003 A BONDS, THE SERIES 2005 A BONDS, THE SERIES 2006 A BONDS, THE SERIES 2006 B BONDS AND THE SERIES 2009 A BONDS ARE HEREINAFTER COLLECTIVELY CALLED THE "PRIOR BONDS."

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenue in favor of the Holders of the Prior Bonds and the Series 2010 A Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2010 B Bonds Reserve

Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all Bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2010 B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds and the Series 2010 A Bonds; provided however, that so long as there exists in the Series 2010 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Prior Bonds and the Series 2010 A Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the

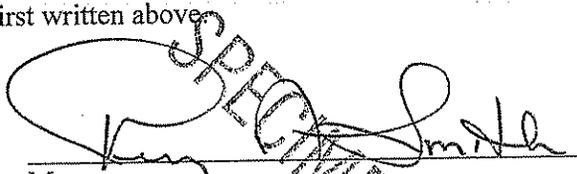
Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

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

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the CITY OF CHARLES TOWN has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Clerk, and has caused this Bond to be dated as of the day and year first written above.

[SEAL]

  
\_\_\_\_\_  
Mayor

**SPECIMEN**

ATTEST:

  
\_\_\_\_\_  
Clerk

**SPECIMEN**



EXHIBIT A  
RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$-0-	January 13, 2010	(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

TOTAL \$ \_\_\_\_\_

EXHIBIT B

DEBT SERVICE SCHEDULE

**BOND DEBT SERVICE**  
City of Charles Town  
20 Years  
2.0% Interest Rate

Dated Date 1/13/2010  
Delivery  
Date 1/13/2010

Period Ending	Principal	Coupon	Interest	Debt Service
1/13/2010				
6/1/2011	1,020	2.000%	500.00	1,520.00
9/1/2011	1,025	2.000%	494.90	1,519.90
12/1/2011	1,030	2.000%	489.78	1,519.78
3/1/2012	1,035	2.000%	484.63	1,519.63
6/1/2012	1,040	2.000%	479.45	1,519.45
9/1/2012	1,045	2.000%	474.25	1,519.25
12/1/2012	1,051	2.000%	469.03	1,520.03
3/1/2013	1,056	2.000%	463.77	1,519.77
6/1/2013	1,061	2.000%	458.49	1,519.49
9/1/2013	1,067	2.000%	453.19	1,520.19
12/1/2013	1,072	2.000%	447.85	1,519.85
3/1/2014	1,077	2.000%	442.49	1,519.49
6/1/2014	1,083	2.000%	437.11	1,520.11
9/1/2014	1,088	2.000%	431.69	1,519.69
12/1/2014	1,093	2.000%	426.25	1,519.25
3/1/2015	1,099	2.000%	420.79	1,519.79
6/1/2015	1,104	2.000%	415.29	1,519.29
9/1/2015	1,110	2.000%	409.77	1,519.77
12/1/2015	1,116	2.000%	404.22	1,520.22
3/1/2016	1,121	2.000%	398.64	1,519.64
6/1/2016	1,127	2.000%	393.04	1,520.04
9/1/2016	1,132	2.000%	387.40	1,519.40
12/1/2016	1,138	2.000%	381.74	1,519.74
3/1/2017	1,144	2.000%	376.05	1,520.05
6/1/2017	1,149	2.000%	370.33	1,519.33
9/1/2017	1,155	2.000%	364.59	1,519.59
12/1/2017	1,161	2.000%	358.81	1,519.81
3/1/2018	1,167	2.000%	353.01	1,520.01
6/1/2018	1,173	2.000%	347.17	1,520.17
9/1/2018	1,178	2.000%	341.31	1,519.31
12/1/2018	1,184	2.000%	335.42	1,519.42
3/1/2019	1,190	2.000%	329.50	1,519.50
6/1/2019	1,196	2.000%	323.55	1,519.55
9/1/2019	1,202	2.000%	317.57	1,519.57
12/1/2019	1,208	2.000%	311.56	1,519.56
3/1/2020	1,214	2.000%	305.52	1,519.52
6/1/2020	1,220	2.000%	299.45	1,519.45
9/1/2020	1,226	2.000%	293.35	1,519.35
12/1/2020	1,232	2.000%	287.22	1,519.22
3/1/2021	1,239	2.000%	281.06	1,520.06
6/1/2021	1,245	2.000%	274.86	1,519.86
9/1/2021	1,251	2.000%	268.64	1,519.64
12/1/2021	1,257	2.000%	262.38	1,519.38
3/1/2022	1,264	2.000%	256.10	1,520.10

**BOND DEBT SERVICE**  
City of Charles Town  
20 Years  
2.0% Interest Rate

Period Ending	Principal	Coupon	Interest	Debt Service
6/1/2022	1,270	2.000%	249.78	1,519.78
9/1/2022	1,276	2.000%	243.43	1,519.43
12/1/2022	1,283	2.000%	237.05	1,520.05
3/1/2023	1,289	2.000%	230.63	1,519.63
6/1/2023	1,296	2.000%	224.19	1,520.19
9/1/2023	1,302	2.000%	217.71	1,519.71
12/1/2023	1,309	2.000%	211.20	1,520.20
3/1/2024	1,315	2.000%	204.65	1,519.65
6/1/2024	1,322	2.000%	198.08	1,520.08
9/1/2024	1,328	2.000%	191.47	1,519.47
12/1/2024	1,335	2.000%	184.83	1,519.83
3/1/2025	1,342	2.000%	178.15	1,520.15
6/1/2025	1,348	2.000%	171.44	1,519.44
9/1/2025	1,355	2.000%	164.70	1,519.70
12/1/2025	1,362	2.000%	157.93	1,519.93
3/1/2026	1,369	2.000%	151.12	1,520.12
6/1/2026	1,375	2.000%	144.27	1,519.27
9/1/2026	1,382	2.000%	137.40	1,519.40
12/1/2026	1,389	2.000%	130.49	1,519.49
3/1/2027	1,396	2.000%	123.54	1,519.54
6/1/2027	1,403	2.000%	116.56	1,519.56
9/1/2027	1,410	2.000%	109.55	1,519.55
12/1/2027	1,417	2.000%	102.50	1,519.50
3/1/2028	1,424	2.000%	95.41	1,519.41
6/1/2028	1,431	2.000%	88.29	1,519.29
9/1/2028	1,439	2.000%	81.14	1,520.14
12/1/2028	1,446	2.000%	73.94	1,519.94
3/1/2029	1,453	2.000%	66.71	1,519.71
6/1/2029	1,460	2.000%	59.45	1,519.45
9/1/2029	1,468	2.000%	52.15	1,520.15
12/1/2029	1,475	2.000%	44.81	1,519.81
3/1/2030	1,482	2.000%	37.43	1,519.43
6/1/2030	1,490	2.000%	30.02	1,520.02
9/1/2030	1,497	2.000%	22.57	1,519.57
12/1/2030	1,505	2.000%	15.09	1,520.09
3/1/2031	1,512	2.000%	7.56	1,519.56
	<b>100,000</b>		<b>21,576.46</b>	<b>121,576.46</b>

(Form of)

ASSIGNMENT

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

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

Dated: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
In the presence of:

\_\_\_\_\_



Chase Tower, Eighth Floor  
P.O. Box 1588  
Charleston, WV 25326-1588  
(304) 353-8000 (304) 353-8180 Fax  
www.steptoe-johnson.com

Writer's Contact Information

January 13, 2010

City of Charles Town  
Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program)

City of Charles Town  
Charles Town, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the City of Charles Town (the "Issuer"), a municipal corporation and political subdivision created and existing under the laws of the State of West Virginia, of its \$912,458 Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of an ARRA Assistance Agreement dated January 13, 2010, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal and interest to the Authority, bearing interest at a rate of 2% per annum, payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2011, to and including March 1, 2031, all as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Bonds. The Series 2010 A Bonds are not subject to the Administrative Fee.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 8, Article 20 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of acquisition and construction of

certain additions, betterments and improvements to the waterworks portion of the existing public combined waterworks and sewerage system of the Issuer; and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and the Bond Ordinance duly enacted by the Issuer on September 21, 2009, as supplemented by a Supplemental Resolution duly adopted by the Issuer on January 4, 2010 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the ARRA Assistance Agreement has been entered into. The 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 Bond Legislation and the ARRA Assistance Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein.

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

1. The Issuer is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt the Bond Legislation and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The ARRA Assistance Agreement has been duly authorized by and executed on behalf of the Issuer, is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof, and inures to the benefit of the Authority and the BPH and cannot be amended by the Issuer so as to affect adversely the rights of the Authority or the BPH or diminish the obligations of the Issuer without the written consent of the Authority and the BPH.

3. The Bond Legislation and all other necessary ordinances, orders and resolutions have been duly and effectively enacted and adopted by the Issuer in connection with the issuance and sale of the Bonds and constitute valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their terms. The Bond Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's (i) Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B, dated November 18, 1987, issued in the original aggregate principal amount of \$413,629 ("Series 1987 B Bonds"); (ii) Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-1, dated May 4, 1988, issued in the original aggregate principal amount of \$295,916 ("Series 1988 B-1 Bonds"); (iii) Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-2, dated May 20, 1988, issued in the original aggregate principal amount of \$558,000 ("Series 1988 B-2 Bonds"); (iv) Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, dated April 13, 1989, issued in the original aggregate principal amount of \$117,480 ("Series 1989 B Bonds"); (v) Combined Waterworks and Sewerage System Design

Revenue Bonds, Series 1998 (West Virginia SRF Program), dated September 29, 1998, issued in the original aggregate principal amount of \$437,601 ("Series 1998 Design Bonds"); (vi) Combined Waterworks and Sewerage System Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated June 22, 2000, issued in the original aggregate principal amount of \$3,163,781 ("Series 2000 A Bonds"); (vii) Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 A (West Virginia Water Development Authority), dated August 22, 2002, issued in the original aggregate principal amount of \$1,100,000 ("Series 2002 A Bonds"); (viii) Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund), dated August 22, 2002, issued in the original aggregate principal amount of \$3,600,000 ("Series 2002 B Bonds"); (ix) Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 C (Insured), dated December 1, 2002, issued in the original aggregate principal amount of \$4,135,000 ("Series 2002 C Bonds"); (x) Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A (AMT - Uninsured), dated January 1, 2003, issued in the original aggregate principal amount of \$1,000,000 ("Series 2003 A Bonds"); (xi) Combined Waterworks and Sewerage System Revenue Bonds, Series 2005 A (Taxable), dated June 15, 2005, issued in the original aggregate principal amount of \$2,355,000 ("Series 2005 A Bonds"); (xii) Combined Waterworks and Sewerage System Revenue Bonds, Series 2006 A (Taxable), dated January 19, 2006, issued in the original aggregate principal amount of \$1,830,000 ("Series 2006 A Bonds"); (xiii) Combined Waterworks and Sewerage System Revenue Bonds, Series 2006 B (Tax-Exempt), dated July 27, 2006, issued in the original aggregate principal amount of \$2,000,000 ("Series 2006 B Bonds"); (xiv) Combined Waterworks and Sewerage System Refunding Revenue Bonds, Series 2009 A (Tax-Exempt), dated December 1, 2009, issued in the original aggregate principal amount of \$7,120,000 ("Series 2009 A Bonds"); and (xv) Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA) dated January 13, 2010 in the original aggregate principal amount of \$100,000 issued concurrently herewith ("Series 2010 B Bonds").

5. The Bonds are, under the Act, exempt from all taxation by the State of West Virginia, or any county, municipality or county commission, political subdivision or agency thereof, and the interest, if any, on the Bonds is exempt from personal and corporate net income taxes imposed directly thereon by the State of West Virginia.

6. The Bonds have not been issued on the basis that the interest thereon, if any, is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

It is to be understood that the rights of the holders of the Bonds and the enforceability of the Bonds, the ARRA Assistance Agreement and the Bond Legislation, and the liens and pledges set forth therein, may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion and the application of equitable remedies in appropriate cases.

We have examined the executed and authenticated Bond numbered AR-1, and in our opinion the form of said Bond and its execution and authentication are regular and proper.

Very truly yours,

A handwritten signature in black ink that reads "Steptoe & Johnson PLLC". The signature is written in a cursive, flowing style.

STEPTOE & JOHNSON PLLC



Chase Tower, Eighth Floor  
P.O. Box 1588  
Charleston, WV 25326-1588  
(304) 353-8000 (304) 353-8180 Fax  
www.steptoehjohnson.com

Writer's Contact Information

January 13, 2010

City of Charles Town  
Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

City of Charles Town  
Charles Town, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the City of Charles Town (the "Issuer"), a municipal corporation and political subdivision created and existing under the laws of the State of West Virginia, of its \$100,000 Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of an ARRA Assistance Agreement dated January 13, 2010, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal and interest to the Authority, bearing interest at a rate of 2% per annum, payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2011, to and including March 1, 2031, all as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Bonds. The Series 2010 A Bonds are not subject to the Administrative Fee.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of acquisition and construction of

certain additions, betterments and improvements to the waterworks portion of the existing public combined waterworks and sewerage system of the Issuer; and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and the Bond Ordinance duly enacted by the Issuer on September 21, 2009, as supplemented by a Supplemental Resolution duly adopted by the Issuer on January 4, 2010 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the ARRA Assistance Agreement has been entered into. The 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 Bond Legislation and the ARRA Assistance Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein.

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

1. The Issuer is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt the Bond Legislation and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The ARRA Assistance Agreement has been duly authorized by and executed on behalf of the Issuer, is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof, and inures to the benefit of the Authority and the BPH and cannot be amended by the Issuer so as to affect adversely the rights of the Authority or the BPH or diminish the obligations of the Issuer without the written consent of the Authority and the BPH.

3. The Bond Legislation and all other necessary ordinances, orders and resolutions have been duly and effectively enacted and adopted by the Issuer in connection with the issuance and sale of the Bonds and constitute valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their terms. The Bond Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's (i) Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B, dated November 18, 1987, issued in the original aggregate principal amount of \$413,629 ("Series 1987 B Bonds"); (ii) Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-1, dated May 4, 1988, issued in the original aggregate principal amount of \$295,916 ("Series 1988 B-1 Bonds"); (iii) Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-2, dated May 20, 1988, issued in the original aggregate principal amount of \$558,000 ("Series 1988 B-2 Bonds"); (iv) Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, dated April 13, 1989, issued in the original aggregate principal amount of \$117,480 ("Series 1989 B Bonds"); (v) Combined Waterworks and Sewerage System Design

Revenue Bonds, Series 1998 (West Virginia SRF Program), dated September 29, 1998, issued in the original aggregate principal amount of \$437,601 ("Series 1998 Design Bonds"); (vi) Combined Waterworks and Sewerage System Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated June 22, 2000, issued in the original aggregate principal amount of \$3,163,781 ("Series 2000 A Bonds"); (vii) Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 A (West Virginia Water Development Authority), dated August 22, 2002, issued in the original aggregate principal amount of \$1,100,000 ("Series 2002 A Bonds"); (viii) Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund), dated August 22, 2002, issued in the original aggregate principal amount of \$3,600,000 ("Series 2002 B Bonds"); (ix) Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 C (Insured), dated December 1, 2002, issued in the original aggregate principal amount of \$4,135,000 ("Series 2002 C Bonds"); (x) Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A (AMT - Uninsured), dated January 1, 2003, issued in the original aggregate principal amount of \$1,000,000 ("Series 2003 A Bonds"); (xi) Combined Waterworks and Sewerage System Revenue Bonds, Series 2005 A (Taxable), dated June 15, 2005, issued in the original aggregate principal amount of \$2,355,000 ("Series 2005 A Bonds"); (xii) Combined Waterworks and Sewerage System Revenue Bonds, Series 2006 A (Taxable), dated January 19, 2006, issued in the original aggregate principal amount of \$1,830,000 ("Series 2006 A Bonds"); (xiii) Combined Waterworks and Sewerage System Revenue Bonds, Series 2006 B (Tax-Exempt), dated July 27, 2006, issued in the original aggregate principal amount of \$2,000,000 ("Series 2006 B Bonds"); (xiv) Combined Waterworks and Sewerage System Refunding Revenue Bonds, Series 2009 A (Tax-Exempt), dated December 1, 2009, issued in the original aggregate principal amount of \$7,120,000 ("Series 2009 A Bonds"); and (xv) Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A (West Virginia DWTRF Program) dated January 13, 2010 with the original aggregate principal amount of \$912,458 issued concurrently herewith.

5. The Bonds are, under the Act, exempt from all taxation by the State of West Virginia, or any county, municipality or county commission, political subdivision or agency thereof, and the interest, if any, on the Bonds is exempt from personal and corporate net income taxes imposed directly thereon by the State of West Virginia.

6. The Bonds have not been issued on the basis that the interest thereon, if any, is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

It is to be understood that the rights of the holders of the Bonds and the enforceability of the Bonds, the ARRA Assistance Agreement and the Bond Legislation, and the liens and pledges set forth therein, may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion and the application of equitable remedies in appropriate cases.

We have examined the executed and authenticated 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,

A handwritten signature in black ink, appearing to read "Steptoe & Johnson PLLC". The signature is written in a cursive, flowing style.

STEPTOE & JOHNSON PLLC

**Law Offices of Hoy Shingleton, L.C.**

**115 Aikens Center Suite 24  
Martinsburg, West Virginia 25404**

**304-262-4773 Telephone  
304-262-4775 Fax**

**shinglet@comcast.net**

January 13, 2010

City of Charles Town  
Combined Waterworks and Sewerage System Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Combined Waterworks and Sewerage System Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

City of Charles Town  
Charles Town, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Steptoe & Johnson PLLC  
Charleston, West Virginia

Ladies and Gentlemen:

I am counsel to the City of Charles Town, in Jefferson County, West Virginia (the "Issuer"). As such counsel, I have examined copies of the approving opinions of Steptoe & Johnson PLLC, as bond counsel, an ARRA Assistance Agreement dated January 13, 2010, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), the Bond Ordinance duly enacted by the Issuer on September 21, 2009, as supplemented by the Supplemental Resolution duly adopted by the Issuer on January 4, 2010 (collectively, the "Bond Legislation"), and other documents relating to the above-captioned Bonds of the Issuer (the "Bonds"). Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein.

I am of the opinion that:

1. The Issuer has been duly created and is validly existing as a municipal corporation and political subdivision of the State of West Virginia, with full power and authority to

acquire and construct the Project, to operate and maintain the System and to enact the Bond Legislation, all under the Act and other applicable provisions of law, and the Mayor, Clerk and members of the council of the Issuer have been duly and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act on behalf of the Issuer in their respective capacities.

2. The Bond Legislation has been duly adopted and enacted by the Issuer and is in full force and effect.

3. The ARRA Assistance Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the Authority, constitutes a valid and binding agreement of the Issuer enforceable in accordance with its terms.

4. The execution and delivery of the Bonds and the ARRA Assistance Agreement and the consummation of the transactions contemplated by the Bonds, the ARRA Assistance Agreement and the Bond Legislation and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under any ordinance, order, resolution, agreement or other instrument to which the Issuer is a party or any existing law, regulation, court order or consent decree to which the Issuer is subject.

5. To the best of my knowledge, there is no litigation, action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Bonds, the ARRA Assistance Agreement, the Bond Legislation, the acquisition and construction of the Project, the operation of the System, the validity of the Bonds or the collection or pledge of the Net Revenues therefor.

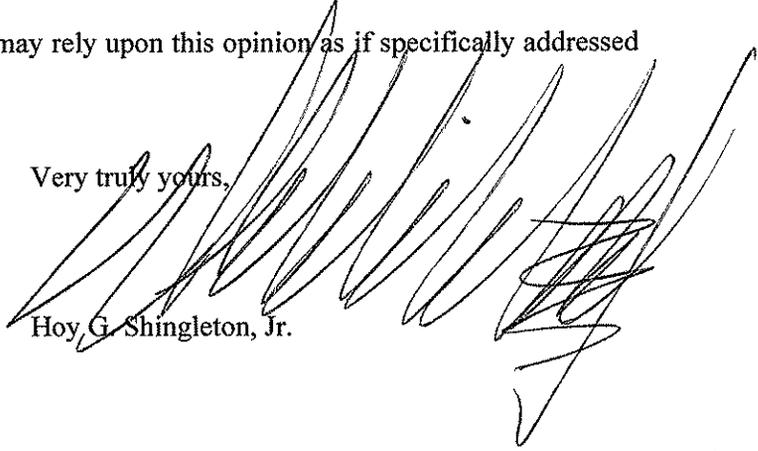
6. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations necessary for the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges for use of the System, including, without limitation, the receipt of all requisite orders and approvals from the BPH and the Public Service Commission of West Virginia (the "PSC") and has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of a water ordinance prescribing such water rates and charges dated April 15, 2008 and a sewer rate ordinance prescribing such sewer rates and charges dated August 7, 2006. The Issuer has received the Commission Order of the PSC entered August 7, 2009 in Case No. 09-0872-W-PC, which provided the determination that a certificate of public convenience and necessity is not required for the Project and approving the financing for the Project. The time for appeal of the Order has expired prior to the date hereof without any appeal and the Order remains in full force and effect

7. Prior to construction I will ascertain that all successful bidders have provided the drug-free workplace affidavit, submitted their drug free workplace plan, and the contracts contain language that comply with the Drug Free Workplace Act, Article 1D, Chapter 21 of the West Virginia Code. Prior to construction I will ascertain that all successful bidders have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds will be verified for accuracy and the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, and I ensure that

such surety bonds and policies (1) are in compliance with the contracts; (2) are adequate in form, substance and amount to protect the various interests of the Issuer; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act, the Bond Legislation and the ARRA Assistance Agreement; and (5) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Very truly yours,

A large, stylized handwritten signature in black ink, appearing to read 'Hoy G. Shingleton, Jr.', is written over the typed name.

Hoy G. Shingleton, Jr.

HGS/lpt

# **Law Offices of Hoy Shingleton, L.C.**

**115 Aikens Center Suite 24  
Martinsburg, West Virginia 25404**

**304-262-4773 Telephone  
304-262-4775 Fax**

**shinglet@comcast.net**

## **WATER PROJECT**

**January 13, 2010**

**Bureau of Public Health  
1 Davis Square, Suite 200  
Capitol and Washington Sts.  
Charleston, WV 25301-1798**

**West Virginia Water Development Authority  
180 Association Drive  
Charleston, WV 25311-1751**

**Re: Charles Town Utility Board, Acting on Behalf of the City of Charles Town  
Water Leak Remediation Project**

**Ladies and Gentlemen:**

This firm represents the Charles Town Utility Board, acting on behalf of the City of Charles Town (the "City"), with regard to a proposed project for the installation of radio read meters and leak detection/remediation services (the "Project"), and provides this final title opinion on behalf of the Utility Board and the City to satisfy the requirements of the West Virginia Drinking Water Treatment Revolving Loan Fund Program (the "Program") with regard to the financing proposed for the Project. Please be advised of the following:

1. That I am of the opinion that the City is a duly created and existing municipality possessed with all the powers and authority granted to municipal corporations under the laws of the State of West Virginia and has, through its Utility Board, the full power and authority to construct, operate and maintain the Project as approved by the Bureau for Public Health.

2. All necessary permits and approvals for the Project have been obtained.

(C1522716.1)

3. That I have investigated and ascertained the location of and am familiar with the legal description of the necessary sites, including easements and/or rights of way, required for the Project as set forth in the plans for the Project prepared by Black & Veatch, the consulting engineers for the Project.

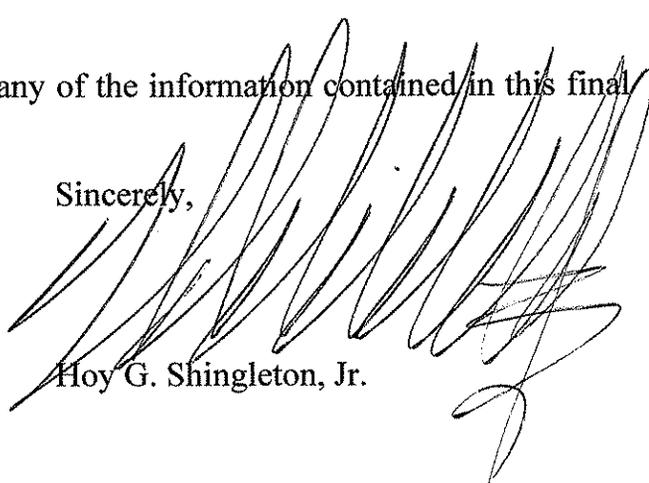
4. That I have examined the records on file in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, the county in which the Project is to be located, and, in my opinion, the City and the Utility Board have acquired legal title or such other estate or interest in the necessary site components for the Project, sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the facilities to be constructed.

5. That any deeds or other documents that are required for this project have been duly recorded in the aforesaid Clerk's Office in order to protect the legal title to and interest of the City and the Utility Board.

6. Approval from the West Virginia Department of Highways is not required for this Project.

If you have any questions regarding any of the information contained in this final title opinion, please contact this office.

Sincerely,



Hoy G. Shingleton, Jr.

cc: Samme L. Gee, Esquire

CITY OF CHARLES TOWN

Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

GENERAL CERTIFICATE OF ISSUER AND ATTORNEY ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. CERTIFICATION OF COPIES OF DOCUMENTS
6. INCUMBENCY AND OFFICIAL NAME
7. LAND AND RIGHTS-OF-WAY
8. MEETINGS, ETC.
9. CONTRACTORS' INSURANCE, ETC.
10. ARRA ASSISTANCE AGREEMENT
11. INSURANCE
12. VERIFICATION OF SCHEDULE
13. RATES
14. SIGNATURES AND DELIVERY
15. BOND PROCEEDS
16. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE
17. PUBLIC SERVICE COMMISSION ORDERS
18. SPECIMEN BOND
19. CONFLICT OF INTEREST
20. PROCUREMENT OF ENGINEERING SERVICES
21. SAFE DRINKING WATER ACT
22. EXECUTION OF COUNTERPARTS

We, the undersigned MAYOR and CLERK of the City of Charles Town in Jefferson County, West Virginia (the "Issuer"), and the undersigned COUNSEL to the Issuer, hereby certify, on this the 13th day of January, 2010, in connection with the Issuer's Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A (West Virginia DWTRF Program) (the "Series 2010 A Bonds"), and Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA) (the "Series 2010 B Bonds") dated the date hereof (collectively the "Bonds" or the "Series 2010 A Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning as set forth in the Bond Ordinance of the Issuer

duly enacted September 21, 2009, and the Supplemental Resolution duly adopted January 4, 2010 (collectively, the "Bond Legislation").

2. **NO LITIGATION:** No controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the receipt of the Gross Revenues, or in any way contesting or affecting the validity of the Bonds, or any proceedings of the Issuer taken with respect to the issuance or sale of the Bonds, the pledge or application of the Net Revenues or any other monies or security provided for the payment of the Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, sale and issuance of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection of the Gross Revenues or the pledge of Net Revenues as security for the Bonds.

3. **GOVERNMENTAL APPROVALS AND BIDDING:** All applicable approvals, permits, exemptions, consents, authorizations, registrations and certificates required by law for the acquisition and construction of the Project, the operation of the System, the imposition of rates and charges, and the issuance of the Bonds have been duly and timely obtained and remain in full force and effect. Competitive bids for the acquisition and construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1 of the West Virginia Code of 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 the approval, execution and delivery by the Issuer of the ARRA Assistance Agreement, and the Issuer has met all conditions prescribed in the ARRA Assistance Agreement. The Issuer has or can provide the financial, institutional, legal and managerial capabilities necessary to complete the Project.

There are outstanding obligations of the Issuer which will rank on a parity with the Series 2010 Bonds as to liens, pledge, source of and security for payment, being the Issuer's (i) Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B, dated November 18, 1987, issued in the original aggregate principal amount of \$413,629 (the "Series 1987 B Bonds"); (ii) Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-1, dated May 4, 1988, issued in the original aggregate principal amount of \$295,916 (the "Series 1988 B-1 Bonds"); (iii) Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-2, dated May 20, 1988, issued in the original aggregate principal amount of \$558,000 (the "Series 1988 B-2 Bonds"); (iv) Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, dated April 13, 1989, issued in the original aggregate principal amount of \$117,480 (the "Series 1989 B Bonds"); (v) Combined Waterworks and Sewerage System Design Revenue Bonds, Series 1998 (West Virginia SRF Program), dated September 29, 1998, issued in the original aggregate principal amount of \$437,601 (the "Series 1998 Design Bonds"); (vi) Combined Waterworks and Sewerage System Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated June 22, 2000, issued in the original aggregate principal amount of \$3,163,781 (the "Series 2000 A Bonds"); (vii) Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 A (West Virginia Water Development Authority), dated August 22, 2002, issued in the original aggregate principal amount of \$1,100,000 (the "Series 2002 A Bonds"); (viii) Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund),

dated August 22, 2002, issued in the original aggregate principal amount of \$3,600,000 (the "Series 2002 B Bonds"); (ix) Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 C (Insured), dated December 1, 2002, issued in the original aggregate principal amount of \$4,135,000 (the "Series 2002 C Bonds"); (x) Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A (AMT - Uninsured), dated January 1, 2003, issued in the original aggregate principal amount of \$1,000,000 (the "Series 2003 A Bonds"); (xi) Combined Waterworks and Sewerage System Revenue Bonds, Series 2005 A (Taxable), dated June 15, 2005, issued in the original aggregate principal amount of \$2,355,000 (the "Series 2005 A Bonds"); (xii) Combined Waterworks and Sewerage System Revenue Bonds, Series 2006 A (Taxable), dated January 19, 2006, issued in the original aggregate principal amount of \$1,830,000 (the "Series 2006 A Bonds"); (xiii) Combined Waterworks and Sewerage System Revenue Bonds, Series 2006 B (Tax-Exempt), dated July 27, 2006, issued in the original aggregate principal amount of \$2,000,000 (the "Series 2006 B Bonds"); and (xiv) Combined Waterworks and Sewerage System Refunding Revenue Bonds, Series 2009 A (Tax-Exempt), dated December 1, 2009, issued in the original aggregate principal amount of \$7,120,000 (the "Series 2009 A Bonds"), collectively referred to as the "Prior Bonds".

The Series 2010 Bonds shall be 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. Prior to the issuance of the Series 2010 Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met; and (ii) the written consent of the registered owners of the Prior Bonds to the issuance of the Series 2010 Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

5. CERTIFICATION OF COPIES OF DOCUMENTS: The copies of the below-listed documents hereto attached or delivered herewith or heretofore delivered are true, correct and complete copies of the originals of the documents of which they purport to be copies, and such original documents are in full force and effect and have not been repealed, rescinded, amended or changed in any way unless modification appears from later documents also listed below:

Bond Ordinance

Supplemental Resolution

ARRA Assistance Agreement

Public Service Commission Order

Infrastructure and Jobs Development Council Approval

Charter and Rules of Procedure

Oaths of Office of Officers and Council Members

Water Rate Ordinance

Sewer Rate Ordinance

Minutes on Adoption and Enactment of Rate Ordinances

Affidavits of Publication of Rate Ordinances and Notice of Public Hearing

Minutes on Adoption and Enactment of Bond Ordinance, Adoption of Supplemental Resolution, Rules of Procedure, First Draw Resolution and Sweep Resolution

Affidavit of Publication of Abstract of Bond Ordinance and Notice of Public Hearing

Prior Bond Ordinances

WDA Consent to Issuance of Parity Bonds

Office of Environmental Health Services Permit

Evidence of Insurance

6. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "City of Charles Town." The Issuer is a municipal corporation in Jefferson County and is presently existing under the laws of, and a political subdivision of, the State of West Virginia. The governing body of the Issuer is its council, consisting of a Mayor and five (5) council members, all duly elected or appointed, as applicable, qualified and acting, and whose names and dates of commencement and termination of current terms of office are as follows:

Name		Date of Commencement of Office	Date of Termination of Office
Michael Slover -	Councilmember	June 2007	June 2011
Chester A Hines-	Councilmember	June 2009	June 2013
Marylois Gannon-Miller-	Councilmember	June 2007	June 2011
Ann Paonessa-	Councilmember	June 2007	June 2011
Ruth McDaniel-	Councilmember	June 2007	June 2011
Richard J. Bringewatt-	Councilmember	June 2009	June 2013
Donald W. Clendening-	Councilmember	June 2009	June 2013
Sandra Slusher McDonald-	Councilmember	June 2009	June 2013
Peggy A. Smith-	Mayor	June 2009	June 2013

The names of the duly appointed, qualified and acting members of the Utility Board of the Issuer are as follows:

Gary Rawlings-	Chairman and Member
Charles W. Kline-	Member
Pete Kubic, PE-	Member
Kristen Ringstaff-	Member
Thomas W. Stocks-	Member

The duly appointed and acting Clerk of the Issuer is Joseph Cosentini. The duly appointed and acting City Manager of the Issuer is Gary Rawlings. The duly appointed and acting Counsel to the Issuer is Steptoe & Johnson PLLC. The duly appointed and acting counsel to the Utility Board is Hoy G. Shingleton, Jr., Esquire.

7. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the acquisition and 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 which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which may have to be acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

8. MEETINGS, ETC.: All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds and the acquisition, construction and financing of the Project or the operation of the System were authorized or adopted at regular or special meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes, including, particularly and without limitation, Chapter 6, Article 9A of the West Virginia Code of 1931, as amended, and a quorum of duly elected or appointed, as applicable, qualified and acting members of the Governing Body was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

9. CONTRACTORS' INSURANCE, ETC.: All contractors have been required to maintain Worker's Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Bond Legislation. The successful bidders have provided the Drug-Free Workplace Affidavit as evidence of compliance with the provisions of Article 1D, Chapter 21 of the West Virginia Code. All insurance for the System required by the Bond Legislation and ARRA Assistance Agreement is in full force and effect.

10. ARRA ASSISTANCE AGREEMENT: As of the date hereof, (i) the representations of the Issuer contained in the ARRA Assistance Agreement are true and correct in all material respects as if made on the date hereof; (ii) the ARRA Assistance 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 ARRA Assistance 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 in the ARRA Assistance Agreement not misleading; and (iv) the Issuer is in compliance with the ARRA Assistance Agreement.

The Issuer will serve the additional customers at the location(s) as set forth in Certificate of Engineer. The Issuer will not reduce the amount of additional customers served by the project without the prior written approval of the Board of the Water Development Authority. Following completion of the Project the Issuer will certify to the Authority the number of customers added to the System.

The Special Conditions of the ARRA Assistance Agreement are attached as Exhibit A and hereby incorporated herein.

11. **INSURANCE.** The Issuer will maintain or, as appropriate, will require all contractors to maintain worker's compensation, public liability, property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance, where applicable, in accordance with the Ordinance and the Loan Agreement. All insurance for the System required by the Ordinance and the Loan Agreement are in full force and effect.

12. **VERIFICATION OF SCHEULE:** The final Schedule B attached to the Certificate of Consulting Engineer, accurately represents the estimated costs of the Project, the sources of funds available to pay the costs of the Project and the costs of financing of the Bonds.

13. **RATES:** The Issuer has duly enacted a water rate ordinance setting rates and charges for the services of the System on April 15, 2008 and a sewer rate ordinance setting sewer rates and charges for the System on August 7, 2006.

14. **SIGNATURES AND DELIVERY:** On the date hereof, the undersigned Mayor did officially sign all of the Bonds of the aforesaid issue, consisting upon original issuance of a single Bond, dated the date hereof, by their manual signatures, and the undersigned Clerk did officially cause the official seal of the Issuer to be affixed upon said Bonds and to be attested by his or her manual signature, and the Registrar did officially authenticate and deliver the Bonds to a representative of the Authority as the original purchaser of the Bonds under the ARRA Assistance Agreement. Said official seal of the Issuer is also impressed above the signatures appearing on this certificate.

15. **BOND PROCEEDS:** On the date hereof, the Issuer received \$89,545 from the Authority and the BPH, being a portion of the principal amount of the Series 2010 A Bonds and \$-0- from the Authority and the BPH, being a portion of the principal amount of the Series 2010 B Bonds. The balance of the principal amount of the Series 2010 A Bonds and Series 2010 B Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

16. **PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE:** Upon adoption of the Bond Ordinance, an abstract thereof, determined by the Governing Body to contain sufficient information as to give notice of the contents thereof, was published once each week for 2

successive weeks, with not less than 6 full days between each publication, the first such publication occurring not less than 10 days before the date stated below for the public hearing, in *The Spirit of Jefferson Advocate*, a qualified newspaper published and of general circulation in the City of Charles Town, together with a notice to all persons concerned, stating that the Bond Ordinance had been adopted and that the Issuer contemplated the issuance of the Bonds described in such Bond Ordinance, stating that any person interested may appear before the Governing Body at the public hearing held at a public meeting of Governing Body on the 21st day of September, 2009, at 7:00 p.m., at the City Hall in Charles Town, West Virginia, and present protests, and stating that a certified copy of the Bond Ordinance was on file at the office of the Clerk of the Issuer for review by interested parties during the office hours of the Issuer. At such hearing all objections and suggestions were heard by the Governing Body and the Bond Ordinance became finally adopted, enacted and effective as of the date of such public hearing, and remains in full force and effect.

17. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received the Commission Order of the Public Service Commission of West Virginia entered August 7, 2009, which in Case No. 09-0872-W-PC, which provided the determination that a certificate of convenience and necessity is not required for the Project. The time for appeal of the Order has expired. Such Order is in full force and effect.

18. SPECIMEN BONDS: Delivered concurrently herewith are true and accurate specimens of the Series 2010 Bonds.

19. CONFLICT OF INTEREST: No member, 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 Bond Legislation 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.

20. PROCUREMENT OF ENGINEERING SERVICES: The Issuer has complied in all respects with the requirements of Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended, in the procurement of engineering services to be paid from proceeds of the Bonds.

21. SAFE DRINKING WATER ACT: The Project as described in the Bond Legislation complies with the Safe Drinking Water Act.

22. EXECUTION OF COUNTERPARTS: This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same document.

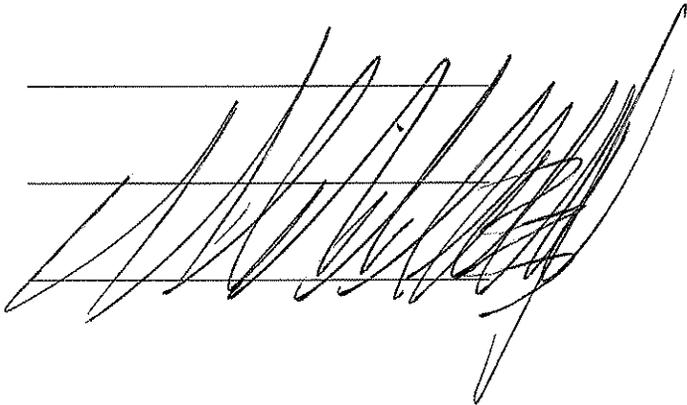
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WITNESS our signatures and the official seal of the CITY OF CHARLES TOWN on the day and year first written above.

[CORPORATE SEAL]

SIGNATURE

A large, dense, handwritten signature scribble in black ink is written over three horizontal lines. The scribble is highly stylized and illegible, consisting of many overlapping loops and strokes.

OFFICIAL TITLE

Mayor

Clerk

Counsel to the Issuer

## EXHIBIT A

### SPECIAL CONDITIONS – ARRA FUNDED PROJECTS

A. PUBLIC RELEASE REQUIREMENT – The Local Entity agrees to include, when issuing statements, press releases, requests for proposals, bid solicitations, groundbreaking or project dedication program documents and other documents describing projects or programs funded in whole or in part with Federal money, (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. AUDIT REQUIREMENT (Supplement to Article IV 4.1 (b) (xi) – Effective October 1, 2003, the Local Entity that receives \$500,000 or more (in federal funds) in a fiscal year must obtain audits in accordance with the Single Audit Act and the applicable OMB Circular or any successor thereto. Financial statement audits are required once all funds have been received by the Local Entity.

C. BUY AMERICAN CERTIFICATION – The Local Entity shall cause the contractor(s) to comply with, and provide certification of, the Buy American provisions of the ARRA in accordance with final guidance from the EPA.

D. ASSET MANAGEMENT – The Local Entity shall develop and implement an asset management plan in accordance with guidelines issued by BPH and as approved by BPH.

E. CONTRACTS – The Local Entity shall enter into contracts or commence construction by January 28, 2010.

F. LOGO – The Local Entity must display the ARRA logo in a manner that informs the public that the project is an ARRA investment.

G. LOBBYING – The Local Entity shall comply with Title 40 CFR Part 34, New Restrictions on Lobbying and shall submit certification and disclosure forms as required by BPH.

H. PURCHASING REQUIREMENTS – The Local Entity shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C.6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

I. SUSPENSION AND DEBARMENT – The Local Entity shall comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled “Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons). To the extent required by BPH, the Local Entity shall provide certifications as to compliance.

J. REPORTING – The Local Entity shall comply with all requests for data related to the use of the funds provided under this agreement, including the information required in section 1512 of ARRA when requested by BPH.

K. INSPECTOR GENERAL REVIEWS – The Local Entity shall allow any appropriate representative of the Office of US Inspector General to (1) examine its records relating to the Project and this ARRA Assistance Agreement and (2) interview any officer or employee of the Local Entity.

L. FALSE CLAIMS – The Local Entity must promptly refer to EPA’s Inspector General any credible evidence that a principal, employee, agent, sub-grantee contractor, subcontractor, loan recipient, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds provided under this ARRA Assistance Agreement.

M. LIMIT ON FUNDS – The Local Entity shall not use funds for particular activities for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

N. WAGE RATES – The Local Entity shall require that all laborers and mechanics employed by its contractors and subcontractors be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor (DOL) in accordance with subchapter IV of chapter 32 of title 40, United States Code. The Local Entity must require that contractors and subcontractors obtain wage determinations from DOL and comply with DOL guidance and regulations implementing wage rate requirements applicable to ARRA funds.

O. OFFICE OF MANAGEMENT AND BUDGET (OMB) GUIDANCE – The Local Entity acknowledges and agrees that this ARRA Assistance is subject to all applicable provisions of implementing guidance for the American Recovery and Reinvestment Act of 2009 issued by the United States Office of Management and Budget, including the Initial Implementing Guidance for the American Recovery and Reinvestment Act (M-09-10) issued on February 18, 2009 and available on [www.recovery.gov](http://www.recovery.gov), and any subsequent guidance documents issued by OMB.

P. DISADVANTAGED BUSINESS ENTERPRISE – Pursuant to 40 CFR, Section 33.301, the Local Entity agrees to make good faith efforts whenever procuring construction, equipment, services and supplies, and to require that prime contractors also comply. The Local Entity shall provide BPH with MBE/WBE participation reports semi-annually.

Q. CIVIL RIGHTS – The Local Entity shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and a variety of program-specific statutes with

nondiscrimination requirements. The Local Entity shall also comply with Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religion, and sex discrimination in employment), the Americans with Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and Local Entities, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting race, color, national origin, age, family status, and disability discrimination in housing), as well as any other applicable civil rights laws.

R. BOND DESIGNATION – Each Local Bond shall contain “(WVDWTRF Program/ARRA)” in the bond name.

S. USER RATES – The Local Entity shall covenant that it will not reduce its approved customer rates for at least eighteen months after completion of the Project or (a) until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses or (b) new rates have been established by order of the Public Service Commission. The Local Entity shall notify the Authority and the BPH of any action to reduce rates during the eighteen months following completion of construction of the Project.

CITY OF CHARLES TOWN

Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

CERTIFICATE OF ENGINEER

I, Peter J. H. Thomson, Registered Professional Engineer, West Virginia License No. 13863 of Black & Veatch Corporation, Gaithersburg, Maryland, hereby certify this 13th day of January, 2010 as follows:

1. My firm is engineer for the acquisition and construction of certain additions, betterments and improvements (the "Project") to the existing public waterworks facilities (the "System") of the City of Charles Town (the "Issuer"), to be constructed in Jefferson County, West Virginia, which acquisition and construction are being financed in part by the proceeds of the above-captioned bonds (collectively, the "Bonds") of the Issuer. Capitalized terms used herein and not defined herein shall have the same meaning set forth in the Bond Ordinance enacted by the Issuer on September 21, 2009, as supplemented by the Supplemental Resolution adopted by the Issuer on January 4, 2010, and the ARRA Assistance Agreement by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), dated January 13, 2010 (the "ARRA Assistance Agreement").

2. The Bonds are being issued (i) to pay the costs of acquisition and construction of the Project; and (ii) to pay certain costs of issuance and related costs.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the BPH and any change orders approved by the Issuer, the BPH and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least 22 years, if properly constructed, operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in Schedule B attached hereto as Exhibit A and the Issuer's counsel, Hoy Shingleton, Esquire, has ascertained that all successful bidders have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the BPH and the bid forms provided to the bidders contain the critical operational components of the Project; (vi) the successful bids have provided the Drug-Free Workplace Affidavit as evidence of compliance with the provisions of Article 1D, Chapter 21 of the West Virginia Code; (vii) the successful bidders

include prices for every item on such bid forms; (viii) the uniform bid procedures were followed; (ix) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and the operation of the System; (x) in reliance upon the certificate of J C Kunkle & Associates, the Issuer's certified public accountant, of even date herewith, as of the effective date thereof, the rates and charges for the System will be sufficient to comply with the provisions of the ARRA Assistance Agreement; (xi) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the BPH; and (xii) attached hereto as Exhibit A is the final amended "Schedule B - Final Total Cost of Project, Sources of Funds and Cost of Financing" for the Project.

4. I have received the Buy American Certification from each contractor.
5. The Project will serve no new customers.

[Remainder of Page Intentionally Blank]

WITNESS my signature and seal on the day and year first written above.



BLACK & VEATCH CORPORATION

A handwritten signature in black ink, appearing to read "Peter J. H. Thomson".

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Peter J. H. Thomson, P.E.  
West Virginia License No. 13863

11.02.09  
144220.00022

SCHEDULE B -Charles Town Water

	TOTAL	DWTRF ARRA (2%, 20 yrs)	DWTRF-Base (2%, 20yrs)	DWTRF-2nd Round (2%, 20 yrs)
<b>A COST OF PROJECT</b>				
1 Contract Field Services	0	0	0	0
2 Leak Correction	0	0	0	0
3 Meter Purchase	840,500	100,000	740,500	0
<b>4 TECHNICAL SERVICES</b>				
Basic	0	0	0	0
Design	48,000	0	0	48,000
Const Basic	35,000	0	35,000	0
Special Services	15,933	0	15,933	0
Inspection	0	0	0	0
<b>5 LEGAL &amp; FISCAL</b>				
Legal	0	0	0	0
Accountant	0	0	0	0
6 Administrative	0	0	0	0
7 Sites & Other Lands	0	0	0	0
<b>8 CONTINGENCY</b>	42,025	0	42,025	0
<b>9 TOTAL</b>	981,458	100,000	833,458	48,000
<b>B. COST OF FINANCING</b>				
10 Funded Reserve	0	0	0	0
11 Registrar fees	1,000	0	1,000	0
12 Bond Counsel	30,000	0	30,000	0
13 Capitalized Interest	0	0	0	0
14 Cost of Financing	31,000	0	31,000	0
<b>15 TOTAL Cost of Project</b>	1,012,458	100,000	864,458	48,000
<b>C SOURCES OF FUNDS</b>				
16 State Grants	0	0	0	0
17 Other sources	0	0	0	0
18 Total Grants	0	0	0	0
<b>19 Net proceeds from Bond Issuance</b>	1,012,458	100,000	864,458	48,000

  
 City of Charles Town  
  
 Engineer

12-15-09  
 15-Dec-09



**J.C. Kunkle & Associates, A.C.**  
CERTIFIED PUBLIC ACCOUNTING & CONSULTING

January 13, 2010

City of Charles Town

Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

City of Charles Town  
Charles Town, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Ladies and Gentlemen:

Based upon the water rates and charges as set forth in the Water Rate Ordinance enacted on April 15, 2008 and Sewer Rate Ordinance enacted by the City of Charles Town (the "Issuer") on August 7, 2006 and the projected operating expenses and the anticipated customer usage as furnished to us by Black & Veatch, the Consulting Engineer to the City of Charles Town (the "Issuer"), it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the waterworks system (the "System") of the Issuer, will pay all operating expenses of the System and leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on the Issuer's Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A (West Virginia DWTRF Program) (the "Series 2010 A Bonds") and Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B, (West Virginia DWTRF Program/ARRA) (the "Series 2010 B Bonds" and with the Series 2010 A Bonds collectively known as the "Series 2010 Bonds") and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2010 Bonds, including the Issuer's: (i) Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B, dated November 18, 1987, issued in the original aggregate principal amount of \$413,629 ("Series 1987 B Bonds"); (ii) Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-1, dated May 4, 1988, issued in the original aggregate principal amount of \$295,916 ("Series 1988 B-1 Bonds"); (iii) Combined Waterworks and

164 Lina Lane ■ Martinsburg, WV 25405

304/263-9299 ■ Fax 304/267-7032 ■ e-mail: [jckunkle@jckunkleassociates.com](mailto:jckunkle@jckunkleassociates.com)

MEMBER: AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

Sewerage System Revenue Bonds, Series 1988 B-2, dated May 20, 1988, issued in the original aggregate principal amount of \$558,000 ("Series 1988 B-2 Bonds"); (iv) Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, dated April 13, 1989, issued in the original aggregate principal amount of \$117,480 ("Series 1989 B Bonds"); (v) Combined Waterworks and Sewerage System Design Revenue Bonds, Series 1998 (West Virginia SRF Program), dated September 29, 1998, issued in the original aggregate principal amount of \$437,601 ("Series 1998 Design Bonds"); (vi) Combined Waterworks and Sewerage System Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated June 22, 2000, issued in the original aggregate principal amount of \$3,163,781 ("Series 2000 A Bonds"); (vii) Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 A (West Virginia Water Development Authority), dated August 22, 2002, issued in the original aggregate principal amount of \$1,100,000 ("Series 2002 A Bonds"); (viii) Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund), dated August 22, 2002, issued in the original aggregate principal amount of \$3,600,000 ("Series 2002 B Bonds"); (ix) Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 C (Insured), dated December 1, 2002, issued in the original aggregate principal amount of \$4,135,000 ("Series 2002 C Bonds"); (x) Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A (AMT - Uninsured), dated January 1, 2003, issued in the original aggregate principal amount of \$1,000,000 ("Series 2003 A Bonds"); (xi) Combined Waterworks and Sewerage System Revenue Bonds, Series 2005 A (Taxable), dated June 15, 2005, issued in the original aggregate principal amount of \$2,355,000 ("Series 2005 A Bonds"); (xii) Combined Waterworks and Sewerage System Revenue Bonds, Series 2006 A (Taxable), dated January 19, 2006, issued in the original aggregate principal amount of \$1,830,000 ("Series 2006 A Bonds"); (xiii) Combined Waterworks and Sewerage System Revenue Bonds, Series 2006 B (Tax-Exempt), dated July 27, 2006, issued in the original aggregate principal amount of \$2,000,000 ("Series 2006 B Bonds"); and (xiv) Combined Waterworks and Sewerage System Refunding Revenue Bonds, Series 2009 A (Tax-Exempt), dated December 1, 2009, issued in the original aggregate principal amount of \$7,120,000 ("Series 2009 A Bonds"), collectively referred to as the "Prior Bonds", as defined in the Bond Ordinance authorizing the Bonds.

It is further our opinion that the Net Revenues actually derived from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of the Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by the Series 2010 Bonds, are not less than 115% of the largest aggregate amount that will mature and become due in any succeeding fiscal year for the principal of and interest on the Series 2010 Bonds and the Prior Bonds.

Very truly yours,

*J.C. KUNKLE & ASSOCIATES, A.C.*

Martinsburg, West Virginia

CITY OF CHARLES TOWN

Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

CERTIFICATE AS TO USE OF PROCEEDS

The undersigned Mayor and Clerk of the City of Charles Town in Jefferson County, West Virginia (the "Issuer"), being the official of the Issuer duly charged with the responsibility for the issuance of \$912,458 Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A (West Virginia DWTRF Program) and \$100,000 Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), of the Issuer, both dated January 13, 2010 (collectively the "Bonds" or the "Series 2010 Bonds") on the 13th day of January, 2010, hereby certifies as follows:

1. I am the officer of the Issuer duly charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances and estimates herein certified and duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Bond Ordinance duly enacted by the Issuer on September 21, 2009, as supplemented by Supplemental Resolution duly adopted on January 4, 2010 (collectively, the "Bond Ordinance"), authorizing the Bonds.

2. This certificate may be relied upon as the certificate of the Issuer.

3. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on January 13, 2010, the date on which the Bonds are being physically delivered in exchange for an initial advance of the principal amount of the Series 2010 Bonds, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

4. In the Bond Ordinance pursuant to which the Bonds are issued, the Issuer has covenanted that it shall not take, or permit or suffer to be taken, any action with respect to Issuer's use of the proceeds of the Bonds which would cause any bonds, the interest, if any, on which is exempt from federal income taxation under Section 103(a) of the Internal Revenue Code of 1986, as amended, and the temporary and permanent regulations promulgated thereunder or under any predecessor thereto (collectively, the "Code"), issued by the West Virginia Water Development Authority (the "Authority") or the West Virginia Bureau for Public Health (the "BPH"), as the case may be, from which the proceeds of the Bonds are derived, to lose their status

as tax-exempt bonds. The Issuer hereby covenants to take all actions necessary to comply with such covenant.

5. The Series 2010 A Bonds were sold on January 13, 2010, to the Authority, pursuant to an ARRA Assistance Agreement dated January 13, 2010 (the "ARRA Assistance Agreement"), by and between the Issuer and the Authority, on behalf of the BPH, for an aggregate purchase price of \$912,458 (100% of par), at which time, the Issuer received \$89,545 from the Authority and the BPH, being the first advance of the principal amount of the Series 2010 A Bonds. No accrued interest has been or will be paid on the Series 2010 A Bonds. The balance of the principal amount of the Series 2010 A Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

6. The Series 2010 B Bonds were sold on January 13, 2010, to the Authority, pursuant to the ARRA Assistance Agreement dated January 13, 2010, by and between the Issuer and the Authority, on behalf of the BPH, for an aggregate purchase price of \$100,000 (100% of par) , at which time, the Issuer received \$-0- from the Authority and the BPH, being the first advance of the principal amount of the Series 2010 B Bonds. No accrued interest has been or will be paid on the Series 2010 B Bonds. The balance of the principal amount of the Series 2010 B Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

7. The Series 2010 A Bonds and Series 2010 B Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks facilities of the Issuer (the "Project"); and (ii) paying certain costs of issuance of the Bonds and related costs.

8. Within 30 days after the delivery of the Series 2010 Bonds, the Issuer shall enter into agreements which require the Issuer to expend at least 5% of the net sale proceeds of the Bonds on the Project, constituting a substantial binding commitment. The acquisition and construction of the Project shall commence immediately and shall proceed with due diligence to completion, and with the exception of proceeds deposited in the Series 2010 Bonds respective Reserve Account, if any, all of the proceeds from the sale of the Series 2010 Bonds, together with any investment earnings thereon, will be expended for payment of costs of the Project on or before March 1, 2011. The acquisition and construction of the Project is expected to be completed by September 1, 2010.

9. The total cost of the Project, a portion of which is financed from the proceeds of the Series 2010 Bonds (including all costs of issuance of the Series 2010 Bonds), is estimated at \$1,012,458. Sources and uses of funds for the Project are as follows:

SOURCES

Proceeds of the Series 2010 A Bonds	\$912,458
Proceeds of the Series 2010 B Bonds	<u>\$100,000</u>

Total Sources	<u>\$1,012,458</u>
<u>USES</u>	
Costs of Acquisition and Construction of the Project	\$981,458
Costs of Issuance	<u>\$31,000</u>
Total Uses	<u>\$1,012,458</u>

10. Pursuant to Article V of the Bond Ordinance, the following special funds or accounts have been created or continued relative to the Series 2010 Bonds:

- (1) Revenue Fund (established by Prior Ordinance);
- (2) Renewal and Replacement Fund (established by Prior Ordinance);
- (3) Series 2010 Bonds Construction Trust Fund;
- (4) Series 2010 A Bonds Sinking Fund;
- (5) Series 2010 A Bonds Reserve Account;
- (6) Series 2010 B Bonds Sinking Fund; and
- (7) Series 2010 B Bonds Reserve Account.

11. Pursuant to Article VI of the Bond Ordinance, the proceeds of the Bonds will be deposited as follows:

(1) Series 2010 A Bonds proceeds in the amount of \$-0- will be deposited in the Series 2010 A Bonds Reserve Account.

(2) The balance of the proceeds of the Series 2010 A Bonds will be deposited in the Series 2010 Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of the Project, including costs of issuance of the Series 2010 A Bonds and related costs.

(3) Series 2010 B Bonds proceeds in the amount of \$-0- will be deposited in the Series 2010 B Bonds Reserve Account.

(4) The balance of the proceeds of the Series 2010 B Bonds will be deposited in the Series 2010 Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of the

Project, including costs of issuance of the Series 2010 B Bonds and related costs.

12. Monies held in the Series 2010 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Series 2010 A Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on monies in the Series 2010 A Bonds Sinking Fund and Series 2010 A Bonds Reserve Account will be withdrawn therefrom and deposited into the Series 2010 A Bonds Construction Trust Funds during construction of the Project, and following completion of the Project, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Ordinance.

13. Monies held in the Series 2010 B Bonds Sinking Fund will be used solely to pay principal of and interest on the Series 2010 B Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on monies in the Series 2010 B Bonds Sinking Fund and Series 2010 B Bonds Reserve Account will be withdrawn therefrom and deposited into the Series 2010 B Bonds Construction Trust Funds during construction of the Project, and following completion of the Project, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Ordinance.

14. Work with respect to the acquisition and construction of the Project will proceed with due diligence to completion. The acquisition and construction of the Project is expected to be completed within 7 months of the date hereof.

15. The Issuer will take such steps as requested by the Authority to ensure that the Authority's bonds meet the requirements of the Code.

16. With the exception of the amount deposited in the Series 2010 A Bonds Reserve Account and Series 2010 B Bonds Reserve Account, if any, all of the proceeds of the Bonds will be expended on the Project within 13 months from the date of issuance thereof.

17. The Issuer does not expect to sell or otherwise dispose of the Project in whole or in part prior to the last maturity date of the Bonds.

18. The amount designated as costs 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 owned and held by (or on behalf of) a qualified governmental unit.

20. No proceeds of the Bonds will be used, directly or indirectly, in any trade or business carried on by any person who is not a governmental unit.

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

22. The Issuer shall use the Bond proceeds solely for the costs of the Project, and the Project will be operated solely for a public purpose as a local governmental activity of the Issuer.

23. The Bonds are not federally guaranteed.

24. The Issuer has retained the right to amend the Bond Ordinance authorizing the issuance of the Bonds if such amendment is necessary to assure that the Bonds remain governmental bonds.

25. The Issuer has either (a) funded the Series 2010 A Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year with the proceeds of the Bonds, or (b) created the Series 2010 A Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2010 A Bonds 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. Monies in the Series 2010 A Bonds Reserve Account and the Series 2010 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

26. The Issuer has either (a) funded the Series 2010 B Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year with the proceeds of the Bonds, or (b) created the Series 2010 B Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2010 B Bonds 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. Monies in the Series 2010 B Bonds Reserve Account and the Series 2010 B Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

27. There are no other obligations of the Issuer which (a) are to be issued at substantially the same time as the Bonds, (b) are to be sold pursuant to a common plan of financing together with the Bonds and (c) will be paid out of substantially the same sources of funds or will have substantially the same claim to be paid out of substantially the same sources of funds as the Bonds.

28. To the best of my knowledge, information and belief, there are no other facts, estimates and circumstances which would materially change the expectations herein expressed.

29. The Issuer will comply with instructions as may be provided by the Authority, at any time, regarding use and investment of proceeds of the Bonds, rebates and rebate calculations.

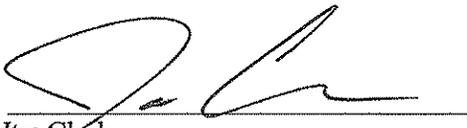
31. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

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WITNESS our signatures on day and year first written above.

CITY OF CHARLES TOWN

By:   
Its: Mayor

By:   
Its: Clerk

CHARTER  
OF THE  
CITY OF  
CHARLES TOWN  
WEST VIRGINIA

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EDITOR'S NOTE: The Charles Town Charter was enacted by the West Virginia Legislature in 1915.

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CHARTER  
OF THE  
CITY OF  
CHARLES TOWN  
WEST VIRGINIA

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SECTION I. CORPORATE LIMITS.

The corporate limits of the Town of Charles Town shall be as follows, to-wit:  
Beginning at the corner of William H. Travers and Andrew Hunter, on the north side of Smithfield; Charles Town and Harpers Ferry turnpike, being 41.1 poles from the east side to town alley (figure 1 in plat of S. Howell Brown's survey of January eighteenth, one thousand eight hundred and seventy-two); running thence with the line of said Travers and Hunter, and also the line of Richard Hessey and the said Hunter, N. 20 degrees, 20 minutes, W. to the Winchester and Potomac Railroad, and extending the same course in all 79.3 poles to a stake in James M. Ranson's field; thence parallel to Washington Street S. 69 degrees, 40 minutes, W. 290 poles to a stake at the prolongation of the line of Mrs. Buskirk and Henry B. Davenport; thence in the direction of said line S. 20 degrees, 20 minutes, E. 10.8 poles to a stake at the west side of new road, where the same intersects the "Old Mill Road"; thence with the west side of new road S. 20 degrees, 10 minutes, W. 52.9 poles, crossing the aforesaid turnpike to a stake in the line of said Davenport (5); and thence with the said line S. 17 degrees, 50 minutes, E. 30.9 poles to the south line of the "Old Winchester Road"; thence with it N. 69 degrees, 40 minutes, E. 36.05 poles to a point at the prolongation of the aforesaid line of Buskirk and Davenport; thence extending said course S. 20 degrees, 20 minutes, E. 147.12 poles to a stake in William Drew's field; thence parallel to Washington Street N. 69 degrees, 40 minutes, E. 122 poles to a stake; thence S. 20 degrees, 20 minutes, E. 45.45 poles to a stake; thence N. 69 degrees, 40 minutes, E. 115.25 poles to a stake; thence N. 20 degrees, 20 minutes, W. 45.45 poles to a stake; thence N. 69 degrees, 40 minutes, E. 52.75 poles to a stake in George H. Tate's field (13); thence N. 20 degrees, 20 minutes, W. 150.18 poles to beginning; containing 460 acres.

Editor's Note: In addition to the above described territory, the following territory was annexed to the city in 1967:

Beginning at the present corporation line of Charles Town in the east line of South Samuel Street; thence N 72-30 E 926 feet; thence N 17-30 W 750 feet, crossing Forrest Avenue, to a point; thence and still with said present corporation line, N 72-30 E 797.3 feet to a point; thence leaving said present corporation line and running with the east line of an alley, S 20-15 W 1463.7 feet to a point therein; thence S 69-45 E 3 feet; thence S 20-15 W 992.2 feet to a point; thence N 69-43 W 79.8 feet; and N 18-00 W 425.4 feet; N 13-30 E 285.7 feet; N 25-10 E 45 feet; N 14-15 W 205 feet; and S 73-15 W 343.5 feet to the east line of South Samuel Street (extended); and thence with same N 17-30 W 232 feet to the beginning; containing 22.48 acres.

#### SECTION 2. MUNICIPAL AUTHORITIES.

The Municipal authorities of said Town shall be a Mayor and two Councilmen from each ward who, together, shall be a Common Council.

#### SECTION 3. TOWN INCORPORATE.

The Mayor and Councilmen as soon as they shall be elected and qualified, as herein provided, shall be a body politic and corporate by the name of "The Corporation of Charles Town", and shall have perpetual succession and a common seal; and by that name may sue and be sued, plead and be impleaded, contract and be contracted with, and may purchase and hold real estate and other property necessary or proper to enable it to discharge its duties, and needful for the good order, government and welfare of said corporation.

#### SECTION 4. CORPORATE POWERS.

All the corporate powers of said town shall be exercised by the said Council or under its authority, except when otherwise provided.

#### SECTION 5. ELECTION OF MAYOR.

The Mayor and Councilmen shall be elected by the qualified voters of said corporation.

#### SECTION 6. WARDS; ELECTIONS THEREIN.

The said town shall consist of four wards located and bounded as follows:  
The first ward shall include all the territory within the corporate limits lying north of Washington Street and the Summit Point road and west of George Street; the second ward, all the territory lying south of Washington Street and the Summit Point road and west of George Street; the third ward all the territory within said corporate limits lying east of George Street and south of Washington Street; the fourth ward all the territory within said corporate limits lying east of George Street and north of Washington Street. Elections in said corporation under this Act shall be held on the fourth Thursday in May, one thousand nine hundred and fifteen, and annually thereafter on such Thursday, and shall be under the supervision of three inspectors at each election precinct in said Town, who are to be appointed by the Council, and who shall be governed by such rules and regulations as the Council may prescribe. The Council shall select and designate the voting places of the respective wards in the Town.

**SECTION 7. QUALIFICATIONS OF MAYOR, ETC.,**

The Mayor and Councilmen must be, at the time of their election and during their terms of office, owners in fee of real estate in said corporation of the value of two hundred and fifty dollars over and above all encumbrances, and be entitled to vote for members of its common Council.

**SECTION 8. TERMS OF OFFICE.**

Their term of office shall be (except when to fill vacancies) for two years, and until their successors are elected and qualified, as herein provided; except that at the election to be held on the fourth Thursday in May, one thousand nine hundred and fifteen, there shall be elected one Councilman from the first, second, and fourth wards, and two Councilmen from the third ward, one of the said two so elected from the third ward to hold office for two years, and the other for one year; the terms of office of said Councilmen so elected from the third ward shall be determined by lot at the first meeting of the Council held after such election in one thousand nine hundred and fifteen.

Annually thereafter, on the fourth Thursday in May, there shall be elected one Councilman from each ward, to be voted for throughout the town as hereinbefore provided. The Mayor shall be elected on the fourth Thursday in May, one thousand nine hundred and sixteen, and every two years thereafter on such Thursday. The Mayor and members of the Council elected in May, one thousand nine hundred and fifteen, shall continue in office until their successors are elected in May, one thousand nine hundred and sixteen.

**SECTION 9. CERTIFICATES OF ELECTION.**

As soon as the result for such election for Mayor and Councilmen is ascertained, the inspectors of election shall sign a certificate containing complete returns of the polls taken at their place of voting for all of said officers, and shall enclose the certificate in an envelope, which shall be sealed up and endorsed by each of such inspectors. The inspectors, or one of them, shall, within three days after the day on which such election was held, deliver said certificates to the Mayor of said Town. At the next meeting of the Council thereafter the Mayor shall present such certificates to the Council, who shall examine the same and ascertain the true result of such election in said Town, and the person respectively appearing to have received the highest number of vote for the several offices shall be declared elected, and a certificate thereof signed by the Mayor shall be granted to the person so elected.

**SECTION 10. WHO MAY VOTE.**

Every person who shall have resided within the boundaries of said Town for one month, and within the ward in which he offers to vote for five days next preceding the election held therein, and who is a qualified voter under the laws and Constitution of this State, and no others, shall be entitled to vote at any election held in said town.

**SECTION 11. VACANCIES IN OFFICE.**

All vacancies occurring from any cause in any elective office of the Town shall be filled by appointment by the Council until the next election held in said Town for Councilmen; but in case of a Councilman, such appointment shall be made only of a resident of the ward in which such vacancy has occurred, and such appointees shall be otherwise qualified as is required by this Act.

**SECTION 12. MODE OF VOTING.**

At all elections the mode of voting shall be that prescribed by the State Constitution for election of State officers.

**SECTION 13. TIE VOTES**

Whenever two or more candidates for the same office at any election shall receive an equal number of votes, the Council shall, in an equitable mode, determine which of the persons so voted for shall be returned elected.

**SECTION 14. CONTESTED ELECTIONS.**

All contested elections shall be heard and decided by the Council for the time being; but the Council may order a new election if satisfied the ends of justice will be better attained thereby.

**SECTION 15. QUORUM.**

A majority of the Councilmen elected shall be necessary for the transaction of any business.

**SECTION 16. NUMBER, TERMS, DUTIES AND COMPENSATION OF APPOINTIVE OFFICERS.**

There shall be one or more Sergeants, a Clerk, a Treasurer, an Assessor, a City Attorney, a City Health Officer, a City Engineer, and three Commissioners of Roads, Streets and Alleys of said Town, who shall be appointed by the Council thereof and hold office during the pleasure of said Council. The duties of Sergeant, Clerk, Treasurer and Assessor may be discharged by the same person, or otherwise, as the Council may from time to time determine; but no member of the Council shall hold any of said offices. The compensation for said officers shall be in the discretion of the Council.

**SECTION 17. OATH OF MAYOR AND COUNCILMEN.**

The Mayor and Councilmen and all officers herein provided for, shall each, before entering upon the duties of his office, and within ten days of the time of his election or appointment, take and subscribe an oath to faithfully and impartially discharge the duties of his office, and the oath to support the Constitution of the United States, and the Constitution of the State of West Virginia. The Mayor, having taken such oath or affirmation, may administer the same to the Councilmen and other officers. Certificates of said oaths or affirmations shall be recorded in the journal of said Council, and whenever two-thirds of the members of the Council shall have qualified, they shall enter upon said offices.

SECTION 18. FAILURE TO QUALIFY.

If any one who shall have been elected Mayor or Councilman shall not be eligible as herein prescribed, or shall refuse or fail to take the oath or affirmation required under this Act, within the time prescribed, the Council may declare his office vacant and fill the vacancy as provided in Section Eleven of this Act.

SECTION 19. PRESIDING OFFICER.

The Council shall be presided over at its meetings by the Mayor, or in his absence, by the Mayor Pro Tem., who shall be chosen annually by a majority of the Council present at the first meeting of said Council, from the members of the Council after the election and qualification; and such Mayor Pro Tem., shall in the absence of the Mayor, have all the powers and perform all the duties of the Mayor.

SECTION 20. JOURNAL OF COUNCIL.

The Council shall cause to be kept, in a well-bound book, an accurate record of all its proceedings, bylaws, acts and orders, which shall be fully indexed, and open to the inspection of citizens of the Town. The proceedings of each meeting shall be read and corrected at the succeeding meeting, and signed by the person presiding for the time being. Upon the call of any member the yeas and nays shall be called and recorded in the journal. In all cases of a tie the person presiding at the time shall have the casting vote.

SECTION 21. POWERS OF COUNCIL.

The Council shall have power to open and grade new streets and extend, widen, straighten, repair and grade old streets and alleys; to curb and pave streets, sidewalks and gutters for public use, and to alter, improve and light the same, and shall have control of all the avenues for public use in said Town; to have the same kept in good order and free from obstructions on or over them; to regulate and determine the width of all streets, sidewalks and public alleys; to order and direct the curbing and paving of all sidewalks and footways for public use in said town, to be done and kept in good order by the owners or occupants of the adjacent property; to control the construction and repair of all houses, bridges and culverts; the opening and construction of all ditches, drains and gutters; to widen, deepen and clear the same of stagnant water and filth and to determine at whose expense the same shall be done; to purchase, lay off and appropriate public grounds and control the use of the same; to provide, contract for and take care of, all public buildings proper to the Town; to provide for the regular building of houses or other structures; to cause the removal of unsafe walls or buildings; to prevent injury or annoyance to the public or individuals from anything dangerous, offensive or unwholesome; to abate or cause to be abated anything which, in the opinion of the majority of the whole Council, shall be a nuisance; to regulate the keeping of gunpowder and other combustibles and explosives; to provide in or near the Town places for the burial of the dead, and regulate the interments in the Town, and provide ornamental trees; to provide for making division fences, and for the draining of lots by proper drains and ditches; to make regulations for guarding against danger or damages from fire;

to provide for the poor of the Town; to organize one or more fire companies, and provide the necessary apparatus, tools, implements, engines, or any of them, for their use; to provide a sufficient revenue for said Town, and appropriate the same to its expenses; to issue bonds of the corporation and make sale thereof, but no such bonds shall be sold by said corporation for less than par, nor bearing a higher rate of interest than six percent per annum; nor shall said corporation be indebted on account of such issue at any period in a greater sum than ten thousand dollars without the consent of a majority of the voters of the Town expressed at an election held for that purpose; nor shall the whole indebtedness of said Town at any time ever exceed the sum of one hundred thousand dollars; to provide for the annual assessment of taxable persons and property in the Town; to adopt rules for the transaction of business and for the government and regulation of its own body; to promote the general welfare of the Town, and to protect the persons and the property of the citizens therein; to appoint the officers authorized by Section Sixteen of this Act, fix their terms of service and compensation, require and take from them bonds, with such sureties and in such penalties as the Council may determine, conditioned for the true and faithful discharge of their duties, and remove them at pleasure; but all bonds taken by the Council shall be made payable to the Town by its corporate name; to provide for and regulate the weighing of hay, coal, wood and other articles sold or for sale in said Town, and to regulate the transportation thereof through the streets; to establish and regulate markets, or prescribe the time for holding the same, and what articles shall be sold only in said markets; to protect places of divine worship; to lay off the Town into four or more wards, prescribing the boundaries of said wards; but should any change in the boundaries of the wards be made; the new wards shall be equal in population as nearly as possible; to appoint and publish the places of holding Town elections; to erect or authorize or prohibit the erection of gas works in or near the Town; to prevent injuries to, and provide protection of the same; to provide for the purity of the water and the healthfulness of the town; for all of which purposes except that of taxation, the Council shall have jurisdiction for one mile beyond the corporate limits of said Town; to prescribe and enforce ordinances for the purpose of protecting the health, decency, morality and order of the Town and its inhabitants, and to punish violators of such ordinances, even if the offenses under and against such ordinances shall also constitute offenses under the laws of the State of West Virginia, or the common law, for which purpose also the jurisdiction of said Town shall extend for one mile beyond the corporate limits thereof.

#### SECTION 22. POWER TO REPAIR SIDEWALKS, ETC.

If the owner or occupant of any sidewalk, footway, gutter or pavement in said Town, or of the real property next adjacent thereto, shall fail or refuse to curb, pave or keep the same clean, in the manner and within the time required by the Council, it shall be the duty of the Council to cause the same to be done at the expense of the said Town and to assess the amount of such expense upon such owner or occupant, and the same may be collected by the Town sergeant in the manner herein provided for the collection of Town taxes.

**SECTION 23. GENERAL POWERS.**

To carry into effect these enumerated powers, and all other powers conferred upon the said Town, or its Council, expressly or by implication, by this or any future act of the legislature of this State, the Council shall have power to make, pass and enforce all needful orders, bylaws, ordinances, resolutions, rules and regulations, not contrary to the Constitution and laws of this State; and to prescribe and impose reasonable fines, penalties, and imprisonment in the County jail for a term not exceeding thirty days, for violations thereof. Such fines, penalties and imprisonment shall be recovered and enforced under the judgment of the Mayor of said Town, or the person lawfully exercising the functions of Mayor. And the authorities of said Town may, with the consent of the County Court of Jefferson County, entered of record, use the jail of said County for any purposes for which the use of a jail may be needed by them, under the acts of the Council or of the State.

**SECTION 24. ANNUAL ESTIMATE.**

The Council shall cause to be made up annually and entered upon its Journal an accurate estimate of all sums which are or may become lawfully chargeable on said Town, and which ought to be paid within one year, and it shall order a Town levy of so much, in its opinion, as may be necessary to pay the same; provided, however, that the tax rate shall not exceed thirty-five cents on the one hundred dollars, except where it appears to the satisfaction of the Council that a levy of thirty-five cents on each one hundred dollars will not produce sufficient revenue in any one year to pay current expenses, the interest on the bonded indebtedness of the Town, and provide for a sinking fund sufficient to liquidate such bonded indebtedness within the time prescribed by law; and in such case, the Council may, by a vote of a majority of all members elected to the Council, increase such tax rate to such a rate, not exceeding fifty cents on the one hundred dollars, as may be necessary for the purpose aforesaid. All vacant property embraced in the proposed boundaries of the said Town, beyond the old limits of the Town, shall be subject only to such taxation for the benefit of said Town, as is levied upon other property for county and district purposes, and until the said vacant property shall be divided into lots for building purposes, and offered for sale as such, and until the streets of the said Town shall be opened for the use and accommodation of the same.

**SECTION 25. ANNUAL LEVY.**

The levy so ordered shall be upon all male persons resident of said Town over the age of twenty-one years, dogs, and all real and personal estate within the said Town, subject to State or County taxes; provided, that the tax so levied upon persons does not exceed two dollars per head.

**SECTION 26. LICENSES.**

Whenever anything for which a State license is required is to be done within the said Town, the Council may require a Town license therefor, and may impose a tax thereon for the use of the Town. The Council may require from the persons so licensed a bond with sureties, payable to the Town, in such penalties and with such conditions as it may think proper, and may revoke such license at any time, after due notice and a hearing thereon, if the conditions of said bond be broken.

**SECTION 27. ASSESSOR.**

It shall be the duty of the Assessor to make an assessment of the persons, dogs, and property within said Town subject to taxation, substantially in the manner and form in which such assessments are made by the Assessor of the County, and to return the same to the Council on or before the first day of July in each year; and for this purpose he shall have all the powers conferred by law upon the County Assessor. He shall receive a compensation for his services to be fixed by the Council, which shall not be increased or diminished during his continuance in office.

**SECTION 28. SERGEANT.**

The Sergeant shall have power to collect the Town taxes, fines, and levies, and shall have power one month after he receives the books of the Assessor of said Town, to distrain and sell therefor, in like manner as the Sheriff may distrain and sell for State taxes, and shall in all other respects have the same powers as a Sheriff to enforce the payment and collection thereof; and the said Sergeant shall have power, within the corporate limits, to exercise all the duties of a constable as a conservator of the peace, and he shall be entitled to the same compensation therefor. Upon the conviction of any person arrested by him, for the violation of any of the ordinances of the Town, he shall be entitled to one dollar for such arrest, to be taxed in the costs against the person so convicted, and he and his sureties shall be liable to all fines, penalties and forfeitures that a constable is legally liable to, for any failure or dereliction in his said office, to be recovered in the same manner and before the same courts that said fines, penalties, and forfeitures are now recoverable against constables.

**SECTION 29. LIEN ON REAL ESTATE FOR TAXES.**

There shall be a lien upon real estate within said corporation for the Town taxes assessed thereon, from the commencement of the year in which they are assessed, and for all other assessments, fines and penalties assessed or imposed upon the owners thereof by the authorities of the Town, from the time the same are so assessed or imposed, which liens shall be enforced by the Council in the same manner as the lien for taxes for county purposes is now enforced or by suit in equity in the circuit court of Jefferson County. The lien aforesaid shall have priority over all other liens, except that for taxes due the State.

**SECTION 30. PROHIBITION OF SHOWS.**

The Council may prohibit any theatrical or other performance, show or exhibition which it may deem injurious to the morals or good order of the Town.

**SECTION 31. BONDS OF SERGEANT AND TREASURER.**

The Council shall have the power to require and take from the sergeant and treasurer bonds, with sureties satisfactory to the Council, in such penalty as it may deem sufficient, except that as to the sergeant it shall not be for a penalty less than two thousand five hundred dollars; and said bond shall be conditioned for the true and faithful performance of his duties as sergeant, and for the collecting and accounting for and payment of the taxes, fines and other moneys of the Town which shall come into his hands, or which it shall be his duty to collect, at such times and to such persons as the Council may order.

The Treasurer's bond shall be conditioned for the true and faithful performance of his duties as Treasurer, and that he will faithfully pay over and account for all moneys that shall come into his hands as Treasurer, when and as he shall be thereto required by the Council.

#### SECTION 32. MAYOR; POWERS, DUTIES, ETC.

The Mayor shall be the chief executive officer of the Town, and shall take care that all bylaws, ordinances and orders of the Council are faithfully executed. He shall be ex officio a conservator and justice of the peace within said Town, and shall, within the same, exercise all the powers and duties vested in justices, except that he shall have no jurisdiction as such in civil cases. He shall have control of the police of the Town, and may appoint special police officers whenever he deems it necessary; and it shall be his duty especially to see that the peace and good order of said Town are preserved, and that the persons and property therein are protected; and to this end he may cause the arrest and detention of all riotous and disorderly persons in said Town before issuing his warrant therefor. He shall have power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof, and in default of such payment he may commit the party in default to the jail of Jefferson County until the fine or penalty and costs shall be paid, to be employed during the term of his imprisonment as hereinafter provided; but the term of imprisonment in such case shall not exceed thirty days. He shall, from time to time, recommend to the Council such measures as he may deem needful to the welfare of the Town. He may receive a compensation for his services, to be fixed by the Council, which shall not be increased nor diminished during the term for which he was elected.

#### SECTION 33. CLERK; HIS DUTIES AND COMPENSATION.

It shall be the duty of the Clerk to keep the journal of the proceedings of the Council, and to have charge of and preserve the records, papers, documents, contracts, etc., of the Town. He shall attend the Mayor in all his examinations, issue his orders, swear witnesses, and perform all the duties of a Clerk in the Council and Mayor's Court. He shall receive such compensation for his services as may be fixed by the Council, which shall not be increased nor diminished during his term of office.

#### SECTION 34. SERGEANT; HIS DUTIES, LIABILITIES AND COMPENSATION.

It shall be the duty of the Town Sergeant to collect the taxes, fines and other income and revenue of the Town, as specified in his bond, and to account for and pay the same to the Treasurer at such times as the Council may order. And it shall be his duty, at least once in every three months, and oftener if required by the Council, to render an account of the taxes, fines and other claims in his hands for collection, and return a list of such as he shall have been unable to collect by reason of insolvency, to which list he shall make an oath that he has used due diligence to collect the same, but has been unable to do so. The Council shall, if it be satisfied that he could not have collected the same by the use of due diligence, allow them. But if the Council shall be of opinion that by the use of due diligence on the part of said Sergeant he could have collected the same, or any part thereof, then he shall be

charged with such as he might have collected. The said Sergeant shall do and perform all other acts pertaining to the office of Sergeant of a corporation, and of a police officer within said Town, and as such shall have the same powers, duties, fees and liabilities as are by law prescribed for a constable when acting as such. He shall for his services receive such compensation as shall be fixed by the Council.

#### SECTION 35. TREASURER.

All moneys belonging to said Town shall be paid over to the Treasurer, none of which shall be paid out by him except as the same have been apportioned and ordered to be paid by the Council; and the said Treasurer shall pay the same upon the certificate of the Mayor.

#### SECTION 36. MOTION AGAINST TREASURER.

If the Treasurer shall fail to account for and pay over all or any moneys that shall come into his hands, when thereto required by the Council, it shall be lawful for the Council, in the corporate name of the town, by motion before the circuit court of Jefferson County, or any court having jurisdiction, after ten days' previous notice, to recover from the treasurer and his sureties, or their personal representative, any sum that may be due from said treasurer to said town.

#### SECTION 37. MOTION AGAINST SERGEANT.

If the Sergeant shall fail to collect, account for and pay over all the taxes, fines and other revenue of the Town in his hands for collection, according to the conditions of his bond, it shall be lawful for the Council to recover the same by motion, in the corporate name of the Town, in the same manner and before the same courts as provided against the Treasurer in Section Thirty-Six of this Act.

#### SECTION 38. COMMISSIONER OF STREETS.

It shall be the duty of the Commissioner of Streets to superintend the opening, construction and repair of the roads, streets and alleys, sidewalks, crosswalks, footways, drains, and gutters within the said Town, and to put and keep the same in good repair, and to carry into execution all the resolutions, orders and ordinances of the Council in relation thereto.

#### SECTION 39. EXEMPTION FROM ROAD AND POOR TAX.

The said Town, and the taxable persons and property therein, shall be exempt and free from the payment of any poor taxes or ordinary road tax, and from contributing to any county expenses for the poor and the ordinary roads and bridges of said County, outside of the corporate limits of the said Town, for any year in which said Town shall, at its own expense, provide for its own poor and keep its streets and bridges in order.

**SECTION 40. HITCHING YARD.**

The Municipal authorities of the Town shall have power to provide, maintain and operate a hitching yard for the use of the public, and to this end may acquire by purchase, condemnation or otherwise, a sufficient amount of real estate, either within or without the corporate limits. It is authorized to make reasonable rules and regulations for the use of the same, including the rights to make reasonable charges against persons using and occupying it; to erect suitable buildings and sheds thereon; to keep the same clean; to provide a watchman or caretaker, and to prescribe his powers, duties and compensation, taking from him such bond as may be thought proper. The County Court of Jefferson County is hereby authorized to appropriate such sums annually as it may think proper for the purpose of maintaining in connection with the authorities of the Town of Charles Town such hitching yard. Should said County Court make such appropriation, rules and regulations respecting the use thereof shall be prescribed by a joint committee of the County Court of Jefferson County and the Council of the corporation of Charles Town. The amount of the appropriation by the County Court in each year shall not be less than one hundred nor more than five hundred dollars.

**SECTION 41. FORMER TOLL ROADS WITHIN THE CORPORATE LIMITS.**

Nothing contained in this Act shall be deemed to place upon the corporation of Charles Town the duty of maintaining and keeping in good order and repair and covered with gravel such streets and roads within the corporate limits as were formerly toll roads or turnpikes, the duty to maintain which and keep in good order and repair and covered with gravel, is placed upon the County Court by the acts of the legislature of one thousand nine hundred and three, one thousand nine hundred and seven and one thousand nine hundred and nine. The County Court of Jefferson County may, however, upon the request of the Council of the corporation of Charles Town surrender its jurisdiction and control of any or all of such roads or streets within the corporate limits to the corporation of Charles Town; and in such case, the duty of maintaining such streets, and keeping them in good order and repaired and covered with gravel, shall be placed upon the corporation of Charles Town; and in such case the county court of Jefferson County shall pay to the corporation of Charles Town annually such amounts as may be expended by it in maintenance of such roads and streets; or the said County Court of Jefferson County may, at its option, pay to the corporation of Charles Town such lump sum as may be agreed upon between them, in consideration of the corporation of Charles Town assuming jurisdiction of such roads and streets, and becoming liable for their upkeep, maintenance and repair, as aforesaid.

**SECTION 42. OTHER PROVISIONS OF LAW APPLICABLE.**

The corporation of Charles Town, except as is herein otherwise provided, shall have all the powers, rights and privileges, and be entitled to all the benefits now conferred on municipal corporations by West Virginia Code 8-11-1 et seq. or which may hereafter be granted to municipal corporations by general law.

**SECTION 43. RIGHTS RESERVED.**

All rights, privileges and properties of the said Town, heretofore acquired and possessed, owned and enjoyed by said Town under any act now in force, shall continue undiminished and remain vested in said Town under this Act; and all laws, ordinances and resolutions of the council now in force and not inconsistent with this Act shall be and continue in full force and effect until regularly repealed by a Council elected as provided under this Act.

**SECTION 44. DUTIES OF THE COUNCIL.**

The Council shall adopt all needful and just ward regulations, whether general or special, for the good of the citizens thereof. It shall authorize street expenditures in the several wards as equity and justice shall demand; and may authorize the collection of a special tax in any ward of the Town, for a specified purpose within such ward, when requested to do so by a majority of the voters thereof. Whenever in the opinion of the Council it becomes necessary to lay off said Town into more than four wards, the said Council shall lay it off.

**SECTION 45. PRISONERS; HOW EMPLOYED.**

The Council shall provide for the employment and safekeeping of persons who may be committed for default in payment of fines, penalties, or costs under this Act, and who are otherwise unable to discharge the same, by putting them to work for the benefit of the Town; shall keep on hand an ample supply of necessary material for the same, and shall provide all necessary tools, implements, fixtures, and facilities for the immediate employment of any and all of such persons; shall fix a reasonable rate per diem as wages to be allowed every person, until such fine and costs against him are discharged; and the clerk shall keep an account of all fines and penalties so collected and expended.

**SECTION 46. OPENING STREETS.**

The Council of said corporation shall be entitled to all the benefits of West Virginia Code 54-1-1 to 54-2-20 for the condemnation of land for streets, alleys and public buildings in said corporation, and the Commissioners appointed under said chapter shall in cases of opening streets or alleys or in widening the same, not only assess what is a just compensation as provided in said chapter, but they shall also assess the damages and benefits to all lot owners or property holders having lots or land adjacent to and abutting on said street or alley, whose lot or land may be benefited or injured by the opening of such street or alley or by the widening of any such street or alley, and shall make report as provided in said chapter, but lot owners and property holders shall be named in the application and served with notice as required by said chapter, and the duties of such Commissioners and their oaths shall cover the duties herein imposed. All assessments for benefits under this Act shall be a lien on the property against which the same are assessed, and may be enforced in a court of equity. But either party to such assessment of damages or benefits shall have the right to call for a jury as provided in said chapter.

Post-It Fax Note	7671	Date	5/17/98	Page	1
To	Vince Collins	From	C. J. Arnett		
Call Center			C. J. Arnett		

AMENDMENT TO THE CHARTER OF THE  
CITY OF CHARLES TOWN, WEST VIRGINIA  
WITH REGARD TO SECTION 8. TERMS OF OFFICE

BE IT ORDAINED by the City Council of the City of Charles Town as follows:

That Section 8, TERMS OF OFFICE of the Charter of the city of Charles Town be AMENDED pursuant to West Virginia Code 8-4-8, as follows:

SECTION 8. TERMS OF OFFICE.

Their term of office shall be (except when to fill vacancies) for four years, and until their successors elected and qualified, as herein provided; except that the election to be held the fourth Thursday in May, nineteen hundred ninety nine, there shall be one Councilperson from the first, second, third and fourth wards, their terms of office shall be for four years.

Bi-annually thereafter, on the fourth Thursday of May, there shall be elected one Councilperson from each ward, to be voted for throughout the town as hereinbefore provided. The Mayor shall be elected on the fourth Thursday in May, 2001 and every four years thereafter on such Thursday. The Mayor and members of Council elected in May, 1998 shall continue in office until their successors are elected in May, 2001.

BE IT ORDAINED that this Charter Amendment shall take effect and be in full force as provided by West Virginia Code 8-4-8.

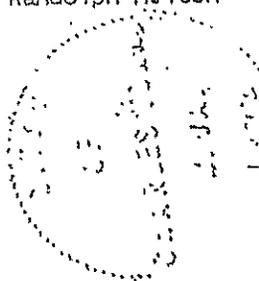
CITY OF CHARLES TOWN

By: J. Randolph Hilton  
Mayor J. Randolph Hilton

Attest:

Gregory A. Hamilton  
Clerk

Date of Public Hearing: September 8, 1998  
Enacted/Passed: September 21, 1998



02-19

RESOLUTION NO. 02-08

A RESOLUTION PROMULGATING RULES OF THE COMMON COUNCIL OF THE CITY OF CHARLES TOWN IN ACCORDANCE WITH WEST VIRGINIA STATE CODE §6-9A-3, *Proceedings to be open; public notice of meetings.*

The Common Council of the City of Charles Town recognizes the right of each citizen to be heard before the Council and;

WHEREAS, the Common Council of the City of Charles Town hereby finds and states the following declaration of policy in accordance with West Virginia State Code §6-9A-1:

That public agencies in this City exist for the singular purpose of representing citizens of this City in governmental affairs, and it is, therefore, in the best interests of the people of this City for the proceedings of public agencies be conducted openly, with only a few clearly defined exceptions. The Common Council hereby further finds and declares that the citizens of the City do not yield their sovereignty to the governmental agencies that serve them. The people in delegating authority do not give their public servants the right to decide what is good for them to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments of government created by them.

Open government allows the public to educate itself about government decision-making through individuals' attendance and participation at government functions, distribution of government information by the press or interested citizens, and public debate on issues deliberated within the government.

Public access to information promotes attendance at meetings, improves planning of meetings, and encourages more thorough preparation and complete discussion of issues by participating officials. The government also benefits from openness because better preparation and public input allow government agencies to gauge public preferences accurately and thereby tailor their actions and policies more closely to public needs. Public confidence and understanding ease potential resistance to government programs.

Resolution No. 02-08

Accordingly, the benefits of openness inure to both the public affected by governmental decision-making and the decision makers themselves. The Common Council finds, however, that openness, public access to information and a desire to improve the operation of government do not require nor permit every meeting to be a public meeting. The Common Council finds that it would be unrealistic, if not impossible, to carry on the business of government should every meeting, every contact and every discussion seeking advice and counsel in order to acquire the necessary information, data or intelligence needed by a governing body were required to be a public meeting. It is the intent of the Common Council to balance these interests in order to allow government to function and the public to participate in a meaningful manner in public agency decision-making.

WHEREAS, the Common Council of the City of Charles Town intends to adhere to West Virginia State Code §6-9A-3, *Proceedings to be open; public notice of meeting*, that states in part:

Any governing body may make and enforce reasonable rules and regulations for attendance and presentation at any meeting where there is not room enough for all members of the public who wish to attend. This article does not prohibit the removal from a meeting of any member of the public who is disrupting the meeting to the extent that orderly conduct of the meeting is compromised; Provided, That persons who desire to address the governing body may not be required to register to address the body more than fifteen minutes prior to time the scheduled meeting is to commence.

WHEREAS, the Common Council of the City of Charles Town intends to adhere to West Virginia State Code §6-9A-3, *Proceedings to be open; public notice of meeting*, that further states in part:

Each governing body shall promulgate rules by which the date, time, place and agenda of all regularly scheduled meetings and the date, time, place and purpose of all special meetings are made available, in advance, to the public—and news media, except in the event of an emergency requiring immediate official action.

WHEREAS, the Common Council of the City of Charles Town by this Resolution shall establish and enforce as reasonable regulations the following:

1. To constitute a meeting, the Common Council hereby finds that a meeting is the convening of any public agency for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter that results in an official action.

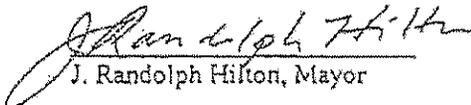
Resolution No. 02-08

2. That when a governing body holds regular meetings every two weeks, or less frequently, a meeting agenda should be made available to the media and public at least three days in advance of the meeting. In calculating the three-day notice period, Saturdays, Sundays, and legal holidays are not counted. The governing body can amend an agenda that was issued three or more days in advance of a meeting, to add additional items that were not known when the agenda was first issued. However, this amended agenda must be made available at least two days in advance of the meeting. Notices required herein shall be placed on the public notice board at 105 S. George Street, Charles Town, WV.
3. That the right of each citizen to be heard before the Council shall be for an initial period of five minutes. Council may upon motion extend this time period with regard to complex subject matter. That persons who desire to address the governing body shall register to address the body fifteen minutes prior to the time the scheduled meeting is to commence.
4. This Resolution shall not be construed to prohibit the removal from a meeting of any member of the public who is disrupting the meeting to the extent that orderly conduct of the meeting is compromised.
5. All Boards and <sup>Commissions</sup> Committees of the City of Charles Town shall comply with this Resolution.
6. In keeping with past practice and procedure, the standing committees of the Common Council shall not require a quorum to meet.
7. Exceptions set forth in West Virginia State Code §6-9A-4 are applicable herein.

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Charles Town in Jefferson County of the State of West Virginia hereby proclaims this Resolution a promulgation of rules in accordance with West Virginia State Code §6-9A-3. *Proceedings to be open: public notice of meeting.*

ADOPTED by the City of Charles Town at its regular meeting this 15<sup>th</sup> Day of July, 2002

CITY OF CHARLES TOWN

  
J. Randolph Hilton, Mayor

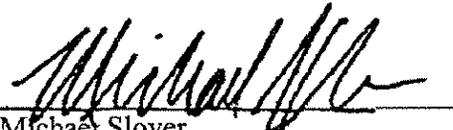
Attest:   
Clerk

State of West Virginia,

COUNTY OF JEFFERSON, SCT.

I, **Michael Slover**, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **Michael Slover**, do solemnly swear that I will faithfully discharge and perform the duties of the office of **Councilmember Ward IV for the City of Charles Town**; to the best of my skill and judgment, and according to law. So help me God.

  
Michael Slover

the above oath was taken and subscribed by the Honorable Mayor, Peggy A. Smith,  
on this 2<sup>nd</sup> day of July, 2007.

  
Peggy A. Smith, Mayor

State of West Virginia,

COUNTY OF JEFFERSON, SCT.

I, **Chester A. Hines**, do solemnly swear that I will support the Constitution of the  
~~United States and the Constitution of the State of West Virginia.~~

I, **Chester A. Hines**, do solemnly swear that I will faithfully discharge and  
perform the duties of the office of **Councilmember, Ward II, for the City of Charles  
Town**, to the best of my skill and judgment, and according to law. So help me God.

  
\_\_\_\_\_  
Chester A. Hines

the above oath was taken and subscribed by the Honorable Mayor, Peggy A. Smith,  
on this 15<sup>th</sup> day of June, 2009.

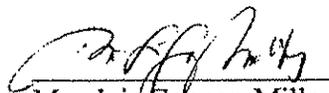
  
\_\_\_\_\_  
Peggy A. Smith

State of West Virginia,

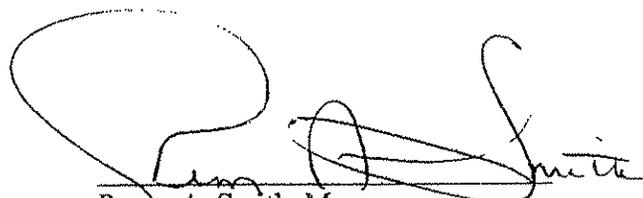
COUNTY OF JEFFERSON, SCT.

I, **Marylois Gannon-Miller**, do solemnly swear that I will support the  
Constitution of the United States and the Constitution of the State of West Virginia.

I, **Marylois Gannon-Miller**, do solemnly swear that I will faithfully discharge  
And perform the duties of the office of **Councilmember Ward II for the City of**  
**Charles Town**, to the best of my skill and judgment, and according to law. So help me  
God.

  
Marylois Gannon-Miller

the above oath was taken and subscribed by the Honorable Mayor, Peggy A. Smith,  
on this 8<sup>th</sup> day of June, 2007.

  
Peggy A. Smith, Mayor

State of West Virginia,

COUNTY OF JEFFERSON, SCT.

I, **Ann Paonessa**, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **Ann Paonessa**, do solemnly swear that I will faithfully discharge and perform the duties of the office of **Councilmember Ward III for the City of Charles Town**, to the best of my skill and judgment, and according to law. So help me God.

  
Ann Paonessa

the above oath was taken and subscribed by the Honorable Mayor, Peggy A. Smith,  
on this 8<sup>th</sup> day of June, 2007.

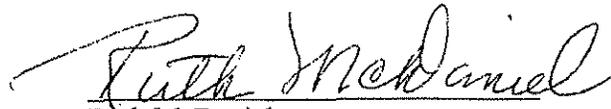
  
Peggy A. Smith, Mayor

State of West Virginia,

COUNTY OF JEFFERSON, SCT.

I, **Ruth McDaniel**, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **Ruth McDaniel**, do solemnly swear that I will faithfully discharge and perform the duties of the office of **Councilmember Ward I for the City of Charles Town**, to the best of my skill and judgment, and according to law. So help me God.

  
Ruth McDaniel

the above oath was taken and subscribed by the Honorable Mayor, Peggy A. Smith,  
on this 8<sup>th</sup> day of June, 2007.

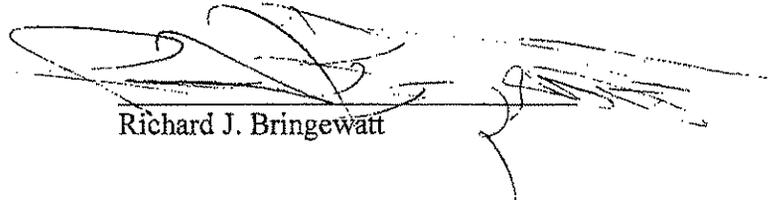
  
Peggy A. Smith, Mayor

State of West Virginia,

COUNTY OF JEFFERSON, SCT.

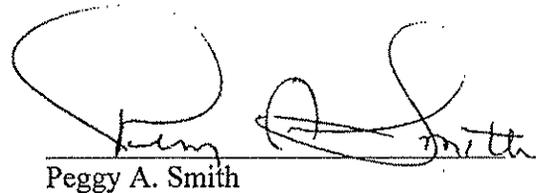
I, **Richard J. Bringewatt**, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **Richard J. Bringewatt**, do solemnly swear that I will faithfully discharge and perform the duties of the office of **Councilmember, Ward IV, for the City of Charles Town**, to the best of my skill and judgment, and according to law. So help me God.



Richard J. Bringewatt

the above oath was taken and subscribed by the Honorable Mayor, Peggy A. Smith,  
on this 15<sup>th</sup> day of June, 2009.



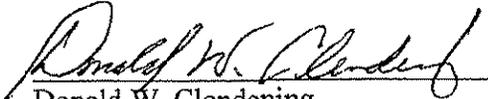
Peggy A. Smith

State of West Virginia,

COUNTY OF JEFFERSON, SCT.

I, **Donald W. Clendening**, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **Donald W. Clendening**, do solemnly swear that I will faithfully discharge and perform the duties of the office of **Councilmember, Ward III, for the City of Charles Town**, to the best of my skill and judgment, and according to law. So help me God.

  
Donald W. Clendening

the above oath was taken and subscribed by the Honorable Mayor, Peggy A. Smith,  
on this 15<sup>th</sup> day of June, 2009.

  
Peggy A. Smith

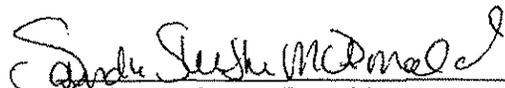
State of West Virginia,

COUNTY OF JEFFERSON, SCT.

I, **Sandra Slusher McDonald**, do solemnly swear that I will support the  
Constitution of the United States and the Constitution of the State of West Virginia.

---

I, **Sandra Slusher McDonald**, do solemnly swear that I will faithfully discharge  
and perform the duties of the office of **Councilmember, Ward I, for the City of Charles  
Town**, to the best of my skill and judgment, and according to law. So help me God.

  
Sandra Slusher McDonald

the above oath was taken and subscribed by the Honorable Mayor, Peggy A. Smith,  
on this 15<sup>th</sup> day of June, 2009.

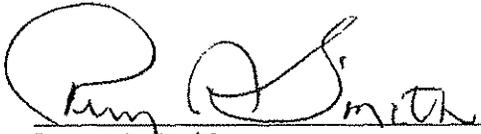
  
Peggy A. Smith

State of West Virginia,

COUNTY OF JEFFERSON, SCT.

I, **Peggy A. Smith**, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **Peggy A. Smith**, do solemnly swear that I will faithfully discharge and ~~perform the duties of the position of Mayor for the City of Charles Town,~~  
to the best of my skill and judgment, and according to law. So help me God.

  
Peggy A. Smith

The above oath was taken and subscribed before Joseph L. Cosentini, Clerk for the City of Charles Town, on this 15<sup>th</sup> day of June, 2009

  
Joseph L. Cosentini, City Clerk



# City of Charles Town

101 East Washington Street, P.O. Box 14, Charles Town, WV 25414  
Phone: (304) 725-2311 ♦ Fax: (304) 725-1014 ♦ Web: [www.charlestownwv.us](http://www.charlestownwv.us)

## AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART NINE, STREETS, UTILITIES & PUBLIC SERVICES, CHAPTER THREE, UTILITIES, ARTICLE 925, WATER SERVICE RATES.

MAYOR

*Peggy A. Smith*

**BE IT ORDAINED** by the City Council of the City of Charles Town as follows:

That Article 925, Water Rates, Section 925.01, Water Service Rates, be

**AMENDED** as follows:

CITY COUNCIL

*Donald Chlendening*

*MaryLois Gannon-Miller*

*Ruth McDaniel*

*Sandra Slusber McDonald*

*Ann Paonessa*

*Amy Schmitt*

*Michael Slover*

*Geraldine Willingham*

### 925.01 WATER SERVICE RATES.

#### USE OF WATER METERS; PROVISION FOR FLAT RATE

For the payment of the proper and reasonable expense of operation, repair, replacements, improvements, additions, betterments, extension and maintenance of the water system and for the payment of the sums required to pay the principal and interest on all water revenue bonds as the same become due, there is hereby established a schedule of just and equitable rates, charges and penalties for the use of and services rendered by the municipal water system and works of the City of Charles Town, West Virginia, which schedule, based upon the metered amount of water supplied to the premises, where possible, but providing for a flat rate when no meter is available, shall be as follows:

#### APPLICABILITY (SCHEDULE I)

Applicable to entire area served.

#### AVAILABILITY

Available for general domestic, commercial and industrial service.

#### RATES

First	10,000 gallons used per month	\$8.23 per 1,000 gallons
Next	30,000 gallons used per month	7.00 per 1,000 gallons
Over	40,000 gallons used per month	5.53 per 1,000 gallons

#### MINIMUM CHARGE

No bill will be rendered for less than the following amounts, according to the size of the meter installed, to-wit:

5/8" or 5/8" x 3/4"	Meter	\$20.58 per month
3/4"	Meter	30.87 per month
1"	Meter	51.45 per month
1-1/2"	Meter	102.90 per month
2"	Meter	164.64 per month
3"	Meter	308.70 per month
4"	Meter	514.50 per month
6"	Meter	1029.00 per month

#### FLAT RATE

CITY MANAGER

*Jeremy Camp (Acting)*

CITY CLERK

*Joe Cosentini*

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WVA PUBLIC SERVICE COMMISSION  
SECRETARY'S OFFICE

For domestic, commercial or industrial customers - \$37.04 for 4,500 gallons per month.

MULTIPLE OCCUPANCY

In apartment buildings, shopping centers or other multiple occupancy buildings, each unit shall be required to pay not less than the minimum monthly charge provided above.

CONNECTION CHARGE

A service connection charge of \$350.00 shall be paid for all new service connections.

DISCONNECT FOR NONPAYMENT

Whenever water service has been discontinued for nonpayment of sewer bills, a disconnection fee of \$10.00 shall be charged.

RECONNECTION SERVICE CHARGE

Whenever water service which has been previously disconnected or otherwise withheld for nonpayment of sewer bills is reconnected, a fee of \$10.00 shall be charged.

DELAYED PAYMENT PENALTY

The above tariff is net. On all current usage billings not paid within twenty (20) days, a ten percent (10%) charge shall be added to the net current amount unpaid. The delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

SECURITY DEPOSIT

The security deposit for water service shall be \$36.50.

RATES FOR FIRE PROTECTION - PUBLIC

Fire Hydrants, each	\$72.00 per annum
Sprinkler Heads, each	0.20 per annum

RATES FOR FIRE PROTECTION - PRIVATE

Fire Hydrants, each	\$72.00 per annum
Sprinkler Heads, each	0.20 per annum



# City of Charles Town

101 East Washington Street, P.O. Box 14, Charles Town, WV 25414  
Phone: (304) 725-2311 ♦ Fax: (304) 725-1014 ♦ Web: [www.charlestownwv.us](http://www.charlestownwv.us)

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WV PUBLIC SERVICE COMMISSION SECRETARY'S OFFICE

## AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO CHAPTER THREE, STREETS, UTILITIES & PUBLIC SERVICES, ARTICLE 921 SEWERS

BE IT ORDAINED by the City Council of the City of Charles Town as follows:

MAYOR

*Peggy A. Smith*

That Section 921.18, Sewer Service Rates be AMENDED as follows:

CITY COUNCIL

*Randy Breden*

*Donald Clendening*

*William Jordan*

*Sandra Slusher McDonald*

*Timothy Robinson*

*Amy Schmitt*

*Matthew Ward*

*Geraldine Willingham*

CITY MANAGER

*Jane E. Arnett*

CITY CLERK

*Joe Covertini*

a) Establishment. For the payment of the proper and reasonable expense of operation, repair, replacement, 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 Charles Town, West Virginia, which schedule of rates or charges, based upon the metered amount of water supplied the premises, where possible, but providing for a flat rate when no meter is available, shall be as follows.

(b) Rules and Regulations. 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 the Commission are hereby adopted by reference.

### ESTABLISHMENT OF A SCHEDULE OF JUST AND EQUITABLE RATES OR CHARGES FOR SEWER SERVICE: USE OF WATER METERS: PROVISION FOR FLAT RATE

For the payment of the proper and reasonable expense of operation, repair, replacement, 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 Charles Town, West Virginia, which schedule of rates or charges, based upon the metered amount of water supplied to the premises, where possible, but providing for a flat rate when no meter is available, shall be as follows:

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 thereafter made by the Commission are hereby adopted by reference.

## II. MULTIPLE OCCUPANCY

In apartment buildings, shopping centers or other multiple occupancy buildings, each unit shall be required to pay not less than the minimum monthly charge provided above.

### SCHEDULE I

#### APPLICABILITY

Applicable within the entire territory served excluding the entire area know as the Huntfield subdivision.

#### AVAILIBILITY

Available for general domestic, commercial and industrial service and sale for resale sewer service

#### RATES (Customers with a metered water supply)

First	2,000 gallons used per month	\$7.96 per 1,000 gallons
Next	8,000 gallons used per month	5.73 per 1,000 gallons
Next	20,000 gallons used per month	5.20 per 1,000 gallons
All over	30,000 gallons used per month	4.61 per 1,000 gallons

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#### MINIMUM CHARGE

No bill shall be rendered for less than \$15.92 per month, which is the equivalent of 2,000 gallons.

#### FLAT RATE CHARGE (Customers with non-metered water supply)

Equivalent of 4,500 gallons of water usage, \$30.25 per month

#### RESALE RATE

\$3.71 per 1,000 gallons per month

#### RESALE CREDIT (Applicable only to Jefferson County Public Service District)

A monthly credit of \$3,451 per month will be credited against the respective bill rendered to Jefferson County Public Service District for debt incurred by the District as part of the 2000 Charles Town Treatment Plant upgrade. This credit will remain in effect until the indebtedness associated with the respective upgrade is satisfied (Matures 2031).

#### TRANSPORTATION CREDIT (Applicable only to Jefferson County Public Service District)

A monthly credit of \$1,009 per month will be credited against the respective bill rendered to Jefferson County Public Service District for reimbursement of fixed debt associated with lift stations needed to transport Charles Town's sewage from the former Sanitary Associates service area. The credit will be given until the indebtedness is satisfied. In addition to the monthly credit of \$1,009, a transportation credit of \$1.65 per thousand gallons shall be provided to the Jefferson County Public Service District for all flows from the former Sanitary Associates area.

#### DELAYED PAYMENT PENALTY

The above scheduled is net. On all current usage billings not paid within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

The following charge is to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of \$400.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

RETURNED CHECK CHARGE

If a check is returned by the bank for any reason, the bank's charge to the Utility shall be the Utility's charge to the customer for such a bad check, but such charge to customers shall not exceed \$25.00.

LEAK ADJUSTMENT

\$0.81 per 1,000 gallons of water is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above customer's historical average usage.

SECURITY DEPOSIT

A deposit of \$50.00 or 2/12 of the average annual usage of the applicant's specific customer class, whichever is greater.

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SCHEDULE II

APPLICABILITY

Applicable within the entire territory known as the Huntfield subdivision

AVAILABILITY

Available for general domestic, commercial, and industrial service

RATES (customers with a metered water supply)

\$11.50 per thousand gallons of metered water usage

MINIMUM CHARGE

No bill will be rendered for less than \$26.98 per month.

The above minimum charge is subject to an additional \$0.71 per thousand gallons per month.

FLAT RATE CHARGE (Customers with non-metered water supply)

Equivalent of 4,500 gallons of water usage, \$51.75 per month

MULTIPLE OCCUPANCY

For unmetered trailer parks, the monthly charge for services shall be equal to the number of units multiplied by the unmetered charge provided above.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the new current amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

### TAP FEE

The following charges are to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of \$250.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

### DISCONNECT – RECONNECT FEES

Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with the City of Charles Town, a disconnect fee of \$10.00 shall be charged. Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with Jefferson Utilities, Inc., a disconnection fee of \$20.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with the City of Charles Town is reconnected, a reconnection fee of \$10.00 shall be charged. Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with Jefferson Utilities, Inc. is reconnected, a reconnection fee of \$20.00 shall be charged.

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### LEAK ADJUSTMENT INCREMENT

\$3.01 per M. gallon is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above customer's historical average usage.

### RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

## SCHEDULE III

### APPLICABILITY

Applicable to Developers, which is defined as a person, corporation or entity who is in the business of land and/or commercial or housing development for profit, or a person, corporation, or entity who requests an alternate main line extension that includes the installation of mains by the person, corporation or entity. Applicable to non-Developers when the property at issue is a subdivided portion of a Previously Developed Tract. The term "Previously Developed Tract" as used in this Order is defined as property previously subdivided for commercial or housing development, for profit. Owners of existing or new (being constructed) single-family structures, where the person applying for service will be the customer of record, and the proposed service location is not part of a Previously Developed Tract, shall be exempt from payment of the Capital Capacity Improvement Fee.

CAPITAL CAPACITY IMPROVEMENT FEE

There shall be paid to the City at the time of issuance by the City of a final sewer availability letter for the property to be served a capital capacity improvement fee of \$1,127 for each residential connection. Connections for non-residential use shall be paid in accordance with a residential usage equivalent schedule set forth below. The funds collected from the capital capacity improvement fee shall be maintained in a separate fund administered jointly by the City, Jefferson County PSD and the City of Ranson or their designees and shall be used only for the purpose of improving the City's treatment facilities.

ADDITIONAL CAPACITY IMPROVEMENT FEE - HUNTFIELD PUMP STATION

There shall be paid to the City at the time of issuance by the City of a final sewer availability letter for any development using the Huntfield pump station an additional capacity improvement fee - Huntfield pump station of \$2,875.00 for each equivalent dwelling unit. The funds collected from the capacity improvement fee shall be maintained in a separate fund administered by the City and shall be used only for the purpose of expanding the Huntfield pump station. All properties within the originally annexed acreage of the Huntfield subdivision, as described by the annexation of additional territory of the City of Charles Town pursuant to West Virginia Code 8-6-4 order by the County Commission of Jefferson County dated January 10, 2002, shall be exempt from this fee.

The usage equivalent for other than single family residential units for the capital capacity improvement fee and additional capacity improvement fee – Huntfield pump station shall be based upon the following:

RESIDENTIAL USAGE EQUIVALENTS  
FOR CAPACITY IMPROVEMENT CAPITAL COST FEE

<u>UNIT</u>	<u>WATER GALLONS/DAY</u>	<u>RESIDENTIAL USAGE EQUIVALENT</u>
Apartments	150/unit	1.0/unit
Bowling Alleys	200/alley	1.33/alley
Churches with kitchen	8/member	0.05/member
Churches w/o kitchen	2/member	0.013/member
Food Service	32/seat	0.213/seat
Fast Food	35/seat	0.23/seat
Restaurant Bar & Cockta Lounge (additive)	2/patron	0.013/patron
Tavern-Little or no food	20/seat	0.132/per seat
Hotel	120/room	0.8/per room
Industry, sanitary <u>Institutions:</u>	15/person/shift	0.1/person per shift
Hospital	250/bed	1.67/bed
Nursing Homes	150/bed	1.0/bed
Others	75/person	0.5/person
Office Buildings	15/person	0.1/person
Laundry Self Service	250/washer	1.67/washer

Motels	120/room	0.8/room
Retail Stores	400/toilet room	2.67/toilet room
Residence	150/residence	1.0/residence
<u>School:</u>		
Day, no cafeteria/showers	15/pupil	0.1/pupil
Day with cafeteria	18/pupil	0.12/pupil
Day with cafeteria/showers	20/pupil	0.133/pupil
Boarding	75/pupil	0.5/pupil
Service Station	500/set of pumps	3.33/set of pumps
Shopping Centers	16/100 ft. of sales area	0.12/100 ft. of sales area
Swimming Pools	10/swimmer design capacity	0.067/swimmer design capacity
Capacity Theaters	3/seat	0.02/seat
Warehouse	15/employee	0.1/employee

If a unit does not appear on this schedule the sewer department shall determine its Residential Usage Equivalent in consultation with its consulting engineer.

---

#### EFFECTIVE DATE

The rates and charges provided herein shall become effective forty-five (45) days after final enactment hereof.

#### SEPARABILITY; REPEAL OF CONFLICTING ORDINANCES

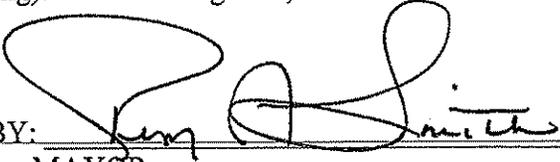
The provisions of this Ordinance are separable, and if any clause, provision or section hereof shall be held void or unenforceable by the West Virginia Public Service Commission or any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. Upon the effective date hereof, all ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflicts, hereby repealed, and to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, orders or parts thereof, the same shall remain in full force and effect.

STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the City Clerk shall cause to be published a copy of this Ordinance once a week for two (2) successive weeks within a period of fourteen (14) consecutive days, with at least six (6) days between each publication, in the Spirit of Jefferson Advocate and The Shepherdstown Chronicle, being two qualified newspapers of general circulation in the City of Charles Town, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council Chambers, Charles Town, West Virginia, on August 7, 2006, at 7:00 p.m., which date is not less than ten days after the date of the first publication of the Ordinance and notice, and present any comment or protest thereto, following which hearing, Council shall take such action as it shall deem proper. Copies of this Ordinance shall be available to the public for inspection at the office of the City Clerk, Charles Town, West Virginia.

Passed on First Reading: July 17, 2006

Passed on Second Reading  
(following Public Hearing): August 7, 2006

BY: 

MAYOR

CERTIFICATION AND NOTICE

I hereby certify that the foregoing is a true and accurate copy of an Ordinance which has been introduced and adopted on first reading at a meeting of the City Council of the City of Charles Town held on July 17, 2006, pursuant to proper notice, at which meeting a quorum was present and acting throughout. Any person interested may appear before the City Council of the City of Charles Town at the City Hall, 101 E. Washington Street, Charles Town, West Virginia, on August 7, 2006, at 7:00 p.m., being the date, time and place of the proposed final adoption of this Ordinance, and be heard. The Council will then take such action as it shall deem proper in the premises. The proposed ordinance may be inspected by the public at the Office of the Clerk in the City Hall, Charles Town, West Virginia during regular office hours.

BY: 

CITY CLERK

**Certificate of Publication**  
JEFFERSON PUBLISHING COMPANY, INC., Publisher  
SPIRIT OF JEFFERSON ADVOCATE

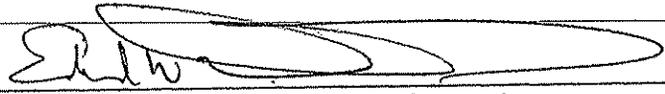
Charles Town, W. Va. March 27, 2008 20  

I hereby certify that the annexed Notice of Public Hearing

in the case of Water Rate Ordinance

has been published once a week for two successive weeks, in the Spirit of Jefferson Advocate, a newspaper published in Charles Town, Jefferson County, West Virginia, in the issues of March 27 and April 3, 2008, 20  ,

as required by law.



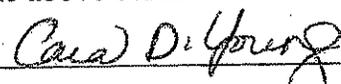
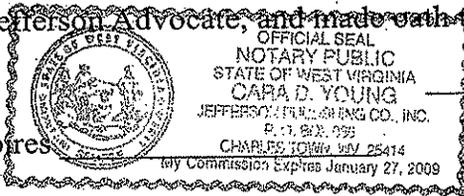
Editor/Manager, Spirit of Jefferson Advocate

State of West Virginia  
County of Jefferson

Personally appeared before me, Edward W. Dockeney, Jr., Editor/Manager

of the Spirit of Jefferson Advocate, and made oath that the above certificate is true and correct.

Commission expires



Notary Public

RECEIVED  
2008 JUN 5 AM 8 53  
WVA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

2008  
water

ISHED IN THE  
JEFFERSON  
ADVOCATE ON  
DAY, April 24, 2008  
AY 1, 2008 AND THE  
SHEPHERDSTOWN  
CHRONICLE ON FRIDAY,  
April 25, 2008 and May 2,  
2008)

**PUBLIC NOTICE OF  
CHANGE IN WATER RATES  
OF CITY OF CHARLES  
TOWN**

NOTICE is hereby given that  
City of Charles Town (the  
"City") on April 15, 2008, has  
adopted an ordinance in-  
creasing the Water Rates for  
the City of Charles Town wa-  
ter system.

The proposed increase will  
become effective on May 30,  
2008, unless otherwise or-  
dered by the Public Service  
Commission (the "Commis-  
sion") and will produce ap-  
proximately \$567,197.00 an-  
nually in revenue, an increase  
of 23.46%. The increased  
rates will be as follows:

\$ INCREASE	INCREASE %
Residential	
\$379,356.00	23.46%
Commercial	
\$186,638.00	23.46%
Industrial	
\$ 1203.00	23.46%

The increases shown are  
based on averages of all cus-  
tomers in the indicated class.  
Individual customers may re-  
ceive increases that are  
greater or less than average.

Furthermore, the requested  
rates and charges are only a  
proposal and are subject to  
change (increases or de-  
creases) by the Public Ser-  
vice Commission in its review  
of this filing. The Commis-  
sion shall review and approve  
or modify the increased rates  
only upon the filing of a peti-  
tion within thirty (30) days of  
the adoption of the ordinance  
changing said rates or  
charges, by:

- (1) Any customer aggrieved  
by the changed rates or  
charges who presents to the  
Commission a petition signed  
by not less than twenty-five  
percent of the customers  
served by City of Charles  
Town operated utility; or
- (2) Any customer who is  
served by City of Charles  
Town utility and who resides  
outside the corporate limits  
and who is affected by the  
change in said rates or  
charges and who presents to  
the Commission a Petition al-  
leging discrimination between  
customers within and without  
the City of Charles Town  
boundaries. Said petition  
shall be accompanied by evi-  
dence of discrimination; or

- (3) Any customer or group of  
customers who are affected  
by said change in rates who  
reside within the City of  
Charles Town corporate bound-  
aries and who present a peti-  
tion to the Commission al-  
leging discrimination between  
said customer or group of  
customers and other custo-  
mers of the City of Charles  
Town utility. Said petition  
shall be accompanied by evi-  
dence of discrimination.

All petitions should be ad-  
dressed to the Executive  
Secretary, Public Service  
Commission of West Virginia,  
201 Brooks Street, P.O. Box  
812, Charleston, West Vir-  
ginia 25323.

A complete copy of the pro-  
posed rates, as well as a  
representative of the utility to  
provide any information re-  
quested concerning it, is  
available to all customers,  
prospective customers, or  
their agents at the office of  
the City Clerk at Charles  
Town City Hall, 101 E. Wash-  
ington St., Charles Town, WV  
and at the office of the Exe-  
cutive Secretary of the Public  
Service Commission at 201  
Brooks Street, P.O. Box 812,  
Charleston, West Virginia  
25323.

4:25:52 2(1)

SECRETARY'S OFFICE  
COMMISSION  
WVA PUBLIC SERVICE

2008 JUN 5 AM 8 53

RECEIVED

# Certificate of Publication

This is to certify the annexed advertisement  
City of Charles Town

## Public Notice

appeared for 2 consecutive days/weeks  
in The Shepherdstown Chronicle, a news-  
paper published in the City of Shepherdstown,  
WV in its issue beginning:

4-25-08

and ending

5-2-08

## The Shepherdstown Chronicle

P.O. Box 2088  
Shepherdstown, WV 25443-2088

Fee \$ 130.57

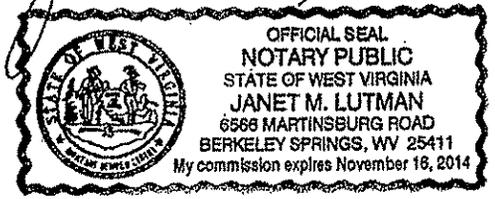
THE STATE OF WEST VIRGINIA  
COUNTY OF JEFFERSON

The foregoing instrument was acknowledged  
before me this 5-12-08 by

B. Kackley

My commission expires April 16, 2014

Janet M. Lutman  
Notary Public



March 17, 2008

The Common Council of the City of Charles Town, Jefferson County, West Virginia, met in regular session pursuant to the rules of said Common Council in the Council Chambers at City Hall in said city on Monday, March 3, 2008 at 7:00 p.m. The following members of Council were present: Donald W. Clendening, MaryLois Gannon-Miller, Ruth McDaniel, Sandra McDonald, Ann Paonessa, Amy Schmitt, Michael Slover and Geraldine Willingham. Mayor Peggy Smith presided and Joseph Cosentini, City Clerk, took the minutes of the meeting. Also present were Jeremy Camp, Acting City Manager, Tara Hostler, Accounting Manager, and Chief Barry Subelsky.

A motion by Councilwoman McDonald, seconded by Councilwoman McDaniel and the Council unanimously voted to dispense with the reading of the minutes dated March 17, 2008. A motion by Councilwoman Willingham, seconded by Councilwoman McDaniel and the Council unanimously voted to approve the minutes dated March 17, 2008 with one correction.

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UNFINISHED BUSINESS

Mayor Smith opened the floor for discussion regarding the second reading of an Annexation Ordinance annexing the real estate known as the Fritts Property and Resolution 2008-06 Acceptance of Conditions of Annexation. Upon discussion, a motion by Councilwoman Willingham, seconded by Councilwoman Schmitt and the Council voted 5-4, with Councilwoman Gannon-Miller, Councilwoman McDaniel, Councilwoman Paonessa and Councilman Slover voting against, to approve the second reading of an Annexation Ordinance annexing the real estate known as the Fritts Property and Resolution 2008-06 Acceptance of Conditions of Annexation as presented and as follows:

AN ORDINANCE ANNEXING THE PROPERTY OF  
J. RUSSELL FRITTS INC. CONTAINING  
98.912 ACRES OF LAND

WHEREAS, West Virginia Code 8-6-4 permits a municipality to, by ordinance, annex additional territory without ordering a vote on the question if (1) a majority of the qualified voters of the additional territory file with the governing body a petition to be annexed and (2) a majority of all freeholders of the additional territory, whether they reside or have a place of business therein or not, file with the governing body a petition to be annexed, and

WHEREAS, J. Russell Fritts Inc. is the owner of the property sought to be annexed and is a West Virginian Corporation, and

WHEREAS, by definition in West Virginia Code 8-6-4(b), J. Russell Fritts Inc. is a qualified voter in the area sought to be annexed, and

WHEREAS, there are no other qualified voters or freeholders in the area sought to be annexed, and

WHEREAS, J. Russell Fritts Inc. constitutes a majority of the qualified voters in the area sought to be annexed, and

WHEREAS, pursuant to West Virginia Code 8-6-4(d) which states if qualified voters of the additional territory sought to be annexed are also freeholders in the additional territory, they may join only and sign one petition in the additional territory sought to be annexed, and

*one*

RECEIVED

2006 AUG 11 AM 8:45

W VA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

# Certificate of Publication

This is to certify the annexed advertisement

City of Charles Town

amendment to the codes

appeared for 1 consecutive days/weeks  
in The Shepherdstown Chronicle, a newspaper  
published in the City of Shepherdstown, WV  
in its issue beginning:

7/21/06

and ending

## The Shepherdstown Chronicle

P.O. Box 2088

Shepherdstown, WV 25443-2088

Fee \$ 389.62

THE STATE OF WEST VIRGINIA  
COUNTY OF JEFFERSON

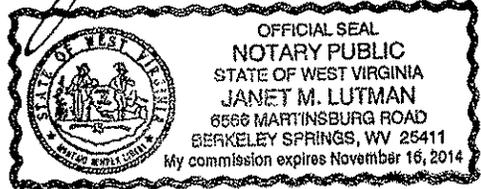
The foregoing instrument was acknowledged

before me this 7-24-06 by

*Charlotte Poffo*

My commission expires Nov 16, 2014

*Janet M. Lutman*  
Notary Public



was present and acting throughout. Any  
Council of the City of Charles Town at the City Hall, 100  
Town, West Virginia, on August 7, 2006, at 7:00 p.m., being the  
proposed final adoption of this Ordinance, and be heard. The  
action as it shall deem proper in the premises. The proposed  
by the public at the Office of the Clerk in the City Hall,  
during regular office hours.

**partments UnFurn**  
 2BR Available Now!  
 1000 sq. Ft. w/d  
 1000 sq. Ft. Located  
 in town Martinsburg  
 \$575  
 for details: 304-582-4734

**FIRST**  
 8 BDRM 2 Bath  
 1 ac in Forest  
 FR & bonus  
 \$1350/mo  
 540-3

AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN,  
WEST VIRGINIA WITH REGARD TO  
CHAPTER THREE, STREETS, UTILITIES & PUBLIC SERVICES, ARTICLE 921 SEWERS

BE IT ORDAINED by the City Council of the City of Charles Town as follows:

That Section 921.18, Sewer Service Rates be AMENDED as follows:

a) Establishment. For the payment of the proper and reasonable expense of operation, repair, replacement, 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 Charles Town, West Virginia, which schedule of rates or charges, based upon the metered amount of water supplied the premises, where possible, but providing for a flat rate when no meter is available, shall be as follows.

(b) Rules and Regulations. 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 the Commission are hereby adopted by reference.

ESTABLISHMENT OF A SCHEDULE OF JUST AND  
EQUITABLE RATES OR CHARGES FOR SEWER SERVICE;  
USE OF WATER METERS; PROVISION FOR FLAT RATE

For the payment of the proper and reasonable expense of operation, repair, replacement, 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 Charles Town, West Virginia, which schedule of rates or charges, based upon the metered amount of water supplied to the premises, where possible, but providing for a flat rate when no meter is available, shall be as follows:

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 thereafter made by the Commission are hereby adopted by reference.

II. MULTIPLE OCCUPANCY  
In apartment buildings, shopping centers or other multiple occupancy buildings, each unit shall be required to pay not less than the minimum monthly charge provided above.

SCHEDULE I

APPLICABILITY

Applicable within the entire territory served excluding the entire area known as the Huntfield subdivision.

AVAILABILITY

Available for general domestic, commercial and industrial service and sale for resale sewer service

RATES (Customers with a metered water supply)

First	2,000 gallons used per month	\$7.96 per 1,000 gallons
Next	8,000 gallons used per month	5.73 per 1,000 gallons
Next	20,000 gallons used per month	5.20 per 1,000 gallons
All over	30,000 gallons used per month	4.61 per 1,000 gallons

MINIMUM CHARGE

No bill shall be rendered for less than \$15.92 per month, which is the equivalent of 2,000 gallons.

FLAT RATE CHARGE (Customers with non-metered water supply)

Equivalent of 4,500 gallons of water usage, \$51.75 per month

RESALE RATE

\$3.71 per 1,000 gallons per month

RESALE CREDIT (Applicable only to Jefferson County Public Service District)

A monthly credit of \$3,451 per month will be credited against the respective bill rendered to Jefferson County Public Service District for debt incurred by the District as part of the 2000 Charles Town Treatment Plant upgrade. This credit will remain in effect until the indebtedness associated with the respective upgrade is satisfied (Matures 2031).

TRANSPORTATION CREDIT (Applicable only to Jefferson County Public Service District)

A monthly credit of \$1,009 per month will be credited against the respective bill rendered to Jefferson County Public Service District for reimbursement of fixed debt associated with lift stations needed to transport Charles Town's sewage from the former Sanitary Associates service area. The credit will be given until the indebtedness is satisfied. In addition to the monthly credit of \$1,009, a transportation credit of \$1.65 per thousand gallons shall be provided to the Jefferson County Public Service District for all flows from the former Sanitary Associates area.

DELAYED PAYMENT PENALTY

The above scheduled is net. On all current usage billings not paid within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

The following charges are to be made whenever the utility installs a new tap to serve an

the Utility's charge to the customer for such a bad check, but such charge to customers shall not exceed \$25.00.

LEAK ADJUSTMENT

\$0.81 per 1,000 gallons of water is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above customer's historical average usage.

SECURITY DEPOSIT

A deposit of \$50.00 or 2/12 of the average annual usage of the applicant's specific customer class, whichever is greater.

SCHEDULE II

APPLICABILITY

Applicable within the entire territory known as the Huntfield subdivision

AVAILABILITY

Available for general domestic, commercial, and industrial service

RATES (customers with a metered water supply)

\$11.50 per thousand gallons of metered water usage

MINIMUM CHARGE

No bill will be rendered for less than \$26.98 per month.

The above minimum charge is subject to an additional \$0.71 per thousand gallons per month.

FLAT RATE CHARGE (Customers with non-metered water supply)

Equivalent of 4,500 gallons of water usage, \$51.75 per month

MULTIPLE OCCUPANCY

For unmetered trailer parks, the monthly charge for services shall be equal to the number of units multiplied by the unmetered charge provided above.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the new current amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

TAP FEE

The following charges are to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of \$250.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

DISCONNECT - RECONNECT FEES

Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with the City of Charles Town, a disconnect fee of \$10.00 shall be charged. Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with Jefferson Utilities, Inc., a disconnection fee of \$20.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with the City of Charles Town is reconnected, a reconnection fee of \$10.00 shall be charged. Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with Jefferson Utilities, Inc. is reconnected, a reconnection fee of \$20.00 shall be charged.

LEAK ADJUSTMENT INCREMENT

\$3.01 per M. gallon is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above customer's historical average usage.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

SCHEDULE III

APPLICABILITY

Applicable to Developers, which is defined as a person, corporation or entity who is in the business of land and/or commercial or housing development for profit, or a person, corporation, or entity who requests an alternate main line extension that includes the installation of mains by the person, corporation or entity. Applicable to non-Developers when the property at issue is a subdivided portion of a Previously Developed Tract. The term "Previously Developed Tract" as used in this Order is defined as property previously subdivided for commercial or housing development, for profit. Owners of existing or new (being constructed) single-family structures, where the person applying for service will be the customer of record, and the proposed service location is not part of a Previously Developed Tract, shall be exempt from payment of the Capital Capacity Improvement Fee.

CAPITAL CAPACITY IMPROVEMENT FEE

There shall be paid to the City at the time of issuance by the City of a final sewer availability letter for the property to be served a capital capacity improvement fee of \$1,127 for each residential connection. Connections for non-residential use shall be paid in accordance with a residential usage equivalent schedule set forth below. The funds collected from the capital capacity improvement fee shall be maintained in a separate fund administered jointly by the City, Jefferson County PSD and the City of Ranson or their designees and shall be used only for the purpose of improving the City's treatment facilities. The usage equivalent for other than single family residential units for the capital capacity improvement fee shall be based upon the following:

July 21, 2006

the Shepherdstown Chronicle

		EQUIVALENT
Apartments	150/unit	1.0/unit
Bowling Alleys	200/alley	1.33/alley
Churches with kitchen	8/member	0.05/member
Churches w/o kitchen	2/member	0.013/member
Food Service	32/seat	0.213/seat
Fast Food Restaurant	35/seat	0.23/seat
Bar & Cocktail Lounge (additive)	2/patron	0.013/patron
Tavern-Little or no food	20/seat	0.132/per seat
Hotel	120/room	0.8/per room
Industry, sanitary	15/person/shift	0.1/person per shift
Institutions:		
Hospital	250/bed	1.67/bed
Nursing Homes	150/bed	1.0/bed
Others	75/person	0.5/person
Office Buildings	15/person	0.1/person
Laundry Self Service	250/washer	1.67/washer
Motels	120/room	0.8/room
Retail Stores	400/toilet room	2.67/toilet room
Residence	150/residence	1.0/residence
School:		
Day, no cafeteria/showers	15/pupil	0.1/pupil
Day with cafeteria	18/pupil	0.12/pupil
Day with cafeteria/showers	20/pupil	0.133/pupil
Boarding	75/pupil	0.5/pupil
Service Station	500/set of pumps	3.33/set of pumps
Shopping Centers	16/100 ft. of sales area	0.12/100 ft. of sales area
Swimming Pools	10/swimmer design capacity	0.067/swimmer design capacity
Capacity Theaters	3/seat	0.02/seat
Warehouse	15/employee	0.1/employee

If a unit does not appear on this schedule the sewer department shall determine its Residential Usage Equivalent in consultation with its consulting engineer.

ADDITIONAL CAPACITY IMPROVEMENT FEE - HUNTFIELD PUMP STATION

There shall be paid to the City at the time of issuance by the City of a final sewer availability letter for any development using the Huntfield pump station an additional capacity improvement fee - Huntfield pump station of \$2,875.00 for each equivalent dwelling unit. The funds collected from the capacity improvement fee shall be maintained in a separate fund administered by the City and shall be used only for the purpose of expanding the Huntfield pump station. All properties within the originally annexed acreage of the Huntfield subdivision, as described by the annexation of additional territory of the City of Charles Town pursuant to West Virginia Code 8-6-4 order by the County Commission of Jefferson County dated January 10, 2002, shall be exempt from this fee.

EFFECTIVE DATE

The rates and charges provided herein shall become effective forty-five (45) days after final enactment hereof.

SEPARABILITY; REPEAL OF CONFLICTING ORDINANCES

The provisions of this Ordinance are separable, and if any clause, provision or section hereof shall be held void or unenforceable by the West Virginia Public Service Commission or any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. Upon the effective date hereof, all ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflicts, hereby repealed, and to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, orders or parts thereof, the same shall remain in full force and effect.

STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the City Clerk shall cause to be published a copy of this Ordinance once a week for two (2) successive weeks within a period of fourteen (14) consecutive days, with at least six (6) days between each publication, in the Spirit of Jefferson Advocate and The Shepherdstown Chronicle, being two qualified newspapers of general circulation in the City of Charles Town, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council Chambers, Charles Town, West Virginia, on August 7, 2006, at 7:00 p.m., which date is not less than ten days after the date of the first publication of the Ordinance and notice, and present any comment or protest thereto, following which hearing, Council shall take such action as it shall deem proper. Copies of this Ordinance shall be available to the public for inspection at the office of the City Clerk, Charles Town, West Virginia.

Passed on First Reading: July 17, 2006

Passed on Second Reading (following Public Hearing): August 7, 2006

BY: \_\_\_\_\_

MAYOR CERTIFICATION AND NOTICE

I hereby certify that the foregoing is a true and accurate copy of an Ordinance which has been introduced and adopted on first reading at a meeting of the City Council of the City of Charles Town held on July 17, 2006, pursuant to proper notice, at which meeting a quorum was present and acting throughout. Any person interested may appear before the City Council of the City of Charles Town at the City Hall, 101 E. Washington Street, Charles Town, West Virginia, on August 7, 2006, at 7:00 p.m., being the date, time and place of the proposed final adoption of this Ordinance, and be heard. The Council will then take such action as it shall deem proper in the premises. The proposed ordinance may be inspected by the public at the Office of the Clerk in the City Hall, Charles Town, West Virginia during regular office hours.

BY: \_\_\_\_\_

# Certificate of Publication

JEFFERSON PUBLISHING COMPANY, INC., Publisher  
SPIRIT OF JEFFERSON ADVOCATE

Charles Town, W. Va. July 20, 2006 20  

I hereby certify that the annexed Amendment to Codes of City

in the case of Chapter 3, Streets, Utilities, & Public Services Article 921 Sewers

has been published once a week for two successive weeks, in the Spirit of Jefferson Advocate, a newspaper published in Charles Town, Jefferson County, West Virginia, in the issues of July 20 and July 27, 2006, 20  ,

as required by law.

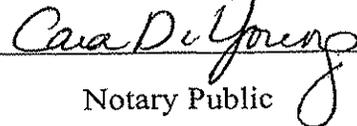
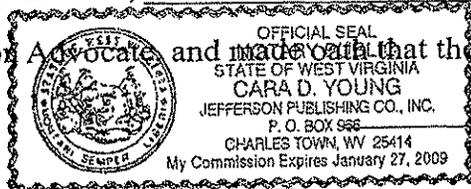


Editor/Manager, Spirit of Jefferson Advocate

State of West Virginia  
County of Jefferson

Personally appeared before me, Edward W. Dockeney, Jr. Editor/Manager

of the Spirit of Jefferson Advocate and made oath that the above certificate is true and correct.

  
Notary Public

Commission expires

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SECRETARY'S OFFICE

# Certificate of Publication

JEFFERSON PUBLISHING COMPANY, INC., Publisher  
SPIRIT OF JEFFERSON ADVOCATE

Charles Town, W. Va. August 10, 2006 20

I hereby certify that the annexed Public Notice

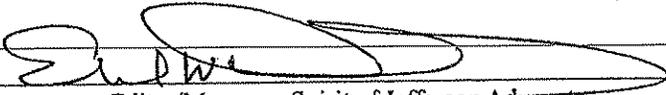
in the case of Change in Sewer Rates

has been published once a week for two successive weeks, in the Spirit of Jefferson

Advocate, a newspaper published in Charles Town, Jefferson County, West Virginia, in the issues of

August 10 and August 17, 2006, 20

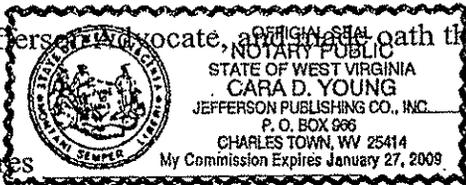
as required by law.

  
Editor/Manager, Spirit of Jefferson Advocate

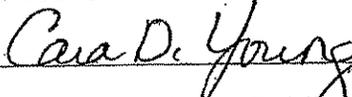
State of West Virginia  
County of Jefferson

Personally appeared before me, Edward w. Dockeney, Jr., Editor/Manager

of the Spirit of Jefferson Advocate, and in his oath that the above certificate is true and correct.



Commission expires

  
Notary Public

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**PUBLIC NOTICE OF CHANGE IN SEWER RATES OF  
CITY OF CHARLES TOWN**

NOTICE is hereby given that City of Charles Town (the "City"), on August 7, 2006, has adopted an ordinance implementing an Additional Capacity Improvement Fee associated with a new construction intending to connect with the Huntfield Pump Station.

The proposed Capacity Improvement Fee will become effective on September 25, 2006, unless otherwise ordered by the Public Service Commission (the "Commission") and will produce approximately \$746,460 annually in revenue, an increase of 243%. The increased rates will be as follows:

	\$ INCREASE	INCREASE %
Residential	0\$	0%
Commercial	0\$	0%
Industrial	0\$	0%
Resale	0\$	0%
Other	\$2,875.00	100%

The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges are only a proposal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing. The Commission shall review and approve or modify the increased rates only upon the filing of a petition within thirty (30) days of the adoption of the ordinance changing said rates or charges, by:

(1) Any customer aggrieved by the changed rates or charges who presents to the Commission a petition signed by not less than twenty-five percent of the customers served by City of Charles Town operated utility; or

(2) Any customer who is served by City of Charles Town utility and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a Petition alleging discrimination between customers within and without the City of Charles Town boundaries. Said petition shall be accompanied by evidence of discrimination; or

(3) Any customer or group of customers who are affected by said change in rates who reside within the City of Charles Town corporate boundaries and who present a petition to the Commission alleging discrimination between said customer or groups of customers and other customers of the City of Charles Town utility. Said petition shall be accompanied by evidence of discrimination.

All petitions should be addressed to the Executive Secretary, Public Service Commission of West Virginia, 201 Brooks Street, P.O. Box 812, Charleston, West Virginia 25323.

A complete copy of the proposed rates, as well as a representative of the utility to provide any information requested concerning it, is available to all customers, prospective customers, or their agents at the office of the City Clerk at Charles Town City Hall, 101 E. Washington St., Charles Town, WV and at the office of the Executive Secretary of the Public Service Commission at 201 Brooks Street, P.O. Box 812, Charleston, West Virginia 25323.

8/10/2t

PUBLIC NOTICE OF  
CHANGE IN SEWER RATES  
OF CITY OF  
CHARLES TOWN

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Commercial

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0%

Industrial

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0\$  
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(1) Any customer aggrieved by the changed rates or charges who presents to the Commission a petition signed by not less than twenty-five percent of the customers served by City of Charles Town operated utility; or

(2) Any customer who is served by City of Charles Town utility and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a Petition alleging discrimination between customers within and without the City of Charles Town boundaries. Said petition shall be accompanied by evidence of discrimination, or

*Certificate of Publication*

This is to certify the annexed advertisement  
City of Charles Town

public notice of change

appeared for 2 consecutive days/weeks  
in The Shepherdstown Chronicle, a newspaper  
published in the City of Shepherdstown, WV  
in its issue beginning:

8/17/06

and ending

8/24/06

The Shepherdstown  
Chronicle

P.O. Box 2088

Shepherdstown, WV 25443-2088

Fee\$ 138.90

THE STATE OF WEST VIRGINIA  
COUNTY OF JEFFERSON

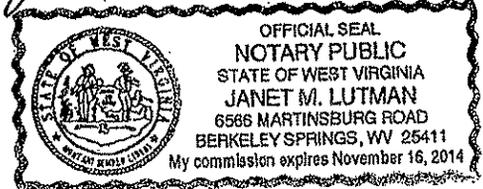
The foregoing instrument was acknowledged  
before me this 8-30-06 by

*Charlotte Radtke*

My commission expires Nov 16, 2014

*Janet M. Lutman*

Notary Public

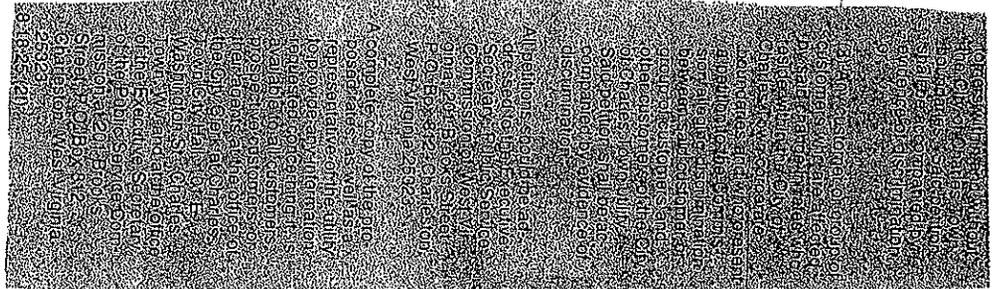


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SECRETARY'S OFFICE



WHEREAS, pursuant to West Virginia Code 8-6-4(f) which states if all of the eligible petitioners are qualified voters, then only a voters petition is required, and

WHEREAS, the City of Charles Town has determined that the property sought to be annexed is contiguous and adjacent to the municipal boundary lines of the City of Charles Town pursuant to the description attached to the petition, and

WHEREAS, the property that is sought to be annexed is in the Charles Town District and is shown on the maps of the Charles Town District as Map 9, Parcel 1, and

NOW, THEREFORE, WITNESSETH: That the undersigned, being a majority of the qualified eligible voters of the additional territory sought to be annexed, and the freeholders of the additional territory sought to be annexed, do hereby petition the City of Charles Town to include in its municipal boundaries by annexation, without election, all of that certain parcel of real estate as more particularly described in Exhibit A hereto. This parcel of land is contiguous and adjacent to the municipal boundary.

Dated this 17<sup>th</sup> day of March, 2008.

City of Charles Town  
By: /s/ Peggy A. Smith  
Peggy A. Smith, Mayor

First Read: 03/03/08  
Second Read: 03/17/08

**Resolution 2008-06**

**An Acceptance of Conditions of Annexation for the Fritts Property**

WHEREAS, J. Russell Fritts Inc. presented their petition for annexation of their property to the Mayor and City Council, and

WHEREAS, the said petition for annexation was received and was referred to the Finance Committee of the City for further review and analysis, and

WHEREAS, said Finance Committee has convened, and after review of the information presented to it, has reached certain conclusions and has made recommendations, and

WHEREAS, the petition for annexation was next referred to the City of Charles Town Planning Commission for further review and analysis for its recommendation to Council, and

WHEREAS, at said meeting of the Planning Commission they adopted a recommendation that the property be zoned Neighborhood Residential (NR), and

WHEREAS, through direct negotiation, J. Russell Fritts Inc., the Planning Commission, the Finance Committee, the City Council of the City of Charles Town, and City Staff have compiled a list of conditions of annexation to be made by the developers and property owners which are subject to the annexation for the use and benefit of the City of Charles Town (hereinafter attached to as Exhibit 1: Conditions of Annexation for the Fritts Property), and

NOW, THEREFORE, WITNESSETH: That the property owners of the property known as Prospect Place, and the City of Charles Town agree as follows:

- A. The City will, by ordinance, as provided in §8-6-4 of the West Virginia Code, annexing into the corporate boundaries of Charles Town the territory owned by J. Russell Fritts Inc.
- B. The City will subject the territory so annexed to Neighborhood Residential zoning.
- C. The property owners will offer all terms set forth in Exhibit 1 for the use and benefit of the City of Charles Town upon the terms and conditions herein set forth.
- D. The property owners agree to execute further assurances or agreements as may be required by the City with such assurances and agreements to bind the owners of the property sought to be annexed, their successors and assigns to the conditions of annexation.

NOW, THEREFORE, BE IT RESOLVED; By the City Council of the City of Charles Town, to accept and approve the ordinance for annexation of J. Russell Fritts Inc. and to incorporate the same within the corporate boundaries of the City of Charles Town, pursuant to §8-6-4 of the West Virginia Code.

Dated: March 17, 2008

CITY OF CHARLES TOWN:  
/s/ Peggy A. Smith  
Peggy A. Smith, Mayor

Attest:  
/s/ Joe Cosentini  
City Clerk

CONDITIONS OF ANNEXATION  
FOR PROPERTY OF J. RUSSELL FRITTS, INC.

The Petitioner, J. Russell Fritts, Inc. for property owned by J. Russell Fritts, Inc., herein also referred to as "The Property", "Fritts Property" or similar language, and as identified by Parcel 1, Tax Map 9, Charles Town District, agrees to the following conditions of annexation if the property is annexed into the City of Charles Town, herein also referred to as "The City" and "Charles Town."

Impact statements pertaining to the City of Charles Town Annexation Policy Evaluation Criteria, and all proposed voluntary contributions, submitted as conditions of annexation, are as follows:

PLANNING & ZONING COMPLIANCE – EVALUATION CRITERIA #1:

Evaluation Criteria 1A – Comprehensive Plan

This annexation is consistent with the City of Charles Town Comprehensive Plan per the following:

Chapter 3 – Charles Town's Vision for the Future

- Commerce and Industry – The Fritts Property will have a positive impact on the commerce and industry in Charles Town. The Fritts Property will offer between ten (10) to twenty (20) acres of commercial development which in turn will provide opportunity for the creation of new jobs and increased local tax revenue. As a consequence, petitioner reserves the right to request the City to amend the conditions of annexation and to potentially rezone the property to allow for the possible expansion of commercial uses within the site.
- Safety and Walkability - The Petitioner's current plans for the Property will promote walkability, with the incorporation of a walking trail or path in the proposed city park which will be linked to the sidewalks to be developed on the Property in both the proposed commercial and portions of the proposed residential sections of the property as deemed appropriate. The Fritts Property will promote safety in the community and Charles Town by completing the linking of recently annexed property (Langlet property) to the West Virginia Route 340 bypass and by connecting this property and recently annexed property to other recently annexed property (Prospect Place) via a new connecting road. This new connecting road would be consistent with the draft Charles Town Transportation Plan. This linkage via City street will have street lights and will meet other City requirements for safety purposes.
- Affordable Living – The Petitioner intends to have multi-family housing, townhome and single family detached residential units on the Property, possibly including housing targeted and restricted to persons over the age of fifty-five (55), adding to the types of residential units found in the City which could provide affordable housing for median income families. In addition, and as specified below, Workforce Housing shall be provided.
- Jobs – Upon completion of the project, the Property's commercial component will provide long-term employment opportunities. During the development of the property and the construction of individual units, the development of the Property will provide jobs in the local construction trades. New housing units will also create additional jobs in the community through the provision of services to the residents. Housing units targeted to those persons aged fifty-five (55) and older, will create new job opportunities as those types of units require services above and beyond those required in other types of new residential units.
- Infrastructure – The Petitioner is providing the infrastructure for the Property by building the necessary roads and stormwater management

facilities. Water service for the development of the Property will be from the City of Charles Town Water Department. Sewer service for the development of the Property will be from Willow Spring Public Service Corporation and will not impact the City of Charles Town's sewer plant.

- Beautification – In keeping with the City's beautification efforts, the Petitioner shall donate a minimum of twenty (20) acres for a city park around Cattail Run and its accompanying unnamed tributary. The Petitioner will submit the park plan as part of its overall Schematic Plan proposal for the development and shall submit its landscaping plan to the City of Charles Town tree board and will provide landscaping throughout the Property in accordance with the requirements of the City's ordinances.

- Parks, Trails, Greenspace, and Recreation – As specified above, the Petitioner will donate land to the City of Charles Town for a city park along and buffering Cattail Run and unnamed tributary. This park would also run along the new street linking recently annexed property and the West Virginia Route 340 bypass providing a green space along one of the City's newest corridors. In addition to the donation of twenty (20) plus acres for a linear park, the Fritts Property will provide a donation of at least one and a half (1 ½ ) acres, void of any environmental features (i.e. wetlands, floodplains, steep slopes, etc.), along the proposed connector road for a neighborhood park. All donated parkland shall be dedicated to the City no later than ten (10) years from the date of annexation. As a requirement of development, a trail shall be constructed by the developer along Cattail Run from the adjacent property recently annexed by the City (Langlet Property), and shall connect with Keye's Ferry Road. This trail shall be a standard width of six (6) feet and shall be constructed with a hard surface material (i.e. asphalt).

#### Evaluation Criteria 1B – Urban Zoning

The following Charles Town zoning classification is requested with this annexation and is appropriate and will promote urban development on the Property ensuring orderly future growth that is consistent with the Charles Town growth policy.

The Fritts Property, as defined herein, consisting of approximately 98.912 acres, shall be zoned NR (Neighborhood Residential); provided that, the modifications expressly stated below will supersede City ordinance standards where applicable:

- No single family residential or duplex lot shall be smaller than five thousand (5,000) square feet or be larger than one acre (1 acre).
- The development of the property shall be limited as to residential use to 370 residential dwelling units.
- The development shall be designed so the larger single-family lots are located adjacent to the adjoining residential single-family lots in the County.

#### Evaluation Criteria 1C – Contiguous Location

The Property satisfies the requirements of the Code of West Virginia and is contiguous to the existing corporate limits of the City of Charles Town.

#### Evaluation Criteria 1D – Transportation Planning

This annexation is compatible with the City's efforts to coordinate land use and transportation planning and to avoid adverse traffic impacts on the community. To this end, the Petitioners agree to the following:

All non-state roads shall be designed to meet the City's design guidelines to serve the eventual users, residents and tenants of the road network. The connector road connecting the Route 340 Bypass with the planned road on the adjacent Langlet property recently annexed by the City shall be dedicated to the City with an eighty (80) foot wide right-of-way, except where the Planning Commission may decide a lesser width would be acceptable or necessary.

Connectivity of any internal roads and/or parking lot facilities shall be provided between adjoining properties to the greatest extent feasible, as determined by the Planning Commission and the developer of the Property.

A transportation study shall be prepared by a qualified professional and submitted as information for the Planning Commission's consideration during the Schematic Plan review process. This transportation study shall be prepared using the methodology determined acceptable by the West Virginia Department of Transportation, Division of Highways for transportation studies. The transportation study shall specify the on-site and off-site transportation improvements that are determined to be necessary for maintaining acceptable levels of service of proposed and existing transportation facilities which are impacted by the development of the Property. Unless later agreed by the government body of Charles Town, no costs shall be incurred by the City for the construction of new, or upgrading of existing, transportation facilities.

#### ECONOMIC GROWTH – EVALUATION CRITERIA #2:

This annexation increases the City's ability to create quality jobs and establish retail and commercial businesses because it provides at least ten (10) acres designed for commercial uses along the Route 340 Bypass. Furthermore, and as jointly determined by the Petitioner and City, the development of this property shall be done in a manner that emphasizes good aesthetics from the viewshed of the Route 340 Bypass.

#### AFFORDABLE HOUSING – EVALUATION CRITERIA #3

- This annexation will provide townhome and single family residential units on the Property, possibly including housing targeted and restricted to persons over the age of fifty-five (55), which will provide an additional housing stock type in the City which may provide affordable options for some median family income households.

- A minimum of twenty (20) units, either single-family detached or townhouse or a combination of the same, shall be developed and sold as Workforce Housing, in accordance to the rules and requirements approved by the City of Charles Town's Housing Opportunity Board.

#### PROTECTION OF RESOURCES – EVALUATION CRITERIA #4

The Petitioner intends to protect and buffer the Cattail Run by providing land for a park to be donated to the City of Charles Town. In addition, all known environmental features, including, but not limited to, sinkholes, floodplain, wetland, natural waterways, natural drainage ways, and woodlands shall be identified on individual site plans. Any disturbance of environmental features shall be limited unless it is demonstrated that all city, county, state, and federal regulations are complied with.

A regional stormwater management area may be considered by the Planning Commission within the twenty (20) plus acre parkland, but shall be subject to approval by both entities. Regarding the future development of the Fritts Property by the owner, vegetation and land disturbance within the boundaries of the twenty (20) plus acre park area shall be restricted, except where Best Management Practices (BMPs) are utilized in accordance with the engineering standards found in the Virginia Stormwater Management Handbook and the Virginia Erosion and Sediment Control Handbook.

#### MUNICIPAL INFRASTRUCTURE AND SERVICES – EVALUATION CRITERIA #5

The Petitioner is providing the infrastructure for the Property by building the necessary roads and stormwater management facilities. Water service for the development of the Property will be from the City of Charles Town Water Department. Sewer service for the development of the Property will be from Willow Spring Public Service Corporation and will not impact the City of Charles Town's sewer plant.

#### FISCAL IMPACT – EVALUATION CRITERIA #6

This annexation will provide a positive fiscal impact from the future businesses that will locate within the annexed area through increased B&O tax collections.

The parties hereby acknowledge that there are cases currently pending in the state courts in which the imposition of county impact fees within municipal limits is in issue. The rulings in these cases may or may not affect the applicability of county impact fees to developments in the subject annexed territory. The parties acknowledge that the conditions of annexation required hereafter are not intended to result in a double payment by the Petitioner, its successors and assigns, of contributions, through both impact fees and conditions of annexation, to support services impacted by the uses to be developed in the subject territory. Accordingly, the following conditions of annexation shall apply:

(1) For any commercial development on the Property, the Petitioner agrees to pay, at the required time, amounts of contributions to the City, as conditions of annexation, equal to the impact fees that the Petitioner would have had to pay to the Jefferson County Commission had the Petitioner's property not become annexed into the City. The City agrees not to assess any other type of fee, assessment or other charge upon the Petitioner's property that would otherwise be due solely as a condition of annexation, such as the Capital Cost Fee and the Non-Capital Cost Fee. The funds paid to the City of Charles Town required by this paragraph as a condition of annexation shall be held in escrow until the cases now pending are resolved. If the rulings in the pending cases would result in the application of county impact fees to the subject territory, the funds paid to the City of Charles Town hereunder would be applied to such fees. If the rulings in the pending cases would not result in the application of county impact fees to the subject territory, the funds paid to the City of Charles Town hereunder would be refunded to the Petitioner.

(2) ~~Separate from any applicable County school impact fees, the development of the Fritts Property shall be subject to the payment of monetary funds aimed at mitigating the impacts of development on the City of Charles Town. The owner of the Fritts Property, voluntarily agrees to donate \$948 for capital improvement costs, and \$4,500 for non-capital costs, to the City of Charles Town for each residential unit. These fees are subject to adjustment by the City on a bi-annual basis, starting from the time the annexation is recorded by the County Commission. The City shall provide to the Petitioner a written 60-day advanced notice of the increase with the supporting documentation to justify the fee increase. These fees shall be payable to the City upon the issuance of the building permit for residential structures, and shall be deemed voluntary and not subject to the right of appeal. Residential units provided to the City for the purpose of Workforce Housing, as defined by the City, shall be exempt from having to pay the capital and non-capital cost payments due to the City.~~

The Fritts Property shall not request offsets to the aforementioned voluntary non-monetary contributions cited herein.

In addition to all standard City fees, County school impact fees, and all voluntary fees mentioned herein, the Petitioner agrees to pay to the City all other additional impact fees declared by the County Commission as being owed for property developed in the City; provided that, these fees shall only be paid while the legal issues pertaining to the pending court cases are unresolved. Furthermore, these funds shall be held in escrow until the cases now pending are resolved. Minus all costs incurred by the City for administering the escrow, the interest earned while these funds are held in escrow shall be paid to the Petitioner. If the rulings in the pending cases would result in the application of county impact fees to the subject territory, the additional impact fees paid to the City of Charles Town hereunder would be applied to such fees and any remainder would be refunded to the Petitioner. If the rulings in the pending cases would not result in the application of county impact fees to the subject territory, the funds paid to the City of Charles Town hereunder would be refunded to the Petitioner.

The City agrees not to assess any other type of fee, assessment or other charge upon the Petitioner's property that would otherwise be due solely as a condition of annexation other than the fees specifically mentioned in this section (2). Nothing contained herein is intended to relieve the Petitioner, its successors and assigns, of the obligation to pay county impact fees for schools if such fees are applicable to the type of residential unit ultimately developed on the Property, which obligation, if applicable to such residential unit, both parties acknowledge is unaffected by the annexation conditions provided herein, and which obligation, if applicable to such residential unit, is specifically required by the Settlement Agreement dated October 1, 2004, in Civil Action No. 04-C-194 in the Circuit

Court of Jefferson County.

All of the above voluntary contributions offered in this document as conditions of this annexation shall be binding to all of the above-described property that is annexed into the City of Charles Town. The property owners shall ensure that these restrictions are conveyed with the property to all future assigns and/or transferees of all or any part of the subject property, excluding land given to the City of Charles Town, West Virginia Department of Transportation, or other local, state or federal government entity. These conditions of annexation shall be fully enforceable.

Dated this 17<sup>th</sup> day of March, 2008.

/s/ J. Russell Fritts  
Petitioner

/s/ Peggy A. Smith  
City of Charles Town, Mayor

Mayor Smith opened the floor for discussion regarding the second reading of an Annexation Ordinance annexing the real estate known as the Jamison Property and Resolution 2008-07 Acceptance of Conditions of Annexation. Upon discussion, a motion by Councilwoman Willingham, seconded by Councilwoman Schmitt and the Council voted 7-1, with Councilwoman Paonessa voting against, to approve the second reading and Resolution 2008-07 Acceptance of Conditions of Annexation as presented and as follows:

AN ORDINANCE ANNEXING THE PROPERTY OF  
FLOYD R. JAMISON AND JOYCE G. JAMISON CONTAINING  
1.565 ACRES OF LAND

WHEREAS, West Virginia Code 8-6-4 permits a municipality to, by ordinance, annex additional territory without ordering a vote on the question if (1) a majority of the qualified voters of the additional territory file with the governing body a petition to be annexed and (2) a majority of all freeholders of the additional territory, whether they reside or have a place of business therein or not, file with the governing body a petition to be annexed, and

WHEREAS, Floyd R. Jamison and Joyce G. Jamison are the owners of the property sought to be annexed and they are also qualified voters in the area sought to be annexed, and

WHEREAS, Barry L. Grimm also signed a petition seeking to annex the property as a resident on the property, but that Barry L. Grimm is not a freeholder nor is he a qualified voter in the area sought to be annexed, and

WHEREAS, pursuant to West Virginia Code 8-6-4(d) which states if qualified voters of the additional territory sought to be annexed are also freeholders in the additional territory, they may join only and sign one petition in the additional territory sought to be annexed, and

WHEREAS, pursuant to West Virginia Code 8-6-4(f) which states if all of the eligible petitioners are qualified voters, then only a voters petition is required, and

WHEREAS, there are no other qualified voters or freeholders in the area sought to be annexed, and

WHEREAS, Floyd R. Jamison and Joyce G. Jamison constitute a majority of the qualified voters in the area sought to be annexed, and

WHEREAS, the City of Charles Town has determined that the property sought to be annexed is contiguous and adjacent to the municipal boundary lines of the City of Charles Town pursuant to the description attached to the petition, and

WHEREAS, the property that is sought to be annexed is in the Charles Town District and is shown on the Assessor's map of the Charles Town District as Map 10, Parcel 8.5, and

NOW, THEREFORE, WITNESSETH: That the undersigned, being a majority of the qualified eligible voters of the additional territory sought to be annexed, and the freeholders of the additional territory sought to be annexed, do hereby petition the City of Charles Town to include in its municipal boundaries by annexation, without election, all of that certain parcel of real estate as more particularly described in Exhibit A hereto. This parcel of land is contiguous and adjacent to the municipal boundary.

Dated this 17<sup>th</sup> day of March, 2008.

City of Charles Town  
By: /s/ Peggy A. Smith  
Peggy A. Smith, Mayor

First Read: 03/03/08  
Second Read: 03/17/08

**Resolution 2008-07**

**An Acceptance of Conditions of Annexation for the Jamison Property**

WHEREAS, Floyd R and Joyce G. Jamison presented their petition for annexation of their property to the Mayor and City Council, and

WHEREAS, the said petition for annexation was received and was referred to the Finance Committee of the City for further review and analysis, and

WHEREAS, said Finance Committee has convened, and after review of the information presented to it, has reached certain conclusions and has made recommendations, and

WHEREAS, the petition for annexation was next referred to the City of Charles Town Planning Commission for further review and analysis for its recommendation to Council, and

WHEREAS, the Planning Commission adopted a recommendation that the property be zoned Residential Single Family (RS), and

WHEREAS, through direct negotiation, Floyd R. and Joyce G. Jamison, the Planning Commission, the Finance Committee, the City Council of the City of Charles Town, and City Staff have compiled a list of conditions of annexation to be made by the developers and property owners which are subject to the annexation for the use and benefit of the City of Charles Town (hereinafter attached to as Exhibit 1: Conditions of Annexation for the Jamison Property), and

NOW, THEREFORE, WITNESSETH: That the property owners of the property known as Prospect Place, and the City of Charles Town agree as follows:

- A. The City will, by ordinance, as provided in §8-6-4 of the West Virginia Code, annexing into the corporate boundaries of Charles Town the territory owned by Floyd R. and Joyce G. Jamison.
- B. The City will subject the territory so annexed to Residential Single Family zoning.
- C. The property owners will offer all terms set forth in Exhibit 1 for the use and benefit of the City of Charles Town upon the terms and conditions herein set forth.
- D. The property owners agree to execute further assurances or agreements as may be required by the City with such assurances and agreements to bind the owners of the property sought to be annexed, their successors and assigns to the conditions of annexation.

NOW, THEREFORE, BE IT RESOLVED; By the City Council of the City of Charles Town, to accept and approve the ordinance for annexation of Floyd R. and Joyce G. Jamison and to incorporate the same within the corporate boundaries of the City of Charles Town, pursuant to §8-6-4 of the West Virginia Code.

Dated: March 17, 2008

CITY OF CHARLES TOWN:  
/s/ Peggy A. Smith  
Peggy A. Smith, Mayor

Attest:  
/s/ Joe Cosentini  
City Clerk

CONDITIONS OF ANNEXATION  
FOR  
PROPERTY OF THE JAMISON PROPERTY

The Petitioner and property owners, Floyd R. Jamison and Joyce G. Jamison, herein also referred to as "The Property", "Jamison Property", "The Petitioner", "The Property Owners", or similar language, and as identified by Parcel 10, Tax Map 3, Charles Town District, agrees to the following conditions of annexation if the property is annexed into the City of Charles Town, herein referred to as "The City", "Charles Town", or similar.

Impact statements pertaining to the City of Charles Town Annexation Policy Evaluation Criteria, and all proposed voluntary contributions, submitted as conditions of annexation, are as follows:

PLANNING & ZONING COMPLIANCE – EVALUATION CRITERIA #1:

Evaluation Criteria 1A – Comprehensive Plan

This annexation is consistent with the City of Charles Town Comprehensive Plan per the following:

Chapter 3 – Charles Town’s Vision for the Future

- Commerce and Industry – The Jamison Property is located in an area suitable for potential residential development which would support other necessary uses, such as commercial and recreational.
- Safety and Walkability – The Property is located adjacent to other planned development areas and will be developed in a way that promotes connectivity, both pedestrian and vehicular.
- Affordable Living – No special affordable housing component is proposed in association with the Property being proposed for annexation.
- Jobs – This annexation is anticipated to have a neutral impact on local job creation.
- Infrastructure – Upon annexation and development, the Property will be designed and constructed to all applicable City standards in regards to infrastructure.
- Beautification – The Property will be designed to meet all city standards in regards to landscaping and other elements that support beautification of the neighborhood, which would promote a more livable community.
- Parks, Trails, Greenspace, and Recreation – As noted above, the standard Capital and Non-Capital Cost Fees to the City are proposed with this annexation, which would contribute to the City’s Park System.

Evaluation Criteria 1B – Urban Zoning

The Planning Commission agrees that the future development and subdivision of the parcel into as many as three (3) residential lots with a minimum lot size of 12,000 square feet would be compatible with the neighborhood and consistent with the City of Charles Town’s Comprehensive Plan. Therefore, the Planning Commission supports designating the property in the RS (Residential Single-Family) District. The Property Owners agree to comply with the City’s design standards and requirements as necessary for property zoned RS (Residential Single-Family) District.

Evaluation Criteria 1C – Contiguous Location

The Property satisfies the requirements of the Code of West Virginia and is contiguous to the existing corporate limits of the City of Charles Town.

Evaluation Criteria 1D – Transportation Planning

No transportation study shall be required for the further development or subdivision of the Property. However, the Property Owner agrees to design any future subdivision or development in a way that allows for the extension of Fourth Street (referred to as Euclid Ave.), unless otherwise waived by the Planning Commission. Furthermore, as a condition of development, and if it is determined necessary at the engineering stage, the Property Owner would dedicate a small portion of the Property to the City, or other legal entity, for the purpose of allowing adequate room for the extension of Fourth Street.

ECONOMIC GROWTH – EVALUATION CRITERIA #2:

The Jamison Property has a neutral impact towards economic growth in the City, but would support housing for the future labor force, which is a necessary component for attracting businesses.

AFFORDABLE HOUSING – EVALUATION CRITERIA #3

No special affordable housing conditions are proposed.

PROTECTION OF RESOURCES – EVALUATION CRITERIA #4

All City requirements shall be complied with prior to and during any construction activities that take place on the property.

MUNICIPAL INFRASTRUCTURE AND SERVICES – EVALUATION  
CRITERIA #5

The Petitioner is providing the infrastructure for the Property by building the necessary roads and stormwater management facilities. Water service for the development of the Property will be from the City of Charles Town Water Department. Sewer service for the development of the Property will be from Willow Spring Public Service Corporation or the City of Charles Town Utilities.

FISCAL IMPACT – EVALUATION CRITERIA #6

The parties hereby acknowledge that there are cases currently pending in the state courts in which the imposition of county impact fees within municipal limits is in issue. The rulings in these cases may or may not affect the applicability of county impact fees to developments in the subject annexed territory. The parties acknowledge that the conditions of annexation required hereafter are not intended to result in a double payment by the Petitioner, its successors and assigns, of contributions, through both impact fees and conditions of annexation, to support services impacted by the uses to be developed in the subject territory. Accordingly, the following conditions of annexation shall apply:

(1) For any commercial development on the Property, the Petitioner agrees to pay, at the required time, amounts of contributions to the City, as conditions of annexation, equal to the impact fees that the Petitioner would have had to pay to the Jefferson County Commission had the Petitioner's property not become annexed into the City. The City agrees not to assess any other type of fee, assessment or other charge upon the Petitioner's property that would otherwise be due solely as a condition of annexation, such as the Capital Cost Fee and the Non-Capital Cost Fee. The funds paid to the City of Charles Town required by this paragraph as a condition of annexation shall be held in escrow until the cases now pending are resolved. If the rulings in the pending cases would result in the application of county impact fees to the subject territory, the funds paid to the City of Charles Town hereunder would be applied to such fees. If the rulings in the pending cases would not result in the application of county impact fees to the subject territory, the funds paid to the City of Charles Town hereunder would be refunded to the Petitioner.

(2) Separate from any applicable County school impact fees, the development of the Jamison Property shall be subject to the payment of monetary funds aimed at mitigating the impacts of development on the City of Charles Town. The owner of the Jamison Property, voluntarily agrees to donate \$948 for capital improvement costs, and \$4,500 for non-capital costs, to the City of Charles Town for each residential unit. These fees are subject to adjustment by the City on a bi-annual basis, starting from the time the annexation is recorded by the County Commission. The City shall provide to the Petitioner a written 60-day advanced notice of the increase with the supporting documentation to justify the fee increase. These fees shall be payable to the City upon the issuance of the building permit for residential structures, and shall be deemed voluntary and not subject to the right of appeal. Residential units provided to the City for the purpose of Workforce Housing, as defined by the City, shall be exempt from having to pay the capital and non-capital cost payments due to the City.

The Jamison Property shall not request offsets to the aforementioned voluntary non-monetary contributions cited herein.

In addition to all standard City fees, County school impact fees, and all voluntary fees mentioned herein, the Petitioner agrees to pay to the City all other additional impact fees declared by the County Commission as being owed for property developed in the City; provided that, these fees shall only be paid while the legal issues pertaining to the pending court cases are unresolved. Furthermore, these funds shall be held in escrow until the cases now pending are resolved. Minus all costs incurred by the City for administering the escrow, the interest earned while these funds are held in escrow shall be paid to the Petitioner. If the rulings in the pending cases would result in the application of county impact fees to the subject territory, the additional impact fees paid to the City of Charles Town hereunder would be applied to such fees and any remainder would be refunded to the Petitioner. If the rulings in the pending cases would not result in the application of county impact fees to the subject territory, the funds paid to the City of Charles Town hereunder would be refunded to the Petitioner.

The City agrees not to assess any other type of fee, assessment or other charge upon the Petitioner's property that would otherwise be due solely as a condition of annexation other than the fees specifically mentioned in this section (2). Nothing contained herein is intended to relieve the Petitioner, its successors and assigns, of the obligation to pay county impact fees for schools if such fees are applicable to the type of residential unit ultimately developed on the Property, which obligation, if applicable to such residential unit, both parties acknowledge is unaffected by the annexation conditions provided herein, and which obligation, if applicable to such residential unit, is specifically required by the Settlement Agreement dated October 1, 2004, in Civil Action No. 04-C-194 in the Circuit Court of Jefferson County.

All of the above voluntary contributions offered in this document as conditions of this annexation shall be binding to all of the above-described property that is annexed into the City of Charles Town. The property owners shall ensure that these restrictions are conveyed with the property to all future assigns and/or transferees of all or any part of the subject property, excluding land given to the City of Charles Town, West Virginia Department of Transportation, or other local, state or federal government entity. These conditions of annexation shall be fully enforceable.

Dated this 17<sup>th</sup> day of March, 2008.

/s/ Floyd Jamison  
Petitioner (Property Owner)

/s/ Joyce Jamison  
Petitioner (Property Owner)

/s/ Peggy A. Smith  
City of Charles Town, Mayor

#### NEW BUSINESS

Mayor Smith opened the floor for discussion regarding the EPA Brownfields Assessment Grant discussion. Upon discussion, a motion by Councilman Clendening, seconded by Councilwoman Willingham and the Council unanimously voted to send a letter to the City of Ranson requesting the use of the grant funds for Phase II environmental studies of the People Supply property and the Public Works Yard.

Mayor Smith opened the floor for discussion regarding the Baptist Church House. Upon discussion, a motion by Councilman Slover, seconded by Councilwoman Paonessa and the Council voted 6-2, with Councilwoman Schmitt and Councilwoman Willingham voting against, to draft a letter to send to the Church asking for an alternative to the demolition of the house.

Mayor Smith opened the floor for discussion regarding the first reading of an "AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART NINE, STREETS, UTILITIES & PUBLIC SERVICES, CHAPTER THREE; UTILITIES, ARTICLE 925, WATER SERVICE RATES" as revised from previously adopted version. A motion by Councilwoman Gannon-Miller, seconded by Councilwoman Schmitt and the Council unanimously voted to approve first reading of an "AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART NINE, STREETS, UTILITIES & PUBLIC SERVICES, CHAPTER THREE, UTILITIES, ARTICLE 925, WATER SERVICE RATES" as presented. ✓

Mayor Smith opened the floor for discussion of the letter of support for the Old Opera House WVSHPO Grant. A motion by Councilman Clendening, seconded by Councilwoman McDonald and the Council unanimously voted to send a letter of support for the Old Opera House WVSHPO Grant application.

Mayor Smith opened the floor for discussion regarding the FY08/09 City of Charles Town budget. A motion by Councilman Clendening, seconded by Councilwoman Willingham and the Council unanimously voted to approve the FY08/09 City of Charles Town budget as presented.

Mayor Smith opened the floor for discussion regarding Charles Town Spring Clean-up. Upon discussion, a motion by Councilman Slover, seconded by Councilman Clendening and the Council unanimously voted to set the 2008 Charles Town Spring Clean-up for April 21-25 and have staff look into the possibility of having hazardous waste delivered to the maintenance yard for disposal by a licensed contractor.

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Mayor Smith opened the floor for discussion regarding the April Council meeting schedule. A motion by Councilwoman Schmitt, seconded by Councilwoman Paonessa and the Council unanimously voted to schedule the April meeting dates for the 15<sup>th</sup> and the 21<sup>st</sup>.

Mayor Smith opened the floor for discussion regarding the Gateway Building LLC Agreement. Director Camp informed the Council of the agreement. A motion by Councilman Clendening, seconded by Councilwoman Willingham and the Council unanimously voted to approve the Gateway Building LLC Agreement as presented.

#### REFERRALS TO COMMITTEE

A motion by Councilwoman Schmitt, seconded by Councilman Slover and the Council unanimously voted to refer to the Finance Committee donation requests from the Charles Town Library, the Charles Town/Ranson Little League, Old Opera House, Friends of Happy Retreat, Independent Fire Company, the Arts & Humanities Alliance of Jefferson County, the Jefferson County Coalition on Substance Abuse, Inc. dba Focus Coalition, Charles Town Health Right, Inc. dba Eastern Panhandle Free Clinic, Birthright of Ranson, CASA of the Eastern Panhandle, the Jefferson County Ambulance Authority and the Kiwanis Club of Charles Town.

A motion by Councilwoman McDaniel, seconded by Councilman Clendening and the Council unanimously voted to approve all bills as presented.

#### MAYOR AND COUNCIL REPORTS

Mayor Smith informed the Council that the money needed for the production of the Road Trip to History program has been donated by Charles Town Races & Slots, United Bank, Jefferson Security Bank, Bank of Charles Town and American Public University and presented Council with a draft Welcome Packet that could be handed out to citizens as they apply for water

service. Councilwoman Paonessa, Ward III, informed Council that the Parks and Recreation Board is looking for Council comment on a draft resolution to form a joint study committee on the consolidation of the Charles Town and Ranson Parks and Recreation Commissions, that the Jefferson County Youth Board has donated \$1,400.00 for the purchase of park benches for the Skate Park and that there should be an agenda item on the next Council meeting opposing toll roads. Councilwoman Willingham, Ward IV, informed Council that she would like to see a resolution placed on the next Council agenda opposing the proposed tax increase by the Jefferson County Commission. Councilman Slover, Ward IV, informed Council that the leaf vacuum will be picking up leaves raked to the curb in the month of April.

#### CHIEF OF POLICE REPORT

Chief Subelsky informed Council that Ptlm. Sam Smith was injured during a training exercise last week, that he attended a grant writing workshop and that the Department would like to donate unused cruisers to the Jefferson County Deputy Sheriffs Office and the Berkeley Springs Sheriff's Department. A motion by Councilman Clendening, seconded by

Councilwoman Willingham and the Council unanimously voted to donate the cruisers.

#### DONATION POLICY COMMITTEE REPORT

Councilman Slover and Councilman Clendening informed Council of the Donation Policy. Upon discussion, a motion by Councilwoman Paonessa, seconded by Councilwoman Schmitt and the Council unanimously voted to approve the policy with five amendments and is as follows:

#### **Donation Request Policy**

**PURPOSE:** To establish a uniform policy and procedure for administering the annual donation budget of the City of Charles Town.

**STATEMENT:** It is the policy of the City of Charles Town that all organizations requesting funding complete an application and follow the procedure outlined in this policy.

**PROCEDURE:**

1. The City of Charles Town shall appropriate a certain amount of its annual budget to fund organizations that tend to directly benefit a significant segment of the citizens of the City of Charles Town.

2. Eligibility. Generally, eligible organizations include:

- a. Public charities (501 (c) 3 or 4 non-profit organizations)
- b. Fraternal and/or civic organizations that contribute to the betterment of the community
- c. Independent youth sports leagues
- d. Materiel support for schools located within the City limits of Charles Town or serve a significant number of Charles Town residents

Generally, funding shall not be considered for the following:

- a. Clubs, organizations or sports teams affiliated with any churches, religious groups or not open to the general public

b. Individuals for travel or costs associated with pageants, academic competitions or other contests

c. Other government bodies, agencies or entities who are providing the same or similar service or events already being provided by the City of Charles Town

3. Funding Considerations. Eligible organizations may apply for funding for capital expenses, special projects, events and/or general operating funds. Priority for funding will be given to organizations and/or projects that:

a. Provide vital services to the community that are not duplicated by the City including, but not limited to: public safety, health and human services, youth, recreation, cultural programs and the arts.

b. Demonstrate fiscal responsibility and community impact

c. Are located within the City limits of Charles Town and/or serve a significant number of City residents.

d. Seek funding for capital expenses and special projects

4. Program Dates. Applications for donation must be received between January 1 and March 31 for consideration. Upon City Council approval, annual awards will be issued no later than June 30.

Reporting. Organizations awarded funds of \$500.00 and above are required to submit a Spending Report between October 1 and December 31. Failure to complete/submit this report could result in loss of eligibility for future funding.

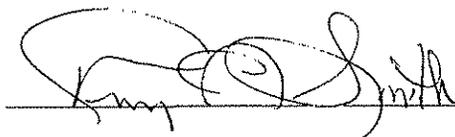
FINANCE COMMITTEE

Councilwoman Willingham informed Council that the Finance Committee had met and makes the following recommendations:

1. Hotel/motel tax be increased from 5% to 6% effective July 1, 2008
2. Approval of the replacement materials for the Charles Towers crosswalk to be paid from the Street budget
3. Approval of the Lawrence Street parking lot lease for a five-year period at \$1,700 per year
4. Approval of the work to be done by AE Piercy at City Hall to be paid from the City Hall budget

A motion by Councilwoman Schmitt, seconded by Councilwoman McDonald and the Council unanimously voted to approve the Finance Committee recommendations as presented.

A motion by Councilwoman McDaniel, seconded by Councilwoman McDonald and the Council unanimously voted to adjourn at 8:04 p.m.

MAYOR:  DATE: 04/15/08

CLERK:  DATE: 04/15/08

April 15, 2008

The Common Council of the City of Charles Town, Jefferson County, West Virginia, met in regular session pursuant to the rules of said Common Council in the Council Chambers at City Hall in said city on Tuesday, April 15, 2008 at 7:00 p.m. The following members of Council were present: Donald W. Clendening, MaryLois Gannon-Miller, Ruth McDaniel, Sandra McDonald, Ann Paonessa, Amy Schmitt, Michael Slover and Geraldine Willingham. Mayor Peggy Smith presided and Joseph Cosentini, City Clerk, took the minutes of the meeting. Also present were Jeremy Camp, Acting City Manager, Tara Hostler, Accounting Manager, and Chief Barry Subelsky.

A motion by Councilwoman McDonald, seconded by Councilwoman McDaniel and the Council unanimously voted to dispense with the reading of the minutes dated March 17, 2008. A motion by Councilwoman Willingham, seconded by Councilwoman McDaniel and the Council unanimously voted to approve the minutes dated March 17, 2008 as presented.

NEW BUSINESS

Mayor Smith opened the floor for discussion regarding the public hearing and second reading of an "AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART NINE, STREETS, UTILITIES & PUBLIC SERVICES, CHAPTER THREE, UTILITIES, ARTICLE 925, WATER SERVICE RATES" as revised from previously adopted version. A motion by Councilwoman Gannon-Miller, seconded by Councilwoman McDonald and the Council unanimously voted to open the public hearing for public comment at 7:01 p.m. Being no comments, a motion by Councilwoman Willingham, seconded by Councilwoman McDonald and the Council unanimously voted to close the public hearing. A motion by Councilman Clendening, seconded by Councilman Slover and the Council unanimously voted to approve second reading of an "AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART NINE, STREETS, UTILITIES & PUBLIC SERVICES, CHAPTER THREE, UTILITIES, ARTICLE 925, WATER SERVICE RATES" as presented and is as follows:

**AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART NINE, STREETS, UTILITIES & PUBLIC SERVICES, CHAPTER THREE, UTILITIES, ARTICLE 925, WATER SERVICE RATES.**

**BE IT ORDAINED** by the City Council of the City of Charles Town as follows:  
That Article 925, Water Rates, Section 925.01, Water Service Rates, be **AMENDED** as follows:

925.01 WATER SERVICE RATES.

USE OF WATER METERS: PROVISION FOR FLAT RATE

For the payment of the proper and reasonable expense of operation, repair, replacements, improvements, additions, betterments, extension and maintenance of the water system and for the payment of the sums required to pay the principal and interest on all water revenue bonds as the same become due, there is hereby established a schedule of just and equitable rates, charges and penalties for the use of and services rendered by the municipal water system and works of the City of Charles Town, West Virginia, which schedule, based upon the metered amount of water supplied to the premises, where possible, but providing for a flat rate when no meter is available, shall be as follows:

APPLICABILITY (SCHEDULE D)

Applicable to entire area served.

AVAILABILITY

Available for general domestic, commercial and industrial service.

RATES

First	10,000 gallons used per month	\$8.23 per 1,000 gallons
Next	30,000 gallons used per month	7.00 per 1,000 gallons
Over	40,000 gallons used per month	5.53 per 1,000 gallons

MINIMUM CHARGE

No bill will be rendered for less than the following amounts, according to the size of the meter installed, to-wit:

5/8" or 5/8" x 3/4"	Meter	\$20.58 per month
3/4"	Meter	30.87 per month
1"	Meter	51.45 per month
1-1/2"	Meter	102.90 per month
2"	Meter	164.64 per month
3"	Meter	308.70 per month
4"	Meter	514.50 per month
6"	Meter	1029.00 per month

FLAT RATE

For domestic, commercial or industrial customers - \$37.04 for 4,500 gallons per month.

MULTIPLE OCCUPANCY

In apartment buildings, shopping centers or other multiple occupancy buildings, each unit shall be required to pay not less than the minimum monthly charge provided above.

CONNECTION CHARGE

A service connection charge of \$350.00 shall be paid for all new service connections.

DISCONNECT FOR NONPAYMENT

Whenever water service has been discontinued for nonpayment of sewer bills, a disconnection fee of \$10.00 shall be charged.

RECONNECTION SERVICE CHARGE

Whenever water service which has been previously disconnected or otherwise withheld for nonpayment of sewer bills is reconnected, a fee of \$10.00 shall be charged.

DELAYED PAYMENT PENALTY

The above tariff is net. On all current usage billings not paid within twenty (20) days, a ten percent (10%) charge shall be added to the net current amount unpaid. The delayed payment penalty is no interest and is only to be collected once for each bill where it is appropriate.

SECURITY DEPOSIT

The security deposit for water service shall be \$36.50.

RATES FOR FIRE PROTECTION - PUBLIC

Fire Hydrants, each	\$72.00 per annum
Sprinkler Heads, each	0.20 per annum

RATES FOR FIRE PROTECTION - PRIVATE

Fire Hydrants, each \$72.00 per annum  
 Sprinkler Heads, each 0.20 per annum

(SCHEDULE II)

CAPACITY IMPROVEMENT CAPITAL COST FEE

Capacity Improvement Capital Cost Fee from the date of this tariff:

In addition to all the fees provided above, there shall be paid to the City at the time the application is made for connection of an unserved facility to the water system a capacity improvement capital cost fee of \$2,576.00 for each residential connection. Connections for nonresidential use shall be paid in accordance with a residential usage equivalent schedule set forth hereinafter. The funds collected from the capacity improvement capital cost fee shall be maintained in a separate fund by the Water System and shall be used only for the purpose of improving the water system treatment, storage and transmission facilities. These charges shall also be paid by customers of the water system who resell water supplied by the City to its customers in the same amount as if those connected to the resale customer system were to become direct customers of the City. The residential usage equivalent for other than single family residential units for the capacity improvement capital cost fee are as follows:

RESIDENTIAL USAGE EQUIVALENTS  
FOR CAPACITY IMPROVEMENT CAPITAL COST FEE

<u>UNIT</u> <u>USAGE EQUIVALENT</u>	<u>GALLONS/DAY</u>	<u>RESIDENTIAL</u>
Single Family unit	150	1.0
Apartments	150/unit	1.0/unit
Bed and Breakfast	150	1.0
Bowling Alleys	200/alley	1.33/alley
Churches		
with kitchens	8/member	0.05/member
w/o kitchen	2/member	0.013/member
Food Service	32/seat	0.213/seat
Fast Food Restaurant	35/seat	0.23/seat
Bar & Cocktail Lounge	2/patron	0.013/patron
Tavern-Little or no food	20/seat	0.132/per seat
Hotel	120/room	0.8/per room
Industry	15/person/shift	0.1/person per shift
Institutions		
Hospitals	250/bed	1.67/bed
Nursing Homes	150/bed	1.0/bed
Others	75/person	0.5/person
Office Buildings	15/person	0.1/person
Laundry Self Service	250/washer	1.67/washer
Mobile Home Park	150/unit space	1.0/unit space
Motels	120/room	0.8/room
Retail Stores	400/toilet room	2.67/toilet room
Residence	150/residence	1.0/residence
School:		
Day, no cafeteria/showers	15/pupil	0.1/pupil
Day with cafeteria	18/pupil	0.12/pupil
Day with cafeteria/showers	20/pupil	0.133/pupil
Boarding	75/pupil	0.5/pupil
Service Station	500/set of pumps	3.33/set of pumps
Shopping Centers	16/100 ft. of sales area	0.12/100 ft. of sales area
Swimming Pools	10/swimmer design capacity	0.067/swimmer design capacity
Theatre	3/seat	0.02/seat
Warehouse	15/employees	0.1/employee

If a unit does not appear on this schedule the water department shall determine its Residential Usage Equivalent in consultation with its consulting engineer.

EFFECTIVE DATE

The rates and charges provided herein shall become effective forty-five (45) days after final enactment hereof.

SEPARABILITY: REPEAL OF CONFLICTING ORDINANCES

The provisions of this Ordinance are separable, and if any clause, provision or section hereof shall be held void or unenforceable by the West Virginia Public Service Commission or any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. Upon the effective date hereof, all ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflicts, hereby repealed, and to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, orders or parts thereof, the same shall remain in full force and effect.

STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the City Clerk shall cause to be published a copy of this Ordinance once a week for two (2) successive weeks within a period of fourteen (14) consecutive days, with at least six (6) days between each publication, in the Spirit of Jefferson Advocate and The Shepherdstown Chronicle, being two qualified newspapers of general circulation in the City of Charles Town, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council Chambers, Charles Town, West Virginia, on April 15, 2008 at 7:00 p.m., which date is not less than ten days after the date of the first publication of the Ordinance and notice, and present any comment or protest thereon, following which hearing, Council shall take such action as it shall deem proper. Copies of this Ordinance shall be available to the public for inspection at the office of the City Clerk, Charles Town, West Virginia.

Past Board Meeting: March 17, 2008

Presented for Adoption (Effective Date): April 15, 2008

Meggy A. Smith  
MAYOR

Mayor Smith opened the meeting regarding "A RESOLUTION OF THE COUNCIL OF THE CORPORATION OF CHARLES TOWN, WEST VIRGINIA, AUTHORIZING CREATION AND OPERATION OF THE CHARLES TOWN AND RANSON JOINT STUDY COMMITTEE TO STUDY AND REPORT ON THE POTENTIAL MERGER OF THE TWO CITIES' PARKS AND RECREATION COMMISSIONS AND ASSOCIATED ISSUES." Councilwoman [redacted] updated Council on the actions of the Charles Town Parks and Recreation Commission. In discussion, a motion by Councilman Clendening, seconded by Councilman [redacted] and the Council unanimously voted to approve "A RESOLUTION OF THE COUNCIL OF THE CORPORATION OF CHARLES TOWN, WEST VIRGINIA, AUTHORIZING CREATION AND OPERATION OF THE CHARLES TOWN AND RANSON JOINT STUDY COMMITTEE TO STUDY AND REPORT ON THE POTENTIAL MERGER OF THE TWO CITIES' PARKS AND RECREATION COMMISSIONS AND ASSOCIATED ISSUES" pending legal review and action by the Ranson City Council. The meeting adjourned at 7:00 p.m.

RESOLUTION

A RESOLUTION OF THE COUNCIL OF THE CORPORATION OF CHARLES TOWN, WEST VIRGINIA, AUTHORIZING CREATION AND OPERATION OF THE CHARLES TOWN AND RANSON JOINT STUDY COMMITTEE TO STUDY AND REPORT ON THE POTENTIAL MERGER OF THE TWO CITIES' PARKS AND RECREATION COMMISSIONS AND ASSOCIATED ISSUES.

WHEREAS, West Virginia Code § 10-2-3 permits any two or more governing bodies to jointly establish and conduct a system of recreation, including recreation centers, parks, swimming pools, playgrounds, and any and all other recreation facilities and activities; and may exercise all the powers given by Chapter 10, Article 2 of the West Virginia Code; and

WHEREAS, neither the City of Ranson nor the City of Charles Town have determined whether merger, resource sharing short of merger, or maintenance of the status quo would be in the best interest of the citizens of either City; and

WHEREAS, the City of Ranson and the City of Charles Town believe that an organized, comprehensive and thorough study of the issues implicated by consideration of merger or of less extensive joint undertakings would be prudent and beneficial to the citizens of each city; and

WHEREAS, the City of Ranson and City of Charles Town believe that the involvement of the Jefferson County Parks and Recreation and the Jefferson County Board of Education is important to the success of the "Joint Study Committee."

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CORPORATION OF CHARLES TOWN, WEST VIRGINIA, as follows:

SECTION 1. *Authorization.* The Charles Town City Council hereby authorizes the creation of a "Charles Town and Ranson Joint Study Committee" to be structured and tasked as set forth below.

SECTION 2. *Cooperation.* The Mayor, Members of City Council, Members of the Park and Recreation Commission, and other city staff and consultants are authorized and directed to provide such information and support service as may be reasonably necessary to the work of the Joint Study Committee.

SECTION 3. *Purpose.* The primary purpose of the Joint Study Committee shall be to carefully study the advantages and disadvantages of merging the two cities' Parks and Recreation Commissions. If the Joint Study Committee recommends the merger of the cities' Parks and Recreation Commissions, the Joint Study Committee shall provide a detailed report to the governing bodies detailing, but not limited to, the following: (1) all aspects of finances; (2) personnel; (3) draft copy of articles and bylaws of joint parks and recreation commission which includes, but is not limited to, the following: (a) makeup, number and terms of commissioners and officers, (b) title and authorities of commissioners; (c) duties and authorities of the merged entity; (d) procedures of meetings; (e) amendment procedures to bylaws; and (f) any other item the Joint Study Committee deems necessary.

SECTION 4. *Membership.* The governing body of each city shall appoint three (3) voting members to the Joint Study Committee. The two City Managers or his or her staff designee shall be non-voting ex-officio members of the Joint Study Committee. The Board of Education and the Jefferson County Parks and Recreation shall each be invited to have one (1) non-voting advisory member to participate in all Joint Study Committee meetings and shall be noticed of all meetings of the Joint Study Committee in accordance with the guidelines set forth in SECTION 5. The Joint Study Committee may ask persons not on the Committee to speak, participate in meetings for expertise, guidance and input.

SECTION 5. *Meetings.* The Joint Study Committee shall meet at least monthly at dates and times to be determined by the Joint Study Committee. All decisions will be made by a majority vote of those present at the Joint Study Committee meeting. There shall be proper notification of all meetings and voting in compliance with the West Virginia Open Governmental Proceedings Act. Proxy

voting shall not be permitted. A quorum of the Joint Study Committee shall be at least two members from each city.

SECTION 6. *Public Access and Minutes.* All meetings shall be open and the public invited to attend. All meetings, dates and sites shall be properly advertised in accordance with the West Virginia Open Governmental Proceedings Act. Minutes of all Joint Study Committee meetings shall be taken and made available to the public. The Joint Study Committee shall appoint a Secretary at its first meeting who shall be responsible for the distribution of meeting notices to members, advertisement of meetings and times in accordance with the West Virginia Open Governmental Proceedings Act and taking and keeping record of the minutes of each meeting.

SECTION 7. *Term.* The term of the Joint Study Committee shall be twelve (12) months; provided, however, if the Joint Study Committee has a final recommendation before the expiration of its term, the Joint Study Committee may present its study to the governing bodies of both cities. If the work of the Joint Study Committee is completed within a twelve (12) month term, then the term of the Joint Study Committee may be extended by resolution from the governing bodies of both cities.

SECTION 8. *Finances.* The cost of the study by the Joint Study Committee will be borne by the cities (exclusive of in kind staff time). All costs and expenses incurred by the Joint Study Committee shall be approved in advance by the elected bodies of both cities. The cities shall have the discretion to spend the budgeted funds in a manner deemed appropriate.

SECTION 9. *Final Report.* At the end of its work, the Joint Study Commission shall submit its recommendations in written form to the Ranson Mayor and City Council and the Charles Town Mayor and City Council. Those two elected bodies shall consider all such recommendations and then shall separately approve the recommendations with or without recommendations. If both cities' elected bodies approve the Joint Study Commission's recommendations with or without any mutually agreed upon modifications, the cities shall thereupon jointly draft separate, but identical, resolutions that shall be approved and implemented such recommendations.

Signed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2008:  
  
\_\_\_\_\_  
Penny Smith  
Mayor

ATTEST:  
/s/ Joe Cosentini  
Joseph Cosentini  
Clerk

Mayor Smith opened the meeting by reading the Deed of Dedication for County Green. Jeremy Campbell presented a report on the status of the development that the Deed of Dedication for County Green. A motion by Councilwoman Willingham, seconded by Councilman Smith, and the Council unanimously voted to table the Deed of Dedication for County Green.

Mayor Smith opened the meeting by reading Resolution 2008-09: \$7,500 Division of Tourism Direct Advertising Grant and Verification. A motion by Councilwoman Willingham, seconded by Councilman Smith, and the Council unanimously voted to approve Resolution 2008-09: \$7,500 Division of Tourism Direct Advertising Grant Participation and Verification.

Resolution 2008-09  
**Participation Verification and Certification**  
**\$7,500 Direct Advertising Grant**

I hereby certify that the City of Charles Town hereinafter referred to as "The City" is in compliance with all state, federal, and local laws, including, but not limited to, laws relating to Workers' Compensation insurance, unemployment compensation and business taxes. I further certify that the City is not presently in bankruptcy. I agree to notify the West Virginia Division of Tourism should the City go into bankruptcy either voluntarily or involuntarily.

I hereby certify that I, Peggy Smith, have the authority to speak for and bind by my signature the City. I certify that I have reviewed the portions of the grant application entitled City of Charles Town Heritage Festival 2008, for the project dates of July 15, 2008 to July 15, 2009 (hereinafter referred to as "the Grant") that pertains to the City and that the representations are true and correct to the best of my knowledge. I certify that the City is to be an active participant in the Grant, and that the City's portion of the Grant is the amount of \$1,825.00.

Dated: April 15, 2008

CITY OF CHARLES TOWN:  
 /s/ Peggy A. Smith  
 Peggy A. Smith, Mayor

Attest:  
 /s/ Joe Cosentini  
 City Clerk

Mayor Smith opened the floor for discussion regarding Resolution 2008-10: Preserve America Historic Preservation Grant. A motion by Councilwoman Schmitt, seconded by Councilman Clendening and the Council unanimously voted to approve Resolution 2008-10: Preserve American Historic Preservation Grant as presented and is as follows:

Resolution 2008-10  
**City of Charles Town Support**  
**for the**  
**Preserve America Grant Application**

WHEREAS, The City of Charles Town was officially recognized as a *Preserve America Community* in March of 2007 and with the designation comes the ability to apply for *Preserve America* grants; and,

WHEREAS, the funding being applied for will point to the development of heritage tourism in Charles Town including a Tourism Development Plan and the hiring of a full time project Coordinator for two years; and,

WHEREAS, these programs proposed will advance the City of Charles Town's heritage tourism goals and cultural assets; and,

WHEREAS, the proposed project will help the City of Charles Town develop partnerships with the Jefferson County Historical Society, the Old Charles Town Library, the Jefferson County Chamber of Commerce, The Washington Heritage Trail National Scenic Byway, Arts Humanities Association (AHA), the Jefferson County Black History Preservation Society of Charles Town (Historic Landmarks Commission, Friends of Happy Retreat, the Charles Town Mansion Merchants Association, the Jefferson County Convention and Visitors Bureau, the Ranson Convention and Visitors Bureau, the Charles Town Visitors Center, the Jefferson County Chamber of Commerce, and the Jefferson County Chamber of Commerce,

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Charles Town, to support all the activities and programs proposed in the *Preserve America* grant application.

Dated: April 15, 2008

CITY OF CHARLES TOWN:  
 /s/ Peggy A. Smith  
 Peggy A. Smith, Mayor



Recreation Joint Study Committee on the next Council Agenda. Councilman Clendening, Ward III, informed Council that a draft Personnel Policy has been distributed to all Council members and asked that the Policy be on the April 21<sup>st</sup> Council agenda for approval and that he had attended WV Leadership Academy seminar in Morgantown. Councilwoman Paonessa, Ward III, informed Council that she had attended the Council Reception sponsored by the Jefferson County CVB.

#### CHIEF OF POLICE REPORT

Chief Subelsky informed Council that the Elmer Post held a camp over the weekend and that he would like to see a detailed Crossing Guard policy developed. Chief Subelsky informed Council that he is applying for a grant and needs a resolution from Council. A motion by Councilwoman Schmitt, seconded by Councilman Tom McDonald and the Council unanimously voted to approve Resolution 2008-06, West Virginia Justice Assistance Grant (JAG) Application. Chief Subelsky asked Council for approval of the reservation of surplus funds from the Police Department budget. A motion by Councilwoman Willingham, seconded by Councilwoman McDaniel and the Council unanimously voted to allow the surplus from the Police Department budget, ending June 30, 2008, to be placed in a reserve fund for the use in the purchase of a new building.

#### FINANCE COMMITTEE

Councilwoman Willingham informed Council that the Finance Committee had met and makes the following recommendations:

1. Approval for the following requests for donations from Hotel/Motel:
 

Old Opera House Theatre	\$10,000
Old Charles Town Library	\$10,000
Charles Town Ransom Bible League	\$ 1,000
Arts & Humanities, Office of Jefferson County	\$ 1,000
2. Approval for the following requests for donations from the General Fund:
 

Jefferson County Animal Care Authority	\$10,000
Eastern Panhandle Community College	\$ 5,000*
Kiwanis Club of Charles Town, WV	\$ 1,000
Jefferson County Police Department (Fireworks)	\$ 1,000
CASA of the Eastern Panhandle	\$ 1,000
3. Approval for the following request for donation from Capital Reserve:
 

Independent Fire Company	\$10,000
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\* if funds allow at fiscal year end, Finance Committee would like to donate an additional amount to the Eastern Panhandle Community College.

Upon discussion, a motion by Councilman Tom Clendening, seconded by Councilwoman Schmitt and the Council unanimously voted to approve the Finance Committee recommendations as presented.

DOWNTOWN ECONOMIC REVITALIZATION COMMITTEE

Councilwoman Paonessa presented a report with the Downtown Economic Revitalization Committee's goals and work plan. Councilwoman Paonessa informed Council that a brownfields site needs to be cleaned up. The remaining EPA Grant funds since the remaining funds will not cover the cost of the site. Studies for both the Public Works Yard and the People Supply property.

UNFINISHED BUSINESS

Mayor Smith opened the meeting by reading the letter to the Charles Town Baptist Church. Upon discussion, Councilwoman Paonessa, seconded by Councilman Slover and the Council voted 3-0. Councilman Clendening, Councilwoman McDaniel, Councilwoman McDonald, Councilman Slover and Councilwoman Willingham voting against, to approve the letter to the Charles Town Baptist Church.

A motion by Councilwoman Willingham seconded by Councilwoman McDonald and the Council unanimously voted 5-0.

MAYOR:  DATE: 04/21/08

CLERK:  DATE: 04/21/08

July 17, 2006

The Common Council of the City of Charles Town, Jefferson County, West Virginia, met in regular session pursuant to the rules of said Common Council in the council room in said city on Monday, July 17<sup>th</sup>, 2006 at 7:00 p.m. The following members of Council were present: Randy Breeden, Donald W. Clendening, William Jordan, Sandra Slusher McDonald, Amy Schmitt and Matthew Ward. Mayor Peggy A. Smith presided and Joseph Cosentini, Clerk, took the minutes of the meeting. Also present was Jane Arnett, City Manager, Jeremy Camp, Director of Community Development, and Chief Barry Subelsky.

A motion by Councilman Breeden, seconded by Councilwoman McDonald and the Council unanimously voted to dispense with the reading of the minutes dated June 19, 2006. A motion by Councilman Breeden, seconded by Councilwoman Schmitt and the Council unanimously voted to approve the minutes for the June 19, 2006 regular session of Council as presented.

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#### MAYOR AND COUNCIL REPORTS

Mayor Smith informed Council that a steering committee is being set up to look into developing a Joint Planning Commission including Jefferson County, Ranson and Charles Town. Upon discussion, a motion by Councilman Matthew Ward, seconded by Councilwoman McDonald and the Council unanimously voted to appoint Jeremy Camp and Mayor Smith to the steering committee. Mayor Smith informed Council that the support for the Heritage Days event in September has been very strong.

Councilman Breeden, Ward I, informed the Council that he would like to see the City Tree Board to locate some of the damaged trees, even if on private property, in the City as a result from last weeks strong rain storms. Councilwoman Schmitt, Ward II, informed Council that she had received complaints from the Hillside subdivision regarding a new used car lot next to the main entrance to the development and that some of the Huntfield residents were complaining about the new parking lines recently painted in the development. Director Camp informed Council that the used car lot was only going to be used for a "One Day Sale" and would be removed after the event is complete. A motion by Councilman Clendening, seconded by Councilwoman McDonald and the Council unanimously voted to refer to Street Committee the parking issue in Huntfield. Councilman Matthew Ward, Ward III, asked if there was any progress made on the Martin Luther King Avenue issue a few months ago regarding the soliciting of property sales and if the Council could be informed as to the progress of the Gateway Revitalization efforts. Councilman Ward also informed the Council that he felt a lot of good could come from raising the Hotel/Motel tax as indicated in a later agenda item. Chief

Subelsky informed Council that no official complaint was ever filed at the police department to initiate an investigation for the soliciting of property sales on Martin Luther King Dr.

Councilman Clendening informed Council that he had received complaints regarding low utility lines and asked if there were State or City regulations regarding the matter.

#### CHIEF OF POLICE REPORT

Chief Subelsky informed Council that Captain Mark Johnston has submitted his letter of resignation due to health reasons. A motion by Councilman Clendening, seconded by Councilman Breeden and the Council unanimously accepted the resignation of Captain Johnston with regret. A motion by Councilman Breeden, seconded by Councilman Clendening and the Council unanimously voted to have a plaque made for recognition of years of service for Captain Johnston. Chief Subelsky informed Council that the safety and security upgrades have been completed at the Police Department and invited all the Councilmembers to visit the facility.

#### FINANCE COMMITTEE

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Mrs. Arnett informed Council that the Finance Committee had met and recommended that the City adopt a non-capital improvement fee in the amount of \$4,500.00 as advised by the URS Corporation. Upon discussion, a motion by Councilman Matthew Ward, seconded by Councilman Breeden and the Council unanimously voted to adopt the non-capital improvement fee. Mrs. Arnett informed Council that Platinum P.R. has developed the first quarterly newsletter for the City and issued an invoice for \$850.00 for printing. A motion by Councilman Matthew Ward, seconded by Councilman Clendening and the Council unanimously voted to approved the invoice from Platinum P.R. and distribute the newsletter.

#### BOARD OF PARKS AND RECREATION COMMISSIONERS

Ann Paonessa informed the Council that the Parks and Recreation Commissioners had met and would like the Council to consider increasing the City Hotel/Motel tax from 3% to 5%. Upon discussion, a motion by Councilman Matthew Ward, seconded by Councilman Clendening and the Council unanimously voted to refer the request to the Finance Committee and Ordinance Committee.

#### UTILITY BOARD

Mayor Smith read by title and opened the floor for discussion regarding the first reading of "AN AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO CHAPTER THREE, STREETS, UTILITIES & PUBLIC SERVICES, ARTICLE 921, SEWERS." Mrs. Arnett informed the Council that this amendment was to implement a fee for additional hook ups to the Huntfield Pump Station. Upon discussion, a motion by Councilman Matthew Ward, seconded by Councilwoman Schmitt and

the Council unanimously approved the first reading of "AN AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO CHAPTER THREE, STREETS, UTILITIES & PUBLIC SERVICES, ARTICLE 921, SEWERS."

#### UNFINISHED BUSINESS

Mayor Smith opened the floor for discussion regarding a decision by Council on May 15<sup>th</sup>, 2006 regarding the draft Comprehensive Plan and Urban Growth Boundary/Study Area. Upon discussion, a motion by Councilman Breeden, seconded by Councilman Clendening and the Council unanimously voted to remove the study area/growth boundary from the draft Comprehensive Plan.

#### NEW BUSINESS

Mayor Smith informed Council that Councilman John Ward has officially submitted his letter of resignation due to health issues. Mayor Smith opened the floor for nominations to replace Councilman John Ward. Councilman Matthew Ward nominated Donna V. Frye and Councilman Breeden nominated Timothy Robinson. A motion by Councilman Breeden, seconded by Councilman Clendening and the Council unanimously voted to close nominations. Mayor Smith informed Council that she had spoken to Mrs. Frye prior to the Council meeting and indicated to the Mayor that she would not seek the vacant seat if Mr. Robinson was interested. Upon discussion, Councilman Matthew Ward withdrew his nomination for Donna V. Frye. A motion by Councilman Clendening, seconded by Councilman Breeden and the Council unanimously voted to appoint Timothy Robinson to Council for a term ending June, 2007.

In accordance with the Codified Ordinances of the City of Charles Town, Part One – Administrative Code, Chapter Three, Legislative, Article 111, Council, Section 111.02, Rules of Council, Paragraphs (s) and (t), Appointment of Committees and Standing Committees Generally. Mayor Smith asked for nominations to fill one vacancy on the Loan Review Committee, Councilman Breeden nominated Councilwoman McDonald and the Council unanimously voted to appoint Councilwoman McDonald to the Loan Review Committee. Mayor Smith asked for nominations to fill one vacancy on the Finance Committee, Councilman Clendening nominated Councilman Robinson and Council unanimously voted to appoint Councilman Robinson to the Finance Committee.

Mayor Smith read by title and opened the floor for discussion regarding the first reading of "AN AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART ONE, ADMINISTRATIVE CODE, CHAPTER THREE, LEGISLATIVE, ARTICLE 111, COUNCIL." Upon discussion, a motion by

Councilman Breeden, seconded by Councilwoman Schmitt and the Council voted 7-1, with Councilman Ward voting against, to approve the first reading of "AN AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART ONE, ADMINISTRATIVE CODE, CHAPTER THREE, LEGISLATIVE, ARTICLE 111, COUNCIL."

Mayor Smith read by title and opened the floor for discussion regarding the first reading of "AN AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART NINE, STREETS, UTILITIES AND PUBLIC SERVICES CODE, CHAPTER ONE, STREET AND SIDEWALK AREAS, ARTICLE 909, SIDEWALKS." A motion by Councilman Clendening, seconded by Councilwoman McDonald and the Council unanimously approved the first reading of "AN AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART NINE, STREETS, UTILITIES AND PUBLIC SERVICES CODE, CHAPTER ONE, STREET AND SIDEWALK AREAS, ARTICLE 909, SIDEWALKS."

Mayor Smith read by title by title and opened the floor for discussion regarding the first reading of "AN AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART FIVE, GENERAL OFFENSES CODE, ARTICLE 509, DISORDERLY CONDUCT AND PEACE DISTURBANCE, SECTION 509.05, CURFEW." A motion by Councilman Jordan, seconded by Councilwoman Schmitt and the Council unanimously voted to approve the first reading of "AN AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART FIVE, GENERAL OFFENSES CODE, ARTICLE 509, DISORDERLY CONDUCT AND PEACE DISTURBANCE, SECTION 509.05, CURFEW."

Mayor Smith read by title and opened the floor for discussion regarding the approval of "RESOLUTION OF THE COUNCIL OF THE CITY OF CHARLES TOWN AUTHORIZING AND APPROVING CERTAIN PARAMETERS RELATING TO THE ISSUANCE OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2006 B (TAX-EXEMPT), AND TERMS OF SUCH BONDS; AUTHORIZING CERTAIN DOCUMENTS RELATING TO THE BONDS; REDESIGNATING THE COMBINED WATERWORKS AND SEWERAGE SYSTEM SUBORDINATE REVENUE BONDS, SERIES 2005 A AS COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2006 B; APPROVING A CONFORMED BOND ORDINANCE; AND MAKING OTHER PROVISIONS AS TO THE BONDS." Upon discussion, a motion by Councilman Ward, seconded by Councilman Breeden and the Council unanimously voted to

approve "RESOLUTION OF THE COUNCIL OF THE CITY OF CHARLES TOWN AUTHORIZING AND APPROVING CERTAIN PARAMETERS RELATING TO THE ISSUANCE OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2006 B (TAX-EXEMPT), AND TERMS OF SUCH BONDS; AUTHORIZING CERTAIN DOCUMENTS RELATING TO THE BONDS; REDESIGNATING THE COMBINED WATERWORKS AND SEWERAGE SYSTEM SUBORDINATE REVENUE BONDS, SERIES 2005.A AS COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2006 B; APPROVING A CONFORMED BOND ORDINANCE; AND MAKING OTHER PROVISIONS AS TO THE BONDS."

#### APPOINTMENTS TO COMMITTEES/COMMISSIONS

Mayor Smith informed the Council that there is an expired term on the Planning Commission and the two people who have expressed an interest are Doug Viara and Mark Meredith, Mayor Smith opened the floor for nominations. Councilman Clendening nominated Mark Meredith and Councilman Ward nominated Doug Viara. A motion by Councilman Breeden, seconded by Councilman Ward and the nominations were closed. By a vote of 5-2 Mark Meredith was appointed to the Charles Town Planning Commission (08/01/2006 thru 08/01/2009) with Councilman Breeden, Councilman Clendening, Councilwoman McDonald, Councilman Robinson and Councilwoman Schmitt voting for Mark Meredith and with Councilman Ward and Councilman Jordan voting for Doug Viara.

Mayor Smith informed Council that Betsy Wells has submitted her resignation from the Historic Landmarks Commission effective immediately. Upon discussion, a motion by Councilman Breeden, seconded by Councilwoman Schmitt and the Council unanimously voted to advertise for the vacancy.

A motion by Councilwoman Schmitt, seconded by Councilman Robinson and the Council unanimously voted to go into executive session at 8:46 p.m. to discuss legal issues (W. Va. State Code §6-9A-4 (11 & 12)). A motion by Councilman Breeden, seconded by Councilwoman Schmitt and the Council unanimously voted to reconvene into regular session at 9:47 p.m.

#### REFERRALS TO COMMITTEE

A motion by Councilman Breeden, seconded by Councilwoman McDonald and the Council unanimously voted to refer to Ordinance Committee the implementation of a Business License penalty fee and to refer to Finance Committee a request from the Jefferson County Commission regarding the Ambulance Authority funding shortfall.

A motion by Councilman Clendening, seconded by Councilwoman Schmitt and the Council unanimously voted to approve all bills as presented. A motion by Councilwoman McDonald, seconded by Councilwoman Schmitt and the Council unanimously voted to adjourn at 9:49 p.m.

MAYOR:  DATE: 08/07/06

CLERK:  DATE: 08/07/06

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August 7, 2006

The Common Council of the City of Charles Town, Jefferson County, West Virginia, met in regular session pursuant to the rules of said Common Council in the council room in said city on Monday, August 7<sup>th</sup>, 2006 at 7:00 p.m. The following members of Council were present: Donald W. Clendening, William Jordan, Sandra Slusher McDonald, Timothy Robinson, Amy Schmitt, Matthew Ward and Geraldine Willingham. Mayor Peggy A. Smith presided and Joseph Cosentini, Clerk, took the minutes of the meeting. Also present was Jane Arnett, City Manager, Jeremy Camp, Director of Community Development, and Chief Barry Subelsky.

A motion by Councilman Clendening, seconded by Councilwoman McDonald and the Council unanimously voted to dispense with the reading of the minutes dated July 17, 2006. A motion by Councilwoman Willingham, seconded by Councilman Clendening and the Council unanimously voted to approve the minutes for the July 17, 2006 regular session of Council as presented.

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Mayor Smith began the meeting by swearing in William Carper and William Christian, two new officers for the Charles Town Police Department.

Mayor Smith opened the floor for public comments. Mark Reinhart, 118 N. Lawrence St., appeared before Council to voice his support for the draft Charles Town Comprehensive Plan and that he was happy to have worked on the Citizens Advisory Committee and appreciated the openness of the City Council.

Pat Rissler, 443 Long Marsh Lane, appeared before Council to voice her objection to the proposed "Rules of Council" ordinance and felt that the public has lost the trust of the Council.

Susan Rissler Sheely, 142 Long Marsh Lane, appeared before Council to voice her objection to the proposed "Rules of Council" ordinance and that this should be a government by the people.

Kenneth Page, 140 Paddock Place, appeared before the Council to voice his opposition to the proposed "Rules of Council" ordinance and asked the Council to contact the West Virginia Ethics Commission to receive an Ethics Commission Advisory Opinion on the matter. Mayor Smith informed Mr. Page that the City has already received an Advisory Opinion.

George Rutherford, P.O. Box 44, appeared before the Council to voice the concerns of the Jefferson County NAACP to the proposed "Rules of Council" ordinance and that it is undemocratic to cutoff citizen input.

James Tolbert, P.O. Box 651, appeared before the Council to voice his opposition to the proposed "Rules of Council" ordinance and believes that it is important for the Council to listen their citizens.

Daniel Potter, 32 Edaw Drive, appeared before Council to voice his opposition to the proposed "Rules of Council" ordinance and questioned the approval of a parking lot near the entrance of the Hillside subdivision.

Kevin Barry, 420 S. Mildred Street, appeared before Council to voice his opinion regarding the future annexation requests that will be considered by Council and that annexations should enhance the current quality of life and pay for itself.

Nancy Lutz, 1642 Lloyd Road, appeared before Council to voice her opposition to the proposed "Rules of Council" ordinance and stated that she would boycott everything Charles Town if it is passed.

Mayor Smith introduced Mark Reinhart and Curt Mason, Friends of Happy Retreat, who gave a presentation on the FOHR efforts to purchase Happy Retreat. Mr. Mason asked Council for a donation of \$15,000.00 and informed Council that the County Commission has pledged to match said contribution as long as the City can donate the same. Upon discussion, a motion by ~~Councilman Ward, seconded by Councilwoman McDonald and the Council unanimously voted~~ to refer the request for \$15,000.00 and possible additional funding for Friends of Happy Retreat to the Finance Committee.

#### CITIZENS ADVISORY COMMITTEE REPORT

Director Camp informed the Council that the Citizens Advisory Committee had completed their review of the draft Comprehensive Plan and submit the following recommendations:

- To have the City Planner forward the Citizen's Advisory Committee's editorial remarks of the entire Comprehensive Plan to the Planning Commission for their consideration. These changes include grammatical, format, wording, and context changes that the committee believed was necessary and in the best interest of the City.
- It should be a primary goal of Charles Town to work collectively with neighboring jurisdictions to develop a multi-jurisdictional land use and transportation plan for the purpose of improving coordination between local and state entities; reducing divergent planning activities; and creating a unified vision for the future of the Charles Town area where possible.
- If the draft Future Land Use and Future Transportation Maps are removed or changed by the City, any new or revised maps that illustrate the planning goals of the Comprehensive Plan should be further reviewed by the public before acceptance.
- Substantial educational and visioning processes should be implemented for future planning endeavors of the City, as well as those of other local jurisdictions, to ensure that substantial public input is received in the early stages of the planning process.

#### MAYOR AND COUNCIL REPORTS

Mayor Smith informed the Council that she has received complaints regarding stray cats, asked that the Ordinance Committee review the City sign ordinance, announced that some

members of Council and City staff will be attending the Municipal League conference in Chester, WV and commented on Councilman Ward's recent posting on the "listener" web log.

Councilman Robinson, Ward II, informed Council that trash and debris needs to be cleaned up on South Lawrence Street either by the City or the Board of Education. Councilwoman Schmitt, Ward II, informed Council that she had enjoyed working on the Citizens Advisory Committee and would like to be considered to represent the City if the regional planning commission is ever created and stated that no comments have been received from Councilman Ward regarding the plan. Councilman Clendering, Ward III, informed Council that he would like to see more effort involved in the street sign replacement program. Councilman Matthew Ward, Ward III, asked if City staff could contact the owners of the old Citgo station in the County to see if they could expedite the clean up process and reassured Council that he does support the appointment of Councilman Robinson to the City Council. Councilwoman Willingham, Ward IV, asked Councilman Ward if he could refrain from making statements about her unless he has all of the facts.

#### CHIEF OF POLICE REPORT

Chief Subelsky informed Council that he would like to discuss a few personnel items in an executive session on a later date, the City Police Department had recently played a supporting role in the capture of two bank robbers in the area and has confiscated three weapons from juveniles within the last week.

#### FINANCE COMMITTEE

Councilwoman Willingham informed Council that the Finance Committee had met and makes the following recommendations:

1. The Jefferson County Ambulance Authority request through the Jefferson County Commission by letter dated June 22, 2006 has been tabled until the City can determine what other municipalities are contributing. NOTE: The Finance Committee would also request that the City send a letter to the Jefferson County Commission expressing a strong desire that the Ambulance Authority funding be placed on the November ballot.
2. Fisherman's Hall funding in the amount of \$330.00 and that no additional funds will be provided to this project.
3. That the AHA request be placed in the FY08 funding cycle.
4. That the William H. Gordon bid for Engineering Services to investigate 2<sup>nd</sup> exit from Charles Town Middle School be approved initially in the amount of \$3,500.00
5. That the Hotel/Motel Tax Increase is recommended in the amount of 1% for Tourism and 1% for Parks and Recreation.

Upon discussion, a motion by Councilman Ward, seconded by Councilman Jordan and Council voted 2-5 for the approval of the Finance Committee recommendation with the AHA funding request to be placed on the FY07 funding cycle and to keep the increase in Hotel Motel tax in the City with Councilman Ward and Councilman Jordan voting for said motion and

Councilman Clendening, Councilwoman McDonald, Councilman Robinson, Councilwoman Schmitt and Councilwoman Willingham voting against said motion. A motion by Councilwoman Willingham, seconded by Councilman Clendening and the Council unanimously voted to approve the Finance Committee recommendations as presented and, if State Code allows, keep the increased funding from the Hotel Motel tax in the City.

#### STREET COMMITTEE

Mrs. Arnett informed Council that the Street Committee had met and makes the following recommendations:

1. Approval of the preliminary lighting design task order form View Engineering in the amount of \$5,650.00
2. Approval of the replacement of a utility pole on Lawrence Street by Frontier in order to provide service to Philip Dorsey. The replacement will include the old brick sidewalk 10' on each side of the new pole and an inspection by the City.
3. Approval of one 15 minute parking space for the Daily Grind on Liberty Street for an annual fee of \$450.00

Upon discussion, a motion by Councilwoman Schmitt, seconded by Councilman

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Robinson and the Council unanimously voted to approve the Street Committee recommendations as presented.

#### UTILITY BOARD

Mayor Smith read by title and opened the floor for the public hearing of "AN AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO CHAPTER THREE, STREETS, UTILITIES & PUBLIC SERVICES, ARTICLE 921, SEWERS." Being no speakers, Mayor Smith closed the public hearing. Mayor Smith read by title and opened the floor for the second reading of "AN AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO CHAPTER THREE, STREETS, UTILITIES & PUBLIC SERVICES, ARTICLE 921, SEWERS." Upon discussion, a motion by Councilman Robinson, seconded by Councilwoman Schmitt and the Council unanimously approved the second reading of "AN AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO CHAPTER THREE, STREETS, UTILITIES & PUBLIC SERVICES, ARTICLE 921, SEWERS" to be effective upon review of the Public Service Commission and is as follows:

**AMENDMENT TO THE CODIFIED CODES OF THE CITY OF  
CHARLES TOWN, WEST VIRGINIA WITH REGARD TO CHAPTER  
THREE, STREETS, UTILITIES & PUBLIC SERVICES, ARTICLE 921  
SEWERS**

BE IT ORDAINED by the City Council of the City of Charles Town as follows:

That Section 921.18, Sewer Service Rates be AMENDED as follows:

- a) Establishment. For the payment of the proper and reasonable expense of operation, repair, replacement, 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 Charles Town, West Virginia, which schedule of rates or charges, based upon the metered amount of water supplied the premises, where possible, but providing for a flat rate when no meter is available, shall be as follows.
- (b) Rules and Regulations. 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 the Commission are hereby adopted by reference.

ESTABLISHMENT OF A SCHEDULE OF JUST AND  
EQUITABLE RATES OR CHARGES FOR SEWER SERVICE:  
USE OF WATER METERS: PROVISION FOR FLAT RATE

For the payment of the proper and reasonable expense of operation, repair, replacement, 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 Charles Town, West Virginia, which schedule of rates or charges, based upon the metered amount of water supplied to the premises, where possible, but providing for a flat rate when no meter is available, shall be as follows:

- 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 thereafter made by the Commission are hereby adopted by reference.
- II. MULTIPLE OCCUPANCY  
In apartment buildings, shopping centers or other multiple occupancy buildings, each unit shall be required to pay not less than the minimum monthly charge provided above.

SCHEDULE I

APPLICABILITY

Applicable within the entire territory served excluding the entire area know as the Huntfield subdivision.

AVAILABILITY

Available for general domestic, commercial and industrial service and sale for resale sewer service

RATES (Customers with a metered water supply)

First	2,000 gallons used per month	\$7.96 per 1,000 gallons
Next	8,000 gallons used per month	5.73 per 1,000 gallons
Next	20,000 gallons used per month	5.20 per 1,000 gallons
All over	30,000 gallons used per month	4.61 per 1,000 gallons

MINIMUM CHARGE

No bill shall be rendered for less than \$15.92 per month, which is the equivalent of 2,000 gallons.

FLAT RATE CHARGE (Customers with non-metered water supply)

Equivalent of 4,500 gallons of water usage, \$30.25 per month

RESALE RATE

\$3.71 per 1,000 gallons per month

RESALE CREDIT (Applicable only to Jefferson County Public Service District)

A monthly credit of \$3,451 per month will be credited against the respective bill rendered to Jefferson County Public Service District for debt incurred by the District as part of the 2000 Charles Town Treatment Plant upgrade. This credit will remain in effect until the indebtedness associated with the respective upgrade is satisfied (Matures 2031).

TRANSPORTATION CREDIT (Applicable only to Jefferson County Public Service District)

A monthly credit of \$1,009 per month will be credited against the respective bill rendered to Jefferson County Public Service District for reimbursement of fixed debt associated with lift stations needed to transport Charles Town's sewage from the former Sanitary Associates service area. The credit will be given until the indebtedness is satisfied. In addition to the monthly credit of \$1,009, a transportation credit of \$1.65 per thousand gallons shall be provided to the Jefferson County Public Service District for all flows from the former Sanitary Associates area.

DELAYED PAYMENT PENALTY

The above scheduled is net. On all current usage billings not paid within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

The following charge is to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of \$400.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

RETURNED CHECK CHARGE

If a check is returned by the bank for any reason, the bank's charge to the Utility shall be the Utility's charge to the customer for such a bad check, but such charge to customers shall not exceed \$25.00.

LEAK ADJUSTMENT

\$0.81 per 1,000 gallons of water is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above customer's historical average usage.

SECURITY DEPOSIT

A deposit of \$50.00 or 2/12 of the average annual usage of the applicant's specific customer class, whichever is greater.

SCHEDULE IIAPPLICABILITY

Applicable within the entire territory known as the Huntfield subdivision

AVAILABILITY

Available for general domestic, commercial, and industrial service

RATES (customers with a metered water supply)

\$11.50 per thousand gallons of metered water usage

MINIMUM CHARGE

No bill will be rendered for less than \$26.98 per month.

The above minimum charge is subject to an additional \$0.71 per thousand gallons per month.

FLAT RATE CHARGE (Customers with non-metered water supply)

Equivalent of 4,500 gallons of water usage, \$51.75 per month

MULTIPLE OCCUPANCY

For unmetered trailer parks, the monthly charge for services shall be equal to the number of units multiplied by the unmetered charge provided above.

#### DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the new current amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

#### TAP FEE

The following charges are to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of \$250.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

#### DISCONNECT – RECONNECT FEES

Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with the City of Charles Town, a disconnect fee of \$10.00 shall be charged. Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with Jefferson Utilities, Inc., a disconnection fee of \$20.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with the City of Charles Town is reconnected, a reconnection fee of \$10.00 shall be charged. Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with Jefferson Utilities, Inc. is reconnected, a reconnection fee of \$20.00 shall be charged.

#### LEAK ADJUSTMENT INCREMENT

\$3.01 per M. gallon is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above customer's historical average usage.

#### RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

### SCHEDULE III

#### APPLICABILITY

Applicable to Developers, which is defined as a person, corporation or entity who is in the business of land and/or commercial or housing development for profit, or a person, corporation, or entity who requests an alternate main line extension that includes the installation of mains by the person, corporation or entity. Applicable to non-Developers when the property at issue is a subdivided portion of a Previously Developed Tract. The term "Previously Developed Tract" as used in this Order is defined as property previously subdivided for commercial or housing development, for profit. Owners of existing or new (being constructed) single-family structures, where the person applying for service will be the customer of record, and the proposed service location is not part of a Previously Developed Tract, shall be exempt from payment of the Capital Capacity Improvement Fee.

#### CAPITAL CAPACITY IMPROVEMENT FEE

There shall be paid to the City at the time of issuance by the City of a final sewer availability letter for the property to be served a capital capacity improvement fee of \$1,127 for each residential connection. Connections for non-residential use shall be paid in accordance with a residential usage equivalent schedule set forth below. The funds collected from the capital capacity improvement fee shall be maintained in a separate fund administered jointly by the City, Jefferson County PSD and the City of Ranson or their designees and shall be used only for the purpose of improving the City's treatment facilities.

ADDITIONAL CAPACITY IMPROVEMENT FEE - HUNTFIELD PUMP STATION

There shall be paid to the City at the time of issuance by the City of a final sewer availability letter for any development using the Huntfield pump station an additional capacity improvement fee - Huntfield pump station of \$2,875.00 for each equivalent dwelling unit. The funds collected from the capacity improvement fee shall be maintained in a separate fund administered by the City and shall be used only for the purpose of expanding the Huntfield pump station. All properties within the originally annexed acreage of the Huntfield subdivision, as described by the annexation of additional territory of the City of Charles Town pursuant to West Virginia Code 8-6-4 order by the County Commission of Jefferson County dated January 10, 2002, shall be exempt from this fee.

The usage equivalent for other than single family residential units for the capital capacity improvement fee and additional capacity improvement fee - Huntfield pump station shall be based upon the following:

RESIDENTIAL USAGE EQUIVALENTS  
FOR CAPACITY IMPROVEMENT CAPITAL COST FEE

<u>UNIT</u>	<u>WATER GALLONS/DAY</u>	<u>RESIDENTIAL USAGE EQUIVALENT</u>
Apartments	150/unit	1.0/unit
Bowling Alleys	200/alley	1.33/alley
Churches with kitchen	8/member	0.05/member
Churches w/o kitchen	2/member	0.013/member
Food Service	32/seat	0.213/seat
Fast Food Restaurant	35/seat	0.23/seat
Bar & Cocktail Lounge (additive)	2/patron	0.013/patron
Tavern-Little or no food	20/seat	0.132/per seat
Hotel	120/room	0.8/per room
Industry, sanitary	15/person/shift	0.1/person per shift
<u>Institutions:</u>		
Hospital	250/bed	1.67/bed
Nursing Homes	150/bed	1.0/bed
Others	75/person	0.5/person
Office Buildings	15/person	0.1/person
Laundry Self Service	250/washer	1.67/washer
Motels	120/room	0.8/room
Retail Stores	400/toilet room	2.67/toilet room
Residence	150/residence	1.0/residence
<u>School:</u>		
Day, no cafeteria/shower	15/pupil	0.1/pupil
Day with cafeteria	18/pupil	0.12/pupil
Day with cafeteria/shower	20/pupil	0.133/pupil
Boarding	75/pupil	0.5/pupil

Service Station	500/set of pumps	3.33/set of pumps
Shopping Centers	16/100 ft. of sales area	0.12/100 ft. of sales area
Swimming Pools	10/swimmer design capacity	0.067/swimmer design capacity
Capacity	3/seat	0.02/seat
Theaters		
Warehouse	15/employee	0.1/employee

If a unit does not appear on this schedule the sewer department shall determine its Residential Usage Equivalent in consultation with its consulting engineer.

#### EFFECTIVE DATE

The rates and charges provided herein shall become effective forty-five (45) days after final enactment hereof.

#### SEPARABILITY; REPEAL OF CONFLICTING ORDINANCES

The provisions of this Ordinance are separable, and if any clause, provision or section hereof shall be held void or unenforceable by the West Virginia Public Service Commission or any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. Upon the effective date hereof, all ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflicts, hereby repealed, and to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, orders or parts thereof, the same shall remain in full force and effect.

#### STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the City Clerk shall cause to be published a copy of this Ordinance once a week for two (2) successive weeks within a period of fourteen (14) consecutive days, with at least six (6) days between each publication, in the Spirit of Jefferson Advocate and The Shepherdstown Chronicle, being two qualified newspapers of general circulation in the City of Charles Town, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council Chambers, Charles Town, West Virginia, on August 7, 2006, at 7:00 p.m., which date is not less than ten days after the date of the first publication of the Ordinance and notice, and present any comment or protest thereto, following which hearing, Council shall take such action as it shall deem proper. Copies of this Ordinance shall be available to the public for inspection at the office of the City Clerk, Charles Town, West Virginia.

Passed on First Reading: July 17, 2006

Passed on Second Reading  
(following Public Hearing): August 7, 2006

BY: /s/Peggy A. Smith  
MAYOR

#### CERTIFICATION AND NOTICE

I hereby certify that the foregoing is a true and accurate copy of an Ordinance which has been introduced and adopted on first reading at a meeting of the City Council of the City of Charles Town held on July 17, 2006, pursuant to proper notice, at which meeting a quorum was present and acting throughout. Any person interested may appear before the City Council of the City of Charles Town at the City Hall, 101 E. Washington Street, Charles Town, West Virginia, on August 7, 2006, at 7:00 p.m., being the date, time and place of the proposed final adoption of this Ordinance, and be heard. The Council will then take such action as it shall deem proper in the premises. The proposed ordinance may be

inspected by the public at the Office of the Clerk in the City Hall, Charles Town, West Virginia during regular office hours.

BY: /s/Joe Cosentini  
CITY CLERK

#### UNFINISHED BUSINESS

Mayor Smith opened the floor for discussion regarding the draft Comprehensive Plan.

Councilman Ward moved that:

“The Charles Town City Council should act to reject the current draft Comprehensive Plan, and return it to the Planning Commission with recommendations that (a) Planning Commission incorporates the four recommendations made by the Citizens’ Advisory Committee; and (b) Planning Commission considers and incorporates provisions in the Comprehensive Plan that reflect these 10 guiding principles:

- Charles Town should maintain and enhance the established community;
- Charles Town growth plans should be much more focused on infill and close-in development, especially with plans to bring in new business to the central downtown district;
- Charles Town annexation rules should be changed to ban shoestring annexations and should promote quality over quantity of development. Than Annexation Policy & Procedure should not be a separate document, but instead should be incorporated into the Comp. Plan so that they are consistent with each other, and so that rampant annexations do not override the goals of the Comp. Plan;
- Charles Town should seek quality economic development downtown and close-in;
- Charles Town growth plans should preserve historic, agricultural, scenic, cultural, and environmental assets;
- Charles Town growth plans should emphasize parks, trails, greenspace and recreation;
- Charles Town growth plans should promote high quality residential development, traditional and mixed-use neighborhoods, and walkability;
- Charles Town, Ranson and Jefferson County collaboration is necessary for quality growth;
- The Charles Town process should foster better citizen information and participation; and
- Charles Town should require adequate public facilities and growth that pays for itself.”

Upon discussion, Councilman Ward withdrew said motion and moved that:

“The Charles Town City Council should act to amend the current draft Comprehensive Plan, and return it to the Planning Commission with recommendations that (a) Planning Commission incorporates the four recommendations made by the Citizens’ Advisory Committee; and (b) Planning Commission considers and incorporates provisions in the Comprehensive Plan that reflect these 10 guiding principles:

- Charles Town should maintain and enhance the established community;
- Charles Town growth plans should be much more focused on infill and close-in development, especially with plans to bring in new business to the central downtown district;
- Charles Town annexation rules should be changed to discourage shoestring annexations and should promote quality over quantity of development. Than Annexation Policy & Procedure should not be a separate document, but instead should be incorporated into the Comp. Plan so that they are consistent with each other, and so that rampant annexations do not override the goals of the Comp. Plan;
- Charles Town should seek quality economic development downtown and close-in;

- Charles Town growth plans should preserve historic, agricultural, scenic, cultural, and environmental assets;
- Charles Town growth plans should emphasize parks, trails, greenspace and recreation;
- Charles Town growth plans should promote high quality residential development, traditional and mixed-use neighborhoods, and walkability;
- Charles Town, Ranson and Jefferson County collaboration is necessary for quality growth;
- The Charles Town process should foster better citizen information and participation; and
- Charles Town should require adequate public facilities and growth that pays for itself."

Upon discussion, said motion was seconded by Councilman Jordan and the Council voted 2-5 for said motion with Councilman Ward and Councilman Jordan voting for and Councilman Clendening, Councilwoman McDonald, Councilman Robinson, Councilwoman Schmitt and Councilwoman Willingham voting against said motion.

Councilman Clendening moved that:

"This Council return the proposed new Comprehensive Plan as has been presented by our City Planning Commission with the request to consider amending this "Draft" of the Charles Town Comprehensive Plan to include the following Changes and return that new draft version to Council.

Suggested changes and/or additions:

To remove the specific growth area plan, illustrated by the Study Area boundary, Future Land Use Plan and Future Transportation Plan, and replace it with a more general plan that does not include a map but recognizes the need for the City of Charles Town to consider annexations in the future that infill or as deemed to enhance the existing City boundaries whereby it may provide (but not limited to) more commercial, employment and affordable housing opportunities.

We recommend also that it would be appropriate to keep a reference that the corridors along WV Route 340 and the WV Route 9 areas in particular are areas that seem best suited for new commercial opportunities in and around the City of Charles Town.

Consideration would also be appropriate for keeping a reference that the City needs to proactively plan for future transportation improvements and that a western collector road and upgrades to existing intersections and railroad overpasses are likely future needs.

Furthermore, we ask that the Charles Town City Planning Commission review and consider the recommendations presented by the "Citizen's Advisory Committee" and change the "Draft" comprehensive Plan as much as possible and as is necessary to adequately address that committees recommendations. This should include the consideration for a multi-jurisdictional land use plan if this becomes a reality between Jefferson County agencies and other Municipalities.

Reasoning: This motion and Suggested changes and/or additions is to give consideration the various issues of concern from public input as well as some council members. Secondly, this will allow the input provided by the "Citizen's Advisory Committee" to be incorporated into the newly proposed or "Draft" Comprehensive Plan."

The motion was seconded by Councilwoman Willingham and, upon discussion, Council voted 4-3 for said motion with Councilman Clendening, Councilwoman McDonald, Councilwoman Schmitt and Councilwoman Willingham voting for the motion and Councilman Jordan, Councilman Robinson and Councilman Ward voting against.

Director Camp informed the Council that the Planning Commission has reviewed the Annexation Policy and submits it to Council for approval. Upon discussion, a motion by Councilman Clendening, seconded by Councilwoman Willingham and the Council voted 5-2 to approve the Annexation Policy with changes to make it W. Va. State Code compliant with Councilman Clendening, Councilwoman McDonald, Councilman Robinson, Councilwoman Schmitt and Councilwoman Willingham voting for said motion and Councilman Jordan and Councilman Ward voting against.

Mayor Smith read by title and opened the floor for discussion regarding the second reading of "AN AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART ONE, ADMINISTRATIVE CODE, CHAPTER THREE, LEGISLATIVE, ARTICLE 111, COUNCIL." Upon discussion, a motion by Councilman Ward, seconded by Councilman Jordan and the Council voted 3-4 to approve said ordinance with section 15(b) removed, with Councilman Ward, Councilman Jordan and Councilman Robinson voting for said motion and Councilman Clendening, Councilwoman McDonald, Councilwoman Schmitt and Councilwoman Willingham voting against. Upon further discussion, a motion by Councilman Robinson, seconded by Councilman Ward and the Council voted 4-3 to table the second reading of "AN AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART ONE, ADMINISTRATIVE CODE, CHAPTER THREE, LEGISLATIVE, ARTICLE 111, COUNCIL" with Councilwoman McDonald, Councilman Jordan, Councilman Robinson and Councilman Ward voting for said motion and Councilman Clendening, Councilwoman Schmitt and Councilwoman Willingham voting against.

Mayor Smith read by title and opened the floor for discussion regarding the second reading of "AN AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART NINE, STREETS, UTILITIES AND PUBLIC SERVICES CODE, CHAPTER ONE, STREET AND SIDEWALK AREAS, ARTICLE 909, SIDEWALKS." A motion by Councilman Ward, seconded by Councilwoman Schmitt and the Council unanimously approved the second reading of "AN AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART NINE, STREETS, UTILITIES AND PUBLIC SERVICES CODE, CHAPTER ONE, STREET AND SIDEWALK AREAS, ARTICLE 909, SIDEWALKS" effective immediately and is as follows:

**AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO CHAPTER THREE, STREETS, UTILITIES & PUBLIC SERVICES, ARTICLE 909,**

**SIDEWALKS, SECTION 909.01, DISPLAYING GOODS, WARES OR  
MERCHANDISE ON SIDEWALKS OR PAVEMENT**

BE IT ORDAINED by the City Council of the City of Charles Town as follows:

That Section 909.01, Displaying Goods, Wares or Merchandise on Sidewalks or Pavement be AMENDED as follows:

**909.01 DISPLAYING GOODS, WARES OR MERCHANDISE ON  
SIDEWALKS OR PAVEMENT.**

No wholesale or retail merchant, their agents or employees, or any other person, shall place or cause to be placed, on any sidewalk or pavement in the City, any boxes, barrels, tables, baskets, cans or other containers for the purpose of displaying goods, wares, vegetables, foodstuffs or other merchandise for sale. It shall likewise be unlawful for any such person to place or cause to be placed any such goods, wares, vegetables, foodstuffs or merchandise itself on any sidewalk or pavement in the City for the purpose of storing the same or displaying the same to the buying public.

Any wholesale or retail merchant may place on the sidewalk tables and chairs for customers to sit, as long as, in the judgment of designated City Officials, such tables and chairs do not interfere with safety or passage. It shall be a general rule that four feet of walkable space is needed to provide for regular sidewalk use.

**BE IT ORDAINED** that this Ordinance shall take effect and be in full force from and after the 7th, day of August, 2006.

CITY OF CHARLES TOWN

/s/Peggy A. Smith

Mayor Peggy A. Smith

Attest:  
/s/Joe Cosentini  
Clerk

Date of First Reading: July 17, 2006  
Passed: August 7, 2006

Mayor Smith read by title by title and opened the floor for discussion regarding the second reading of "AN AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART FIVE, GENERAL OFFENSES CODE, ARTICLE 509, DISORDERLY CONDUCT AND PEACE DISTURBANCE, SECTION 509.05, CURFEW." A motion by Councilman Robinson, seconded by Councilwoman Willingham and the Council voted 6-1, with Councilman Ward voting against, to approve the second reading of "AN AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART FIVE, GENERAL OFFENSES CODE, ARTICLE 509, DISORDERLY CONDUCT AND PEACE DISTURBANCE, SECTION 509.05, CURFEW" effective immediately and is as follows:

**AMENDMENT TO THE CODIFIED CODES OF THE CITY OF  
CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART FIVE,  
GENERAL OFFENSES CODE, ARTICLE 509, DISORDERLY CONDUCT  
AND PEACE DISTURBANCE, SECTION 509.05, CURFEW.**

**BE IT ORDAINED** by the City Council of the City of Charles Town as follows:

That Article 509, Disorderly Conduct and Peace Disturbance, Section 509.05 of the City Code, be **AMENDED** as follows:

**509.05 CURFEW.**

(a) No minor under the age of eighteen years of age, such person being defined for the purpose of this and the following sections as a child, shall loiter in or upon the streets, highways, or other public places within the city at night, after 11:00 p.m. For the purpose of this section, Loiter is defined as to stand idly about or to proceed slowly or with many stops.

(b) No parent, guardian or other person having the legal custody of any child designated in subsection (a) hereof shall allow or permit any such child, ward or other person under the age of eighteen years of age, who is in such legal custody, to loiter in or on the streets, highways, or other public places, within the city at night, after the hour of 11:00 p.m.

(c) Any child under eighteen years of age found loitering in or upon any streets, highways, or other public places, within the city in violation of subsection (a) shall be taken into custody by the city police and transported to the police department. The parents, guardians, or person having legal custody of such child shall be contacted to come to the police station to retrieve the child. For a first offense violation a written citation or written warning shall be issued to the parents, guardians, or persons having the legal custody of such child so offending. For a second, and all subsequent offenses, a written citation shall be issued to the parents, guardians, or persons having legal custody of the child so offending. The parents, guardians, or persons having legal custody, or persons so offending shall, upon conviction thereof, be punished as provided in Section 509.99.

(d) Any police officer of the city, in taking a child into custody under the provisions of the preceding section shall use discretion in determining age, and in doubtful cases, may require positive proof, and until such proof is furnished, the police officer's judgment shall prevail.

**BE IT ORDAINED** that this Ordinance shall take effect and be in full force from and after the day of passage thereof, as indicated below.

CITY OF CHARLES TOWN  
/s/ Peggy A. Smith  
Mayor Peggy A. Smith

Attest:  
/s/ Joe Cosentini  
Clerk

Date of First Reading: July 17, 2006  
Date of Passage: August 7, 2006

**NEW BUSINESS**

Mayor Smith read by title and opened the public hearing for Rezoning Petition, REZ 2006-0001, Mao Property. Being no public comments, Mayor Smith closed the public hearing.

Mayor Smith opened the floor for discussion regarding the request by James Campbell, Campbell Miller Zimmerman, for the Council to clarify the condition of annexation of the Dailey Farm relating to the Fiscal Impact analysis. Mrs. Arnett informed Council that this should be referred to Finance Committee. A motion by Councilman Robinson, seconded by Councilwoman McDonald and the Council unanimously voted to refer this request to the Finance Committee.

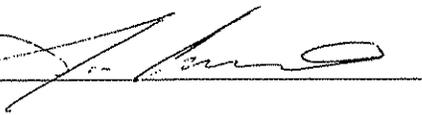
Mike Witteried appeared before Council to give a presentation regarding various items including concerns over the street sign replacement program, the application fees for the Board of Zoning Appeals, the progress of the renovation of the Trapnell House and the off-street parking ordinance.

Mayor Smith informed Council that she had received a banner application from the Jefferson County NAACP for the African American Festival and Parade. A motion by Councilman Clendening, seconded by Councilwoman McDonald and the Council unanimously voted to approve the banner application.

Mayor Smith informed Council that the September 4<sup>th</sup>, 2006 regular meeting of Council falls on Labor Day. A motion by Councilwoman Willingham, seconded by Councilwoman McDonald and the Council unanimously voted to reschedule the Council meeting for Tuesday, September 5<sup>th</sup>, 2006.

A motion by Councilwoman Willingham, seconded by Councilman Robinson and the Council unanimously voted to approve all bills as presented. A motion by Councilman Robinson, seconded by Councilwoman Schmitt and the Council unanimously voted to adjourn at 9:35 p.m.

MAYOR:  DATE: 08/21/06

CLERK:  DATE: 08/21/06

# Certificate of Publication

JEFFERSON PUBLISHING COMPANY, INC., Publisher  
SPIRIT OF JEFFERSON ADVOCATE

Charles Town, W. Va. September 10, 2009 20  

I hereby certify that the annexed Notice of Public Hearing

in the case of Charles Town Ordinance

has been published once a week for two successive weeks, in the Spirit of Jefferson Advocate, a newspaper published in Charles Town, Jefferson County, West Virginia, in the issues of September 10 and September 17, 2009, 20  ,

as required by law.



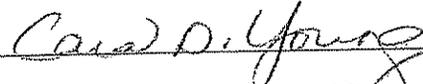
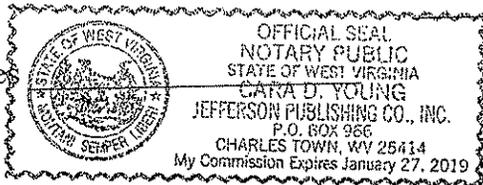
Editor/Manager, Spirit of Jefferson Advocate

State of West Virginia  
County of Jefferson

Personally appeared before me, Edward W. Dockeney, Jr., Editor/Manager

of the Spirit of Jefferson Advocate, and made oath that the above certificate is true and correct.

Commission expires



Notary Public

**NOTICE OF PUBLIC HEARING ON THE  
CITY OF CHARLES TOWN BOND ORDINANCE**

A public hearing will be held on the following-entitled Ordinance at a regular meeting of the Council of the City of Charles Town (the "City") to be held on Monday, September 21, 2009, at 7:00 p.m. at the City of Charles Town City Hall, Charles Town, West Virginia, and at such hearing any person interested may appear before the City and present protests, and all protests and suggestions shall be heard by the City and it shall then take such actions as it shall deem proper in the premises upon an Ordinance entitled:

**CITY OF CHARLES TOWN**

**ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING WATERWORKS PORTION OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY OF CHARLES TOWN AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF CHARLES TOWN OF NOT MORE THAN \$1,665,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM/ARRA); AND NOT MORE THAN \$1,665,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.**

The above-quoted title of the Ordinance describes generally the contents thereof and the purposes of the Bonds contemplated thereby. The City contemplates the issuance of the Bonds described in the Ordinance. The proceeds of the Bonds will be used to: (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the waterworks portion of the existing combined waterworks and sewerage system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The Bonds are payable solely from revenues to be derived from the ownership and operation of the system of the City. No taxes may at any time be levied for the payment of the Bonds or the interest thereon.

The above-entitled Ordinance was adopted by the Council of the City of Charles Town on August 3, 2009. A certified copy of the above-entitled Ordinance is on file with the City for review by interested parties during regular office hours.

Following the public hearing, the City intends to enact the Ordinance upon final reading.

Gary Rawlings  
City Manager

9/10/2t

CITY OF CHARLES TOWN

Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A; and  
Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

EXCERPT OF MINUTES ON ADOPTION OF SUPPLEMENTAL  
RESOLUTION, SWEEP RESOLUTION AND DRAW RESOLUTION

The undersigned Clerk of the City of Charles Town (the "City") hereby certifies that the following is a true and correct excerpt of the minutes of a regular meeting of the Council of the City.

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The Council of the City met in regular session, pursuant to notice duly given, on the 4th day of January, 2010, in Charles Town, West Virginia, at the hour of 7:00 p.m.

PRESENT:	Peggy A. Smith	-	Mayor
	Joseph Cosentini	-	Clerk
	Michael Slover	-	Councilmember
	Chester A Hines	-	Councilmember
	Marylois Gannon-Miller	-	Councilmember
	Ann Paonessa	-	Councilmember
	Ruth McDaniel	-	Councilmember
	Richard J. Bringewatt	-	Councilmember
	Donald W. Clendening	-	Councilmember
	Sandra Slusher McDonald	-	Councilmember

ABSENT: None

Peggy A. Smith, Mayor, presided, and Joseph Cosentini, acted as Clerk.

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

Thereupon, the Mayor presented a proposed Supplemental Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO  
PRINCIPAL AMOUNT, DATE, MATURITY DATE,  
REDEMPTION PROVISION, INTEREST RATE, INTEREST  
AND PRINCIPAL PAYMENT DATES, SALE PRICE AND

OTHER TERMS OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA DWTRF PROGRAM/ARRA), AND COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) OF THE CITY OF CHARLES TOWN; APPROVING AND RATIFYING THE ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

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and caused the same to be read and there was discussion.

Thereupon, on motion duly made by Donald Clendening and seconded by Michael Slover, it was unanimously ordered that the above-entitled Supplemental Resolution be finally enacted and put into effect immediately.

Next, the Mayor presented a proposed Sweep Resolution for the authorization of electronic monthly debt service and reserve fund payments to the Municipal Bond Commission. Thereupon, on motion duly made by Donald Clendening and seconded by Marylois Gannon-Miller, it was unanimously ordered that the said Sweep Resolution be adopted.

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

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CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of the City of Charles Town and that such actions remain in full force and effect and have not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 13th day of January, 2010.

  
Clerk

12.17.09  
144220.00022

July 20, 2009

The Common Council of the City of Charles Town, Jefferson County, West Virginia, met in regular session pursuant to the rules of said Common Council in the Council Chambers at City Hall in said city on Monday, July 20, 2009 at 7:00 p.m. The following members of Council were present: Rich Bringewatt, Donald W. Clendening, MaryLois Gannon-Miller, Chet Hines, Ruth McDaniel, Sandra McDonald, Ann Paonessa and Michael Slover. Mayor Peggy Smith presided and Joe Cosentini, City Clerk, took the minutes of the meeting. Also present were Gary Rawlings, City Manager, Jane Arnett, Utility Manager, and Chief Barry Subelsky.

A motion by Councilman Slover, seconded by Councilwoman McDonald and the Council unanimously voted to dispense the reading of the minutes dated July 6, 2009. A motion by Councilwoman Paonessa, seconded by Councilwoman McDonald and the Council unanimously voted to approve the minutes dated July 6, 2009 as presented.

#### CHIEF OF POLICE REPORT

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Chief Subelsky introduced Kay Jovanelly who was presented with a Citizen Commendation for her assistance in the capture of two individuals suspected of burglarizing homes in Charles Town.

#### NEW BUSINESS

Mayor Smith opened the floor for the Supplemental Parameters Resolution for the 1998 Bond refinance. John Stump, Steptoe & Johnson PLLC, appeared before the Council to explain the supplemental parameters resolution. A motion by Councilman Slover, seconded by Councilman Clendening and, upon discussion, the Council unanimously voted to approve the Supplemental Parameters Resolution for the 1998 Bond refinance. Council added that when/if the refinance takes place that the cost savings are reported to City Council.

Mayor Smith opened the floor for discussion regarding the first reading of an AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART NINE, STREETS, UTILITIES & PUBLIC SERVICES, CHAPTER THREE, UTILITIES, ARTICLE 921 SEWERS, SECTION 921.16, SEWER SERVICE RATES (Capital Improvements Fee Increase). Jane Arnett, Utility Manager, Richard Lewis, Steptoe & Johnson PLLC, Beth Blair, Black & Veatch Engineering, and Hoy Shingleton, Utility Board Attorney, appeared before Council to give a presentation regarding the proposed increases to the Capital Improvements Fee and Sewer Rates. A motion by Councilman Clendening, seconded by Councilman Slover and, upon discussion, the Council voted 7-1, with Councilwoman Gannon-Miller voting against, to approve the first reading of an AMENDMENT

TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART NINE, STREETS, UTILITIES & PUBLIC SERVICES, CHAPTER THREE, UTILITIES, ARTICLE 921 SEWERS, SECTION 921.16, SEWER SERVICE RATES (Capital Improvements Fee Increase) with the condition that additional information be provided on how the \$5,500.00 amount was determined.

Mayor Smith opened the floor for discussion regarding the first reading of an AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART NINE, STREETS, UTILITIES & PUBLIC SERVICES, CHAPTER THREE, UTILITIES, ARTICLE 921 SEWERS, SECTION 921.16, SEWER SERVICE RATES (Rate Increase for the Tuscawilla Project Phase I and II). A motion by Councilman Clendening, seconded by Councilman Hines and, upon discussion, the Council voted 7-1, with Councilwoman Gannon-Miller voting against, to approve the first reading of an AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART NINE, STREETS, UTILITIES & PUBLIC SERVICES, CHAPTER THREE, UTILITIES, ARTICLE 921 SEWERS, SECTION 921.16, SEWER SERVICE RATES (Rate Increase for the Tuscawilla Project Phase I and II).

Mayor Smith opened the floor for the first reading of AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING WATERWORKS PORTION OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY OF CHARLES TOWN AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF CHARLES TOWN OF NOT MORE THAN \$1,665,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM/ARRA); AND NOT MORE THAN \$1,665,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING

OTHER PROVISIONS RELATING THERETO. John Stump, Steptoe & Johnson PLLC, appeared before the Council to explain the bonding proposal. A motion by Councilman Clendening, seconded by Councilman Hines and the Council voted 7-1, with Councilwoman Gannon-Miller voting against, to approve the first reading of AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING WATERWORKS PORTION OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY OF CHARLES TOWN AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF CHARLES TOWN OF NOT MORE THAN \$1,665,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM/ARRA); AND NOT MORE THAN \$1,665,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO on the condition that additional information be provided to City Council regarding how the funds will be used.

Mayor Smith opened the floor for the Housing Consortium Cooperation Agreement. A motion by Councilwoman Gannon-Miller, seconded by Councilwoman McDaniel and the Council unanimously voted to approve the Housing Consortium Cooperation Agreement authorizing the City to continue to participate in the program through 2012.

Mayor Smith opened the floor for the letter of support for the American Public University System/Jefferson County Schools Department of Commerce Broadband Grant proposal. A motion by Councilwoman Paonessa, seconded by Councilwoman Gannon-Miller and the Council unanimously voted to approve the letter of support for the American Public University System/Jefferson County Schools Department of Commerce Broadband Grant proposal as presented.

Mayor Smith opened the floor for the request for revision of the FY2010 Budget regarding the Coal Severance Fund. A motion by Councilman Slover, seconded by Councilman Clendening and, upon discussion, the Council unanimously voted to approve the revision of the FY2010 Budget regarding the Coal Severance Fund as presented.

Mayor Smith opened the floor for the approval of special activity permit #09-19 for the African American Heritage Festival Parade. A motion by Councilman Bringewatt, seconded by Councilman Slover and the Council unanimously voted to approve Special Activity Permit #09-19 for the African American Heritage Festival Parade.

Mayor Smith opened the floor for the approval of a banner application for the WV Breeders Classics. A motion by Councilwoman Paonessa, seconded by Councilwoman McDonald and the Council unanimously voted to approve the banner application for the WV Breeders Classics.

A motion by Councilman Clendening, seconded by Councilwoman McDonald and the Council unanimously voted to refer to the Finance Committee the draft Capital Improvements Plan. A motion by Councilwoman McDonald, seconded by Councilwoman McDaniel and the Council unanimously voted to approve all bills as presented.

MAYOR AND COUNCIL REPORTS

Mayor Smith informed Council of that the Mayor's Select Committee on Utility Board Governance had met, that she attended the Region 9 Committee meeting, that American Public University has agreed to assist the City in revamping the City website, that she is meeting with the downtown merchants and that Debbie McClure is working on bringing a car show to downtown.

A motion by Councilwoman McDaniel, seconded by Councilwoman McDonald and the Council unanimously voted to adjourn at 9:30 p.m.

MAYOR:  DATE: 08/03/07  
CLERK:  DATE: 08/03/07

August 3, 2009

The Common Council of the City of Charles Town, Jefferson County, West Virginia, met in regular session pursuant to the rules of said Common Council in the Council Chambers at City Hall in said city on Monday, August 3, 2009 at 7:00 p.m. The following members of Council were present: Rich Bringewatt, Donald W. Clendening, Chet Hines, Ruth McDaniel, Sandra McDonald and Michael Slover. Mayor Pro-Tem Ann Paonessa presided and Joe Cosentini, City Clerk, took the minutes of the meeting. Also present were Gary Rawlings, City Manager, Jane Arnett, Utility Manager, and Chief Barry Subelsky.

A motion by Councilman Slover, seconded by Councilwoman McDonald and the Council unanimously voted to dispense the reading of the minutes dated July 20, 2009. A motion by Councilwoman McDonald, seconded by Councilwoman McDaniel and the Council unanimously voted to approve the minutes dated July 20, 2009 as presented.

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~~MAYOR AND COUNCIL REPORTS~~

Councilman Clendening, Ward III, reported a pot hole at the corner of Washington and Mildred Street. Councilman Slover, Ward IV, informed Council that he has noticed an increasing amount of cars parking too close to the intersections creating line-of-site issues and blocking stop signs. A motion by Councilman Slover, seconded by Councilwoman McDonald and the Council unanimously voted to refer the matter to the Street Committee.

UNFINISHED BUSINESS

Mayor Pro-Tem Paonessa opened the floor for the second reading of AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING WATERWORKS PORTION OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY OF CHARLES TOWN AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF CHARLES TOWN OF NOT MORE THAN \$1,665,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM/ARRA); AND NOT MORE THAN \$1,665,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE

OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO. Jane Arnett, Utility Manager, introduced Phillip Hannan of Black & Veatch Engineering who gave a presentation on leak detection methods and the City of Charles Town Water Audit. Upon discussion, a motion by Councilman Clendening, seconded by Councilman Hines and the Council unanimously voted to approve the second reading of AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING WATERWORKS PORTION OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY OF CHARLES TOWN AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF CHARLES TOWN OF NOT MORE THAN \$1,665,000 IN AGGREGATE

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PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM/ARRA); AND NOT MORE THAN \$1,665,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

CITY MANAGER'S REPORT

Mr. Rawlings reported that William H. Gordon & Associates have provided the City with a mounted aerial photograph of the City.

NEW BUSINESS

Mayor Pro-Tem Paonessa opened the floor for discussion regarding the first reading of an AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART FIVE, GENERAL OFFENSES, ARTICLE 501, ADMINISTRATION AND LAW ENFORCEMENT. A motion by Councilwoman McDaniel, seconded by Councilman Clendening and, upon discussion, the Council unanimously voted to

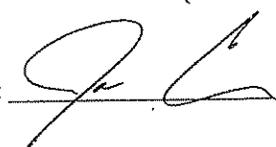
approve the first reading of an AMENDMENT TO THE CODIFIED CODES OF THE CITY OF CHARLES TOWN, WEST VIRGINIA WITH REGARD TO PART FIVE, GENERAL OFFENSES, ARTICLE 501, ADMINISTRATION AND LAW ENFORCEMENT.

Mayor Pro-Tem Paonessa opened the floor for the approval of special activity permit #09-21 for the Charles Town Heritage Festival. A motion by Councilman Clendening, seconded by Councilwoman McDaniel and the Council unanimously voted to approve Special Activity Permit #09-21 for the Charles Town Heritage Festival.

Mayor Pro-Tem Paonessa opened the floor for the approval of a banner application for the Charles Town Heritage Festival. A motion by Councilman Clendening, seconded by Councilwoman McDonald and the Council unanimously voted to approve the banner application for the Charles Town Heritage Festival.

A motion by Councilman Clendening, seconded by Councilwoman McDaniel and the Council unanimously voted to approve all bills as presented. A motion by Councilwoman McDaniel, seconded by Councilwoman McDonald and the Council unanimously voted to adjourn at 8:15 p.m.

MAYOR:  DATE: 08/17/09

CLERK:  DATE: 08/17/09

September 21, 2009

The Common Council of the City of Charles Town, Jefferson County, West Virginia, met in regular session pursuant to the rules of said Common Council in the Council Chambers at City Hall in said city on Monday, September 21, 2009 at 7:00 p.m. The following members of Council were present: Rich Bringewatt, Donald W. Clendening, MaryLois Gannon-Miller, Chet Hines, Ruth McDaniel, Sandra McDonald, Ann Paonessa and Michael Slover. Mayor Peggy A. Smith presided and Jeni Potts, City Court Clerk, took the minutes of the meeting. Also present were Gary Rawlings, City Manager, Jane Arnett, Utility Manager, and Chief Barry Subelsky.

A motion by Councilwoman McDonald, seconded by Councilwoman Paonessa and the Council unanimously voted to dispense the reading of the minutes dated September 1, 2009. A motion by Councilman Slover, seconded by Councilwoman McDonald and the Council unanimously voted to approve the minutes dated September 1, 2009 with three amendments.

Mayor Smith opened the floor for public comments. Doug Vaira, W. Washington Street, appeared before Council to voice his concerns with the Heritage Day Festival

Bonnie Kratovil, W. Washington Street, appeared before Council to voice her concerns with the Heritage Day Festival.

Melissa Glascock, W. Washington Street, appeared before Council to voice her concerns with the Heritage Day Festival.

#### UNFINISHED BUSINESS

Mayor Smith opened the floor to conduct a public hearing and consider on third reading and act upon a proposed Bond Ordinance providing for the issuance of its Combined Waterworks and Sewerage System Revenue Bond, Series 2009 A and Combined Waterworks and Sewerage System Revenue Bonds, Series 2009 B (the "Bonds"). A motion by Councilman Clendening, seconded by Councilwoman McDonald and the Council unanimously voted to open the public hearing for public comment at 7:15PM. Begin no comments, a motion by Councilman Clendening, seconded by Councilwoman McDonald and the Council unanimously voted to close the public hearing. John Stump appeared before the Council to answer any questions regarding the bond issuance. A motion by Councilman Clendening, seconded by Councilwoman Paonessa and, upon discussion, the Council unanimously voted to approve the third reading of the proposed Bond Ordinance providing for the issuance of its Combined Waterworks and Sewerage System Revenue Bond, Series 2009 A and Combined Waterworks and Sewerage System Revenue Bonds, Series 2009 B for a total aggregate amount not to exceed \$1.665 million.

Mayor Smith opened the floor for the Delta Development Group Contract amendment. A motion by Councilman Clendening, seconded by Councilman Hines and, upon discussion, the Council unanimously voted to approve the Delta Development Group Contract amendment to suspend the Community Planning agreement dated January 7, 2009 for a period of three months.

#### NEW BUSINESS

Mayor Smith opened the floor for the first reading of a proposed Bond Ordinance providing for the issuance of its Combined Waterworks and Sewerage System Bond Anticipation Notes, Series 2009 A (the "Notes"), the proceeds of which will be used (i) to temporarily finance a portion of the costs of design and other preliminary costs of certain betterments and improvements to the existing public sewerage portion of the facilities of the Issuer (the "Project"); and (ii) to pay the costs of issuance hereof and related costs. The Notes are payable solely from (i) the proceeds of revenue bonds or other obligations of the Issuer to be issued subsequent to the issuance of the Notes; (ii) the proceeds of any grants received by the Issuer for the Project; and (iii) Surplus Revenues, if any, of the System. Councilwoman Paonessa moved to table the proposed first reading, seconded by Councilwoman Gannon-Miller and, upon discussion, Councilwoman Paonessa withdrew the motion to table. Jane Arnett, Utility Manager, Hoy Shingleton, Utility Attorney, and John Stump, Steptoe & Johnson, appeared before the Council to explain the Bond Anticipation Note issuance and answer any questions from Council. A motion by Councilwoman Paonessa, seconded by Councilman Clendening and, upon discussion, the Council voted 7-1, with Councilwoman Gannon-Miller voting against, to approve the first reading of the proposed Bond Ordinance providing for the issuance of its Combined Waterworks and Sewerage System Bond Anticipation Notes, Series 2009 A (the "Notes"), the proceeds of which will be used (i) to temporarily finance a portion of the costs of design and other preliminary costs of certain betterments and improvements to the existing public sewerage portion of the facilities of the Issuer (the "Project"); and (ii) to pay the costs of issuance hereof and related costs.

Mayor Smith opened the floor for a proposal regarding the Charles Town Woman's Club property. Mr. Rawlings asked that the item be tabled until the attorney for the property can be present. A motion by Councilwoman Gannon-Miller, seconded by Councilwoman McDonald and the Council unanimously voted to table the Charles Town Woman's Club property proposal.

Mayor Smith opened the floor for Resolution 2009-09: In Recognition of the NAACP 100 Year Anniversary. A motion by Councilwoman McDonald, seconded by Councilman Hines

and the Council unanimously voted to approve Resolution 2009-09: In Recognition of the NAACP 100 Year Anniversary as presented and is as follows:

Resolution 09-09  
In Recognition of the NAACP 100<sup>th</sup> Year

WHEREAS, the NAACP is the oldest and largest United States grassroots based civil rights organization; founded February 12, 1909 by a diverse multi-racial group of activist of varying political and religious backgrounds including Ida Wells Barnett, W.E.B. DuBois, Henry Moscowitz, Mary White Ovington, Oswald Garrison Villard and William English Wellington, all committed to the common cause of equality; and

WHEREAS, the mission of the NAACP is to ensure the political, education, social and economic equality of all persons and eliminate racial hatred and racial discrimination; and

WHEREAS, the NAACP for over 100 years has advanced its mission through reliance upon the press, the petition, the ballot and the courts, and has successfully utilized the legal system and moral persuasion, even in the face of overt and violent racial hostility, the NAACP has worked to tear down the barriers of racism, discrimination and education, economic and political exclusion in this country; and

WHEREAS, the sustained efforts of the NAACP led to desegregation of American public schools, military, public places of accommodation and election to public office; as well as ended the horrific practice of routinely lynching of African-Americans; and

WHEREAS, more than 1,700 NAACP units in the United States, Italy, Germany and Japan are the life blood of the Association, acting as grass roots "freedom Fighters" in their communities; and

WHEREAS, the NAACP mission of ensuring the political, educational, social and economic equality of rights of all persons remain relevant today due to the continuing disparities in housing, health care, the workplace and elsewhere; and

WHEREAS, the NAACP was prominent in lobbying for the passage of the Civil Rights Act of 1957, 1960, 1964, the Voters Rights Act of 1965, the Fair Housing Act of 1968 and the Fannie Lou Hammer, Rosa Parks and Coretta Scott King Voting Rights Re-authorization and Amendments Act of 2006, laws that ensured legislation protection for all Americans; and

WHEREAS, the NAACP actions have improved the quality of life of African-Americans and benefitted all Americans well into the future and fosters a lasting progressive spirit in this nation,

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Charles Town:

1. Recognize the 100<sup>th</sup> anniversary of the founding of the NAACP and its subsequent branches, especially the Jefferson County Branch NAACP and the Jefferson County NAACP Youth Council
2. Honors and praises the NAACP for its steadfastness in the struggle for justice and equality in these United States
3. Remain committed to work with the NAACP locally, statewide and nationally to achieve its mission for the betterment of our citizenry.

Dated: September 21, 2009

CITY OF CHARLES TOWN:  
/s/ Peggy A. Smith  
Peggy A. Smith, Mayor

Attest:  
/s/ Jeni Potts  
Clerk

Mayor Smith opened the floor for Resolution 2009-10: In Recognition of Constitution Week. A motion by Councilwoman Paonessa, seconded by Councilwoman McDaniel and the

Council unanimously voted to approve Resolution 2009-10: In Recognition of Constitution

Week as presented and is as follows:

Resolution 09-10  
Constitution Week

WHEREAS, September 17, 2009, marks the two hundred twenty-second anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, It is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary; and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17<sup>th</sup> through 23<sup>rd</sup> as Constitution Week,

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Charles Town hereby resolves that the week of September 17<sup>th</sup> through 23<sup>rd</sup> be recognized as:

CONSTITUTION WEEK

AND ask our citizens to reaffirm the ideals of the Framers of the constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties, remembering that lost rights may never be regained.

Dated: September 21, 2009

CITY OF CHARLES TOWN:  
/s/ Peggy A. Smith  
Peggy A. Smith, Mayor

Attest:  
/s/ Jeni Potts  
Clerk

Mayor Smith opened the floor for Special Activity Permits 09-23: Independent and Citizens Fire Company Fund Raiser, 09-24: Willow Tree Manor Open House and 09-25: Parade of Horses. A motion by Councilwoman Paonessa, seconded by Councilwoman McDonald and the Council unanimously voted to approve Special Activity Permits 09-23: Independent and Citizens Fire Company Fund Raiser, 09-24: Willow Tree Manor Open House and 09-25: Parade of Horses.

Mayor Smith opened the floor for an appointment to the City of Charles Town Board of Parks and Recreation Commissioners. A motion by Councilwoman Paonessa, seconded by Councilman Slover and the Council unanimously voted to appoint Erica Cerasoli to the Board for a term expiring December, 2012.

Mayor Smith opened the floor for referrals to committee. A motion by Councilman Clendening, seconded by Councilwoman Paonessa and the Council unanimously voted to refer to the Personnel Committee a request to replace the Associate Planner job description with the

City Planner I job description, to replace the City Planner job description with the City Planner II job description and to amend Appendix I (Classification Plan) to reflect the job title changes.

Mayor Smith opened the floor for the approval of bills. A motion by Councilman Clendening, seconded by Councilwoman McDonald and the Council unanimously voted to approve all bills as presented.

#### MAYOR AND COUNCIL REPORTS

Mayor Smith informed Council that she attended the open house for the Eastern Panhandle Free Clinic and updated Council on the efforts of Region 9. Councilwoman Gannon-Miller, Ward II, informed Council that she received a complaint regarding street markings in the Huntfield subdivision, that she received a request for Police Department help with school traffic and that she received a complaint regarding the Heritage Festival regarding limited senior citizen access. Councilwoman Paonessa, Ward III, reminded Council that the ONTRAC site assessment is scheduled for September 22-23, 2009. Councilman Bringewatt, Ward IV, informed Council that he would have liked to see more kid friendly events at the Heritage Day Festival.

#### CITY MANAGER'S REPORT

Mr. Rawlings reported to Council on the vacant structures program.

#### CHIEF OF POLICE REPORT

Chief Subelsky informed Council of the recent update to the Police Civil Service Commission Rules and Regulations and that he would like to update the Council on his budget concerns and a pending lawsuit at a later date.

#### FINANCE COMMITTEE

Councilman Slover informed Council that the Finance Committee has met and makes the following recommendations for Council approval:

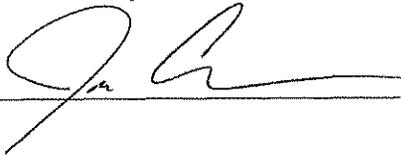
- That the amendments made to the Business Incentives ordinance (Article 745.18) be referred to the Ordinance Committee and that the first reading be scheduled for the October 19<sup>th</sup>, 2009 City Council meeting.
- That the City enters into an agreement with the City of Charles Town Utility Board for the shared employment services (50/50) of David Martin. Mr. Martin's duties for the City will consist of, but not be limited to, B&O Tax collection, business licensing, network administration and website development. Said agreement will begin on January 1, 2010, or as otherwise negotiated by the City Manager.

A motion by Councilman Slover, seconded by Councilman Clendening and the Council unanimously voted to refer the amendments to the Business Incentives ordinance (Article 745.18) to the Ordinance Committee. A motion by Councilwoman Paonessa, seconded by Councilwoman Gannon-Miller and the Council unanimously voted to proceed with the

development of a employment contract with the Utility Board for the services of David Martin on the condition that when the contract is finalized that it be presented to Council for approval with a copy of the proposed job description for Mr. Martin.

A motion by Councilwoman Paonessa, seconded by Councilwoman McDonald and the Council unanimously voted to adjourn at 9:13 p.m.

MAYOR:  DATE: 10/05/09

CLERK:  DATE: 10/05/09

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**WV MUNICIPAL BOND COMMISSION**  
 1207 Quarrier Street  
 Suite 401  
 Charleston, WV 25301  
 (304) 558-3971

**NEW ISSUE REPORT FORM**

Date of Report: 13-Jan-10

ISSUE: <u>City of Charles Town</u>	
<u>Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A</u>	
<u>(West Virginia DWTRF Program)</u>	
ADDRESS: <u>101 East Washington Street, Charles Town, WV 25414</u>	COUNTY: <u>Jefferson</u>
PURPOSE OF ISSUE:	
New Money: <u>  x  </u>	REFUNDS ISSUE(S) DATED: <u>  NA  </u>
Refunding: <u>      </u>	
ISSUE DATE: <u>13-Jan-10</u>	CLOSING DATE: <u>13-Jan-10</u>
ISSUE AMOUNT: <u>\$912,458</u>	RATE: <u>      </u>
1ST DEBT SERVICE DUE: <u>1-Jun-11</u>	1ST PRINCIPAL DUE <u>1-Jun-11</u>
1ST DEBT SERVICE AMOUNT <u>\$13,866.29</u>	PAYING AGENT: <u>Municipal Bond Commission</u>
<b>1st payment only</b>	
BOND COUNSEL:	UNDERWRITERS COUNSEL
Firm: <u>Steptoe &amp; Johnson PLLC</u>	Firm: <u>Jackson Kelly, PLLC</u>
Contact: <u>John Stump, Esquire</u>	Contact: <u>Samme Gee, Esquire</u>
Phone: <u>(304) 353.8196</u>	Phone: <u>(304) 340-1318</u>
CLOSING BANK:	ESCROW TRUSTEE:
Bank: <u>United Bank</u>	Firm: <u>      </u>
Contact: <u>Ashley</u>	Contact: <u>      </u>
Phone: <u>304.724.3923</u>	Phone: <u>      </u>
KNOWLEDGEABLE ISSUER CONTACT	OTHER:
Contact: <u>Peggy Smith</u>	Agency: <u>West Virginia Bureau for Public Health</u>
Position: <u>Mayor</u>	Contact: <u>Robert DeCrease</u>
Phone: <u>304.725.2311</u>	Position: <u>Manager</u>
	Phone: <u>(304) 558-2981</u>
DEPOSITS TO MBC AT CLOSE	
By: <u>      </u> Wire	Accrued Interest: <u>      </u> \$ <u>      </u>
<u>      </u> Check	Capitalized Interest: <u>      </u> \$ <u>      </u>
	Reserve Account: <u>      </u> \$ <u>      </u>
	Other: <u>      </u> \$ <u>      </u>
REFUNDS & TRANSFERS BY MBC AT CLOSE	
By: <u>      </u> Wire	To Escrow Trustee <u>      </u> \$ <u>      </u>
<u>      </u> Check	To Issuer <u>      </u> \$ <u>      </u>
<u>      </u> IGT	To Cons. Invest. Fund <u>      </u> \$ <u>      </u>
	To Other: <u>      </u> \$ <u>      </u>
NOTES: <u>The Series 2010 A Reserve Account to be funded over 10 years</u>	
FOR MUNICIPAL BOND COMMISSION USE ONLY:	
DOCUMENTS REQUIRED: <u>      </u>	
TRANSFERS REQUIRED: <u>      </u>	

**WV MUNICIPAL BOND COMMISSION**

1207 Quarrier Street  
Suite 401  
Charleston, WV 25301  
(304) 558-3971

**NEW ISSUE REPORT FORM**

Date of Report: 13-Jan-10

ISSUE: City of Charles Town  
Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

ADDRESS: 101 East Washington Street, Charles Town, WV 25414 COUNTY: Jefferson

PURPOSE OF ISSUE:

New Money: x  
Refunding: \_\_\_\_\_

REFUNDS ISSUE(S) DATED: NA

ISSUE DATE: 13-Jan-10

CLOSING DATE: 13-Jan-10

ISSUE AMOUNT: \$100,000

RATE: \_\_\_\_\_

1ST DEBT SERVICE DUE: 1-Jun-11

1ST PRINCIPAL DUE 1-Jun-11

1ST DEBT SERVICE AMOUNT \$1,520  
**1st payment only**

PAYING AGENT: Municipal Bond Commission

BOND COUNSEL:

Firm: Steptoe & Johnson PLLC  
Contact John Stump, Esquire  
Phone: (304) 353.8196

UNDERWRITERS COUNSEL

Firm: Jackson Kelly, PLLC  
Contact: Samme Gee, Esquire  
Phone: (304) 340-1318

CLOSING BANK:

Bank: United Bank  
Contact: Ashley  
Phone: 304.724.3923

ESCROW TRUSTEE:

Firm: \_\_\_\_\_  
Contact: \_\_\_\_\_  
Phone: \_\_\_\_\_

KNOWLEDGEABLE ISSUER CONTACT

Contact: Peggy Smith  
Position: Mayor  
Phone: 304.725.2311

OTHER:

Agency: West Virginia Bureau for Public Health  
Contact: Robert DeCrease  
Position: Manager  
Phone: (304) 558-2981

DEPOSITS TO MBC AT CLOSE

By: \_\_\_\_\_ Wire \_\_\_\_\_  
\_\_\_\_\_ Check \_\_\_\_\_  
Accrued Interest: \$ \_\_\_\_\_  
Capitalized Interest: \$ \_\_\_\_\_  
Reserve Account: \$ \_\_\_\_\_  
Other: \$ \_\_\_\_\_

REFUNDS & TRANSFERS BY MBC AT CLOSE

By: \_\_\_\_\_ Wire \_\_\_\_\_  
\_\_\_\_\_ Check \_\_\_\_\_  
\_\_\_\_\_ IGT \_\_\_\_\_  
To Escrow Trustee \$ \_\_\_\_\_  
To Issuer \$ \_\_\_\_\_  
To Cons. Invest. Fund \$ \_\_\_\_\_  
To Other: \_\_\_\_\_ \$ \_\_\_\_\_

NOTES: The Series 2010 B Reserve Account to be funded over 10 years  
\_\_\_\_\_  
\_\_\_\_\_

FOR MUNICIPAL BOND COMMISSION USE ONLY:

DOCUMENTS REQUIRED: \_\_\_\_\_  
TRANSFERS REQUIRED: \_\_\_\_\_

CITY OF CHARLES TOWN

Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

United Bank, Inc., Charles Town, West Virginia, hereby accepts appointment as Depository Bank in connection with the Bond Ordinance of the City of Charles Town (the "Issuer") enacted September 21, 2009, and the Supplemental Resolution of the Issuer adopted January 4, 2010 (collectively, the "Bond Legislation"), authorizing issuance of the Issuer's Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), dated January 13, 2010, issued in the principal amount of \$912,458 and Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), dated January 13, 2010, issued in the principal amount of \$100,000 (collectively the "Bonds"), and agrees to serve as Depository Bank in connection with the Bonds, all as set forth in the Bond Legislation.

WITNESS my signature on this 13th day of January, 2010.

UNITED BANK, INC.

By:   
Its: Authorized Officer

CITY OF CHARLES TOWN

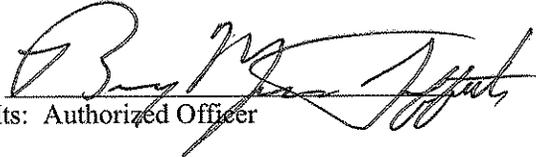
Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

ACCEPTANCE OF DUTIES AS REGISTRAR

THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), dated January 13, 2010, issued in the principal amount of \$912,458 and Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), dated January 13, 2010, issued in the principal amount of \$100,000 (collectively the "Bonds"), and agrees to perform all duties of Registrar in connection with the Bonds, all as set forth in the Bond Legislation authorizing issuance of the Bonds.

WITNESS my signature on this 13th day of January, 2010.

THE HUNTINGTON NATIONAL BANK

By:   
Its: Authorized Officer

CITY OF CHARLES TOWN

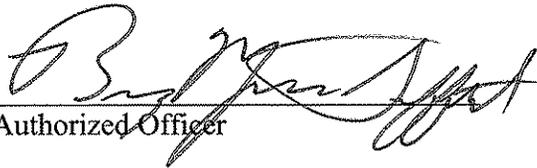
Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

CERTIFICATE OF REGISTRATION OF BONDS

THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia, as Registrar under the Bond Legislation and Registrar's Agreement providing for the above-captioned Bonds of the City of Charles Town (the "Issuer"), hereby certifies that on the date hereof, the single, fully registered Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), of the Issuer, dated January 13, 2010, in the principal amount of \$912,458, numbered AR-1, and the single, fully registered Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), of the Issuer, dated January 13, 2010 in the principal amount of \$100,000, numbered BR-1, were registered as to principal and interest, if any, in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of The Huntington National Bank, as Registrar.

WITNESS my signature on this 13th day of January, 2010.

THE HUNTINGTON NATIONAL BANK

By:   
Its: Authorized Officer

CITY OF CHARLES TOWN

Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 13th day of January, 2010, by and between the CITY OF CHARLES TOWN, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia (the "Registrar").

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WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$912,458 Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A (West Virginia DWTRF Program) and \$100,000 Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), in fully registered form (collectively, the "Bonds"), pursuant to the Bond Ordinance of the Issuer duly enacted September 21, 2009, and the Supplemental Resolution of the Issuer duly adopted January 4, 2010 (collectively, the "Bond Legislation");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Bond Legislation, a copy of which is attached as EXHIBIT A hereto and incorporated herein by reference;

WHEREAS, the Bond Legislation provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Bond Legislation and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Bond Legislation and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Bond Legislation, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exclusion of interest, if any, on the Bonds from gross income for federal income tax purposes, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal

Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar the compensation for services rendered as provided in the annexed schedule.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Bond Legislation with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Bond Legislation, the terms of the Bond Legislation shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Bond Legislation will violate any order, decree or agreement to which it is a party or by which it is bound.

7. 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 addresses:

ISSUER: City of Charles Town  
101 East Washington Street  
Charles Town, WV 25414  
Attention: City Manager

REGISTRAR: The Huntington National Bank  
One Huntington Square  
Charleston, West Virginia 25301  
Attention: Corporate Trust Department

8. The Registrar shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement. The registrar shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Registrar to carry out these requirements is a material breach of this Agreement which may result in the termination of this Agreement or other legal available remedies.

9. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Bond Legislation.

10. This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same document.

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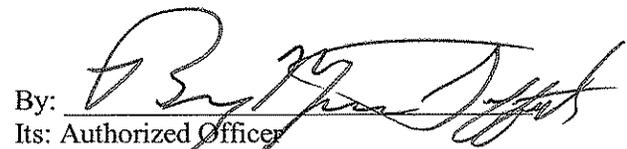
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IN WITNESS WHEREOF, the parties hereto have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

CITY OF CHARLES TOWN

By:   
Its: Mayor

THE HUNTINGTON NATIONAL BANK

By:   
Its: Authorized Officer

11.02.09  
144220.00022

EXHIBIT A

Bond Legislation included in bond transcript as Documents Nos. 1 and 2.

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SCHEDULE OF COMPENSATION

(Please see attached)

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Private Financial Group  
P.O. Box 633 - WE3013  
Charleston, West Virginia 25322-0633



STATEMENT OF REGISTRAR'S FEES  
Invoice Date January 13, 2010

**City of Charles Town**  
**Account Number 6089001809**

City of Charles Town  
Combined Waterworks and Sewerage System  
Revenue Bonds, Series 2010 A  
C/o John C. Stump  
Steptoe & Johnson, PLLC  
P.O. Box 1588  
Charleston, WV 25326-1588

SUMMARY OF ACCOUNT

\*\*\*\*\*  
FEE CALCULATION FOR January, 2010  
\*\*\*\*\*

TOTAL AMOUNT	\$	500.00
TOTAL DUE	\$	<u>500.00</u>

FEE INVOICES ARE PAYABLE WITHIN 30 DAYS

**MAIL CHECK TO:**  
**THE HUNTINGTON NATIONAL BANK**  
**ATTN: BARRY GRIFFITH**  
**PO BOX 633**  
**CHARLESTON, WV 25322-0633**

**PLEASE INCLUDE A COPY OF THIS INVOICE WITH YOUR PAYMENT**

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT  
Barry Morgan Griffith at (304)348-5035

Private Financial Group  
P.O. Box 633 - WE3013  
Charleston, West Virginia 25322-0633



STATEMENT OF REGISTRAR'S FEES  
Invoice Date January 13, 2010

**City of Charles Town**  
**Account Number 6089001809**

City of Charles Town  
Combined Waterworks and Sewerage System  
Revenue Bonds, Series 2010 B

---

C/o John C. Stump  
Steptoe & Johnson, PLLC  
P.O. Box 1588  
Charleston, WV 25326-1588

SUMMARY OF ACCOUNT

\*\*\*\*\*

FEE CALCULATION FOR January, 2010

\*\*\*\*\*

TOTAL AMOUNT	\$	500.00
TOTAL DUE	\$	<u>500.00</u>

FEE INVOICES ARE PAYABLE WITHIN 30 DAYS

**MAIL CHECK TO:**  
**THE HUNTINGTON NATIONAL BANK**  
**ATTN: BARRY GRIFFITH**  
**PO BOX 633**  
**CHARLESTON, WV 25322-0633**

**PLEASE INCLUDE A COPY OF THIS INVOICE WITH YOUR PAYMENT**

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT  
Barry Morgan Griffith at (304)348-5035



## American Recovery and Reinvestment Act of 2009 (ARRA)

### Project Certification

**Program:** West Virginia Drinking Water Treatment Revolving Fund (DWTRF)

**Project:** City of Charles Town, Jefferson County

**Description:** The project will replace existing touch-read water meters with radio-read meters. The radio-read meters will be part of the fixed base FlexNet system, which will provide daily monitoring through the network and allow for consumption monitoring, leak detection, and final readings from the main office.

#### Total Project Cost

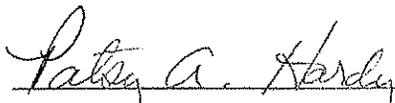
\$1,012,458

#### ARRA Assistance Provided

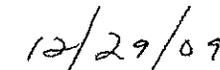
\$100,000

I hereby certify that the above project has received the full review and vetting required by federal law and that the investment of federal and state funds in this infrastructure project is an appropriate use of taxpayer dollars.

This certification will be posted on the Governor's website and linked to the federal ARRA website [www.recovery.gov](http://www.recovery.gov).



Patsy A. Hardy, Cabinet Secretary, FACHE, MSN, MBA



Date

WEST VIRGINIA  
Department of



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 16th day of April 2009

GENERAL ORDER NO. 182.09

Public Service Commission intended procedures concerning water and sewer projects that are funded with federal stimulus funds.

COMMISSION ORDER

Earlier this year, Congress enacted and the President signed the *American Recovery and Reinvestment Act of 2009*. Under this legislation, the State of West Virginia is to receive certain stimulus funds, a portion of which will be dedicated to the construction of water and sewer infrastructure. The Public Service Commission ("Commission") has received information from various funding agencies. The State Bureau for Public Health through its drinking water treatment revolving fund will have approximately \$19.5 million for water projects. In addition, the State Department of Environmental Protection through the clean water state revolving fund will have approximately \$61 million for sewer projects. Both of these state agencies have indicated that they intend to have the projects bid by August 2009 and contracts awarded by October 2009. In addition, certain other stimulus funds for water and sewer projects will be administered by the U.S. Department of Agriculture, Rural Utilities Service.

Although the Commission is not a funding source for the stimulus funds, it will nonetheless be called upon to process utility applications for certificates of public convenience and necessity ("certificates") to authorize the construction of stimulus-funded water and sewer projects. Given the aggressive schedule planned by the funding agencies, and the requirement in the federal law that water and sewer projects be "shovel ready," meaning under construction within a quick time line, the Commission intends to expedite these applications to the greatest extent possible consistent with existing State Law.

As a preliminary observation, the Commission would stress that applications must be complete and the statutory thirty-day notice to the public must be given at the outset of the application. Failure to file complete applications or failure to provide timely public notice will lead to delays in processing projects and jeopardize the ability to receive federal stimulus funds. The Commission anticipates that it will receive (i) new applications for water and sewer projects using federal stimulus funds, (ii) amendments to pending applications

containing some measure of federal stimulus funds, and (iii) petitions to reopen certificates already issued seeking to amend funding by including federal stimulus funds. The Commission issues this General Order to inform the public, regulated utilities, attorneys who practice before the Commission, funding agencies, and the staff of the Commission of its intended procedures and processes.

With respect to new stimulus project applications, the Commission intends that applicants and Staff observe the following procedures. At the outset, the Commission again stresses that it is essential that a utility project sponsor file a complete application and provide timely public notice of its application.

1. Staff assigned to the case should immediately review the filing to determine if it is complete. The Initial Joint Staff Memorandum should be filed within ten days.<sup>1</sup>

2. If the filing is complete and does not require an increase in rates for the project, Staff should file its Final Joint Staff Memorandum in thirty-five days which allows for the protest period assuming the applicant has timely published notice.

3. If the filing is complete and includes a proposed increase in rates for the project, Staff may deem it necessary to file a data request for items needed to complete the review and make a final Staff recommendation. This data request should be filed within ten days. The applicant should expedite its response to Staff's requests and Staff should file its Final Joint Staff Memorandum within forty-five to sixty days.

4. If the filing is not complete, irrespective of whether or not the application seeks an increase in rates, Staff should file a data request, if necessary, for the items needed to complete the review and make a final Staff recommendation. This data request should be filed within ten days. The applicant should expedite its responses to Staff's requests and Staff should file its Final Joint Staff Memorandum within forty-five to sixty days.

5. If rates are required for the project and a rate change has not been included with the application:

- A. For municipalities, the processing time is out of the Commission's ability to control. Staff needs to determine where the municipality is in the ordinance process and what else is needed to process the case. This should all be part of the Initial Joint Staff Memorandum to let the Commission know if the case can be processed or needs dismissed. (Certificates and rate ordinances need to be coordinated for a municipal appeal.) Data requests should still be filed within the ten-day period.

---

<sup>1</sup> Days in this Order are calendar days. Filings due on weekends or holidays are due the next working day.

- B. Public service districts ("districts") that need rates for the project can follow steps 1 and 3 or 4 above.
- C. Districts that require rates outside of the project and are in default on bonds cannot move forward. Staff must address this in its initial memorandum.

5. For newly-filed water or sewer applications for certificates of convenience and necessity where the funding is described at the time of the filing as Stimulus Funding the Commission shall designate the filings as "SCN." The Commission, its Staff and Administrative Law Judges, will process those designated filings as expeditiously as possible.

The stimulus funds may be used to replace existing funding for projects that are ready to proceed, allowing the State of West Virginia to fund more projects than planned and provide an enhanced investment in water and sewer infrastructure to unserved and under-served areas of the State. To expedite the processing of projects that have already received a certificate and are eligible to receive stimulus funds, the Commission plans the following process and procedures:

6. In instances where municipalities or municipal water or sewer boards ("municipal utilities") have already been granted certificates, and in the event the municipality is awarded a stimulus assistance funding package to replace either existing grant or loan funding from another source, the municipal utility shall only be required to file with the Commission a letter from the funding agency that describes the change in the project funding. The filing will be treated as a closed entry by the Executive Secretary and the Commission anticipates no further action by the Commission.

7. Similarly, for districts that are awarded a stimulus assistance funding package equivalent to the existing grant money from another source, that has no impact on rates, the district shall only be required to file with the Commission a letter from the funding agency that describes the change in the project funding. The filing will be treated as a closed entry by the Executive Secretary and the Commission anticipates no further action by the Commission.

8. In the event that a district is awarded a stimulus assistance funding package and the benefit to the customers of such improved financing is lower project costs, the district will only be required to file a petition to reopen the original formal case granting the certificate in order that the Commission may review the rates established for the project.

The Commission will provide for such petitions to reopen to be handled in an expedited manner. To that end, the district will be required to file with its petition to reopen a letter from the funding agency that describes the change in project funding, specifically setting forth the newly-committed funding and an accompanying calculation by the district

of the impact to its rates together with supporting documentation. Upon the filing of this information, Staff will perform a review of the revised project funding and rate calculations and file a final recommendation with the Commission stating its recommended rates as soon as possible, but no later than ten days after receipt of the petition. The Commission will issue an order as soon thereafter as possible.

9. For districts that are awarded a stimulus assistance funding package to supplement funding to deal with a cost overrun in whole or part, that has no impact on rates, the district may utilize the enhanced funding to first fund any project alternatives that were reviewed as either deducts or adducts that were approved as a part of the original certificate, contingent upon funding, in order that all portions of the project can be constructed. In this event, the district shall be required to file with the Commission a letter from the funding agency that describes both the change in the project funding and also notes the deducts or adducts that will be funded for construction. The filing will be treated as a closed entry by the Executive Secretary and the Commission anticipates no further action on its part.

The issuance of these guidelines should expedite these projects and the continuing effort to provide quality water and sewer service throughout the State of West Virginia. The Commission understands that there will be instances and situations where events will disrupt these intended procedures; however, the Commission expects all parties to use their best efforts to process these cases in a timely manner. Finally, given the aggressive time frame contemplated by the funding agencies and the intent to have bids out by August 2009, project applications should be filed no later than June 1, 2009, to avoid jeopardizing the timely consideration of those applications.

IT IS SO ORDERED.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission give public notice of this order in a manner deemed most efficient and appropriate.

APPROVED AND FORWARDED:

  
Sandra Squire  
Executive Secretary

go18209c.wpd



# CERTIFICATE OF LIABILITY INSURANCE

OP IDAH  
CHAR-11DATE (MM/DD/YYYY)  
01/06/10

<b>PRODUCER</b>  Commercial Insurance Services 340 MacCorkle Ave. Ste #200 Charleston WV 25314 Phone: 304-345-8000 Fax: 304-345-8014	<b>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.</b>	
	<b>INSURERS AFFORDING COVERAGE</b>	<b>NAIC #</b>
<b>INSURED</b>  City Of Charles Town Gary Rawlings, City Mgr. P. O. Box 14 Charles Town WV 25414	INSURER A: Argonaut Great Central Ins. Co	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A		<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	PE-4614022-03	08/01/09	08/01/10	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ N/A PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 6,000,000 PRODUCTS - COM/POP AGG \$ 6,000,000 Emp Ben. 2,000,000
A		<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	PE-4614022-03	08/01/09	08/01/10	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000  BODILY INJURY (Per person) \$  BODILY INJURY (Per accident) \$  PROPERTY DAMAGE (Per accident) \$
		<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$  OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
A		<b>EXCESS / UMBRELLA LIABILITY</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 0	PE-4614022-03	08/01/09	08/01/10	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$ \$ \$
A		<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below <input type="checkbox"/> Y/N	PE-4614022-03	08/01/09	08/01/10	W/C STATU-TORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
		OTHER				

### DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Certificate holder is named as additional insured as respects Water Project at City of Charles Town.

### CERTIFICATE HOLDER

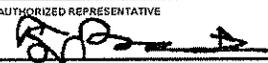
WVWDCCHA

WV Water Development Authority  
180 Association Drive  
Charleston WV 25311

### CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



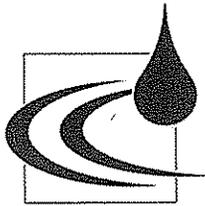
## IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## DISCLAIMER

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.



WEST VIRGINIA

**Water Development Authority**

*Celebrating 35 Years of Service 1974 - 2009*

January 13, 2010

CITY OF CHARLES TOWN

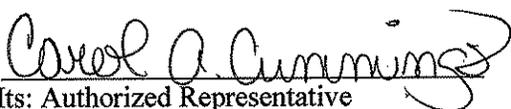
Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and

Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

TO WHOM IT MAY CONCERN:

In reliance upon the certificate of J C Kunkle & Associates, the independent certified public accountant and an opinion of Steptoe & Johnson PLLC, bond counsel, that the coverage and parity tests have been met, the undersigned duly authorized representative of the West Virginia Water Development Authority (the "Authority"), the registered owner of the entire outstanding aggregate principal amount of the Prior Bonds, hereinafter defined and described, hereby consents to the issuance of the Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A (West Virginia DWTRF Program) (the "Series 2010 A Bonds"), in the original aggregate principal amount of \$912,458, and the Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA) (the "Series 2010 B Bonds") in the original aggregate principal amount of \$100,000 (collectively, the "Bonds" or the "Series 2010 Bonds"), by the City of Charles Town (the "Issuer"), 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: (i) Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B, dated November 18, 1987, issued in the original aggregate principal amount of \$413,629 ("Series 1987 B Bonds"); (ii) Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-1, dated May 4, 1988, issued in the original aggregate principal amount of \$295,916 ("Series 1988 B-1 Bonds"); (iii) Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-2, dated May 20, 1988, issued in the original aggregate principal amount of \$558,000 ("Series 1988 B-2 Bonds"); (iv) Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, dated April 13, 1989, issued in the original aggregate principal amount of \$117,480 ("Series 1989 B Bonds"); (v) Combined Waterworks and Sewerage System Design Revenue Bonds, Series 1998 (West Virginia SRF Program), dated September 29, 1998, issued in the original aggregate principal amount of \$437,601 ("Series 1998 Design Bonds"); (vi) Combined Waterworks and Sewerage System Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated June 22, 2000, issued in the original aggregate principal amount of \$3,163,781 ("Series 2000 A Bonds"); (vii) Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 A (West Virginia Water Development Authority), dated August 22, 2002, issued in the original aggregate principal amount of \$1,100,000 ("Series 2002 A Bonds"); and (viii) Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund), dated August 22, 2002, issued in the original aggregate principal amount of \$3,600,000 ("Series 2002 B Bonds") (collectively, the "Prior Bonds").

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

By:   
Its: Authorized Representative



Chase Tower, Eighth Floor  
P.O. Box 1588  
Charleston, WV 25326-1588  
(304) 353-8000 (304) 353-8180 Fax  
www.steptoe-johnson.com

Writer's Contact Information

## CLOSING MEMORANDUM

**To:** Financing Team  
**From:** John C. Stump, Esquire  
**Date:** January 13, 2010  
**Re:** City of Charles Town  
Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A (West Virginia DWTRF Program); and Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA)

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### 1. DISBURSEMENTS TO THE CITY OF CHARLES TOWN

Payor: West Virginia Bureau for Public Health  
Source: Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A  
Amount: \$89,545  
Form: Wire Transfer  
Payee: City of Charles Town, 101 East Washington Street, Charles Town, WV 25414  
Bank: United Bank, Inc.  
Contact: Ashley, 304.724.3923  
Acct. No.: 62261698  
ABA: 051900395  
Account: Series 2010 Bonds Construction Trust Fund

Payor: West Virginia Bureau for Public Health  
Source: Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B  
Amount: \$-0-  
Form: Wire Transfer  
Payee: City of Charles Town, 101 East Washington Street, Charles Town, WV 25414  
Bank: United Bank, Inc.  
Contact: Ashley, 304.724.3923  
Acct. No.: 62261698  
ABA: 051900395  
Account: Series 2010 Bonds Construction Trust Fund

12.16.09  
144220.00022

State of West Virginia  
**WATER DEVELOPMENT AUTHORITY**  
 180 Association Drive, Charleston, WV 25311-1217  
 (304) 558-3612 - (304) 558-0299 (Fax)  
 Internet: www.wvwda.org - Email: contact@wvwda.org

**PRECLOSING ATTENDANCE LIST**

Date 1/11/0 Time 11:00 AM LGA City of Charles Town Program DWTRF

NAME	COMPANY, AGENCY, OR ORGANIZATION	TELEPHONE	FAX	E-MAIL
Carol A. Cummings	WDA	304-558-3612	304-558-0299	cummings@wvwda.org
Ryan White	JACKSON Kelly	304 340-1883	304 340-1818	stwhite@jacksonkelly.com
Shirley Gore	Traktion Kellys LLC	304 340 1318	304 340 1212	sgore@jacksonkelly.com
John Stump	Steptec-Hudson PLLC	304.353.8196	304.353.8861	john.stump@steptec-johnson.com

The Authority requests that the following information concerning the individual who will be responsible for sending Debt Service Payments to the Municipal Bond Commission be provided. (If that individual is in attendance, he/she should also sign above.) Please Print:

Name Jane Arnett Telephone 304.725.2316 E-Mail jarnett@charlestownutilities.us  
 Address P.O. Box 14 Charles Town, West Virginia 25444

REMINDER: As a participant in this program, the Local Governmental Agency (LGA) agrees and is required to submit annually to the WDA a copy of its audited financial statements and a copy of its adopted budget. Also, pursuant to the Loan Agreement and the NonArbitrage Certificate (both of which are contained in the bond transcript) you are to provide annually to the WDA a rebate calculation certificate or an exception opinion showing whether a rebate amount is due to the US Government under arbitrage requirements in Section 148(f) of the US Internal Revenue Code, 1986, as amended.

**CHARLES TOWN WATER**

**RESOLUTION OF THE CITY OF CHARLES TOWN UTILITY BOARD APPROVING INVOICES  
RELATING TO ACQUISITION AND CONSTRUCTION AND OTHER SERVICES FOR THE  
PROPOSED WATER PROJECT AND AUTHORIZING PAYMENT THEREOF,**

**WHEREAS**, the City of Charles Town Utility Board has reviewed the invoices attached hereto and incorporated herein by reference relation to the construction of the water project funded by the Drinking Water Treatment Revolving Fund (DWTRF):

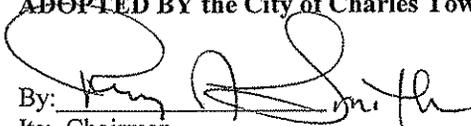
- a) That none of the items for which payment is proposed to be made has formed the basis for any disbursement theretofore made.
- b) That each item for which the payment is proposed to be paid is or was necessary in connection with the Project and constitutes a Cost of the project.
- c) That each of such costs has been otherwise properly incurred.
- d) That the payment for each of the items proposed is due and owing.

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**NOW, THEREFOR, BE IT RESOLVED** the City of Charles Town Utility Board by as follows: There is hereby authorized and directed the payment of the attached invoices as follows:

Vendor	Total	DWTRF Base	DWTRF 2 <sup>nd</sup> Round	DWTRF ARRA
Step toe & Johnson	30,000.00	30,000.00	0.00	0.00
Huntington Bank	1,000.00	1,000.00	0.00	0.00
City of Charles Town (reimburse for engineering)	58,544.68	10,562.00	47,982.68	0.00
<b>Total</b>	<b>89,544.68</b>	<b>41,562.00</b>	<b>47,982.68</b>	<b>0.00</b>

**ADOPTED BY** the City of Charles Town Utility Board, at the meeting held on the \_\_\_\_ day of January, 2010.

By:   
Its: Chairman

## SWEEP RESOLUTION

### City of Charles Town

**WHEREAS**, the City of Charles Town (the "Issuer") is a governmental body and political subdivision of West Virginia;

**WHEREAS**, the Issuer has issued bonds, as more specifically set forth on Exhibit A, attached hereto and incorporated herein by reference (the "Bonds");

**WHEREAS**, the Issuer makes or will make monthly debt service payments on and transfers reserve funds for the Bonds by check to the West Virginia Municipal Bond Commission (the "MBC") which in turn pays the owners of the Bonds and deposits funds in the reserve accounts;

**WHEREAS**, the MBC may accept such monthly payments by electronic funds transfer, thereby eliminating delay in payments and lost checks;

**WHEREAS**, the Issuer finds and determines that it is in the best interest of the Issuer, its citizens and the owners of the Bonds that the monthly debt service and reserve fund payments be made by electronic funds transfer with the State Treasurer sweeping the Issuer's account.

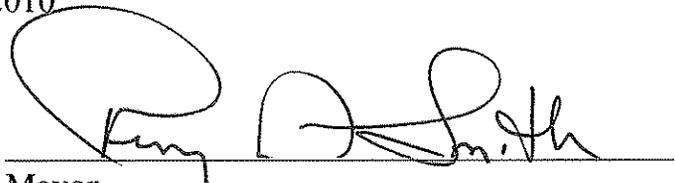
### **NOW THEREFORE BE IT RESOLVED AS FOLLOWS:**

1) The monthly debt service payments on and reserve funds for the Bonds, as set forth in Exhibit A, shall be made to the MBC by an electronic transfer by the State Treasurer from the accounts set forth in Exhibit A in such form and at such directions as are provided by the MBC.

2) The Mayor, Clerk and City Manager are hereby authorized to sign and execute all such documents as are necessary to facilitate the electronic transfer of the Bond debt service and reserve fund payments.

3) This resolution shall be effective immediately upon adoption.

Adopted this 4th day of January, 2010

  
\_\_\_\_\_  
Mayor