

CITY OF CLARKSBURG

**Sewer Revenue Bonds, Series 1996
(West Virginia SRF Program)**

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CITY OF CLARKSBURG

**SEWER REVENUE BONDS, SERIES 1996
(WEST VIRGINIA SRF PROGRAM)**

BOND ORDINANCE

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CITY OF CLARKSBURG

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF CLARKSBURG AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$6,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1996 (WEST VIRGINIA SRF PROGRAM); 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 A LOAN 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 CLARKSBURG:

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"), supplemental to the Prior Ordinance (as hereinafter defined), is enacted pursuant to the provisions of Chapter 16, Article 13 and Chapter 22C, Article 2 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 Clarksburg (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Harrison County of said State.

B. The Issuer presently owns and operates a public sewerage 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 to the existing public sewerage system of the Issuer, consisting of upgrading the existing five million gallon per day treatment plant to an eight million gallon per day unit, together with all appurtenant facilities (collectively, the "Project"), which constitute properties for the collection, transportation, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (the existing public sewerage facilities of the Issuer, the Project and any further additions thereto or extensions thereof 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 City Clerk of the Issuer.

C. 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 the operation and maintenance of the System, the principal of and interest on the Prior Bonds and the Series 1996 Bonds and to make payments into all funds, accounts and other payments provided for herein and in the Prior Ordinance, all as such terms are hereinafter defined.

D. The Issuer intends to 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"), in connection with the West Virginia Water Pollution Control Revolving Fund program (the "SRF Program"), pursuant to the Act, in order to take advantage of the favorable terms available to the Issuer under the SRF Program.

E. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds, Series 1996 (West Virginia SRF Program) (the "Series 1996 Bonds"), in the total aggregate principal amount of not more than \$6,500,000, initially to be represented by a single bond, to permanently finance the costs of acquisition and construction of the Project. The remaining costs of the Project shall be funded from the sources set forth in Section 2.01 hereof. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Series 1996 Bonds prior to and during construction or acquisition and for a period not exceeding 6 months after completion of construction or acquisition of the Project; amounts which may be deposited in the Series 1996 Bonds Reserve Account (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 SRF Administrative Fee (as hereinafter defined); discount; initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 1996 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 1996 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes, including the Notes (as hereinafter defined), shall be deemed Costs of the Project, as hereinafter defined.

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

G. It is in the best interests of the Issuer that its Series 1996 Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement by and among the Issuer, the Authority and the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment (the "DEP"), in form satisfactory to the Issuer, the Authority and the DEP (the "Loan Agreement"), approved hereby if not previously approved by resolution of the Issuer.

H. There are outstanding obligations of the Issuer which will rank on a parity with the Series 1996 Bonds as to liens, pledge, source of and security for payment, being the Issuer's Sewer Refunding Revenue Bonds, Series 1995, dated September 7, 1995, issued in the original aggregate principal amount of \$600,000 (the "Prior Bonds"), pursuant to an ordinance enacted July 20, 1995 (as supplemented, the "Prior Ordinance").

The Issuer has met the coverage requirements for issuance of parity bonds of the Prior Bonds and the Prior Ordinance and the Series 1996 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. The Issuer will, prior to the issuance of the Series 1996 Bonds, obtain the written consent of the Holder of the Prior Bonds to the issuance of the Series 1996 Bonds on a parity with the Prior Bonds.

Other than the Prior Bonds, there are no outstanding obligations of the Issuer which will rank prior to or on a parity with the Series 1996 Bonds as to liens, pledge and/or source of and security for payment or in any other respects.

On the date of issuance of the Series 1996 Bonds, the Issuer will use a portion of the proceeds of the Series 1996 Bonds to reimburse itself for paying in full its outstanding Sewerage System Bond Anticipation Notes, Series 1995, dated September 1, 1995, issued in the original aggregate principal amount of \$900,000, of which \$180,000 principal amount is currently outstanding (the "Notes"), and all interest accrued to the date of payment.

I. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 1996 Bonds, or will have so complied prior to issuance of any thereof, including, among other things and without limitation, 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 1996 Bonds or such final order will not be subject to appeal.

J. Pursuant to the Act, the Issuer has heretofore established a Sanitary Board, and the Sanitary Board has petitioned the Council to issue the Series 1996 Bonds for the purposes set forth herein.

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

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of Series 1996 Bonds by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Series 1996 Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

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

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 1996 Bonds, or any other agency, board or department of the State of West Virginia that succeeds to the functions of the Authority.

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

"Board" means the Sanitary Board of the Issuer.

"Bond Construction Trust Fund" means the Bond Construction Trust Fund established by Section 5.01 hereof.

"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 1996 Bonds, 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.

"City Clerk" means the City Clerk of the Issuer.

"City Manager" means the City Manager of the Issuer.

"Closing Date" means the date upon which there is an exchange of the Series 1996 Bonds for the proceeds or at least a de minimis portion thereof representing the purchase price of the Series 1996 Bonds from the Authority and the DEP.

"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.

"Completion Date" means the completion date of the Project, as defined in the SRF Regulations.

"Consulting Engineers" means Thrasher Engineering, Inc., Clarksburg, West Virginia, or any qualified engineer or firm of engineers that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System or portion thereof; 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 1.02E hereof to be a part of the cost of acquisition and construction of the Project.

"Council" means the City Council of the Issuer or any other governing body of the Issuer that succeeds to the functions of the Council as presently constituted.

"DEP" means the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment, or any other agency, board or department of the State that succeeds to the functions of the DEP.

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

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

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

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

"Government Obligations" means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian and (iii) obligations, the sole source of the payment of the principal of and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

"Gross Revenues" shall mean the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that "Gross Revenues" shall not include any proceeds from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, 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 or the West Virginia Department of Tax and Revenue that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the accounts of the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

"Investment Property" means any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract, investment-type property or any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan, excluding, however, obligations the interest on which is excluded from gross income, under Section 103 of the Code, for federal income tax purposes other than specified private activity bonds as defined in Section 57(a)(5)(C) of the Code.

"Issuer" means the City of Clarksburg, a municipal corporation and political subdivision of the State of West Virginia, in Harrison County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body and the Sanitary Board of the Issuer.

"Loan Agreement" means the Loan Agreement, heretofore entered, or to be entered, into by and among the Authority, the DEP and the Issuer, providing for the purchase of the Series 1996 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.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 1996 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 1996 Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 1996 Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

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

"Nonpurpose Investment" means any Investment Property which is acquired with the gross proceeds or any other proceeds of the Series 1996 Bonds and is not acquired in order to carry out the governmental purpose of the Series 1996 Bonds.

"Notes" means the Issuer's Sewerage System Bond Anticipation Notes, Series 1995, dated September 1, 1995, issued in the original aggregate principal amount of \$900,000.

"Operating Expenses" shall mean the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, fees and expenses of the

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

"Outstanding," when used with reference to Bonds 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 Prior Bonds, at or prior to said date; (ii) any Bond or Prior Bonds, for the payment of which moneys, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder, and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Article 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 Prior Bonds, any Bonds or Prior Bonds registered to the Issuer.

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

"Paying Agent" means the Commission or other entity or authority designated as such for the Series 1996 Bonds in the Supplemental Resolution with the written consent of the Authority and the DEP.

"Prior Bonds" means the Issuer's Sewer Refunding Revenue Bonds, Series 1995, dated September 7, 1995, issued in the original aggregate principal amount of \$600,000.

"Prior Ordinance" means, collectively, the ordinance of the Issuer enacted July 20, 1995, as supplemented by the supplemental resolution of the Issuer adopted August 17, 1995, authorizing the issuance of the Prior Bonds.

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

use," if any, of the proceeds of the issue and/or proceeds used for "qualified improvements," if any.

"Project" means the acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer, consisting of upgrading the existing five million gallon per day treatment plant to an eight million gallon per day unit, together with all appurtenant facilities.

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

- (a) Government Obligations;
- (b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;
- (c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;
- (d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;
- (e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

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

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

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

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

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

"Registrar" means the Bond Registrar.

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

"Renewal and Replacement Fund" means the Renewal and Replacement Fund created by the Prior Ordinance and continued hereby.

"Revenue Fund" means the Revenue Fund created by the Prior Ordinance and continued hereby.

"Series 1996 Bonds" means the not more than \$6,500,000 in aggregate principal amount of Sewer Revenue Bonds, Series 1996 (West Virginia SRF Program), of the Issuer.

"Series 1996 Bonds Reserve Account" means the Series 1996 Bonds Reserve Account established in the Series 1996 Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1996 Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1996 Bonds in the then current or any succeeding year.

"Series 1996 Bonds Sinking Fund" means the Series 1996 Bonds Sinking Fund established by Section 5.02 hereof.

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

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

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

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the," refers specifically to the supplemental resolution authorizing the sale of the Series 1996 Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 1996 Bonds, and not so included may be included in another Supplemental Resolution.

"System" means, collectively, the complete existing municipal sewage treatment and collection system of the Issuer, as presently existing in its entirety or any integral part thereof, and shall include the Project and any further extensions, additions, betterments and improvements thereto hereafter acquired or constructed for said system from any sources whatsoever, both within and without the Issuer.

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

Additional terms and phrases are defined in this Ordinance as they are used. 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 of not to exceed \$7,350,000, 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 1996 Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the SRF Program.

The cost of the Project is estimated not to exceed \$7,350,000, of which approximately \$6,500,000 will be obtained from proceeds of the Series 1996 Bonds and approximately \$850,000 from funds of the Issuer.

ARTICLE III

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

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 1996 Bonds, funding a reserve account for the Series 1996 Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 1996 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 negotiable Series 1996 Bonds of the Issuer, in an aggregate principal amount of not more than \$6,500,000. The Series 1996 Bonds shall be issued as a single Bond, designated as "Sewer Revenue Bond, Series 1996 (West Virginia SRF Program)," and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 1996 Bonds remaining after funding of the Series 1996 Bonds Reserve Account (if funded from Bond proceeds) and capitalization of interest on the Series 1996 Bonds, if any, shall be deposited in or credited to the Bond Construction Trust Fund established by Section 5.01 hereof and applied as set forth in Article VI hereof.

Section 3.02. Terms of Bonds. The Series 1996 Bonds 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 Loan Agreement. The Series 1996 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 1996 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 1996 Bonds shall initially be issued in the form of a single bond, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 1996 Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 1996 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. The Bonds shall be dated as of the date specified in a Supplemental Resolution and shall bear interest from such date.

Section 3.03. Execution of Bonds. The Series 1996 Bonds shall be executed in the name of the Issuer by the Mayor and the City Manager, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the City Clerk. In case any one or more of the officers who shall have signed or sealed the Series 1996 Bonds shall cease to be such officer of the Issuer before the Series 1996 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 Series 1996 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 the authorization 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 1996 Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the 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 1996 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 1996 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 1996 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 1996 Bonds remain outstanding, the Issuer, through the Bond Registrar as its agent, shall keep and maintain books for the registration and transfer of the Series 1996 Bonds.

The registered Series 1996 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 1996 Bonds or transferring the registered Series 1996 Bonds are exercised, all Series 1996 Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 1996 Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Series 1996 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 Series 1996 Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 1996 Bonds or, in the case of any proposed redemption of Series 1996 Bonds, next preceding the date of the selection of Series 1996 Bonds to be redeemed, and ending on such interest payment date or redemption date.

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

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 1996 Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No Holder or Holders of the Series 1996 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 1996 Bonds or the interest thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of the Series 1996 Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the operation of 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 on and other payments for the Prior Bonds and the Series 1996 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 to such payments as the same become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 1996 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 1996 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 1996 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 1996 Bonds to the original purchasers;
- C. An executed and certified copy of Bond Legislation;
- D. An executed copy of the Loan Agreement; and
- E. The unqualified approving opinion of bond counsel on the Series 1996 Bonds.

Section 3.10. Form of Series 1996 Bonds. The text of the Series 1996 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 1996 BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF CLARKSBURG
SEWER REVENUE BOND, SERIES 1996
(WEST VIRGINIA SRF PROGRAM)

No. R- _____

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF CLARKSBURG, a municipal corporation and political subdivision of the State of West Virginia in Harrison 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, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 199____, as set forth on the "Schedule of Annual Debt Service" attached as EXHIBIT B hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said EXHIBIT B. The interest and the SRF Administrative Fee (as defined in the hereinafter described Bond Legislation), shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 199____, as set forth on EXHIBIT B attached hereto.

Principal installments of this 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 One Valley Bank, National Association, 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 Division of Environmental Protection (the "DEP"), and upon the terms and conditions

prescribed by, and otherwise in compliance with, the Loan Agreement by and among the Issuer, the Authority and the DEP, dated _____, 199_____.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); (ii) to reimburse the Issuer for payment in full of the Issuer's Sewerage System Bond Anticipation Notes, Series 1995, heretofore issued to temporarily finance a portion of the costs of acquisition and construction of the Project (the "Notes"); (iii) [to pay interest on the Bonds of this Series (the "Bonds") during the construction of the Project and for not more than 6 months thereafter; (iv) to fund a reserve account for the Bonds; (v)] to pay certain costs of issuance hereof and related costs. The existing public 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 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (the "Act"), and a Bond Ordinance duly enacted by the Issuer on _____, 199_____, and a Supplemental Resolution duly adopted by the Issuer on _____, 199_____, (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 OTHER RESPECTS, WITH THE ISSUER'S SEWER REFUNDING REVENUE BONDS, SERIES 1995, DATED SEPTEMBER 7, 1995, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$600,000 (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 Revenues in favor of the holders of the Prior Bonds, and from moneys in the reserve account created under the Bond Legislation for the Bonds (the "Series 1996 Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay all operating expenses of the System and the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 1996 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 on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Prior Bonds; provided however, when the Prior Bonds are no longer outstanding and so long as there exists in the Series 1996 Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the 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 pay the costs of the Project and costs of issuance hereof described in the Bond Legislation and to reimburse the Issuer for payment of the Notes, and there shall be and hereby is created and granted a lien upon such moneys, 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 have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the 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.

IN WITNESS WHEREOF, the CITY OF CLARKSBURG has caused this Bond to be signed by its Mayor and its City Manager and its corporate seal to be hereunto affixed and attested by its City Clerk, and has caused this Bond to be dated _____, 199 ____.

[SEAL]

Mayor

City Manager

ATTEST:

City Clerk

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1996 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: _____, 199 ____.

ONE VALLEY BANK, NATIONAL
ASSOCIATION, as Registrar

By _____
Its Authorized Officer

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

(Form of)

ASSIGNMENT

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

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

Dated: _____, _____.

In the presence of:

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreement. The Series 1996 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous ordinance or resolution, the Mayor and the City Manager are specifically authorized and directed to execute the Loan Agreement in the form attached hereto as "Exhibit A" and made a part hereof, and the City Clerk is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed.

Section 3.12. "Amended Schedule A" Filing. Within 60 days following the Completion Date, the Issuer will file with the Authority a schedule in substantially the form of the "Amended Schedule A" to the Loan Agreement, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE IV

INTERIM CONSTRUCTION FINANCING

Section 4.01. Interim Construction Financing. In order to pay certain costs of the Project pending receipt of proceeds of the Bonds, the Issuer may issue and sell its interim construction notes in an aggregate principal amount not to exceed \$1,000,000 (the "Notes"). The Notes shall be in the form of a line of credit from a commercial bank or other lender, and the Issuer is hereby authorized to enter into a loan agreement with such commercial bank or other lender. The Notes shall bear interest from the date or dates, at such rate or rates, payable on such dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the loan agreement.

The Notes shall be special obligations of the Issuer payable as to principal and interest solely from proceeds of the Bonds. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions. The general funds of the Issuer are not liable, and neither the full faith and credit nor the taxing power of the Issuer, if any, is pledged for the payment of the Notes. The Holders of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues except as set forth herein.

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

- (1) Revenue Fund (established by the Prior Ordinance);
- (2) Renewal and Replacement Fund (established by the Prior Ordinance); and
- (3) Bond 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 the Prior Ordinance) with, and shall be held by, the Commission, separate and apart from all other funds and accounts of the Commission or the Issuer and from each other:

- (1) Series 1995 Bonds Sinking Fund (established by the Prior Ordinance);
- (2) Series 1996 Bonds Sinking Fund; and
- (3) Within the Series 1996 Bonds Sinking Fund, the Series 1996 Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System 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 the Prior Ordinance and 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 the Prior Ordinance and in this Bond Legislation. All revenues in the Revenue Fund shall be disposed of only in the following manner and order of priority:

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

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Series 1995 Bonds Sinking Fund the amount required by the Prior Ordinance to pay interest on the Prior Bonds and (ii) commencing 4 months prior to the first date of payment of interest on the Series 1996 Bonds for which interest has not been capitalized or as required in the Loan Agreement, for deposit in the Series 1996 Bonds Sinking Fund, an amount equal to 1/3rd of the amount of interest which will become due on the Series 1996 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 1996 Bonds Sinking Fund and the next quarterly interest payment date is less than 4 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 to the Commission (i) for deposit in the Series 1995 Bonds Sinking Fund the amount required by the Prior Ordinance to pay principal of the Prior Bonds and (ii) commencing 4 months prior to the first date of payment of principal of the Series 1996 Bonds, for deposit in the Series 1996 Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 1996 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 1996 Bonds Sinking Fund and the next quarterly principal payment date is less than 4 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, commencing 3 months prior to the first date of payment of principal of the Series 1996 Bonds, if not fully funded upon issuance of the Series 1996 Bonds, transfer from the Revenue Fund and remit to the Commission for deposit in the Series 1996 Bonds Reserve Account, an amount equal to 1/120 of the Series 1996 Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1996 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 1996 Bonds Reserve Requirement.

(5) The Issuer shall next, on the first day of each month, from the moneys remaining in the Revenue Fund (as previously set forth in the Prior

Ordinance and not in addition thereto), transfer to the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, repairs, improvements or extensions to the System; provided, that any deficiency in the Series 1996 Bonds Reserve Account, except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required by Subsection 5.03A(4) hereof, shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Series 1996 Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 1996 Bonds as the same shall become due. Moneys in the Series 1996 Bonds Reserve Account shall be used only for the purpose of paying principal of and interest on the Series 1996 Bonds, as the same shall come due, when other moneys in the Series 1996 Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 1996 Bonds Sinking Fund and the Series 1996 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 Bond 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 due on the Series 1996 Bonds and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 1996 Bonds Reserve Account which result in a reduction in the balance of the Series 1996 Bonds Reserve Account to below the Series 1996 Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full to the Series 1996 Bonds Sinking Fund and the Series 1996 Bonds Sinking Fund.

As and when additional Bonds ranking on a parity with the Bonds are issued, provision shall be made for additional payments into the respective sinking fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the appropriate reserve account in an amount equal to the maximum amount of principal and interest which will become due in any year for account of the Bonds of such series, including such additional Bonds.

The Issuer shall not be required to make any further payments into the Series 1996 Bonds Sinking Fund or into the Series 1996 Bonds Reserve Account therein when the aggregate amount of funds in the Series 1996 Bonds Sinking Fund and the

Series 1996 Bonds Reserve Account are at least equal to the aggregate principal amount of the Series 1996 Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

Principal and interest payments, whether for a deficiency or otherwise, shall be made on a parity basis and pro rata with respect to the Prior Bonds and Series 1996 Bonds, in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 1996 Bonds Sinking Fund and the Series 1996 Bonds Reserve Account created hereunder, and all amounts required for the Series 1996 Bonds Sinking Fund and the Series 1996 Bonds Reserve Account shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

Moneys in the Series 1996 Bonds Sinking Fund and the Series 1996 Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 1996 Bonds Sinking Fund, including the Series 1996 Bonds Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 1996 Bonds and any additional Bonds ranking on a parity therewith that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

B. The Issuer shall on the first day of each month (if such day is not a business day, then the next succeeding business day), deposit with the Commission the required interest, principal and reserve payments with respect to the 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. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited.

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

D. The Issuer shall on the first day of each month (if such day is not a business day, then the next succeeding business day), deposit with the Commission the SRF Administrative Fee as set forth in Schedule Y attached to the Loan Agreement.

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.

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

G. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; 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 moneys received from the sale of the Series 1996 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 1996 Bonds, there shall first be deposited with the Commission in the Series 1996 Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 1996 Bonds for the period commencing on the date of issuance of such Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 1996 Bonds, there shall be deposited with the Commission in the Series 1996 Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding the Series 1996 Bonds Reserve Account.

C. Next, from the proceeds of the Series 1996 Bonds, there shall first be credited to the Bond Construction Trust Fund and then reimbursed to the Issuer for payment of the Notes and any and all other borrowings by the Issuer made for the purpose of temporarily financing a portion of the Costs of the Project and any borrowings by the Issuer from the Authority, including interest accrued thereon to the date of such payment; provided that the Authority and the DEP have previously consented to the payment of such borrowings.

D. As the Issuer receives advances of the remaining moneys derived from the sale of the Series 1996 Bonds, such moneys shall be deposited with the Depository Bank in the Bond Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 6.02 hereof.

E. 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 1996 Bonds shall be used to fund the Series 1996 Bonds Reserve Account, if not funded upon issuance of the Series 1996 Bonds, in an amount not to exceed the Series 1996 Bonds Reserve Requirement; provided that, in no event shall more than 10% of the proceeds of the Series 1996 Bonds be deposited in the Series 1996 Bonds Reserve Account.

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

in the Bond Legislation. Moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the Project and until so transferred or expended, are hereby pledged as additional security for the Series 1996 Bonds.

Section 6.02. Disbursements From the Bond Construction Trust Fund.

On or before the Closing Date, the Issuer or the Board shall have delivered to the Authority and the DEP a report listing the specific purposes for which the proceeds of the Series 1996 Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Bond Construction Trust Fund shall be made only after submission to, and approval from, the Authority and the DEP of the following:

- (1) a completed and signed "Payment Requisition Form," a form of which is attached to the Loan Agreement as Exhibit C, and
- (2) a certificate, signed by an Authorized Officer and the Consulting Engineers, stating:
 - (A) That none of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;
 - (B) That each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;
 - (C) That each of such costs has been otherwise properly incurred; and
 - (D) That payment for each of the items proposed is then due and owing.

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

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

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 1996 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 1996 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 1996 Bonds or the interest thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 1996 Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the Net Revenues pledged for such payment by this Bond Legislation. No Holder or Holders of the Series 1996 Bonds, shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 1996 Bonds or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of the Series 1996 Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the operation of 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 on the Prior Bonds and the Series 1996 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. Rates and Charges. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the sewer rate ordinance of the Issuer enacted on August 18, 1994.

Section 7.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease, or otherwise dispose of or encumber the System, or any part thereof, except as provided in the Prior Ordinance and with the written consent of the Authority and the DEP. Additionally, so long as the Series 1996 Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority and the DEP, 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 or to effectively defease the pledge created by this Bond Legislation in accordance with Section 10.01 hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 1996 Bonds, immediately be remitted to the Commission for deposit in the Series 1996 Bonds Sinking Fund, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Series 1996 Bonds as prescribed by Section 10.01 hereof, all on a parity basis and pro rata with the Prior Bonds. Any balance remaining after the payment of the Bonds and the interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor is not in excess of \$50,000, the Issuer shall, in writing, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Issuer may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Revenue Fund. If the amount to be received from such sale, lease or other disposition of said property shall be in excess of \$50,000 but not in excess of \$200,000, the Issuer shall first, in writing, determine, with the written approval of the Consulting Engineers, that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and the Issuer 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 \$50,000 and not in excess of \$200,000, shall be deposited by the Issuer into the Renewal and Replacement Fund.

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 \$200,000 and insufficient to pay or defease all Bonds then Outstanding, without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of over 60% in amount of all 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 1996 Bonds and the Prior Bonds. All obligations issued

by the Issuer after the issuance of the Series 1996 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 1996 Bonds and the Prior Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts established by this Bond Legislation and the Prior Ordinance at the time of the issuance of such subordinate obligations have been made and are current.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 1996 Bonds and the Prior Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 1996 Bonds and the Prior Bonds and the interest thereon in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the Authority and the DEP prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System 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 Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 1996 Bonds pursuant to this Bond Legislation, without the prior written consent of the Authority and the DEP and without complying with the conditions and requirements herein provided (unless less restrictive than the provisions of the Prior Ordinance).

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 1996 Bonds.

No such Parity Bonds shall be issued except for the purposes of financing the costs of the design, acquisition or construction of additions, extensions, improvements or betterments to the System, refunding all or a portion of one or more series of Bonds issued by the Issuer, or paying claims which may exist against the revenues or facilities of the System or any combination of such purposes.

No Parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the City Clerk a written statement by the 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 Parity Bonds, plus the estimated average increased annual Net Revenues

expected to be received in each of the 3 succeeding years after the date of issuance of such Parity Bonds, 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, including, without limitation, the Prior Bonds;
- (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 expected 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) any 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 delivery of such Parity Bonds. For purposes of this test, the terms "Gross Revenues" and "Net Revenues" shall not include proceeds from the sale of capital assets.

The term "Parity Bonds," as used in this section, shall be deemed to mean additional Bonds issued under the provisions and within the limitations of this section and the Prior Ordinance, payable from the Net Revenues of the System on a parity with the Bonds, and 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 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 and the Prior Ordinance. All the Series 1996 Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Net Revenues of the System, and their source of and security for payment from 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.

The term "Parity Bonds," as used in this section, shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior lien of the Series 1996 Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from revenues of the System, or any part thereof, which rank prior to or equally, as to lien on and source of and security for payment from such revenues, with the Series 1996 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 and the Prior Ordinance with respect to the Bonds then Outstanding, and any other payments provided for in this Bond Legislation and the Prior Ordinance, shall have been made in full as required to the date of issuance of the Parity Bonds, and the Issuer then be in full compliance with all the covenants, agreements and terms of this Bond Legislation and the Prior Ordinance and every ordinance supplemental thereto, or shall have fully corrected any delinquency or deficiency in such payments and compliance.

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

The Issuer or the Board shall permit the Authority and the DEP, 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 or the Board 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 Board or 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 Board. 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 Board. The Board 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 Board shall be reported to such agent of the Board as the Board shall direct.

The Issuer or the Board shall file with the Consulting Engineers, the Authority and the DEP, or any other original purchaser of the Series 1996 Bonds, and shall mail in

each year to any Holder or Holders of the Series 1996 Bonds requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation and the status of all said funds and accounts.

(C) The amount of any Bonds, notes or other obligations payable from the revenues of the System outstanding.

The Issuer or the Board shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 1996 Bonds and shall submit said report to the Authority and the DEP, or any other original purchaser of the Series 1996 Bonds. Such audit report submitted to the Authority and the DEP shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the Loan 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.

The Issuer or the Board shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in Exhibit E of the Loan Agreement or as promulgated from time to time.

The Issuer or the Board shall permit the Authority and the DEP, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction of the Project, the Issuer or the Board shall also provide the Authority and the DEP, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and the DEP with respect to the System pursuant to the Act.

Section 7.09. Rates. Equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the City Clerk, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created (or, where appropriate, continued) hereunder. Such schedule of rates and charges

shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all reasonable expenses of operation, repair and maintenance of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Series 1996 Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 1996 Bonds, including the Prior Bonds; provided that, when the Prior Bonds are no longer outstanding and amounts equal to or in excess of the reserve requirements are on deposit respectively in the Series 1996 Bonds Reserve Account and any reserve accounts for obligations prior to or on a parity with the Series 1996 Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest on the Series 1996 Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 1996 Bonds. In any event, subject to any requirements of law, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinance described in Section 7.04 hereof.

Section 7.10. Operating Budget; Audit and Monthly Financial Report.

The Board shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority and the DEP within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Board shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Board shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority, the DEP and to any Holder of any Bonds who shall file his or her address with the Board and request in writing that copies of all such budgets and resolutions be furnished him or her, within 30 days of adoption thereof, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any 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 or the Board shall each month complete a "Monthly Financial Report," a form of which is attached to the Loan Agreement as Exhibit B, and forward a copy of such report to the Authority and the DEP by the 10th day of each month.

Section 7.11. Engineering Services and Operating Personnel. The Issuer or the Board will obtain a certificate of the Consulting Engineers in the form attached to the Loan 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 DEP, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the DEP 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 or the Board shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and the DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority, the DEP, the Board 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 or the Board shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer or the Board shall notify the DEP in writing of such receipt. The Issuer or the Board shall submit a "Performance Certificate," a form of which is attached to the Loan Agreement as Exhibit A, to the DEP within 60 days of the end of the first year after the Project is completed.

The Issuer or the Board shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the Project is 90% completed.

The Issuer and the Board agree that qualified operating personnel properly certified by the State will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of the Loan Agreement. The Issuer or the Board shall notify the DEP in writing of the certified operator employed at the 25% completion stage.

Section 7.12. No Competing Franchise. To the extent legally allowable, neither the Issuer nor the Board will 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 or the Board 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 and to the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, all delinquent rates, rentals and other charges, if not paid 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 and facilities of the System, and any services and facilities of the Issuer's waterworks system, to all delinquent users of the services and facilities of the System and will not restore such services of either system until all delinquent charges for the services and facilities 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 and the Board 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, the Board, or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer, the Board and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the Issuer and the Board shall transfer from its general funds sufficient sums to pay such charges for service to any of its department or properties. 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 1996 Bonds remain Outstanding, the Issuer or the Board will, as an Operating Expense, procure, carry and maintain insurance and

bonds and worker's compensation coverage with a reputable insurance carrier or carriers or bonding company or companies covering the following risks and 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 original 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 repairs or reconstruction of such damaged or destroyed portion or for the other purposes provided herein for the Renewal and Replacement Fund. The Board 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 Board, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the Board, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than \$1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than \$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 100% of the amount of any construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

(4) FLOOD INSURANCE, 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.

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

(6) FIDELITY BONDS will be provided as to every officer, member and employee of the Board or 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.

B. The Issuer or the Board 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 or the Board 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 DEP. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the Board, the prime contractor and all subcontractors, as their interests may appear.

Section 7.16. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, 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, and every such owner, tenant or occupant shall, after a 30-day notice of the availability of the System, pay the rates and charges established therefor.

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

Section 7.17. Completion of Project; Permits and Orders. The Issuer and the Board 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 and the Board will obtain all permits required by state and federal laws for the acquisition and construction of the Project and all orders and approvals from the Public Service Commission of West Virginia necessary for the acquisition and construction of the Project and the operation of the System.

Section 7.18. Compliance with Loan Agreement and Law. The Issuer and the Board agree to comply with all the terms and conditions of the Loan Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer and the Board will provide the DEP with copies of all documents submitted to the Authority.

The Issuer and the Board also agree to comply with all applicable laws, rules and regulations issued by the Authority, the DEP or other state, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

Section 7.19. Tax Covenants. The Issuer and the Board hereby further covenant and agree as follows:

A. **PRIVATE BUSINESS USE LIMITATION.** The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Series 1996 Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Series 1996 Bonds during the term thereof is, under the terms of the Series 1996 Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) that, in the event that both (A) in excess of 5% of the Net Proceeds of the Series 1996 Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Series 1996 Bonds during the term thereof is, under the terms of the Series 1996 Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Series 1996 Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project, or if the Series 1996 Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such Private Business Use is related. All of the foregoing shall be determined in accordance with the Code.

B. **PRIVATE LOAN LIMITATION.** The Issuer shall assure that not in excess of 5% of the Net Proceeds of the Series 1996 Bonds or \$5,000,000 are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. **FEDERAL GUARANTEE PROHIBITION.** The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 1996 Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

D. **INFORMATION RETURN.** The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 1996 Bonds and the interest thereon, including, without limitation, the information return required under Section 149(e) of the Code.

E. **FURTHER ACTIONS.** The Issuer will take any and all actions that may be required of it (including, without limitation, those deemed necessary by the Authority) so that the interest on the Series 1996 Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including, without limitation, those deemed necessary by the Authority), the result of which would adversely affect such exclusion.

Section 7.20. Securities Laws Compliance. The Issuer or the Board will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17CFR Part 240).

ARTICLE VIII

INVESTMENT OF FUNDS; NON ARBITRAGE

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Bond Legislation other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, the Prior Ordinance, the need for such moneys 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 moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission, the Depository Bank, or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own 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 Bonds are Outstanding and as long thereafter as necessary to assure the exclusion of interest on the Series 1996 Bonds from gross income for federal income tax purposes.

Section 8.02. Arbitrage and Tax Exemption. The Issuer covenants that (i) it shall not take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Series 1996 Bonds which would cause the Series 1996 Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and (ii) it will take any and all actions that may be required of it (including, without implied limitation, the timely filing of a Federal information return with respect to the Series 1996 Bonds) so that the

interest on the Series 1996 Bonds will be and remain excludable from gross income for Federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 8.03. Tax Certificate and Rebate. The Issuer shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of the Series 1996 Bonds. In addition, the Issuer covenants to comply with all Regulations from time to time in effect and applicable to the Series 1996 Bonds as may be necessary in order to fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of this Bond Legislation.

If the Issuer is subject to the rebate requirements of Section 148(f) of the Code, and not exempted from such requirements, the Issuer covenants to make, or cause to be made, all rebate calculations, computations and payments in the time, manner and as required in Section 148(f) of the Code and the Regulations from time to time in effect and applicable to the Series 1996 Bonds and otherwise covenants and agrees to comply with the provisions of such Section 148(f) of the Code and the Regulations from time to time in effect and applicable to the Series 1996 Bonds. In the event of a failure to pay the correct rebate amount or amounts, the Issuer will pay, from any lawful sources available therefor, to the United States such amount or amounts, plus a penalty equal to 50% of the rebate amount not paid when required to be paid, plus interest on that amount, unless waived. In order to provide for the administration of this paragraph, the Issuer may provide for the employment of independent attorneys, accountants and consultants compensated on such reasonable basis as the Issuer may deem appropriate.

The Issuer shall furnish to the Authority, annually, and at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information relating thereto as may be requested by the Authority. In addition, the Issuer shall cooperate with the Authority in preparing any required rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the Issuer.

The Issuer shall submit to the Authority within 15 days following the end of each Bond Year a certified copy of its rebate calculation or, if the Issuer qualifies for any exception to rebate, the Issuer shall submit a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the Series 1996 Bonds subject to rebate. The Issuer shall also furnish the Authority, at any time, such additional information relating to rebate as may be reasonably requested by the Authority, including information with respect to earnings on

all funds constituting "gross proceeds" of the Bonds (as such term "gross proceeds" is defined in the Code).

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 1996 Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest on the Series 1996 Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 1996 Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 1996 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; or

(3) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America; 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 Holders of the Series 1996 A Bonds shall be on a parity with those of the Holders 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 the Series 1996 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 the power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this 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 exercise.

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

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

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the 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

DEFEASANCE

Section 10.01. Defeasance of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of the Series 1996 Bonds, the principal of and interest 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 moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 1996 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 on the Series 1996 Bonds from gross income for federal income tax purposes.

The Series 1996 Bonds, for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due either at maturity or at the next redemption date, the principal installments of and interest on such Series 1996 Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 1996 Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay, when due, the principal installments of and interest due and to become due on said Series 1996 Bonds on and prior to the next redemption date or the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on said Series 1996 Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of and interest to become due on said Bonds on and prior to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 1996 Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 1996 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 1996 Bonds shall be made without the consent in writing of the Registered Owners of 60% or more in principal amount of the Series 1996 Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein respectively pledged therefor without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 1996 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 exclusion of interest, if any, on the Series 1996 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 Series 1996 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 1996 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. Conflicting Provisions Repealed; Prior Ordinance. 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, 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 or any portion thereof are Outstanding.

Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the 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 City Manager, the City 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 11.07. Effective Date. This Ordinance shall take effect immediately following public hearing hereon.

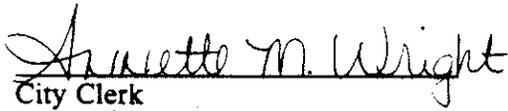
Section 11.08. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in The Clarksburg Exponent and The Clarksburg Telegram, two newspapers published and of general circulation in the City of Clarksburg, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Series 1996 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.

Passed on First Reading: - August 15, 1996
Passed on Second Reading: - September 5, 1996
Passed on Final Reading
Following Public
Hearing: - September 19, 1996



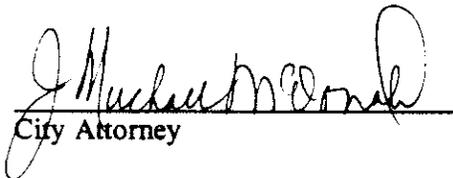
Mayor

ATTEST:



City Clerk

APPROVED AND CORRECT AS TO FORM:



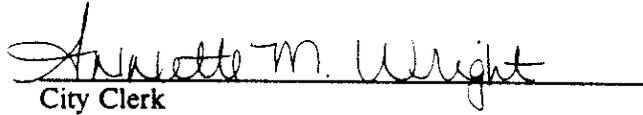
City Attorney

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the CITY OF CLARKSBURG on the 19th day of September, 1996.

Dated: October 24, 1996.

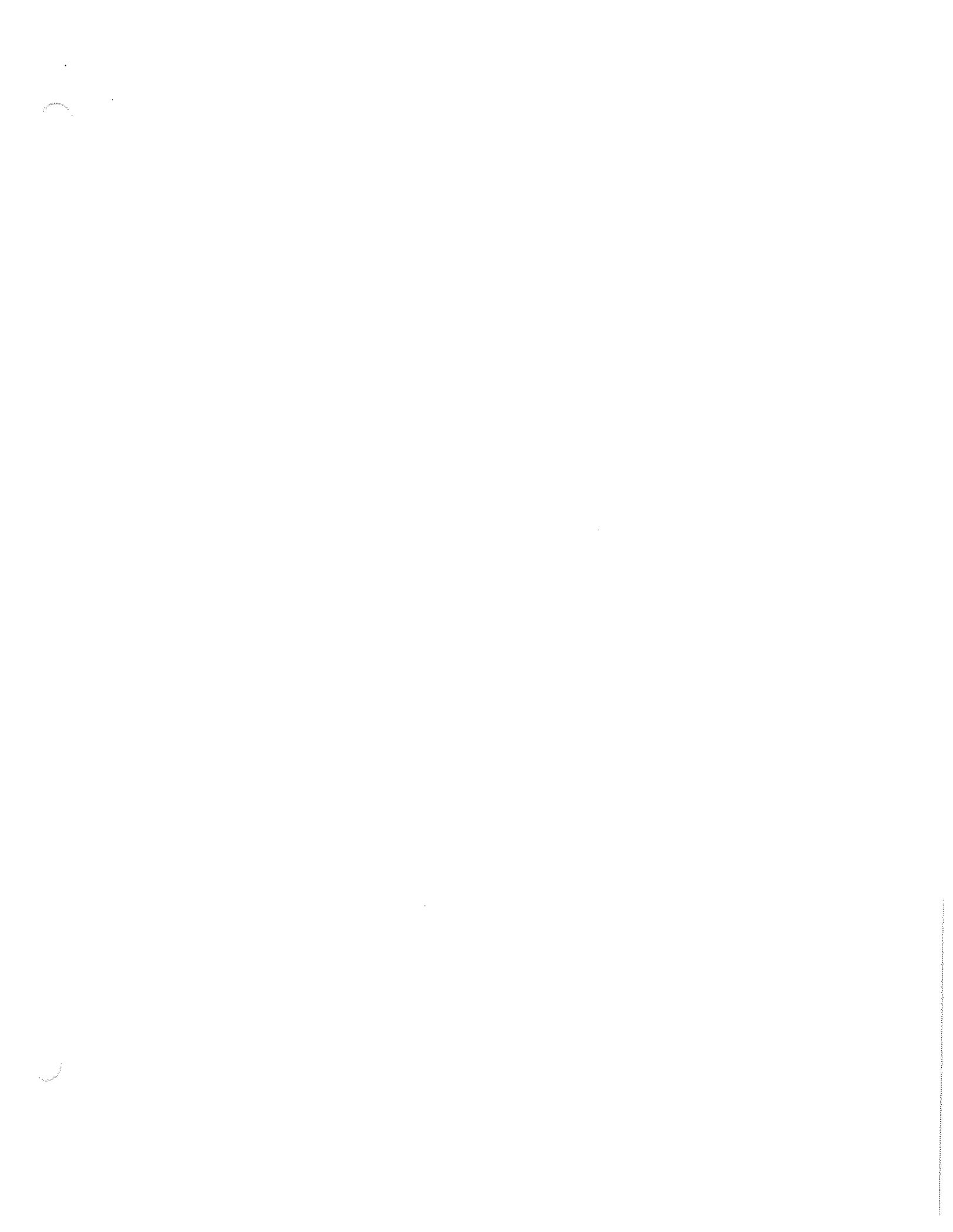
[SEAL]


City Clerk

09/25/96
CSRFJM.A4
155510/95003

EXHIBIT A

Loan Agreement included in bond transcript as Document No. 3



CITY OF CLARKSBURG

Sewer Revenue Bonds, Series 1996
(West Virginia SRF Program)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1996 (WEST VIRGINIA SRF PROGRAM), OF THE CITY OF CLARKSBURG; RATIFYING AND APPROVING A LOAN 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 city council (the "Governing Body") of the City of Clarksburg (the "Issuer"), has duly and officially adopted and enacted a bond ordinance, effective September 19, 1996 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF CLARKSBURG AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$6,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1996 (WEST VIRGINIA SRF PROGRAM); 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 A LOAN 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 Sewer Revenue Bonds, Series 1996 (West Virginia SRF Program), of the Issuer (the "Bonds" or "Series 1996 Bonds"), in the aggregate principal amount not to exceed \$6,500,000, and has authorized the execution and delivery of a loan agreement relating to the Bonds dated September 10, 1996 (the "Loan Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection (the "DEP"), all in accordance with Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Bond Ordinance it is provided that the form of the Loan Agreement and the exact principal amount, date, maturity date, interest rate, interest and principal payment dates, sale price and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Loan Agreement has been presented to the Issuer at this meeting;

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

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and that the Loan Agreement be ratified and approved by the Issuer, that the exact principal amount, the date, the maturity date, the interest rate, the interest and principal payment dates and the 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
THE CITY OF CLARKSBURG:

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewer Revenue Bonds, Series 1996 (West Virginia SRF Program), of the Issuer, originally represented by a single Bond, numbered R-1, in the principal amount of \$6,484,243. The

Bonds shall be dated the date of delivery thereof, shall finally mature June 1, 2018, and shall bear interest at the rate of 2% per annum. Principal of and interest on the Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 1998, and ending June 1, 2018, and in the amounts as set forth in "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Bonds.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Bond Ordinance.

Section 3. The Issuer does hereby approve and shall pay the administrative fee equal to 1% of the principal amount of the Bonds set forth in the "Schedule Y" attached to the Loan Agreement.

Section 4. The Issuer does hereby ratify, approve and accept the Loan Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan 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 affirms all covenants and representations made in the Loan Agreement and in the application to the DEP and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 5. The Issuer does hereby appoint and designate One Valley Bank, National Association, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Bonds and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 6. The Issuer does hereby appoint and direct the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds.

Section 7. The Issuer does hereby appoint Bank One, West Virginia, NA, Clarksburg, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 8. Series 1996 Bonds proceeds in the amount of \$-0- shall be deposited in the Series 1996 Bonds Sinking Fund, as capitalized interest.

Section 9. Series 1996 Bonds proceeds in the amount of \$-0- shall be deposited in the Series 1996 Bonds Reserve Account.

Section 10. The balance of the proceeds of the Bonds shall be deposited in or credited to the Bond Construction Trust Fund as received from time to time for payment of Costs of the Project, including costs of issuance of the Bonds and related costs and reimbursing the Issuer for payment of its Sewerage System Bond Anticipation Notes, Series 1995.

Section 11. The Mayor, the City Manager and the City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered on or about October 24, 1996, to the Authority pursuant to the Loan Agreement.

Section 12. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Bonds is in the public interest, serves a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

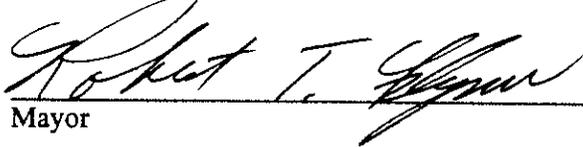
Section 13. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such repurchase agreements or time accounts until further directed in writing by the Issuer. Moneys in the Series 1996 Bonds Sinking Fund, including the Series 1996 Bonds Reserve Account therein, shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 14. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder or under any predecessor thereto (the "Code"), by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions necessary to comply with the Code and Treasury Regulations to be promulgated thereunder.

Section 15. This Supplemental Resolution shall be effective immediately following adoption hereof.

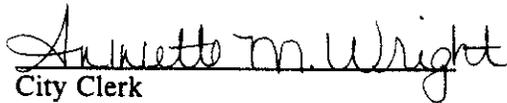
Adopted this 19th day of September, 1996.

CITY OF CLARKSBURG



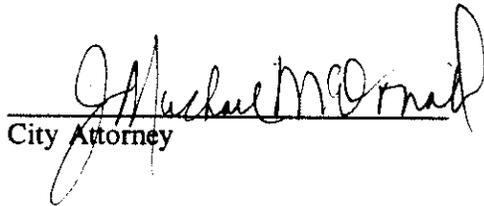
Mayor

ATTEST:



City Clerk

APPROVED AND CORRECT AS TO FORM:



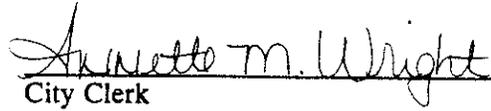
City Attorney

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the City of Clarksburg on the 19th day of September, 1996.

Dated: October 24, 1996.

[SEAL]



City Clerk

09/25/96
CSRFJM.B2
155510/95003



(April 1993)

LOAN AGREEMENT

THIS WATER POLLUTION CONTROL REVOLVING FUND LOAN AGREEMENT (the "Loan Agreement"), made and entered into in several counterparts, by and among the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), the WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION, a division of the West Virginia Department of Commerce, Labor and Environmental Resources (the "DEP"), and the local government designated below (the "Local Government").

CITY OF CLARKSBURG

(Local Government)

W I T N E S S E T H:

WHEREAS, the United States Congress under Title VI of the federal Clean Water Act, as amended (the "Clean Water Act"), has provided for capitalization grants to be awarded to states for the express purpose of establishing and maintaining state water pollution control revolving funds for the construction, acquisition and improvement of wastewater treatment facilities;

WHEREAS, pursuant to the provisions of Chapter 20, Article 5I, of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a state water pollution control revolving fund program (the "Program") to direct the distribution of loans to particular local governments pursuant to the Clean Water Act;

WHEREAS, under the Act the DEP is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency ("EPA") to accept capitalization grant awards and DEP has been awarded capitalization grants to partially fund the Program;

WHEREAS, under the Act and under the direction of DEP, the Authority has established a permanent perpetual fund known as the "West Virginia Water Pollution Control Revolving Fund" (hereinafter the "Fund");

WHEREAS, pursuant to the Act, the Authority and DEP are empowered to make loans from the Fund to local governments for the acquisition or construction of wastewater treatment projects by

such local governments, all subject to such provisions and limitations as are contained in the Clean Water Act and the Act;

WHEREAS, the Local Government constitutes a local government as defined by the Act;

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

WHEREAS, the Local Government is authorized and empowered by the statutes of the State to construct, operate and improve a wastewater treatment project and to finance the cost of constructing or acquiring the same by borrowing money to be evidenced by revenue bonds issued by the Local Government;

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

WHEREAS, the Local Government has completed and filed with the Authority and DEP an Application for a Construction Loan with attachments and exhibits and an Amended Application for a Construction Loan also with attachments and exhibits (together, as further revised and supplemented, the "Application"), which Application is incorporated herein by this reference; and

WHEREAS, having reviewed the Application and the Fund having available sufficient funds therefor, the Authority and DEP are willing to lend the Local Government the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Local Government with moneys held in the Fund, subject to the Local Government's satisfaction of certain legal and other requirements of the Program.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Local Government, DEP and the Authority hereby agree as follows:

ARTICLE I

Definitions

1.1 Except where the context clearly indicates otherwise, the terms "Authority," "cost," "fund," "local government," and "project" have the definitions and meanings ascribed to them in the Act or in the SRF Regulations.

1.2 "Consulting Engineers" means the professional engineer, licensed by the State, designated in the Application and any successor thereto.

1.3 "Loan" means the loan to be made by the Authority and DEP to the Local Government through the purchase of Local Bonds, as hereinafter defined, pursuant to this Loan Agreement.

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

1.5 "Local Bonds" means the revenue bonds to be issued by the Local Government pursuant to the provisions of the Local Statute, as hereinafter defined, to evidence the Loan and to be purchased by the Authority with money held in the Fund, all in accordance with the provisions of this Loan Agreement.

1.6 "Local Statute" means the specific provisions of the Code of West Virginia, 1931, as amended, pursuant to which the Local Bonds are issued.

1.7 "Operating Expenses" means the reasonable, proper and necessary costs of operation and maintenance of the System, as hereinafter defined, as should normally and regularly be included as such under generally accepted accounting principles.

1.8 "Program" means the wastewater treatment facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Clean Water Act and administered by DEP.

1.9 "Project" means the wastewater treatment facility project hereinabove referred to, to be constructed or being constructed by the Local Government in whole or in part with the net proceeds of the Local Bonds or being or having been constructed by the Local Government in whole or in part with the proceeds of bond anticipation notes or other interim financing, which is to be paid in whole or in part with the net proceeds of the Local Bonds.

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

1.11 "System" means the wastewater treatment facility owned by the Local Government, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

1.12 Additional terms and phrases are defined in this Loan Agreement as they are used.

ARTICLE II

The Project and the System

2.1 The Project shall generally consist of the construction and acquisition of the facilities described in the Application, to be, being or having been constructed in accordance with plans, specifications and designs prepared for the Local Government by the Consulting Engineers, the DEP and Authority having found, to the extent applicable, that the Project is consistent with the applicable provisions of the Program.

2.2 Subject to the terms, conditions and provisions of this Loan Agreement and of the Local Act, the Local Government has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared for the Local Government by the Consulting Engineers.

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Local Government, subject to any mortgage lien or other security interest as is provided for in the Local Statute unless a sale or transfer of all or a portion of said property is approved by DEP and the Authority.

2.4 The Local Government agrees that the Authority and DEP and their respective duly authorized agents shall have the right at all reasonable times to enter upon the Project site and Project facilities and to examine and inspect the same. The Local Government further agrees that the Authority and DEP and their respective duly authorized agents shall, prior to, at and after completion of construction and commencement of operation of the Project, have such rights of access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and DEP with respect to the System pursuant to the pertinent provisions of the Act.

2.5 The Local Government shall keep complete and accurate records of the cost of acquiring the Project site and the costs of constructing, acquiring and installing the Project. The Local Government shall permit the Authority and DEP, acting by and through their Directors or duly authorized agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at any and all reasonable times for the purpose of audit and examination, and the Local Government shall submit to the Authority and DEP such documents and information as it may reasonably require in connection with the construction, acquisition and installation of

the Project, the operation and maintenance of the System and the administration of the Loan or of any State and federal grants or other sources of financing for the Project.

2.6 The Local Government agrees that it will permit the Authority and DEP and their respective agents to have access to the records of the Local Government pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof or if the Project is an improvement to an existing system at any reasonable time following commencement of construction.

2.7 The Local Government shall require that each construction contractor furnish a performance bond and a payment bond, each in an amount at least equal to one hundred percent (100%) of the contract price of the portion of the Project covered by the particular contract, as security for the faithful performance of such contract.

2.8 The Local Government shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and DEP. Until the Project facilities are completed and accepted by the Local Government, the Local Government or (at the option of the Local Government) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Local Government, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Local Government on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds are outstanding. Prior to commencing operation of the Project, the Local Government must also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Local Government shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority, DEP and the

Local Government at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Local Government shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Local Government shall notify DEP in writing of such receipt. The Local Government shall submit a Performance Certificate, the form of which is attached hereto as Exhibit A, and being incorporated herein by reference, to DEP within 60 days of the end of the first year after the Project is completed.

2.10 The Local Government shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to DEP when the Project is 90% completed. The Local Government agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The Local Government agrees that qualified operating personnel properly certified by the State will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of this Loan Agreement. The Local Government shall notify DEP in writing of the certified operator employed at the 25% completion stage.

2.11 The Local Government hereby covenants and agrees to comply with all applicable laws, rules and regulations issued by the Authority, DEP or other State, federal or local bodies in regard to the construction of the Project and operation, maintenance and use of the System.

2.12 The Local Government, commencing on the date contracts are executed for the construction of the Project and for two years following the completion of the Project, shall each month complete a Monthly Financial Report, the form of which is attached hereto as Exhibit B and incorporated herein by reference, and forward a copy by the 10th of each month to the Authority.

2.13 The Local Government, during construction of the Project, shall complete Payment Requisition Forms, the form of which is attached hereto as Exhibit C and incorporated herein by reference, and forward a copy of each Form to DEP in compliance with the Local Government's construction schedule.

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

3.1 The agreement of the Authority and DEP to make the Loan is subject to the Local Government's fulfillment, to the satisfaction of the Authority and DEP, of each and all of those certain conditions precedent on or before the delivery date for the Local Bonds, which shall be the date established pursuant to Section 3.4 hereof. Said conditions precedent are as follows:

(a) The Local Government shall have delivered to the Authority a report listing the specific purposes for which the proceeds of the Loan will be expended and the procedures as to the disbursement of loan proceeds, including an estimated monthly draw schedule;

(b) The Local Government shall have performed and satisfied all of the terms and conditions to be performed and satisfied by it in this Loan Agreement;

(c) The Local Government shall have authorized the issuance of and delivery to the Authority of the Local Bonds described in this Article III and in Article IV hereof;

(d) The Local Government shall either have received bids or entered into contracts for the construction of the Project, which are in an amount and otherwise compatible with the plan of financing described in the Application; provided, that, if the Loan will refund an interim financing of construction, the Local Government must either be constructing or have constructed its Project for a cost and as otherwise compatible with the plan of financing described in the Application; and, in either case, the Authority and DEP shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit D;

(e) The Local Government shall have obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, and the Authority and DEP shall have received a certificate of the Consulting Engineers to such effect;

(f) The Local Government shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the construction of the Project and operation of the System, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local

Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

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

(h) The Local Government shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project) with all requisite appeal periods having expired, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

(i) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsection 4.1(b)(ii) hereof, and the Authority and DEP shall have received a certificate of the accountants for the Local Government, or such other person or firm experienced in the finances of local governments and satisfactory to the Authority and DEP, to such effect; and

(j) The net proceeds of the Local Bonds, together with all moneys on deposit or to be simultaneously deposited (or, with respect to proceeds of grant anticipation notes or other indebtedness for which a binding purchase contract has been entered, to be deposited on a date certain) and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, shall be sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and the Authority and DEP shall have received a certificate of the Consulting Engineers, or such other person or firm experienced in the financing of wastewater treatment projects and satisfactory to the Authority and DEP, to such effect, such certificate to be in form and substance satisfactory to the Authority and DEP, and evidence satisfactory to the Authority and DEP of such irrevocably committed grants.

3.2 Subject to the terms and provisions of this Loan Agreement, the rules and regulations promulgated by the Authority and DEP, including the SRF Regulations, or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government, it is hereby agreed that the Authority shall make the Loan to the Local Government and the Local Government shall accept the Loan from the

Authority, and in furtherance thereof it is agreed that the Local Government shall sell to the Authority and the Authority shall make the Loan by purchasing the Local Bonds in the principal amount and at the price set forth in Schedule X hereto. The Local Bonds shall have such further terms and provisions as described in Article IV hereof.

3.3 The Loan shall be secured and shall be repaid in the manner hereinafter provided in this Loan Agreement.

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Local Government by written notice to the Authority, which written notice shall be given not less than ten (10) business days prior to the date designated; provided, however, that if the Authority is unable to accept delivery on the date designated, the Local Bonds shall be delivered to the Authority on a date as close as possible to the designated date and mutually agreeable to the Authority, DEP and the Local Government. The date of delivery so designated or agreed upon is hereinafter referred to as the "Date of Loan Closing." Notwithstanding the foregoing, the Date of Loan Closing shall in no event occur more than ninety (90) days after the date set forth in Exhibit E hereto.

3.5 The Local Government understands and acknowledges that it is one of several local governments which have applied to the Authority and DEP for loans to finance wastewater treatment projects and that the obligation of the Authority to make any such loan is subject to the Local Government's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing and to the requirements of the Program. The Local Government specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Fund to purchase all the Local Bonds and that, prior to such purchase, the Authority may purchase the bonds of other local governments set out in the State Project Priority List, as defined in the SRF Regulations. The Local Government further specifically recognizes that all loans will be originated in conjunction with the SRF Regulations and with the approval of DEP.

3.6 The Local Government shall provide DEP with the appropriate documentation to comply with the special conditions established by federal and state regulations as set forth in Exhibit E hereto at such times as are set forth in Exhibit E.

ARTICLE IV

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

4.1 The Local Government shall, as one of the conditions of the Authority and DEP to make the Loan, authorize the issuance of and issue the Local Bonds pursuant to an official action of the Local Government in accordance with the Local Statute, which shall, as enacted, contain provisions and covenants in substantially the form as follows:

(a) That the gross revenues of the System shall always be used for purposes of the System. The revenues generated from the operation of the System will be used monthly, in the order of priority listed below:

(i) to pay Operating Expenses of the System;

(ii) to the extent not otherwise limited by any outstanding loan resolution, indenture or other act or document and beginning on the date set forth in Schedule X to provide debt service on the Local Bonds by depositing in a sinking fund one-third (1/3) of the interest payment next coming due on the Local Bonds and one-third (1/3) of the principal payment next coming due on the Local Bonds and, beginning three (3) months prior to the first date of payment of principal of the Local Bonds, if the reserve account for the Local Bonds (the "Reserve Account") was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof in an amount equal to an amount at least equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement"), by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

(iii) to create a renewal and replacement, or similar, fund in an amount equal to two and one-half percent (2-1/2%) of the gross revenues from the System, exclusive of any payments into the Reserve Account, for the purpose of improving or making emergency repairs or replacements to the System or eliminating any deficiencies in the Reserve Account; and

(iv) for other legal purposes of the System, including payment of debt service on other obligations junior, subordinate and inferior to the Local Bonds.

Provided that if the Local Government has existing outstanding indebtedness which has greater coverage or renewal and replacement fund requirements, then the greater requirements will prevail until said existing indebtedness is paid in full.

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by the net revenues from the System;

(ii) That the schedule of rates or charges for the services of the System shall be sufficient to provide funds which, along with other revenues of the System, will pay all Operating Expenses and leave a balance each year equal to at least one hundred fifteen percent (115%) of the maximum amount required in any year for debt service on the Local Bonds and all other obligations secured by a lien on or payable from the revenues of the System prior to or on a parity with the Local Bonds or, if the reserve account established for the payment of debt service on the Local Bonds is funded (whether by Local Bond proceeds, monthly deposits or otherwise) the Reserve Requirement and any reserve account for any such prior or parity obligations is funded at least at the requirement therefor, equal to at least one hundred ten percent (110%) of the maximum amount required in any year for debt service on the Local Bonds and any such prior or parity obligations;

(iii) That the Local Government will complete the Project and operate and maintain the System in good condition;

(iv) That, except as otherwise required by State law or the Regulations, the System may be sold, mortgaged, leased or otherwise disposed of as a whole or substantially as a whole provided that the net proceeds to be realized from such sale, mortgage, lease or other 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 such System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

(v) That the Local Government shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and on any obligations secured by

a lien on or payable from the revenues of the System prior to the Local Bonds and with the written consent of the Authority and DEP; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

(vi) That the Local Government will carry such insurance as is customarily carried with respect to works and properties similar to the System, including those specified by Section 2.8 hereof;

(vii) That the Local Government will not render any free services of the System;

(viii) That any Local Bond owner may, by proper legal action, compel the performance of the duties of the Local Government under the Local Act, including the making and collection of sufficient rates or charges for services rendered by the System, and shall also have, in the event of a default in payment of principal of or interest on the Local Bonds, the right to obtain the appointment of a receiver to administer the System or construction of the Project, or both, as provided by law and all rights as set forth in Section 5 of the Act;

(ix) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, all delinquent rates and charges, if not paid when due, shall become a lien on the premises served by the System;

(x) That, to the extent legally allowable, the Local Government will not grant any franchise to provide any services which would compete with the System;

(xi) That the Local Government shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and DEP, which report shall include a statement that the Local Government is in compliance with the terms and provisions of the Local Act and this Loan Agreement and that the Local Government's revenues are adequate to meet its operation and maintenance expenses and debt service requirements;

(xii) That the Local Government shall annually adopt a detailed budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding fiscal year and shall submit a copy of such budget to the Authority and DEP within 30 days of adoption thereof;

(xiii) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC,

prospective users of the System shall be required to connect thereto;

(xiv) That the proceeds of the Local Bonds, advanced from time to time, except for accrued interest and capitalized interest, if any, must (a) be deposited in a construction fund, which, except as otherwise agreed to in writing by the Authority, shall be held separate and apart from all other funds of the Local Government and on which the owners of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing for non-construction costs) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim funding of such Local Government, the proceeds of which were used to finance the construction of the Project; provided that, with the prior written consent of the Authority and DEP, the proceeds of the Local Bonds may be used to fund all or a portion of the Reserve Account, on which the owner of the Local Bonds shall have a lien as provided herein;

(xv) That, as long as the Authority is the owner of any of the Local Bonds, the Local Government may authorize redemption of the Local Bonds with 30 days written notice to the Authority;

(xvi) That the Local Government shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the West Virginia Municipal Bond Commission (the "Commission") its required interest, principal and reserve fund payment. The Local Government shall complete the Monthly Payment Form, attached hereto as Exhibit F and incorporated herein by reference, and submit a copy of said form along with a copy of the check to the Authority by the 5th day of such calendar month;

(xvii) That the Commission shall serve as paying agent for all Local Bonds;

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

(xix) That the Local Government shall have obtained the certificate of the Consulting Engineers to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority, the Project is adequate for the purposes for which it was designed and the funding plan as submitted to the Authority is

sufficient to pay the costs of acquisition and construction of the Project; and

(xx) That the Local Government shall, to the full extent permitted by applicable law and the rules and regulations of the West Virginia Public Service Commission, terminate the services of any water facility owned by it to any customer of the System who is delinquent in payment of charges for services provided by the System and will not restore the services of the water facility until all delinquent charges for the services of the System have been fully paid or, if the water facility is not owned by the Local Government, then the Local Government shall enter into a termination agreement with the water provider.

The Local Government hereby represents and warrants that the Local Act has been or shall be duly adopted in compliance with all necessary corporate and other action and in accordance with applicable provisions of law. All legal matters incident to the authorization, issuance, sale and delivery of the Local Bonds shall be approved without qualification by nationally recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit G.

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

4.3 At least five percent (5%) of the proceeds of the Local Bonds will be advanced on the Date of Loan Closing. The remaining proceeds of the Local Bonds shall be advanced by the Authority monthly as required by the Local Government to pay Costs of the Project, provided, however, if the proceeds of the Local Bonds will be used to repay an interim financing, the proceeds will be advanced on a schedule mutually agreeable to the Local Government, the DEP and the Authority. The Local Bonds shall not bear interest during the construction period but interest shall commence accruing on the completion date as defined in the SRF Regulations, provided that the annual repayment of principal and payment of interest shall begin not later than one (1) year after the completion date. The repayment of principal and interest on the Local Bonds shall be as set forth on Schedule Y hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

4.4 The Local Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Local Government. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series.

4.5 As provided by the SRF Regulations, the Local Government agrees to pay from time to time, if required by the Authority and DEP, the Local Government's allocable share of the reasonable administrative expenses of the Authority relating to the Program. Such administrative expenses shall be determined by the Authority and shall include without limitation Program expenses, legal fees paid by the Authority and fees paid to the trustee and paying agents for any bonds or notes to be issued by the Authority for contribution to the Fund and the fees and expenses of any corporate trustee for the Fund.

4.6 The obligation of the Authority to make any loans shall be conditioned upon the availability of moneys in the Fund in such amount and on such terms and conditions as, in the sole judgment of the Authority, will enable it to make the Loan.

ARTICLE V

Certain Covenants of the Local Government;
Imposition and Collection of User Charges;
Payments To Be Made by
Local Government to the Authority

5.1 The Local Government hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Local Government hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System, as set forth in the Local Act and in compliance with the provisions of Subsection 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the minimum sums set forth in the Local Act, the Local Government hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges so as to provide funds sufficient to produce the minimum sums set forth in the Local Act and as required by this Loan Agreement.

5.3 In the event the Local Government defaults in any payment due to the Authority pursuant to Section 4.2 hereof, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

5.4 The Local Government hereby irrevocably covenants and agrees with the Authority that, in the event of any default

hereunder by the Local Government, the Authority may exercise any or all of the rights and powers granted under Section 5 of the Act, including without limitation the right to impose, enforce and collect directly charges upon users of the System.

ARTICLE VI

Other Agreements of the Local Government

6.1 The Local Government hereby acknowledges to the Authority and DEP its understanding of the provisions of the Act, vesting in the Authority and DEP certain powers, rights and privileges with respect to wastewater treatment projects in the event of default by local governments in the terms and covenants of loan agreements, and the Local Government hereby covenants and agrees that, if the Authority should hereafter have recourse to said rights and powers, the Local Government shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Loan Agreement.

6.2 The Local Government hereby warrants and represents that all information provided to the Authority and DEP in this Loan Agreement, in the Application or in any other application or documentation with respect to financing the Project was at the time, and now is, true, correct and complete, and such information does not omit any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. Prior to the Authority's making the Loan and receiving the Local Bonds, the Authority and DEP shall have the right to cancel all or any of their obligations under this Loan Agreement if (a) any representation made to the Authority and DEP by the Local Government in connection with the Loan shall be incorrect or incomplete in any material respect or (b) the Local Government has violated any commitment made by it in its Application or in any supporting documentation or has violated any of the terms of the SRF Regulations or this Loan Agreement.

6.3 The Local Government hereby agrees to repay on or prior to the Date of Loan Closing any moneys due and owing by it to the Authority or any other lender for the planning or design of the Project, provided that such repayment shall not be made from the proceeds of the Loan.

6.4 The Local Government hereby covenants that it will rebate any amounts required by Section 148 of the Internal Revenue Code of 1986, as amended, and will take all steps necessary to make any such rebates. In the event the Local Government fails to make any such rebates as required, then the Local Government shall pay any and all penalties, obtain a waiver from the Internal Revenue

Service and take any other actions necessary or desirable to preserve the exclusion from gross income for federal income tax purposes of interest on the Local Bonds.

6.5 Notwithstanding Section 6.4, the Authority and DEP may at any time, in their sole discretion, cause the rebate calculations prepared by or on behalf of the Local Government to be monitored or cause the rebate calculations for the Local Government to be prepared, in either case at the expense of the Local Government.

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

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

ARTICLE VII

Miscellaneous

7.1 Schedule Y shall be attached to this Loan Agreement by the Authority as soon as practicable after the Date of Loan Closing is established and shall be approved by an official action of the Local Government supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority.

7.2 If any provision of this Loan Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Loan Agreement, and this Loan Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

7.3 This Loan Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument. Each party agrees that it will execute any and all documents or other instruments and take such other actions as may be necessary to give effect to the terms of this Loan Agreement.

7.4 No waiver by any party of any term or condition of this Loan Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of

the same or of a different section, subsection, paragraph, clause, phrase or other provision of this Loan Agreement.

7.5 This Loan Agreement merges and supersedes all prior negotiations, representations and agreements between the parties hereto relating to the Loan and constitutes the entire agreement between the parties hereto in respect thereof.

7.6 By execution and delivery of this Loan Agreement, notwithstanding the date hereof, the Local Government specifically recognizes that it is hereby agreeing to sell its Local Bonds to the Authority and that such obligation may be specifically enforced or subject to a similar equitable remedy by the Authority.

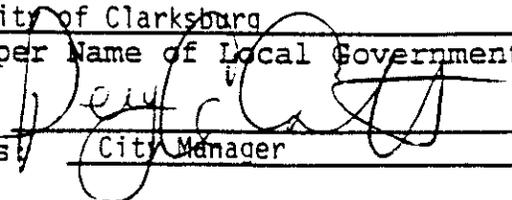
7.7 This Loan Agreement shall terminate upon the earlier of:

(i) written notice of termination to the Local Government from either the Authority or DEP;

(ii) termination by the Authority and DEP pursuant to Section 6.2 hereof; or

(iii) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Local Government to the Authority or DEP; provided that the amount of the Loan made under this Loan Agreement in any succeeding fiscal year is contingent upon funds being appropriated by the legislature or otherwise being available to make the Loan. In the event funds are not appropriated or otherwise available to make all of the Loan, the responsibility of the Authority and DEP to make all the Loan is terminated; provided further that the obligation of the Local Government to repay the amount of the Loan made by the Authority and DEP as set forth in (iii) above is not terminated due to such non-funding on any balance on the Loan. The DEP agrees to use its best efforts to have the amount contemplated under this Loan Agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default under the Loan Agreement.

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

City of Clarksburg
[Proper Name of Local Government]
By: 
Its/ City Manager

(SEAL)

Attest:

Date: Sept. 11, 1996

Annette M Wright
Its City Clerk

WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION

By: [Signature]
Its: Chief, Office of Water Resources
Date: [Signature]

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: [Signature]
Its: Director

Attest:

Date: September 10, 1996

Barbara B Meadows
Secretary-Treasurer

APPROVED AS TO FORM PRIOR TO
ACKNOWLEDGEMENT THEREOF, THIS
25th day of August, 19 92.

BY: [Signature]
Attorney General
DEPUTY ATTORNEY GENERAL

EXHIBIT A

Certificate of Performance
for
Publicly Owned Treatment Works

I. As required by the Clean Water Act under Title VI, Section 602(b)(6), and the Loan Agreement, the Local Government does hereby certify that it has :

- a. Provided to the WV DEP written notification of the actual date of initiation of operation. This date of initiation was on the _____ day of _____, 19__.
- b. Utilized the services of _____,
our prime engineer who either:
 - _____ Supervised our project construction; and/or
 - _____ Provided architectural and engineering services during construction.

For a period of twelve (12) months following the initiation of operations, the prime engineer provided the following services:

- 1) Directed project operation and maintenance; and
- 2) Trained operating personnel and prepared the required curricula and training materials, and revised the operation and maintenance manual(s); and
- 3) Advised the Local Government on the status of the project meeting performance standards.

II. The Local Government, having access to and control of all the necessary data, and having monitored the construction of this project, hereby certifies that the project built under this Loan Agreement meets:

- a. The specifications for which the project was planned, designed, and built.
- b. The effluent limitations contained in its NPDES permit, if applicable.

Local Government Name

Local Government Representative's Name and Title

Date

EXHIBIT B

[Form of Monthly Financial Report]

[Name of Local Government]

[Name of Bond Issue]

Fiscal Year - _____

Report Month: _____

	<u>CURRENT</u> <u>MONTH</u>	<u>YEAR TO</u> <u>DATE</u>	<u>BUDGET YEAR</u> <u>TO DATE</u>	<u>DIFFERENCE</u>
1. <u>ITEM</u> Gross Revenues Collected				
2. Operation and Maintenance Expense				
3. Other Bond Debt Payments (including Reserve Fund deposits)				
4. SRF Bond Payments (include Reserve Fund deposits)				
5. Renewal and Replacement Fund Deposit				
6. Funds available for capital construction				

Witnesseth my signature this _____ day of _____, 19__.

[Name of Local Government]

By: _____
Authorized Officer

EXHIBIT C

PAYMENT REQUISITION FORM

(TO BE PROVIDED BY DEP FOR EACH PROJECT).

EXHIBIT D

FORM OF CERTIFICATE OF CONSULTING ENGINEER

(Issuer)

(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No. _____, of _____ Consulting Engineers, _____, hereby certify that my firm is engineer for the acquisition and construction of _____ to the system (herein called the "Project") of _____ (the "Issuer") to be constructed primarily in _____ County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the _____ passed by the _____ of the Issuer on _____, 19____, effective _____, 19____, and the Loan Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Division of Environmental Protection ("DEP") dated _____, 19____.

1. The Bonds are being issued for the purpose of _____

(the "Project").

2. The undersigned hereby certifies that (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the application submitted to the Authority requesting the Authority to purchase the Bonds (the "Application") and approved by all necessary governmental bodies, (ii) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least twenty years, (iii) the Issuer has received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application and my firm has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified by my firm for accuracy, (iv) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, (v) the rates and charges for the System as adopted by the _____ of the Issuer are sufficient to comply with the provisions

of Subsection 4.1(b) of the Loan Agreement, (vi) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and (vii) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this _____ day of _____, 19____.

By _____
West Virginia License No. _____

[SEAL]

EXHIBIT E

[Special Conditions]

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

EXHIBIT F

[Monthly Payment Form]

West Virginia Water Development
Authority
1201 Dunbar Avenue
Dunbar, WV 25064

Re: [Name of bond issue]

Dear Sirs:

The following deposits were made to the West Virginia
Municipal Bond Commission on behalf of [Local Government] on
_____, ____.

Sinking Fund:

Interest \$ _____

Principal \$ _____

Total: \$ _____

Reserve Fund: \$ _____

Witness my signature this ____ day of _____.

[Name of Local Government]

By: _____
Authorized Officer

Enclosure: copy of check(s)

EXHIBIT G

[Opinion of Bond Counsel for Local Government]

[To Be Dated as of Date of Loan Closing]

West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

Gentlemen:

We are bond counsel to _____
(the "Local Government"), a _____.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated _____, 19____, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Local Government and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Local Government, dated _____, 19__ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of \$_____, issued in the form of one bond registered as to principal and interest to the Authority, with interest payable _____ 1, _____ 1, _____ 1, and _____ 1 of each year, beginning _____ 1, 19__, at the respective rate or rates and with principal payable in installments on _____ 1 in each of the years, all as follows:

<u>Year</u>	<u>Installment</u>	<u>Interest Rate</u>
-------------	--------------------	----------------------

The Local Bonds are issued for the purpose of _____
_____ and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of _____
_____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond _____ duly enacted by the Local Government on _____ (the "Local

Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement that has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

1. The Loan Agreement has been duly authorized by and executed on behalf of the Local Government and is a valid and binding special obligation of the Local Government enforceable in accordance with the terms thereof.
2. The Loan Agreement inures to the benefit of the Authority and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Local Government without the consent of the Authority.
3. The Local Government is a duly organized and presently existing _____, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.
4. The Local Government has legally and effectively enacted the Local Act and all other necessary _____ in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.
5. The Local Bonds are valid and legally enforceable special obligations of the Local Government, payable from the net revenues of the System referred to in the Local Act and secured by a [first] lien on and pledge of the net revenues of said System, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.
6. The Local Bonds are, by statute, exempt _____, and under existing statutes and court decisions of the United States of America, as presently written and applied, the interest on the Local Bonds is excludable from the gross income of the recipients thereof for federal income tax purposes.

No opinion is given herein as to the effect upon enforceability of the Local Bonds of bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights or in the exercise of judicial discretion in appropriate cases.

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

Very truly yours,

SCHEDULE X

DESCRIPTION OF BONDS

Principal Amount of Bonds	\$ 6,484,243
Purchase Price of Bonds	\$ 6,484,243

Interest on the Bonds shall be zero percent from the date of delivery to and including May 31, 1998. Principal and interest on the Bonds is payable quarterly, commencing September 1, 1998 at a rate of 2% per annum. Quarterly payments will be made thereafter on each September 1, December 1, March 1 and June 1 as set forth on Schedule Y attached hereto and incorporated herein by reference. As of the date of this Loan Agreement, it is the Authority's and DEP's understanding that the Local Government has ~~no~~ other obligations outstanding which have a lien as to the source of and security for payment equal to or superior to the lien being granted by the Bonds ~~or~~ ~~{provide list of outstanding debt}~~. *

The Local Government shall submit its payments monthly to the West Virginia Municipal Bond Commission with instructions that the West Virginia Municipal Bond Commission will make quarterly payments to the West Virginia Water Development Authority at such address as is given to the Bond Commission in writing by the Authority. If the Reserve Fund is not fully funded at closing, the Local Government shall commence the payment of the 1/120 of the maximum annual debt service on the first day of the month it makes its first monthly payment to the Bond Commission. The Local Government shall instruct the Bond Commission to notify the Authority of any monthly payments which are not received by the 20th day of the month in which the payment was due.

The Bonds will be fully registered in the name of the West Virginia Water Development Authority as to principal and interest and such Bonds shall grant the Authority a first lien on the net revenues of the Local Government's system.

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

*City of Clarksburg - Sewer Refunding Revenue Bonds, Series 1995, dated September 7, 1995, issued in the original principal amount of \$600,000.

SCHEDULE Y

City of Clarksburg
\$6,484,243.00 20 Year Loan @ 2% Interest
1% Administrative Fee

DEBT SERVICE SCHEDULE

DATE	PRINCIPAL	COUPON	INTEREST	DEBT SERVICE
6/01/1998	-	-	-	-
9/01/1998	66,120.06	2.00000%	32,421.22	98,541.28
12/01/1998	66,450.66	2.00000%	32,090.61	98,541.27
3/01/1999	66,782.91	2.00000%	31,758.36	98,541.27
6/01/1999	67,116.83	2.00000%	31,424.45	98,541.28
9/01/1999	67,452.41	2.00000%	31,088.86	98,541.27
12/01/1999	67,789.67	2.00000%	30,751.60	98,541.27
3/01/2000	68,128.62	2.00000%	30,412.65	98,541.27
6/01/2000	68,469.26	2.00000%	30,072.01	98,541.27
9/01/2000	68,811.61	2.00000%	29,729.66	98,541.27
12/01/2000	69,155.67	2.00000%	29,385.60	98,541.27
3/01/2001	69,501.45	2.00000%	29,039.83	98,541.28
6/01/2001	69,848.95	2.00000%	28,692.32	98,541.27
9/01/2001	70,198.20	2.00000%	28,343.07	98,541.27
12/01/2001	70,549.19	2.00000%	27,992.08	98,541.27
3/01/2002	70,901.94	2.00000%	27,639.34	98,541.28
6/01/2002	71,256.45	2.00000%	27,284.83	98,541.28
9/01/2002	71,612.73	2.00000%	26,928.55	98,541.28
12/01/2002	71,970.79	2.00000%	26,570.48	98,541.27
3/01/2003	72,330.65	2.00000%	26,210.63	98,541.28
6/01/2003	72,692.30	2.00000%	25,848.97	98,541.27
9/01/2003	73,055.76	2.00000%	25,485.51	98,541.27
12/01/2003	73,421.04	2.00000%	25,120.23	98,541.27
3/01/2004	73,788.14	2.00000%	24,753.13	98,541.27
6/01/2004	74,157.09	2.00000%	24,384.19	98,541.28
9/01/2004	74,527.87	2.00000%	24,013.40	98,541.27
12/01/2004	74,900.51	2.00000%	23,640.76	98,541.27
3/01/2005	75,275.01	2.00000%	23,266.26	98,541.27
6/01/2005	75,651.39	2.00000%	22,889.89	98,541.28
9/01/2005	76,029.64	2.00000%	22,511.63	98,541.27
12/01/2005	76,409.79	2.00000%	22,131.48	98,541.27
3/01/2006	76,791.84	2.00000%	21,749.43	98,541.27
6/01/2006	77,175.80	2.00000%	21,365.47	98,541.27
9/01/2006	77,561.68	2.00000%	20,979.59	98,541.27
12/01/2006	77,949.49	2.00000%	20,591.79	98,541.28
3/01/2007	78,339.24	2.00000%	20,202.04	98,541.28
6/01/2007	78,730.93	2.00000%	19,810.34	98,541.27
9/01/2007	79,124.59	2.00000%	19,416.69	98,541.28
12/01/2007	79,520.21	2.00000%	19,021.06	98,541.27
3/01/2008	79,917.81	2.00000%	18,623.46	98,541.27
6/01/2008	80,317.40	2.00000%	18,223.87	98,541.27
9/01/2008	80,718.99	2.00000%	17,822.29	98,541.28
12/01/2008	81,122.58	2.00000%	17,418.69	98,541.27
3/01/2009	81,528.19	2.00000%	17,013.08	98,541.27
6/01/2009	81,935.84	2.00000%	16,605.44	98,541.28
9/01/2009	82,345.51	2.00000%	16,195.76	98,541.27
12/01/2009	82,757.24	2.00000%	15,784.03	98,541.27
3/01/2010	83,171.03	2.00000%	15,370.25	98,541.28
6/01/2010	83,586.88	2.00000%	14,954.39	98,541.27
9/01/2010	84,004.82	2.00000%	14,536.46	98,541.28
12/01/2010	84,424.84	2.00000%	14,116.43	98,541.27

City of Clarksburg
\$6,484,243.00 20 Year Loan @ 2% Interest
1% Administrative Fee

DEBT SERVICE SCHEDULE

DATE	PRINCIPAL	COUPON	INTEREST	DEBT SERVICE
3/01/2011	84,846.97	2.00000%	13,694.31	98,541.28
6/01/2011	85,271.20	2.00000%	13,270.07	98,541.27
9/01/2011	85,697.56	2.00000%	12,843.72	98,541.28
12/01/2011	86,126.05	2.00000%	12,415.23	98,541.28
3/01/2012	86,556.68	2.00000%	11,984.60	98,541.28
6/01/2012	86,989.46	2.00000%	11,551.82	98,541.28
9/01/2012	87,424.41	2.00000%	11,116.87	98,541.28
12/01/2012	87,861.53	2.00000%	10,679.75	98,541.28
3/01/2013	88,300.84	2.00000%	10,240.44	98,541.28
6/01/2013	88,742.34	2.00000%	9,798.93	98,541.27
9/01/2013	89,186.05	2.00000%	9,355.22	98,541.27
12/01/2013	89,631.98	2.00000%	8,909.29	98,541.27
3/01/2014	90,080.14	2.00000%	8,461.13	98,541.27
6/01/2014	90,530.54	2.00000%	8,010.73	98,541.27
9/01/2014	90,983.20	2.00000%	7,558.08	98,541.28
12/01/2014	91,438.11	2.00000%	7,103.16	98,541.27
3/01/2015	91,895.30	2.00000%	6,645.97	98,541.27
6/01/2015	92,354.78	2.00000%	6,186.50	98,541.28
9/01/2015	92,816.55	2.00000%	5,724.72	98,541.27
12/01/2015	93,280.63	2.00000%	5,260.64	98,541.27
3/01/2016	93,747.04	2.00000%	4,794.24	98,541.28
6/01/2016	94,215.77	2.00000%	4,325.50	98,541.27
9/01/2016	94,686.85	2.00000%	3,854.42	98,541.27
12/01/2016	95,160.29	2.00000%	3,380.99	98,541.28
3/01/2017	95,636.09	2.00000%	2,905.19	98,541.28
6/01/2017	96,114.27	2.00000%	2,427.01	98,541.28
9/01/2017	96,594.84	2.00000%	1,946.43	98,541.27
12/01/2017	97,077.81	2.00000%	1,463.46	98,541.27
3/01/2018	97,563.20	2.00000%	978.07	98,541.27
6/01/2018	98,051.02	2.00000%	490.26	98,541.28
TOTAL	6,484,243.00	-	1,399,058.91	7,883,301.91

*Plus a one-percent annual administrative fee paid quarterly in the amount of \$8,744.12. The total administrative fee over the life of the loan is \$699,529.60

YIELD STATISTICS

Accrued Interest from 06/01/1998 to 06/01/1998...	-
Average Life.....	10.788 YEARS
Bond Years.....	69,952.95
Average Coupon.....	2.0000000%
Net Interest Cost (NIC).....	2.0000000%
Bond Yield for Arbitrage Purposes.....	3.0112500%
True Interest Cost (TIC).....	2.0050000%
Effective Interest Cost (EIC).....	3.0112500%

1

2

.....

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: July 5, 1996

CASE NO. 96-0363-S-CN

CLARKSBURG SANITARY BOARD, a municipal corporation, Harrison County.

Application for a certificate of convenience and necessity to upgrade the existing five million gallon per day treatment plant to an eight million gallon per day unit at Clarksburg, Harrison County, and for approval of financing incidental thereto.

RECOMMENDED DECISION

On March 29, 1996, the Clarksburg Sanitary Board (Board), a municipal corporation, by counsel H. Laban White, filed with the Public Service Commission (Commission), pursuant to W.Va. Code §24-2-11, an application, duly verified, for a certificate of convenience and necessity to upgrade the existing five million gallon per day treatment plant to an eight million gallon per day unit at Clarksburg, Harrison County. The Board stated that it is under order of the West Virginia Division of Environmental Protection (DEP) to upgrade the plant's capacity to be in compliance with its N.P.D.E.S. Discharge Permit. The Board further stated that construction will cost approximately \$4,806,938, to be financed by an EPA Design Grant in the amount of \$116,428, and a State Revolving Fund (SRF) Loan in the amount of \$4,690,510, and that no rate increase is needed. The Board requested expedition of its application.

On April 1, 1996, the Commission directed the Board to publish the notice of filing. The notice provided that, if no substantial protests to the application were filed within thirty (30) days after the date of publication, the Commission might waive formal hearing and grant the application based upon its review of the evidence submitted with the application.

On April 23, 1996, Staff Attorney J. Joseph Watkins filed the Initial Joint Staff Memorandum, stating that Commission Staff was reviewing the application and would file a final recommendation as soon as its review was complete.

On April 29, 1996, the Commission, by Order, referred this matter to the Division of Administrative Law Judges (ALJ Division) for decision on or before October 25, 1996.

On May 28, 1996, the undersigned ALJ issued a Procedural Order requiring the Board to file no later than June 3, 1996, an affidavit of publication of the notice of filing, and scheduling this matter for hearing on June 25, 1996.

On June 3, 1996, the Board filed an affidavit establishing that the notice of filing had been published in The Clarksburg Exponent on May 31, 1996.

On June 4, 1996, the undersigned ALJ issued a Procedural Order rescheduling the hearing for 1:00 p.m. on July 9, in Room 222, Harrison County Correctional Center, Clarksburg, West Virginia, because the thirty days provided for filing protests would not expire until after June 25, 1996. The order stated that, should no substantial protests be filed to the notice of filing and should there be no dispute between the Board and Commission Staff upon Staff's filing of its final recommendation, the hearing would be cancelled by subsequent order.

On June 17, 1996, Mr. Watkins filed interrogatories and data requests he was serving on the Board, and on June 28, 1996, the Board filed its responses, along with documentation. Included was the commitment letter for the SRF Loan.

On July 3, 1996, Mr. Watkins filed the Final Joint Staff Memorandum, recommending that the application be granted and the project be approved, subject to issuance of an N.P.D.E.S. permit, and the financing be approved, contingent upon the borrowing being limited to \$4,690.510. An attached memorandum from Randy Lengyel, Utilities Analyst, and James Spurlock, Staff Engineer, both of the Water and Sewer Section of the Utilities Division, stated that the project is needed, for the reasons the Board had given, and that DEP is currently reviewing the Board's application for an N.P.D.E.S. permit for the project. Further, the Board had advised Staff that no design grant was used and that all design costs were paid for by the City of Clarksburg. Staff further recommended that the hearing scheduled for July 9, 1996, be cancelled.

DISCUSSION

As of the date of this Order, no public protest has been received in response to the published notice of filing. Accordingly, in accordance with the provisions of Code §24-2-11, public hearing may be waived in this case. The project and financing will be approved hereby, as Staff has recommended, and the application granted. The hearing will be cancelled by separate order.

FINDINGS OF FACT

1. On March 29, 1996, the Clarksburg Sanitary Board filed with the Commission an application, duly verified, for a certificate of convenience and necessity to upgrade the existing five million gallon per day treatment plant to an eight million gallon per day unit at Clarksburg, Harrison County. The Board stated that it is under order of the West Virginia

Division of Environmental Protection (DEP) to upgrade its capacity to be in compliance with its N.P.D.E.S. Discharge Permit. The Board further stated that construction will cost approximately \$4,806,938, to be financed by an EPA Design Grant in the amount of \$116,428, and a State Revolving Fund (SRF) Loan in the amount of \$4,690,510, and that no rate increase is needed. (See application).

2. Commission Staff was thereafter notified by the Board that no design grant was used and that all design costs were paid for by the City of Clarksburg. Commission Staff recommended that the application be granted and the project be approved, subject to issuance of an N.P.D.E.S. permit, and the financing be approved, contingent upon the borrowing being limited to \$4,690.510. (See responses filed June 28, 1996; Final Joint Staff Memorandum filed July 3, 1996).

3. Notice of the Board's application was published in a newspaper published and of general circulation in Harrison County on May 31, 1996. (See affidavit filed on June 3, 1996).

4. As of this date, no public protest has been filed. (See case file generally).

CONCLUSION OF LAW

Because the project is needed, it is appropriate to grant the application for a certificate of convenience and necessity, pursuant to W.Va. Code §24-2-11, and to approve the project, as recommended by Commission Staff, contingent upon the Board receiving an N.P.D.E.S. permit from the Division of Environmental Protection; and to approve the funding, contingent upon the borrowing not to exceed \$4,690,510.

ORDER

IT IS, THEREFORE, ORDERED that the application for a certificate of convenience and necessity filed by the Clarksburg Sanitary board on March 29, 1996, as modified by the responses filed on June 28, 1996, be granted and the project be approved, contingent upon the Board receiving an N. P.D.E.S. permit from the Division of Environmental Protection for the project, and that the Clarksburg Sanitary Board not begin construction on the project until the permit is received.

IT IS FURTHER ORDERED that the funding of the project, including an SRF Loan in the amount of \$4,690,510, be approved, contingent upon no increase in that amount.

IT IS FURTHER ORDERED that, if there is any change in any of the terms, conditions or scheduling of the project, or the financing of the project, the Clarksburg Sanitary Board notify the Public Service Commission and file for Commission approval of any revised project and/or financing.

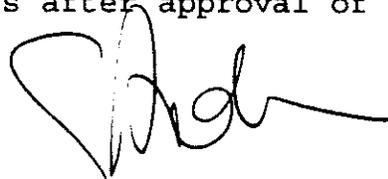
IT IS FURTHER ORDERED that this matter be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Acting Executive Secretary serve copy of this order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

Leave is hereby granted to the parties to file written exceptions supported by a brief with the Acting Executive Secretary of the Commission within fifteen (15) days of the date this order is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed this order shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's Order by filing an appropriate petition in writing with the Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order or Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.



Sunya Anderson
Administrative Law Judge

SA:s

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 10th day of October, 1996.

CASE NO. 96-0363-S-CN (REOPENED)

CLARKSBURG SANITARY BOARD,
a municipal corporation,
Harrison County.

Application for a certificate of convenience and necessity to upgrade the existing five million gallon per day treatment plant to an eight million gallon per day unit at Clarksburg, Harrison County, and for approval of financing incidental thereto.

FINAL COMMISSION ORDER

On July 5, 1996, a Recommended Decision was entered by Administrative Law Judge Sunya Anderson, approving the certificate application of the Clarksburg Sanitary Board to upgrade its existing five million gallon per day treatment plant to an eight million gallon per day unit at Clarksburg, Harrison County and for approval of funding in the amount of \$4,690,510. The Recommended Decision became the final order of the Commission on July 25, 1996.

The Recommended Decision stated in the third ordering paragraph that if there was any change in any of the terms, conditions or scheduling of the project or the financing of the project, the Clarksburg Sanitary Board was directed to notify the Public Service Commission and file for Commission approval of any revised project and/or financing.

On August 15, 1996, the City of Clarksburg filed a petition to reopen this proceeding as the bids received exceeded the estimates. The City proposes to fund the project by increasing the State Revolving Fund loan from \$4,690,510 to \$6,484,243. Additionally, the City of Clarksburg plans to use \$850,000 of its own funds. The City still foresees no need to increase the rates as a result of this project.

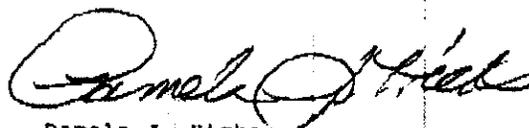
On October 8, 1996, J. Joseph Watkins, Staff Attorney, filed a Further Joint Staff Memorandum which recommended approval of the City of Clarksburg Sanitary Board's requested increase in project cost and financing.

WHEREAS, the City of Clarksburg Sanitary Board's request to increase the cost of the project and the financing is reasonable; and.

IT IS, THEREFORE, ORDERED that the request by the Sanitary Board of the City of Clarksburg to increase the cost of the project to upgrade its treatment plant and for increased financing for the project, shall be, and hereby is, approved.

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

A True Copy, Teste:



Pamela J. Hicks
Acting Executive Secretary

PJH/s



STATE OF WEST VIRGINIA
WATER DEVELOPMENT AUTHORITY

1201 DUNBAR AVENUE
 DUNBAR, WV 26064
 Telephone (304) 558-3612
 Telecopier (304) 558-0298

August 3, 1995

Mr. Kenneth P. Morgan
 Thrasher Engineering, Incorporated
 P.O. Box 1532
 Clarksburg WV 26302

PRELIMINARY APPLICATION -
 CLARKSBURG SANITARY BOARD (SEWER PROJECT)

The West Virginia Infrastructure and Jobs Development Council (the "Council") has reviewed the Preliminary Application for the above-referenced project and has determined that the project is technically and financially feasible within the guidelines of the Act. (See attached Sewer Assessment Committee comments.)

The Council recommends that the Clarksburg Sanitary Board use its existing Small Cities Block Grant of \$750,000 and local funds of \$60,000 and pursue a State Revolving Fund loan of \$4,600,000 to complete the financing for this project. This letter does not constitute funding approval by these agencies.

If you have any questions, please contact Daniel Yonkosky, Director of the Water Development Authority, who serves as chairman of the Council's Funding Committee.

Daniel B. Yonkosky

for RUSSELL L. ISAACS, CHAIRMAN
 WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

c Fred Cutlip, West Virginia Development Office
 Mike Johnson, Division of Environmental Protection

Post-It™ brand fax transmittal memo 7871 # of pages > 1

To <i>Thrasher Eng</i>	From <i>Clarksburg</i>
Co. <i>SEJ</i>	Co. <i>WPA</i>
Dept.	Phone #
Fax # <i>1-304-624-8183</i>	Fax #

CITY OF CLARKSBURG

Sewer Revenue Bonds, Series 1996
(West Virginia SRF Program)

CROSS-RECEIPT FOR BOND AND BOND PROCEEDS

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 City of Clarksburg (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the 24th day of October, 1996, the Authority received the entire original issue of \$6,484,243 principal amount of the Sewer Revenue Bonds, Series 1996 (West Virginia SRF Program), of the Issuer (the "Bonds"), issued as a single, fully registered Bond, numbered R-1, and dated October 24, 1996.

2. At the time of such receipt of the Bonds upon original issuance, the Bonds had been executed by the Mayor, the City Manager and the City Clerk of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been affixed upon the Bonds.

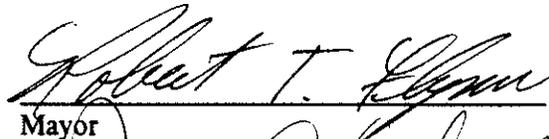
3. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Bonds, of \$332,198, being a portion of the principal amount of the Bonds. The balance of the principal amount of the Bonds will be advanced by the Authority and the West Virginia Division of Environmental Protection to the Issuer as acquisition and construction of the Project progresses.

WITNESS our respective signatures on this 24th day of October, 1996.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY


Authorized Representative

CITY OF CLARKSBURG


Mayor


City Manager

10/07/96
CSRJFM.H3
155510/95003

CITY OF CLARKSBURG

Sewer Revenue Bonds, Series 1996
(West Virginia SRF Program)

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

One Valley Bank, National Association,
as Bond Registrar
Charleston, West Virginia

Ladies and Gentlemen:

There are delivered to you herewith:

(1) Bond No. R-1, constituting the entire original issue of the City of Clarksburg Sewer Revenue Bonds, Series 1996 (West Virginia SRF Program), in the principal amount of \$6,484,243, dated October 24, 1996 (the "Bonds"), executed by the Mayor, the City Manager and the City Clerk of the City of Clarksburg (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 19, 1996, and a Supplemental Resolution duly adopted by the Issuer on September 19, 1996 (collectively, the "Bond Legislation");

(2) A copy of the Bond Legislation authorizing the above-described Bond issue, duly certified by the City Clerk of the Issuer;

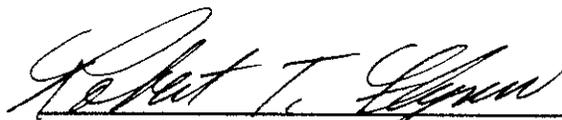
(3) Executed counterparts of the loan agreement dated September 10, 1996, by and among the West Virginia Water Development Authority (the "Authority"), the West Virginia Division of Environmental Protection (the "DEP") and the Issuer (the "Loan Agreement"); and

(4) An executed opinion of nationally recognized bond counsel regarding the validity of the Loan Agreement and the Bonds.

You are hereby requested and authorized to deliver the Bonds to the Authority upon payment to the Issuer of the sum of \$332,198, representing a portion of the principal amount of the Bonds. Prior to such delivery of the Bonds, you will please cause the Bonds to be authenticated and registered by an authorized officer, as Bond Registrar, in accordance with the form of Certificate of Authentication and Registration thereon.

Dated this 24th day of October, 1996.

CITY OF CLARKSBURG



Mayor



City Manager

10/07/96
CSRFJM.J3
155510/95003

(SPECIMEN BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF CLARKSBURG
SEWER REVENUE BOND, SERIES 1996
(WEST VIRGINIA SRF PROGRAM)

No. R-1

\$6,484,243

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF CLARKSBURG, a municipal corporation and political subdivision of the State of West Virginia in Harrison 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 SIX MILLION FOUR HUNDRED EIGHTY-FOUR THOUSAND TWO HUNDRED FORTY-THREE DOLLARS (\$6,484,243), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 1998, as set forth on the "Schedule of Annual Debt Service" attached as EXHIBIT B hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said EXHIBIT B. The interest and the SRF Administrative Fee (as defined in the hereinafter described Bond Legislation), shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 1998, as set forth on EXHIBIT B attached hereto.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of One Valley Bank, National Association, 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 Division of Environmental Protection (the "DEP"), and upon the terms and

conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and among the Issuer, the Authority and the DEP, dated September 10, 1996.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); (ii) to reimburse the Issuer for payment in full of the Issuer's Sewerage System Bond Anticipation Notes, Series 1995, heretofore issued to temporarily finance a portion of the costs of acquisition and construction of the Project (the "Notes"); and (iii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing public 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 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (the "Act"), and a Bond Ordinance duly enacted by the Issuer on September 19, 1996, and a Supplemental Resolution duly adopted by the Issuer on September 19, 1996 (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 OTHER RESPECTS, WITH THE ISSUER'S SEWER REFUNDING REVENUE BONDS, SERIES 1995, DATED SEPTEMBER 7, 1995, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$600,000 (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 Revenues in favor of the holders of the Prior Bonds, and from moneys in the reserve account created under the Bond Legislation for the Bonds (the "Series 1996 Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay all operating expenses of the System and the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 1996 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 on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Prior Bonds; provided however, when the Prior Bonds are no longer outstanding and so long as there exists in the Series 1996 Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the 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 pay the costs of the Project and costs of issuance hereof described in the Bond Legislation and to reimburse the Issuer for payment of the Notes, and there shall be and hereby is created and granted a lien upon such moneys, 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 have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the

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.

IN WITNESS WHEREOF, the CITY OF CLARKSBURG has caused this Bond to be signed by its Mayor and its City Manager and its corporate seal to be hereunto affixed and attested by its City Clerk, and has caused this Bond to be dated October 24, 1996.

[SEAL]

Mayor

City Manager

ATTEST:

City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1996 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: October 24, 1996.

ONE VALLEY BANK, NATIONAL
ASSOCIATION, as Registrar

By _____
Its Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	\$332,128	10/24/96	(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

SCHEDULE OF ANNUAL DEBT SERVICE

City of Clarksburg \$6,484,243.00 20 Year Loan @ 2% Interest 1% Administrative Fee DEBT SERVICE SCHEDULE				
DATE	PRINCIPAL	COUPON	INTEREST	DEBT SERVICE
6/01/1998	-	-	-	-
9/01/1998	66,120.06	2.00000%	32,421.22	98,541.28
12/01/1998	66,450.66	2.00000%	32,090.61	98,541.27
3/01/1999	66,782.91	2.00000%	31,758.36	98,541.27
6/01/1999	67,116.83	2.00000%	31,426.45	98,541.28
9/01/1999	67,452.41	2.00000%	31,088.86	98,541.27
12/01/1999	67,789.67	2.00000%	30,751.60	98,541.27
3/01/2000	68,128.62	2.00000%	30,412.65	98,541.27
6/01/2000	68,469.26	2.00000%	30,072.01	98,541.27
9/01/2000	68,811.61	2.00000%	29,729.66	98,541.27
12/01/2000	69,155.67	2.00000%	29,385.60	98,541.27
3/01/2001	69,501.45	2.00000%	29,039.83	98,541.28
6/01/2001	69,848.95	2.00000%	28,692.32	98,541.27
9/01/2001	70,198.20	2.00000%	28,343.07	98,541.27
12/01/2001	70,549.19	2.00000%	27,992.08	98,541.27
3/01/2002	70,901.94	2.00000%	27,639.34	98,541.28
6/01/2002	71,256.45	2.00000%	27,284.83	98,541.28
9/01/2002	71,612.73	2.00000%	26,928.55	98,541.28
12/01/2002	71,970.79	2.00000%	26,570.48	98,541.27
3/01/2003	72,330.65	2.00000%	26,210.63	98,541.28
6/01/2003	72,692.30	2.00000%	25,848.97	98,541.27
9/01/2003	73,055.76	2.00000%	25,485.51	98,541.27
12/01/2003	73,421.04	2.00000%	25,120.23	98,541.27
3/01/2004	73,788.14	2.00000%	24,753.13	98,541.27
6/01/2004	74,157.09	2.00000%	24,384.19	98,541.28
9/01/2004	74,527.87	2.00000%	24,013.40	98,541.27
12/01/2004	74,900.51	2.00000%	23,640.76	98,541.27
3/01/2005	75,275.01	2.00000%	23,266.26	98,541.27
6/01/2005	75,651.39	2.00000%	22,889.89	98,541.28
9/01/2005	76,029.64	2.00000%	22,511.63	98,541.27
12/01/2005	76,409.79	2.00000%	22,131.48	98,541.27
3/01/2006	76,791.84	2.00000%	21,749.43	98,541.27
6/01/2006	77,175.80	2.00000%	21,365.47	98,541.27
9/01/2006	77,561.68	2.00000%	20,979.59	98,541.27
12/01/2006	77,949.49	2.00000%	20,591.79	98,541.28
3/01/2007	78,339.24	2.00000%	20,202.04	98,541.28
6/01/2007	78,730.93	2.00000%	19,810.34	98,541.27
9/01/2007	79,124.59	2.00000%	19,416.69	98,541.28
12/01/2007	79,520.21	2.00000%	19,021.06	98,541.27
3/01/2008	79,917.81	2.00000%	18,623.46	98,541.27
6/01/2008	80,317.40	2.00000%	18,223.87	98,541.27
9/01/2008	80,718.99	2.00000%	17,822.29	98,541.28
12/01/2008	81,122.58	2.00000%	17,418.69	98,541.27
3/01/2009	81,528.19	2.00000%	17,013.08	98,541.27
6/01/2009	81,935.84	2.00000%	16,605.44	98,541.28
9/01/2009	82,345.51	2.00000%	16,195.76	98,541.27
12/01/2009	82,757.24	2.00000%	15,784.03	98,541.27
3/01/2010	83,171.03	2.00000%	15,370.25	98,541.28
6/01/2010	83,586.88	2.00000%	14,954.39	98,541.27
9/01/2010	84,004.82	2.00000%	14,536.46	98,541.28
12/01/2010	84,424.84	2.00000%	14,116.43	98,541.27

City of Clarksburg
 \$6,484,243.00 20 Year Loan @ 2% Interest
 1% Administrative Fee

DEBT SERVICE SCHEDULE

DATE	PRINCIPAL	COUPON	INTEREST	DEBT SERVICE
3/01/2011	84,846.97	2.00000%	13,694.31	98,541.28
6/01/2011	85,271.20	2.00000%	13,270.07	98,541.27
9/01/2011	85,697.56	2.00000%	12,843.72	98,541.28
12/01/2011	86,126.05	2.00000%	12,415.23	98,541.28
3/01/2012	86,556.68	2.00000%	11,984.60	98,541.28
6/01/2012	86,989.46	2.00000%	11,551.82	98,541.28
9/01/2012	87,424.41	2.00000%	11,116.87	98,541.28
12/01/2012	87,861.53	2.00000%	10,679.75	98,541.28
3/01/2013	88,300.84	2.00000%	10,240.44	98,541.28
6/01/2013	88,742.34	2.00000%	9,798.93	98,541.27
9/01/2013	89,186.05	2.00000%	9,355.22	98,541.27
12/01/2013	89,631.98	2.00000%	8,909.29	98,541.27
3/01/2014	90,080.14	2.00000%	8,461.13	98,541.27
6/01/2014	90,530.54	2.00000%	8,010.73	98,541.27
9/01/2014	90,983.20	2.00000%	7,558.08	98,541.28
12/01/2014	91,438.11	2.00000%	7,103.16	98,541.27
3/01/2015	91,895.30	2.00000%	6,645.97	98,541.27
6/01/2015	92,354.78	2.00000%	6,186.50	98,541.28
9/01/2015	92,816.55	2.00000%	5,724.72	98,541.27
12/01/2015	93,280.63	2.00000%	5,260.64	98,541.27
3/01/2016	93,747.04	2.00000%	4,794.24	98,541.28
6/01/2016	94,215.77	2.00000%	4,325.50	98,541.27
9/01/2016	94,686.85	2.00000%	3,854.42	98,541.27
12/01/2016	95,160.29	2.00000%	3,380.99	98,541.28
3/01/2017	95,636.09	2.00000%	2,905.19	98,541.28
6/01/2017	96,114.27	2.00000%	2,427.01	98,541.28
9/01/2017	96,594.84	2.00000%	1,946.43	98,541.27
12/01/2017	97,077.81	2.00000%	1,463.46	98,541.27
3/01/2018	97,563.20	2.00000%	978.07	98,541.27
6/01/2018	98,051.02	2.00000%	490.26	98,541.28
TOTAL	6,484,243.00	-	1,399,058.91	7,883,301.91

*Plus a one-percent annual administrative fee paid quarterly in the amount of \$8,744.12. The total administrative fee over the life of the loan is \$699,529.60

YIELD STATISTICS

Accrued Interest from 06/01/1998 to 06/01/1998...	-
Average Life.....	10.788 YEARS
Bond Years.....	69,952.95
Average Coupon.....	2.0000000%
Net Interest Cost (NIC).....	2.0000000%
Bond Yield for Arbitrage Purposes.....	3.0112500%
True Interest Cost (TIC).....	2.0050000%
Effective Interest Cost (EIC).....	3.0112500%

ASSIGNMENT

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

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

Dated: _____, _____.

In the presence of:

STEPTOE & JOHNSON

ATTORNEYS AT LAW

SIXTH FLOOR

BANK ONE CENTER

P. O. BOX 2190

CLARKSBURG, W. VA. 26302-2190

(304) 624-8000

FACSIMILE (304) 624-8183

October 24, 1996

City of Clarksburg
Sewer Revenue Bonds, Series 1996
(West Virginia SRF Program)

SEVENTH FLOOR, BANK ONE CENTER
P. O. BOX 1588
CHARLESTON, W. VA. 25320-1588
(304) 383-8000
FACSIMILE (304) 383-8180

1000 HAMPTON CENTER
P. O. BOX 1816
MORGANTOWN, W. VA. 26507-1816
(304) 598-8000
FACSIMILE (304) 598-8116

126 EAST BURKE STREET
P. O. BOX 2629
MARTINSBURG, W. VA. 25401-5429
(304) 263-6991
FACSIMILE (304) 263-4785

104 WEST CONGRESS STREET
P. O. BOX 100
CHARLES TOWN, W. VA. 25414-0100
(304) 725-1414
FACSIMILE (304) 725-1913

THE BRYAN CENTRE
P. O. BOX 570
82 WEST WASHINGTON STREET, FOURTH FLOOR
HAGERSTOWN, MARYLAND 21740-0570
(301) 739-8600
FACSIMILE (301) 739-8742

FOURTH FLOOR - RILEY BUILDING
P. O. BOX 150
14TH AND CHARLINE STREETS
WHEELING, W. VA. 26003-0020
(304) 233-0000
FACSIMILE (304) 233-0014

THE PMC BUILDING, SUITE 101
P. O. BOX 628
417 GRAND PARK DRIVE
PARKERSBURG, W. VA. 26102-0628
(304) 422-6463
FACSIMILE (304) 422-6462

WRITER'S DIRECT DIAL NUMBER

West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

West Virginia Division of
Environmental Protection
617 Broad Street
Charleston, West Virginia 25301

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the City of Clarksburg (the "Issuer"), a municipal corporation and political subdivision organized and existing under the laws of the State of West Virginia, of its \$6,484,243 Sewer Revenue Bonds, Series 1996 (West Virginia SRF 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 a loan agreement, dated September 10, 1996, including all schedules and exhibits attached thereto (the "Loan Agreement"), among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Division of Environmental Protection (the "DEP") and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal and interest to the Authority, with interest at the rate of 2% per annum, and with principal and interest payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 1998, and ending June 1, 2018, all as set forth in "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13 and Chapter 22C, Article 2 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 existing public sewerage system of the Issuer (the "Project"); (ii) reimbursing the Issuer

for payment of the Issuer's Sewerage System Bond Anticipation Notes, Series 1995, heretofore issued to temporarily finance a portion of the costs of acquisition and construction of the Project; and (iii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act, the Bond Ordinance duly enacted by the Issuer on September 19, 1996, as supplemented by a Supplemental Resolution duly adopted by the Issuer on September 19, 1996 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the Loan 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 Loan Agreement.

In connection with the issuance of the Bonds, the Issuer has executed a Certificate as to Arbitrage, dated as of the date hereof (the "Certificate as to Arbitrage"), which, among other things, sets forth restrictions on the investment and expenditure of the Bond proceeds and earnings thereon, to ensure that the arbitrage requirements of the Internal Revenue Code of 1986, as amended, and regulations thereunder (collectively, the "Code"), necessary to establish and maintain the excludability of interest on the Bonds from gross income for federal income tax purposes, are and will continue to be met.

Based upon the foregoing, and upon our examination of such other documents as we have deemed necessary, we are of the opinion, 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 referred to in the Loan Agreement and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The Loan 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 DEP and cannot be amended so as to affect adversely the rights of the Authority or the DEP or diminish the obligations of the Issuer without the written consent of the Authority and the DEP.

3. The Bond Legislation and all other necessary ordinances and resolutions have been duly and effectively enacted and adopted by the Issuer 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 Loan 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 referred to in the Bond Legislation 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 outstanding Sewer Refunding Revenue Bonds, Series 1995, dated September 7, 1995, issued in the original aggregate principal amount of \$600,000, all in accordance with the terms of the Bonds and the Bond Legislation.

5. Under existing laws, regulations, rulings and judicial decisions of the United States of America, as presently written and applied, the interest on the Bonds (a) is excludable from gross income of the owners thereof for federal income tax purposes pursuant to the Code and (b) is not an item of tax

preference for purposes of the federal alternative minimum tax imposed upon individuals and corporations under the Code. It should be noted, however, that interest on the Bonds is included in the adjusted current earnings of certain corporations for purposes of computing the alternative minimum tax that may be imposed with respect to corporations. The opinions set forth above are subject to the condition that the Issuer comply, on a continuing basis, with all requirements of the Code that must be satisfied subsequent to issuance of the Bonds for interest thereon to be or continue to be excludable from gross income for federal income tax purposes and all certifications, covenants and representations which may affect the excludability from gross income of the interest on the Bonds set forth in the Bond Legislation and the Certificate as to Arbitrage, and other certificates delivered in connection with the issuance of the Bonds. Failure to comply with certain of such Code provisions or such certifications, covenants and representations could cause the interest on the Bonds to be includable in gross income retroactive to the date of issuance of the Bonds.

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

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

We have examined the executed and authenticated 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,

Stephoe & Johnson

STEPTOE & JOHNSON

09/25/96
CSRFJM.11
155510/95003

LAW OFFICES
ROBINSON & McELWEE
P. O. BOX 128
CLARKSBURG, WEST VIRGINIA 26302

CHARLESTON OFFICE
P.O. BOX 1791
CHARLESTON, WEST VIRGINIA 25326
TELEPHONE (304) 344-5800
TELEFAX (304) 344-9566

TELEPHONE (304) 622-5022
TELEFAX (304) 622-5065

LEXINGTON OFFICE
P.O. BOX 1580
LEXINGTON, KENTUCKY 40592
TELEPHONE (606) 231-8131
TELEFAX (606) 255-1168

168 WEST MAIN STREET
CLARKSBURG, WEST VIRGINIA 26301

J. MICHAEL McDONALD

October 24, 1996

West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

West Virginia Division of
Environmental Protection
617 Broad Street
Charleston, West Virginia 25301

Steptoe & Johnson
P. O. Box 2190
Clarksburg, West Virginia 26302

**Re: City of Clarksburg Sewer
Revenue Bonds, Series 1996,
(West Virginia SRF Program)**

Ladies and Gentlemen:

I am counsel to the City of Clarksburg, in Harrison County, West Virginia (the "Issuer"). As such counsel, I have examined copies of the approving opinion of Steptoe & Johnson, as bond counsel, the legal opinion of Siegrist, Spelsberg, White, Martin & Conley, as counsel to the Sanitary Board, a loan agreement dated September 10, 1996, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and among the West Virginia Water Development Authority (the "Authority"), the West Virginia Division of Environmental Protection (the "DEP"), and the Issuer, the Bond Ordinance duly enacted by the Issuer on September 19, 1996, as supplemented by the Supplemental Resolution duly adopted by the Issuer on September 19, 1996 (collectively, the "Bond Legislation"), and other documents relating to the above-captioned bonds of the Issuer (the "Bonds"). All capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Bond Legislation and the Loan Agreement when used herein. In addition, I have examined such other instruments, agreements, and documents which I have deemed necessary as a basis for the opinions hereinafter expressed.

ROBINSON & McELWEE

West Virginia Water Development
Authority

October 24, 1996

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In rendering the opinions set forth herein, I have assumed without investigation, the authenticity of all documents submitted to me as originals, the accuracy of the information contained therein, and the conformity with the originals of all documents submitted to me as copies. I have further assumed, without investigation, (I) the due authorization, execution and delivery by all parties other than the Issuer of the Loan Agreement and of all documents, agreements, instruments and certificates which are to be executed and delivered by such other parties pursuant to the Bonds, (ii) that each party to the Loan Agreement and the other documents, agreements instruments and certificates (other than Issuer) has been duly organized and is validly existing under the laws of its jurisdiction of organization, has all requisite power and authority to enter into, deliver and perform its obligations thereunder and that such execution, delivery and performance have been duly authorized by each such party, and (iii) that the Loan Agreement and the other documents, agreements, instruments and certificates are valid, binding and enforceable obligations of all the parties thereto (other than Issuer). As to questions of fact material to the opinions expressed herein, I have, when relevant facts were not independently established, relied upon certificates and representations of officers and employees of the City of Clarksburg, without undertaking to verify the same by independent investigation.

Based upon the foregoing and subject to the assumptions, exceptions and qualifications set forth herein, I am of the opinion that:

1. The Loan Agreement has been duly authorized, executed and delivered by the Issuer and, assuming the due authorization, execution and delivery by the DEP and the Authority, constitutes a valid and binding agreement of the Issuer enforceable in accordance with its terms.
2. The Issuer has been duly created and is validly existing as a municipal corporation and political subdivision of the State of West Virginia. The Mayor, City Manager, City 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 in their respective capacities on behalf of the Issuer.

ROBINSON & McELWEE

West Virginia Water Development
Authority

October 24, 1996

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3. The Bond Legislation has been duly adopted and enacted by the Issuer and is in full force and effect.
4. The execution and delivery of the Bonds and the Loan Agreement and the consummation of the transactions contemplated by the Bonds, the Loan Agreement and the Bond Legislation and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the 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. The Issuer has received all permits, licenses, approvals, exemptions, consents, registrations, certificates and authorization required by law as of the date hereof 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, and has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance prescribing such rates and charges. The time for appeal of such rate ordinance has expired prior to the date hereof without any appeal.
6. 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 materially adversely affect the transactions contemplated by the Loan 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.

It is to be understood that the enforceability of the Bond Legislation and the Loan Agreement and the liens and pledges set forth therein may be subject to and limited by bankruptcy,

ROBINSON & McELWEE

West Virginia Water Development
Authority

October 24, 1996

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insolvency, reorganization, moratorium and other similar laws affecting creditors' rights or remedies heretofore or hereafter enacted to the extent constitutionally applicable, that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases and that certain remedies under the Bond Legislation and the Loan Agreement may be limited by public policy or such judicial discretion.

It is to be further understood that the Bonds are special and limited obligations of the Issuer payable solely from the sources set forth in the Bond Legislation.

We are admitted to practice in the State of West Virginia and do not express any opinion other than the laws of the State of West Virginia and the federal laws of the United States.

This opinion is limited to the matters set forth herein and no opinion is to be inferred or may be implied beyond the matters so expressly stated. This opinion may be relied upon by all counsel to the transaction described herein as if specifically addressed to them.

Very truly yours,


J. Michael McDonald

JMMc:djm

SIEGRIST, SPELSBERG, WHITE, MARTIN & CONLEY

ATTORNEYS AT LAW
219 SOUTH SECOND STREET
P.O. DRAWER 2550
CLARKSBURG, WEST VIRGINIA 26302-2550

H. LABAN WHITE
EDGAR C. SIEGRIST
DAVID E. SPELSBERG
JAMES W. MARTIN, JR.
PETER J. CONLEY
DANIEL T. BAKER
JOHN A. FARMER

TELEPHONE (304) 624-6391
"FAX" NO. (304) 624-6393

October 24, 1996

City of Clarksburg
Sewer Revenue Bonds, Series 1996
(West Virginia SRF Program)

West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

West Virginia Division of
Environmental Protection
617 Broad Street
Charleston, West Virginia 25301

Steptoe & Johnson
Post Office Box 2190
Clarksburg, West Virginia 26302

Ladies and Gentlemen:

We are counsel to the Clarksburg Sanitary Board (the "Board") of the City of Clarksburg in Harrison County, West Virginia (the "Issuer"). As such counsel, we have examined copies of the approving opinion of Steptoe & Johnson, as bond counsel, a loan agreement dated September 10, 1996, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and among the West Virginia Water Development Authority (the "Authority"), the West Virginia Division of Environmental Protection (the "DEP"), and the Issuer, the Bond Ordinance duly enacted by the Issuer on September 19, 1996, as supplemented by the Supplemental Resolution duly adopted by the Issuer on September 19, 1996 (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 Loan Agreement when used herein.

We are of the opinion that:

1. The Board has been duly created and is validly existing, and the members of the Board have been duly, lawfully and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act on behalf of the Board in their respective capacities.

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

3. The Board has received all the permits, licenses, approvals, exemptions, consents, registrations, certificates and authorizations required by law for the issuance of the Bonds, the acquisition and construction of the Project and the operation of the System, including, without limitation, the receipt of all requisite orders and approvals from the Public Service Commission of West Virginia and the West Virginia Infrastructure and Jobs Development Council. The Board has received the Final Orders of the Public Service Commission of West Virginia entered on July 5, 1996, in Case No. 96-0363-S-CN, and on October 10, 1996, in Case No. 96-0363-S-CN (Reopened), among other things, granting to the Board a certificate of convenience and necessity for the Project and the financing for the Project. The time for appeal of the initial Final Order has expired prior to the date hereof without any appeal. However, the time for appeal of the latter Final Order has not expired prior to the date hereof. The parties to such Final Order have stated that they will not appeal such Final Order. Such Final Order is not subject to appeal, further hearing, reopening or rehearing by any customer, protestant, intervenor or other person not a party to the original application.

4. To the best of our 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, against or affecting the Board (or, to our knowledge, any basis therefor), wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Bonds, the Loan 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.

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

Very truly yours,



SIEGRIST, SPELSBURG, WHITE, MARTIN & CONLEY

CITY OF CLARKSBURG

Sewer Revenue Bonds, Series 1996
(West Virginia SRF Program)

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. LOAN AGREEMENT
11. RATES
12. SIGNATURES AND DELIVERY
13. BOND PROCEEDS
14. PUBLICATION AND PUBLIC HEARING ON BOND
ORDINANCE
15. PUBLIC SERVICE COMMISSION ORDER
16. PRIVATE USE OF FACILITIES
17. NO FEDERAL GUARANTY
18. IRS INFORMATION RETURN
19. SPECIMEN BOND
20. CONFLICT OF INTEREST
21. CLEAN WATER ACT
22. NPDES PERMIT

We, the undersigned MAYOR, CITY MANAGER AND CITY CLERK of the City of Clarksburg in Harrison County, West Virginia (the "Issuer"), the undersigned Counsel to the Issuer and the undersigned Counsel to the Sanitary Board, hereby certify in connection with the \$6,484,243 principal amount of the City of Clarksburg Sewer Revenue Bonds, Series 1996 (West Virginia SRF Program), dated the date hereof (the "Bonds" or the "Series 1996 Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meanings set forth in the Bond Ordinance of the Issuer duly enacted September 19, 1996, and the Supplemental Resolution duly adopted September 19, 1996 (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 moneys 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 pledge or application of moneys and security or 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 and the issuance of the Bonds have been obtained and remain in full force and effect, and 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 Loan Agreement, and the Issuer has met all conditions prescribed in the Loan Agreement entered into among the Issuer, the DEP and the Authority. The Issuer has or can provide the financial, institutional, legal and managerial capabilities necessary to complete the Project.

There are outstanding obligations of the Issuer which will rank on a parity with the Series 1996 Bonds as to liens, pledge, source of and security for payment, being the Issuer's Sewer Refunding Revenue Bonds, Series 1995, dated September 7, 1995, issued in the original aggregate principal amount of \$600,000 (the "Prior Bonds"), pursuant to an ordinance enacted July 20, 1995 (as supplemented, the "Prior Ordinance").

The Issuer has met the coverage requirements for issuance of parity bonds of the Prior Bonds and the Prior Ordinance and the Series 1996 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. The Issuer has obtained the written consent of the Holder of the Prior Bonds to the issuance of the Series 1996 Bonds on a parity with the Prior Bonds.

Other than the Prior Bonds, there are no outstanding obligations of the Issuer which will rank prior to or on a parity with the Series 1996 Bonds as to liens, pledge and/or source of and security for payment or in any other respects.

On the date hereof, upon issuance of the Series 1996 Bonds, the Issuer will use a portion of the proceeds of the Series 1996 Bonds to reimburse itself for heretofore paying in full its Sewerage System Bond Anticipation Notes, Series 1995, dated September 1, 1995.

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

City Charter, with Amendments.

Oaths of Office of City Officers and Councilmembers.

Ordinance Creating Sanitary Board.

Petition of Sanitary Board.

Sewer Rate Ordinance.

Affidavit of Publication of Sewer Rate Ordinance and Notice of Public Hearing.

Minutes on Adoption and Enactment of Sewer Rate Ordinance.

Bond Ordinance.

Supplemental Resolution.

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

Minutes on Adoption and Enactment of Bond Ordinance and Adoption of Supplemental Resolution.

1995 Bond Ordinance and Supplemental Resolution.

Consent of Prior Bondholder to Issuance of Parity Bonds.

Loan Agreement.

NPDES Permit.

Infrastructure and Jobs Development Council Approval dated August 3, 1995.

Public Service Commission Orders entered July 5, 1996, and October 10, 1996.

6. **INCUMBENCY AND OFFICIAL NAME:** The proper corporate title of the Issuer is "City of Clarksburg." The Issuer is a municipal corporation in Harrison 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 6 councilmembers, 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:

<u>Name</u>		<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
Robert T. Flynn	- Mayor	July 1, 1995	June 30, 1999
Louis Iquinto	- Councilmember	July 1, 1995	June 30, 1999
Frank Marino	- Councilmember	July 1, 1995	June 30, 1999
James Hunt	- Councilmember	July 1, 1993	June 30, 1997
Herman Kesling	- Councilmember	July 1, 1993	June 30, 1997
Dan Thompson	- Councilmember	July 1, 1993	June 30, 1997
Kathryn Folio	- Councilmember	July 1, 1993	June 30, 1997

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

Chairman	-	Percy C. Ashcraft
Member	-	Joseph Spatafore
Member	-	Mark Linville, P.E.

The duly appointed and acting City Clerk and City Manager of the Issuer are Annette M. Wright and Percy C. Ashcraft, respectively. The duly appointed and acting Counsel to the Issuer and Counsel to the Sanitary Board are J. Michael McDonald of Robinson & McElwee in Clarksburg, West Virginia, and H. Laban White of Siegrist, Spelsburg, White, Martin & Conley, in Clarksburg, West Virginia, respectively.

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, operation and financing of the Project or 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. All insurance for the System required by the Bond Legislation is in full force and effect.

10. **LOAN AGREEMENT:** As of the date hereof, (i) the representations of the Issuer contained in the Loan Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreement does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best knowledge of the undersigned, no event affecting the Issuer has occurred since the date of the Loan Agreement which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information in the Loan Agreement not misleading; and (iv) the Issuer is in compliance with the Loan Agreement.

11. **RATES:** The Issuer has duly enacted a sewer rate ordinance on August 18, 1994, setting rates and charges for the services of the System. The time for appeal of such sewer rate ordinance has expired prior to the date hereof without any appeal, and such rates are currently in effect.

12. **SIGNATURES AND DELIVERY:** On the date hereof, the undersigned Mayor and City Manager did officially sign all of the Bonds of the aforesaid issue, consisting upon original issuance of a single Bond, dated the date hereof, by their manual signatures, and the undersigned City Clerk did officially cause the official seal of the Issuer to be affixed upon said Bonds and to be attested by 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 Loan Agreement. Said official seal is also impressed above the signatures appearing on this certificate.

13. **BOND PROCEEDS:** On the date hereof, the Issuer received \$332,198 from the Authority and the DEP, being a portion of the principal amount of the Bonds and more than a de minimis amount of the proceeds of the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

14. **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 Clarksburg Exponent and The Clarksburg Telegram, two newspapers published and of general circulation in the City of Clarksburg, together with a notice to all persons concerned, stating that the Bond Ordinance had been adopted and that the Issuer contemplated the issuance of the Bonds described in such Bond Ordinance, stating that any person interested may appear before the Council at the public hearing held at a public meeting of Council on the 19th day of September, 1996, at 7:30 p.m., at the Clarksburg City Hall and present protests, and stating that a certified copy of the Bond Ordinance was on file at the office of the City Clerk of the Issuer for review by interested parties during the office hours of the Issuer. At such hearing all objections and suggestions were heard by the Governing Body and the Bond Ordinance became finally adopted, enacted and effective as of the date of such public hearing, and remains in full force and effect.

15. **PUBLIC SERVICE COMMISSION ORDER:** The Sanitary Board has received the Final Orders of the Public Service Commission of West Virginia entered on July 5, 1996, in Case No. 96-0363-S-CN, and on October 10, 1996, in Case No. 96-0363-S-CN (Reopened), among other things, granting to the Sanitary Board a certificate of convenience and necessity for the Project and the financing for the Project. The time for appeal of the initial Final Order has expired prior to the date hereof without any appeal. However, the time for appeal of the latter Final Order has not expired prior to the date hereof. The parties to such Final Order have stated that they will not appeal such Final Order. The Issuer and the Sanitary Board hereby certify that they will not appeal such Final Order. Such Final Order is not subject to appeal, further hearing, reopening or rehearing by any customer, protestant, intervenor or other person not a party to the original application.

16. **PRIVATE USE OF FACILITIES:** The Issuer shall at all times take, and refrain from taking, and shall not fail to take, any and all actions necessary in order to assure the initial and continued tax-exempt status of the Bonds and the interest thereon. Less than 10% of the proceeds of the Bonds will be used, directly or indirectly, for any

private business use, and less than 10% of the payment of principal of, or the interest on, such issue, under the terms of such issue or any underlying arrangement, is, directly or indirectly, secured by any interest in property used or to be used for a private business use, payments in respect of such property, or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use. None of the proceeds of the Bonds will be used, directly or indirectly, for any private business use which is not related to the governmental use of the proceeds of the Bonds, including the disproportionate related business use of the proceeds of the Bonds, and none of the payment of principal on, or the interest on, such issue, under the terms of any underlying arrangement, is, directly or indirectly, secured by any interest in property used, or to be used for a private business use, payments in respect of such property or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use with respect to such private business use, which is not related to any government use of such proceeds, including the disproportionate business use of the issue of the Bonds. None of the proceeds of the issue of the Bonds will be used, directly or indirectly, to make or finance loans to persons other than governmental units. For purposes of this paragraph, private business use means use, directly or indirectly, in a trade or business carried on by any person, including related persons, other than a governmental unit or other than use as a member of the general public. All of the foregoing shall be determined in accordance with and within the meaning of the Internal Revenue Code of 1986, as amended, including any successor provisions and rules and regulations thereunder (the "Code").

17. **NO FEDERAL GUARANTY:** The Bonds are not and will not be, in whole or part, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

18. **IRS INFORMATION RETURN:** On the date hereof, the undersigned Mayor did officially execute a properly completed IRS Form 8038-G in connection with the Bonds and will cause such executed IRS Form 8038-G to be filed in a timely manner pursuant to Section 149(e) of the Code with the Internal Revenue Service Center, Philadelphia, Pennsylvania. The information contained in such executed Form 8038-G is true, correct and complete.

19. **SPECIMEN BOND:** Delivered concurrently herewith is a true and accurate specimen of the Bond.

20. **CONFLICT OF INTEREST:** No officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Bonds, the 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

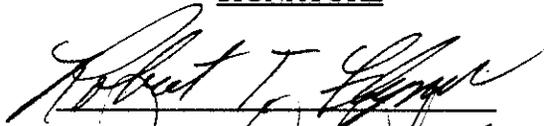
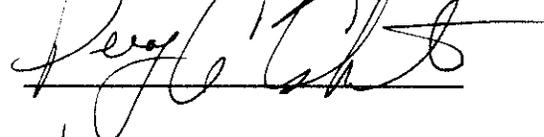
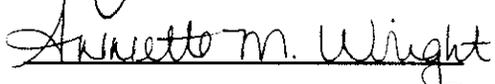
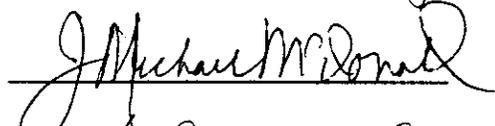
include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

21. CLEAN WATER ACT: The Project as described in the Bond Ordinance complies with Sections 208 and 303(e) of the Clean Water Act.

22. NPDES PERMIT: The Issuer has received the NPDES Permit dated September 30, 1996, for the Project, the time for appeal of which has not expired prior to the date hereof. The Issuer and the Sanitary Board hereby certify that they will not appeal such NPDES Permit.

WITNESS our signatures and the official seal of the CITY OF CLARKSBURG on this 24th day of October, 1996.

[CORPORATE SEAL]

<u>SIGNATURE</u>	<u>OFFICIAL TITLE</u>
 _____	Mayor
 _____	City Manager
 _____	City Clerk
 _____	Counsel to Issuer
 _____	Counsel to Sanitary Board

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CITY OF CLARKSBURG

Sewer Revenue Bonds, Series 1996
(West Virginia SRF Program)

CERTIFICATE AS TO ARBITRAGE

We, the Mayor and City Manager of the City of Clarksburg in Harrison County, West Virginia (the "Issuer"), being the officials of the Issuer duly charged with the responsibility for the issuance of the \$6,484,243 principal amount Sewer Revenue Bonds, Series 1996 (West Virginia SRF Program), of the Issuer, dated the date hereof (the "Bonds"), hereby certify as follows:

1. This certificate is being executed and delivered pursuant to Section 148 of the Internal Revenue Code of 1986 and applicable regulations (the "Code"). We are the officers of the Issuer duly charged with the responsibility of issuing the Bonds. We are familiar with the facts, circumstances, and estimates herein certified and are duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the same meanings as set forth in the ordinance authorizing the Bonds duly enacted by the Issuer on September 19, 1996 (as supplemented, the "Bond Ordinance").

2. This certificate may be relied upon as the certificate of the Issuer.

3. The Issuer has not been notified by the Internal Revenue Service of any listing or proposed listing of it as an issuer that may not certify its bonds or the certification of which may not be relied upon by holders of obligations of the Issuer or that there is any disqualification of the Issuer by the Internal Revenue Service because a certification made by the Issuer contains a material misrepresentation.

4. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on October 24, 1996, the date on which the Bonds are to be physically delivered in exchange for more than a de minimis amount of the principal amount of the Bonds, and to the best of our knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

5. The Bonds were sold on October 24, 1996, to the West Virginia Water Development Authority (the "Authority"), pursuant to a loan agreement dated September 10, 1996, by and among the Issuer, the Authority and the West Virginia Division of Environmental Protection (the "DEP") for an aggregate purchase price of \$6,484,243 (100% of par), at which time, the Issuer received \$332,198 from the Authority and the DEP, being more than a de minimis amount of the principal amount of the Bonds. No accrued interest

has been or will be paid on the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

6. The Issuer has covenanted in the Bond Ordinance not to take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Bonds which would cause any of the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code. The Issuer has, therefore, covenanted not to intentionally use any portion of the proceeds of the Bonds to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except as otherwise allowed under Section 148 of the Code. The Issuer, in the Bond Ordinance, has further covenanted that it will take all actions that may be required of it so that the interest on the Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

7. The Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying a portion of the costs of acquisition and construction of additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); (ii) reimbursing the Issuer for payment of the Issuer's Sewerage System Bond Anticipation Notes, Series 1995, heretofore issued to temporarily finance a portion of the costs of acquisition and construction of the Project; and (iii) paying costs of issuance and related costs thereof.

8. Not later than simultaneously with the delivery of the Bonds, the Issuer shall enter into agreements which require the Issuer to expend in excess of \$100,000 on the Project, constituting a substantial binding commitment. Acquisition, construction and equipping of the Project shall proceed with due diligence to completion, and with the exception of proceeds constituting capitalized interest (if any) and proceeds deposited in the Reserve Account for the Bonds (if any), all of the proceeds from the sale of the Bonds, together with any investment earnings thereon, will be expended for payment of costs of the Project on or before April, 1998. Construction of the Project is expected to be completed by April, 1998.

9. The total cost of the Project (including all costs of issuance of the Bonds) is estimated at \$7,334,243. Sources and uses of funds for the Project are as follows:

SOURCES

Gross Proceeds of the Bonds	\$6,484,243
Issuer's Funds	<u>850,000</u>
Total Sources	<u>\$7,334,243</u>

USES

Costs of Acquisition and Construction of the Project	\$7,304,243
Capitalized Interest	-0-
Fund Reserve Account	-0-
Costs of Issuance	<u>30,000</u>
Total Uses	<u>\$7,334,243</u>

The amount of the costs of the Project is estimated to be at least equal to the gross proceeds of the Bonds and certain funds of the Issuer designated above. Except for the proceeds of the Bonds and certain funds of the Issuer designated above, no other funds of the Issuer will be available to meet costs of the Project, which would constitute "replacement proceeds" within the meaning of Treas. Reg. § 1.148-1(c), inasmuch as (i) the Issuer does not reasonably expect that the term of the Bonds is longer than is reasonably necessary for the governmental purposes of the Issuer, (ii) the weighted average maturity of the Bonds does not exceed 120% of the average expected economic life of the Project, and (iii) there are no amounts that have a sufficiently direct nexus to the Bonds or to the governmental purpose of the Bonds to conclude that the amounts would have been used for that governmental purpose if the proceeds of the Bonds were not used or to be used for that governmental purpose.

10. Pursuant to Article V of the Bond Ordinance, the following special funds or accounts have been created (or continued if previously established by the Prior Ordinances):

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Bond Construction Trust Fund;
- (4) Series 1995 Bonds Sinking Fund;
- (5) Series 1996 Bonds Sinking Fund; and

(6) Within the Series 1996 Bonds Sinking Fund, the Series 1996 Bonds Reserve Account.

11. Pursuant to Article VI of the Bond Ordinance, the proceeds of the Bonds will be deposited as follows:

(1) Series 1996 Bonds proceeds in the amount of \$-0- will be deposited in the Series 1996 Bonds Sinking Fund as capitalized interest and applied to payment of interest on the Bonds during acquisition and construction of the Project and for not more than six months thereafter.

(2) Series 1996 Bonds proceeds in the amount of \$-0- will be deposited in the Series 1996 Bonds Reserve Account.

(3) The balance of the proceeds of the Series 1996 Bonds will be deposited in the Bond 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 1996 Bonds and related costs and reimbursing the Issuer for payment of its Sewerage System Bond Anticipation Notes, Series 1995.

Amounts in the Bond Construction Trust Fund, if invested, will be invested without yield limitation for a period necessary to complete the Project, not to exceed 3 years, except as otherwise set forth herein. All of such moneys are necessary for such purpose.

Except for "preliminary expenditures" as defined in Treas. Reg. §1.150-2(f)(2), none of the proceeds of the Series 1996 Bonds will be used to reimburse the Issuer for costs of the Project previously incurred and paid by the Issuer with its own or other funds.

12. Moneys held in the Series 1996 Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on moneys in the Series 1996 Bonds Sinking Fund and Series 1996 Bonds Reserve Account, if any, will be withdrawn therefrom and deposited into the Bond Construction Trust Fund 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. Except for the Series 1996 Bonds Sinking Fund and the Series 1996 Bonds Reserve Account, there are no other funds or accounts established or held by the Issuer which are reasonably expected to be used to pay debt service on the Bonds, or which are pledged as collateral for the Bonds and for which there is a reasonable assurance that amounts therein will be available to pay debt service on the Bonds if the

Issuer encounters financial difficulties. The Issuer does not expect that moneys in the Renewal and Replacement Fund will be used or needed for payments upon the Bonds. Except as provided herein, no funds which have been or will be used to acquire directly or indirectly securities, obligations, annuity contracts, investment-type property or any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan producing a yield in excess of the yield on the Bonds have been or will be pledged to payment of the Bonds. Less than 10% of the moneys received from the sale of the Bonds, if any, will be deposited in the Series 1996 Bonds Reserve Account or any other reserve or replacement fund. The amounts deposited in the Series 1996 Bonds Reserve Account from time to time by the Issuer will not exceed the maximum annual principal of and interest on the Bonds and will not exceed 125% of average annual principal of and interest on the Bonds. Amounts in the Series 1996 Bonds Reserve Account, not to exceed 10% of the proceeds of the Bonds, if invested, will be invested without yield limitation. The establishment of the Series 1996 Bonds Reserve Account is required by the Authority, is vital to its purchase of the Bonds, and is reasonably required to assure payments of debt service on the Bonds.

Because amounts in the Renewal and Replacement Fund may be expended for other purposes, there is no reasonable assurance that any such amounts would be available to meet debt service if the Issuer encounters financial difficulties; thus, such amounts may be invested without yield limitation.

14. Not later than simultaneously with the delivery of the Bonds, the Issuer shall enter into a contract for the construction of the Project, and the amount to be expended pursuant to such contract exceeds the lesser of 2 1/2% of the estimated total Project cost financed with proceeds from the sale of the Bonds or \$100,000.

15. Work with respect to the acquisition and construction of the Project will proceed with due diligence to completion. The Project is expected to be completed within 18 months of the date hereof.

16. Except for a reasonable temporary period until such proceeds are needed for the purpose for which such Bonds were issued or as otherwise allowed, no portion of the proceeds of the Bonds will be used, directly or indirectly, to acquire higher yielding investments, or to replace funds which were used, directly or indirectly, to acquire higher yielding investments, all within the meaning of Section 148 of the Code.

17. The Issuer will comply with the provisions of the Code, for which the effective date precedes the date of delivery of its Bonds to the Authority.

18. With the exception of the amount deposited in the Series 1996 Bonds Sinking Fund for payment of interest on the Bonds, if any, and the amounts deposited in

the Series 1996 Bonds Reserve Account, if any, all of the proceeds of the Bonds will be expended on the Project within 18 months from the date of issuance thereof.

19. The Issuer does not expect to sell or otherwise dispose of the Project in whole or in part prior to the last maturity date of the Bonds.

20. The Series 1996 Bonds Sinking Fund (other than the Series 1996 Bonds Reserve Account therein) is intended primarily to achieve a proper matching of payments of debt service on the Bonds each year. The Series 1996 Bonds Sinking Fund (other than the Series 1996 Bonds Reserve Account therein) will be depleted at least once a year except for a reasonable carryover amount not in excess of the greater of 1/12th of annual debt service on the Bonds, or 1 year's interest earnings on the Series 1996 Bonds Sinking Fund (other than the Series 1996 Bonds Reserve Account therein). Except as otherwise allowed, any money deposited in the Series 1996 Bonds Sinking Fund for payment of the principal of or interest on the Bonds (other than the Series 1996 Bonds Reserve Account therein), will be spent within a 13-month period beginning on the date of receipt and will be invested without yield limitation, and any moneys received from the investment of amounts held in the Series 1996 Bonds Sinking Fund (other than in the Series 1996 Bonds Reserve Account therein) will be spent within a 1-year period beginning on the date of receipt.

21. The amount designated as cost of issuance of the Bonds consists only of costs which are directly related to and necessary for the issuance of the Bonds.

22. All property financed with the proceeds of the Bonds will be held for federal income tax purposes by (or on behalf of) a qualified governmental unit.

23. No more than 10% of the proceeds of the Bonds will be used (directly or indirectly) in any trade or business carried on by, and less than 5% of the proceeds of the Bonds have been or will be used to make or finance loans to, any person who is not a governmental unit.

24. The original proceeds of the Bonds will not exceed the amount necessary for the purposes of the issue.

25. The Issuer shall use the Bond proceeds solely for the costs of the Project, and the Project will be operated solely for a public purpose as a local governmental activity of the Issuer.

26. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from treatment afforded by Section 103(a) of the Code by reason of classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions and refrain from taking such actions

as shall be necessary to comply with the Code in order to ensure the interest on the Bonds is excludable from gross income for federal income tax purposes.

27. The Bonds are not and will not be, in whole or in part, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

28. The Issuer has retained the right to amend or supplement its authorizing documents if such amendment or supplement is necessary to preserve the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

29. The Issuer shall comply with the yield restriction on the proceeds of the Bonds as set forth in the Code.

30. The Issuer has either (a) funded the Series 1996 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 1996 Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 1996 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. Moneys in the Series 1996 Bonds Reserve Account and the Series 1996 Bonds Sinking Fund (established for the annual payment of principal and interest) will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

31. The Issuer shall submit to the Authority within 15 days following the end of each bond year a certified copy of its rebate calculation or, if the Issuer qualifies for the small governmental issuer exception to rebate, the Issuer shall submit a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the bond year which would make the Bonds subject to rebate.

32. There are no other obligations of the Issuer which (a) are to be issued at substantially the same time as the Bonds, (b) are to be sold pursuant to a common plan of financing together with any of the Bonds and (c) will be paid out of substantially the same source of funds or will have substantially the same claim to be paid out of substantially the same source of funds as any of the Bonds.

33. The transactions contemplated herein do not represent an exploitation of the difference between taxable and tax-exempt interest rates and the execution and delivery of the Bonds is not occurring sooner than otherwise necessary, nor are the Bonds in principal amounts greater than otherwise necessary or to be outstanding longer than otherwise necessary.

34. The Issuer will rebate to the United States the amount, if any, required by the Code and will take all steps necessary to make such rebates. In the event the Issuer

fails to make such rebates as required, the Issuer shall pay any and all penalties and obtain a waiver from the Internal Revenue Service in order to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

35. The Issuer covenants and agrees to comply with the rebate requirements of the Code if not exempted therefrom, and with all other requirements of the Code necessary, proper or desirable to maintain the tax-exempt status of the Bonds.

36. The Issuer shall file Form 8038-G in a timely fashion with the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255.

37. On the basis of the foregoing, it is not expected that the proceeds of any of the Bonds will be used in a manner that would cause any of the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

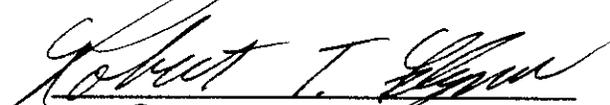
38. To the best of our knowledge, information and belief, there are no other facts, estimates and circumstances which would materially change the expectations herein expressed.

39. Steptoe & Johnson is entitled to rely upon the representations, expectations, covenants, certifications and statements contained herein in rendering its opinions regarding the tax-exempt status of interest on the Bonds.

40. To the best of our knowledge, information and belief, the foregoing expectations are reasonable.

WITNESS our signatures on this 24th day of October, 1996.

CITY OF CLARKSBURG



Mayor



City Manager

09/27/96
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CITY OF CLARKSBURG

Sewer Revenue Bonds, Series 1996
(West Virginia SRF Program)

CERTIFICATE OF ENGINEER

I, H. Wood Thrasher, Registered Professional Engineer, West Virginia License No. 9478, of Thrasher Engineering, Inc., Clarksburg, West Virginia, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain additions, betterments and improvements (the "Project") to the existing public sewerage system (the "System") of the City of Clarksburg (the "Issuer") to be constructed primarily in Harrison County, West Virginia, which acquisition and construction are being financed in part by the proceeds of the above-captioned bonds (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 19, 1996, as supplemented by the Supplemental Resolution adopted by the Issuer on September 19, 1996, and the Loan Agreement, by and among the Issuer, the West Virginia Division of Environmental Protection (the "DEP"), and the West Virginia Water Development Authority (the "Authority"), dated September 10, 1996.

2. The Bonds are being issued for the purposes of (i) paying a portion of the costs of acquisition and construction of the Project; (ii) reimbursing the Issuer for payment of the Issuer's Sewerage System Bond Anticipation Notes, Series 1995, heretofore issued to temporarily finance a portion of the costs of acquisition and construction of the Project; and (iii) paying costs of issuance and related costs.

3. The undersigned hereby certifies that (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the application submitted to the DEP and the Authority requesting the Authority to purchase the Bonds (the "Application") and approved by all necessary governmental bodies, (ii) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least 20 years, (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 described in the Application and my firm has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified by my firm for accuracy, (iv) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project, (v) the rates and charges for the System as adopted by the Issuer are sufficient to comply with the provisions of Subsection 4.1(b) of the Loan Agreement, (vi) the net

proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project as set forth in the Application, and (vii) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature and seal on this 24th day of October, 1996.

THRASHER ENGINEERING, INC.

(SEAL)



H. Wood Thrasher, P.E.

West Virginia License No. 9478

09/25/96
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SCHEDULE A

NAME OF GOVERNMENTAL AGENCY: City of Clarksburg Sanitary Board

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

A. Cost of Project

1. Construction	\$ 6,138,859	_____
2. Technical Services	\$ 640,501	_____
3. Legal and Fiscal	\$ 8,500	_____
4. Administrative	\$ 25,000	_____
* 5. Site and Other Lands	\$ _____	_____
* 6. Step I and/or Step II (Design) or Other Loan Repayment (Specify Type: <u>Payment of BAN</u>)	\$ 191,383	_____
7. Interim Financing Costs	\$ _____	_____
8. Contingency	\$ 300,000	_____
9. Total of Lines 1 Through 8	\$ _____	_____

\$7,304,243

B. Sources of Funds

10. Federal Grants: ¹	_____	\$ _____
(Specify Sources)	_____	\$ _____
11. State Grants: ²	_____	\$ _____
(Specify Sources)	_____	\$ _____
	_____	\$ _____
	_____	\$ _____
12. Other Grants: ¹	_____	\$ _____
(Specify Sources)	_____	\$ _____
13. Any Other Source ²	<u>Issuer's Funds</u>	\$ 850,000
(Specify)	_____	\$ _____
14. Total of Lines 10 Through 13		\$ 850,000
15. Net Proceeds Required from Bond Issue (Line 9 Less than 14)		<u>\$6,454,243</u>

C. Cost of Financing

16. Capitalized Interest	\$ 0	_____
(Construction period plus six months)		
17. Funded Reserve Account: ³	\$ 0	_____
18. Other Costs: ⁴ Bond Counsel Fees	\$ 30,000	_____
	\$ _____	_____
19. Total Cost of Financing (Lines 16 through 18)		<u>\$ 30,000</u>
20. Size of Bond Issue (Line 15 plus Line 19)		<u>\$6,484,243</u>

* not allowable for State Revolving Fund Assistance

1

2

3



Tetrick, Bartlett & Co.

CERTIFIED PUBLIC ACCOUNTANTS

122 N. Oak St. • P. O. Box 1916 • Clarksburg, WV 26302-1916 • Telephone: (304) 624-5564 • (800) 227-8538 • FAX: (304) 624-5582

City of Clarksburg
Sewer Revenue Bonds, Series 1996
(West Virginia SRF Program)

West Virginia Water
Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25065

West Virginia Division of
Environmental Protection
617 Broad Street
Charleston, West Virginia 25301

Ladies and Gentlemen:

Based upon the rates and charges as set forth in the sewer rate ordinance of the City of Clarksburg (the "Issuer") enacted August 18, 1994, and projected operation and maintenance expenses and anticipated customer usage as furnished to us by Thrasher Engineering, Inc., Consulting Engineers, it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the sewerage system of the Issuer (the "System"), will pay all repair, operation and maintenance expenses and leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on the Sewer Revenue Bonds, Series 1996 (West Virginia SRF Program) (the "Bonds"), to be issued to the West Virginia Water Development Authority and all other obligations secured by or payable from the revenues of the System, on a parity with the Bonds, including the Issuer's Sewer Refunding Revenue Bonds, Series 1995 (the "Prior Bonds"). It is our further 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 three succeeding years after the date of issuance of the Bonds, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding fiscal year for principal of and interest on the Bonds and the Prior Bonds.

Very truly yours,

Tetrick, Bartlett & Co.

Tetrick, Bartlett & Co.
October 24, 1996

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MEMBER

• AMERICAN INSTITUTE
OF CERTIFIED PUBLIC
ACCOUNTANTS

• WEST VIRGINIA SOCIETY
OF CERTIFIED PUBLIC
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• DIVISION FOR CPA FIRMS
PRIVATE COMPANIES
PRACTICE SECTION

• TAX DIVISION OF THE AMERICAN
INSTITUTE OF CERTIFIED
PUBLIC ACCOUNTANTS

• NATIONAL ASSOCIATED
CPA FIRMS

CHARTER
OF THE CITY OF
CLARKSBURG, WEST VIRGINIA

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on February 14, 1957.

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CHARTER
OF THE CITY OF
CLARKSBURG, WEST VIRGINIA

SECTION 1. INCORPORATION.

The inhabitants of the City of Clarksburg, Harrison County, West Virginia, within the corporate limits thereof as now established or as may hereafter be established in the manner provided by law, shall be and continue in perpetuity to be a municipal body politic and corporate, under the name of the "City of Clarksburg," with all the powers of self-government granted by the constitution and laws of the state.

SECTION 2. SUCCESSION.

The City of Clarksburg, as successor in interest of the present municipal corporation of the same name, shall succeed to, own, possess and enjoy all the property and all the rights, titles and interest of every kind and nature vested in or belonging to such municipal corporation at the time this charter becomes effective, shall be subject to all existing liabilities, shall be bound by and through the appropriate agency shall pay all existing debts, and shall faithfully perform all present duties and discharge all present obligations of such corporation.

SECTION 3. FORM OF GOVERNMENT.

There is established by this Charter the council-manager form of municipal government, as prescribed in sections five and five-a, article three, chapter eight-a of the official code of West Virginia, as amended. Except as otherwise provided in this charter, the council shall be the governing authority of the city, and shall appoint the city manager who shall execute the laws and administer the government of the city, except as otherwise provided herein.

SECTION 4. POWERS OF CITY.

The city shall have all the powers specifically provided for in this charter, and shall also have all the powers now or hereafter granted to municipal corporations and to cities of its class by the constitution and general laws of the state, together with all the implied powers necessary and proper to carry into execution the powers so granted. The enumeration herein of particular powers shall not be deemed exclusive, but the city shall have and may exercise all the powers which under the constitution and laws of the state might properly be specifically enumerated in this charter.

SECTION 5. THE COUNCIL; QUALIFICATIONS, TERM OF OFFICE, AND SALARY OF MEMBERS; SELECTION OF MAYOR; VACANCIES.

The Council shall consist of seven members to be elected at large by the qualified voters of the city for terms of four years beginning on the first day of July following their election, except that of the seven councilmen elected at the first election held under the provisions of this charter the three receiving the smallest numbers of votes shall be elected for terms of two years. At each regular election thereafter either three or four councilmen, as the case may be, shall be elected to succeed the incumbent members whose terms of office expire on the thirtieth day of June following the election. The terms of office of all councilmen in office on the date this charter is adopted shall continue until the close of business on the thirtieth day of June following the first regular election held hereunder.

Councilmen shall be qualified voters of the city, shall have been residents of the city for at least one year prior to their nomination for the office, shall hold no other public office except that of notary public or member of the National Guard or naval or military reserve, and shall not be employed by the city in any capacity. If a councilman shall cease to be qualified or shall be convicted of any crime involving moral turpitude, his office shall immediately become vacant.

A special meeting of the council shall be held at 7:30 P. M. on the first day of July following each regular city election. Following the selection of a temporary chairman, the newly elected councilmen shall be inducted into office. The council shall then elect one of its members to serve as mayor for a term of two years. The mayor shall preside at meetings of the council and shall be recognized as the head of the city government for all ceremonial and military purposes, but shall have no regular administrative duties.

The salary of the Mayor and Council shall be fixed by ordinance.

If any vacancy occurs in the office of councilman, the council shall within thirty days by the affirmative vote of at least four members appoint a qualified person to fill the vacancy for the unexpired term. If the vacancy is not so filled within thirty days after it occurs, then of the unsuccessful candidates for the office of councilman at the last election, who are still qualified and willing to serve, the one who received more votes than any of the others shall be entitled to the office. If the vacancy is not filled by either of these methods, it shall be filled at a special election to be held on a date not more than four months after the vacancy occurs. In the resolution calling the special election, the council shall specify procedures for the conduct of the election, and dates for the circulation and filing of nominating petitions and for the holding of the election, which shall conform as nearly as may be practicable to the procedures and schedule established by this charter for regular city elections. (Amended 6-1-93)

SECTION 6. MEETINGS OF THE COUNCIL; RULES OF PROCEDURE; JOURNAL.

Regular meetings of the council shall be held at 7:30 P.M. on the first and third Mondays of each month, or on such other stated days as the council may by ordinance prescribe. Special meetings may be held at any time upon call of the mayor or any three councilmen and upon such notice as the council may by rule prescribe. All meetings of the council shall be open to the public.

Four members of the council shall constitute a quorum. The mayor shall be entitled to vote on all matters before the council. The council shall by resolution adopt by-laws prescribing its own rules, procedure, and order of business, and shall keep a journal of all of its proceedings, which shall be available for public inspection.

SECTION 7. POWERS OF THE COUNCIL; APPOINTMENT AND TENURE OF CITY MANAGER.

Subject to any limitations imposed by the constitution and general laws of the state, all powers of the city shall be vested in and exercised by the council, except such powers as are by this charter specifically vested in the water board and such powers as are by general law vested in the other boards or commissions provided for in this charter or hereafter created by council pursuant to general law. No franchise granted by the council may be transferred in whole or in part without the written consent of council.

The council shall appoint a city manager to serve for an indefinite term, and may at any time remove him from office by the affirmative vote of not less than four of its members. At least thirty days before such removal shall become effective, the council shall adopt a preliminary resolution stating the reasons for his removal, and specifying the date on which his removal shall become final. At any time within ten days after the adoption of such resolution, upon the written request of the manager, he shall be afforded an opportunity to be heard at a public meeting of the council, which shall be held no earlier than ten nor later than twenty days after the request was made, and at a time and place to be fixed by council. After such public hearing if one is requested, after full consideration, the council by the affirmative vote of four of its members may adopt a final resolution of removal. By the preliminary resolution the council may suspend the manager with pay for a period not to exceed thirty days, and may designate some other person to perform the duties of the manager during the period of his suspension.

The city manager shall be a person of proved executive and administrative ability, preferably with experience and training in the field of city management. At the time of his appointment he need not be a resident of the city or state, but during his tenure of office shall reside within the city. No councilman, during his term and for a year thereafter, shall be eligible for appointment as city manager.

Neither the council nor any of its members shall direct or in any manner interfere with or obstruct the appointment or removal of any city officer or employee by the city manager or by any of his subordinates. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager and neither the council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately. If any councilman shall violate the provisions of this section, he shall be subject to removal from office in the

manner provided for the removal of municipal officers in section seven, article six, chapter six of the official code of West Virginia, as amended.

Except as otherwise provided by this charter, and within the limitations imposed by the constitution and general laws of the state, the council may determine the powers and duties of city officers, and subject to the requirements of general law may regulate the number, method of selection, qualifications, tenure, and compensation of city officers and employees, including the establishment of civil service for such employees.

SECTION 8. POWERS AND DUTIES OF CITY MANAGER.

Except as otherwise provided in the charter, the city manager shall be the head of the administrative branch of the city government. He shall be responsible to the council for the proper and efficient administration of all affairs of the city under his authority, and to that end, except as otherwise provided in this charter, he shall have the power and shall be required to:

- (1) Appoint and, when he deems it necessary or advisable, remove all officers and employees of the city except as otherwise provided by this charter or by general law, and except as he may authorize the head of a department or office to appoint and remove subordinates in such department or office.
- (2) Prepare the annual budget, submit it to the council for adoption, and be responsible for its administration after adoption.
- (3) Prepare and submit to the council as of the end of each fiscal year a complete report on the finances and administrative activities of the city for the preceding year.
- (4) Advise the council with respect to future plans and physical needs, and keep it informed concerning the current financial condition of the city.
- (5) Require the chief of police and the chief of the fire department to establish for their respective departments a course of training designed to promote the more efficient and safe operation of their departments.
- (6) Execute on behalf of the city all legal and other written documents requiring execution by the chief executive officer of the city, acknowledge the same if necessary, and perform all other acts and duties required of the chief executive officer of the city.
- (7) Perform such other duties as may be required of him by this charter, by general law, or by order of the council not inconsistent with this charter or with general law.

The manager may by letter filed with the city clerk designate some qualified administrative officer of the city to perform the duties of the manager during his temporary absence or disability. If the manager fails to make such designation, the council may by resolution appoint an officer of the city to act for the manager during his absence or disability.

SECTION 9. CITY CLERK.

The Council shall appoint a resident of the city to serve as city clerk at the will and pleasure of the council. Except as otherwise provided in this charter and subject to the supervision of the city manager, the clerk shall have the power and it shall be his duty to:

- (1) Give notice of and attend all meetings of the council, keep the journal of its proceedings, authenticate by his signature and record in full in a book kept for the purpose all ordinances and resolutions of the council, prepare and keep up to date an index of all such ordinances and resolutions, and keep all such records available for public inspection when not in use.
- (2) Make and certify copies of any ordinance, resolution or order of the council whenever required to do so, and affix the corporate seal of the city to any paper required to be sealed and to any certified copy of any paper, order or proceeding which he may make.
- (3) Prepare and cause to be served all notices required to be given to any person, firm or corporation, and after the proper service and return of any notice he shall file and preserve the same.
- (4) Have custody of and keep available for public inspection the permanent records of the city and file and properly index all records of such city officers and departments as the city manager may direct.
- (5) Perform such other duties as may be required of him by this charter, by general law, or by city ordinance or order of the city manager not inconsistent with this charter or with general law.

SECTION 10. POLICE COURT AND JUDGE; JURISDICTION; PRACTICE AND PROCEDURE.

The police court now existing shall be continued and shall have criminal jurisdiction over violations of city ordinances and the criminal jurisdiction of a justice of the peace with respect to offenses committed within any territory within or beyond the city limits over which the city has police jurisdiction under provisions of general law. The sessions of the court shall be held at such times and places as the council by ordinance or resolution may direct.

The judge of the police court shall be a resident of Harrison County and a member in good standing of the Harrison County Bar. He shall be appointed by the city manager to serve for an indefinite term. In the event of the temporary absence or disability of the regular judge, the city manager shall appoint some other qualified person to serve as judge of the police court. During the period of such temporary service the salary of the regular judge shall be transferred and paid to the temporary judge, except that both shall be paid during the customary vacation period granted to the regular judge.

The judge shall issue warrants upon complaint under oath of any person or officer for the arrest of anyone charged with any offense within the jurisdiction of the police court. He shall try and determine all cases over which the court has jurisdiction, and within the limits prescribed by ordinance or by law shall punish by fine or imprisonment, or both, any person convicted of any offense. He shall have power to summon witnesses for the trial of any case before him, to compel the attendance of police officers of the city, to require of the chief of police the enforcement of all judgements or orders entered by him in the exercise of his powers as police judge, and to issue executions for all fines,

penalties and costs imposed by him. The proceedings for the recovery of fines or for the enforcement of penalties fixed by any ordinance or law shall conform to the regulations, so far as they are applicable, prescribed by general law for civil proceedings before justices of the peace. The police judge, however, for good cause shown by affidavit, may order by an indorsement upon the summons that any defendant be arrested and brought before the court to be dealt with according to law.

All processes and orders of the police court shall be signed by the police judge and shall be directed to the chief of police, to be executed by him or by one of his subordinates. The police officer executing any such process or order shall have the same powers, be governed by the same rules of law and be subject to the same liabilities as sheriffs in the performance of like services. There may be charged for the services of such officer the same fees as the sheriff is entitled to charge for like services, but no such charge shall be made against the city. All such fees as well as all fines and penalties imposed by the court shall be collected by the chief of police, and accounted for and paid by him into the treasury of the city.

In the discharge of his duties and in the trial of cases the judge of the police court shall follow the rules prescribed by law for criminal proceedings before a justice of the peace, except that all cases shall be tried by the judge without a jury. The judge shall keep a record of all warrants issued by him, of all persons arrested and brought before him, and of all trials, fines or sentences imposed, or judgments entered by him, in a permanent book to be known as the police court docket. A record of all entries made in the docket each day shall be signed by the judge at the close of the day.

In cases where the evidence discloses such a violation of the laws of the state that in the opinion of the police judge the person accused should be committed to await action by the grand jury, the judge shall have the same jurisdiction and power as a justice of the peace in regard to the apprehension, commitment and admission to bail of the person so accused.

A person convicted in the police court shall have the same right to an appeal and a trial de novo as is provided by law for appeals from justice of the peace courts.

SECTION 11. CITY ATTORNEY.

The city attorney shall be a resident of Harrison County and a member in good standing of the Harrison County Bar. He shall be appointed by the city manager to serve for an indefinite term. He shall perform all duties and exercise all powers which shall be conferred upon him by any ordinance or resolution of the council and, except as otherwise provided in this charter, he shall have the power and it shall be his duty to:

- (1) Act as legal adviser and counsel for the city council and for all administrative boards and officers thereof with respect to their official duties. Upon request, he shall furnish to the city council or to such officers a written opinion upon any question concerning their respective powers and duties.
- (2) Prosecute and defend all suits for or against the city, and prepare all ordinances and all contracts, bonds or other writings in which the city is concerned, and endorse on each his approval of the form and correctness thereof.
- (3) Prosecute all cases brought before or appealed from the police court, and perform the same duties so far as they are applicable thereto as are required by law of prosecuting attorneys.

Whenever the exigencies of the business of the city require such action, the city manager shall have the right to employ special counsel to assist the city attorney.

SECTION 12. ADMINISTRATIVE OFFICES AND DEPARTMENTS.

There shall be in the city government a police department, a fire department, a department of public works, a department of finance, and such other administrative departments as now exist or may by ordinance be created by the council. The city manager shall appoint as the head of each department a chief, supervisor or director, who shall be responsible for the efficient administration of the department, subject to the supervision and control of the manager. Except as otherwise provided by this charter or by general law, the head of a department need not be a resident of the city or state at the time of his appointment, but during his tenure of office shall reside in Harrison County.

The council may by ordinance create, combine, change or abolish offices, departments or agencies, other than those established by this charter. Except as otherwise provided in this charter, the council may assign additional functions or duties to any office, department or agency created by it or by this charter, but may not discontinue or transfer any function or duty assigned by this charter to any particular office, department or agency.

SECTION 13. CHIEF OF POLICE.

The chief of police shall be appointed by the city manager to serve for an indefinite term. The chief of police shall be a resident of the state and shall be a person of proved executive and administrative ability, with experience or training in law enforcement. Subject to the direction and control of the city manager, the chief of police shall be responsible for the supervision and administration of the police department, and shall require of all police officers the proper discharge of their duties. He shall see to the protection of property and the preservation of peace, order and public safety throughout the city, and to that end he shall cause all violators of city ordinances and of general law to be apprehended and brought to trial before the police court or other proper tribunal. Under the direction of the city manager, he shall also perform such other duties as may be required of him by this charter, by general law or by city ordinance or order of the city manager not inconsistent with this charter or with general law.

SECTION 14. CHIEF OF FIRE DEPARTMENT.

The chief of the fire department shall be appointed by the city manager to serve for an indefinite term. The chief of the fire department shall be a person of proved executive and administrative ability, with experience or training in the suppression and prevention of fires. Subject to the direction and control of the city manager, the chief of the fire department shall be responsible for the supervision and administration of the fire department, and shall require of all firemen the proper discharge of their duties. He shall make such inspections of buildings and property throughout the city as may be necessary to discover fire hazards, shall take all proper measures to eliminate such hazards, and shall keep an accurate record of all fires, inspections and fire hazards within the city. Under the direction of the city manager, he shall also perform such other duties as may be required of him by this charter, by general law, or by city ordinance or order of the city manager not inconsistent with this charter or with general law.

SECTION 15. DIRECTOR OF PUBLIC WORKS.

The city manager shall appoint a director of public works, who shall be a registered civil engineer, to serve for an indefinite term. Subject to the direction and control of the city manager, the director of public works shall be responsible for the supervision and administration of the department of public works.

In addition, except as otherwise provided in this charter and subject to the supervision of the city manager, he shall have the power and it shall be his duty to:

- (1) Inspect the construction or repair of all buildings, the installation of all electrical wiring or equipment, and the installation of all plumbing, to the extent that such activities are controlled or regulated by the city, for the purpose of seeing that all city regulations are obeyed.
- (2) Issue permits for the construction or repair of homes and other buildings upon the payment of such fee as may be fixed by council, but he shall issue no such permit unless the proposed construction or repair is in conformity with city zoning laws and regulations.
- (3) Supervise all work done by any contractor for the city while the work is being performed.
- (4) Make surveys, fix grades, and prepare plats, plans and specifications for all improvements which may be undertaken by the city, when required to do so by the city manager.
- (5) Furnish on the demand of any resident the grade of any street or sewer upon the payment of such fee as may be fixed by council.
- (6) Make complete maps of all streets, alleys, lanes, parks and public property owned by the city, keep such maps on file in his office and available for public inspection, and furnish a copy thereof to the city manager.
- (7) Require that all pavements, sidewalks, curbs, gutters and sewers in the city are kept clean and repaired.
- (8) Perform such other duties as may be required of him by this charter, by general law, or by city ordinance or order of the city manager not inconsistent with this charter or with general law.

SECTION 16. DIRECTOR OF FINANCE.

The city manager shall appoint a director of finance, who shall be a person experienced in accounting and budgeting, to serve for an indefinite term.

Under the direction and control of the city manager and subject to the provisions of this charter, the director of finance shall be responsible for the proper administration of the financial affairs of the city, and except as otherwise provided by this charter or by general law shall have the power and shall be required to:

- (1) Collect all taxes, special assessments, license fees and other revenues of the city, and receive all other moneys payable to the city.
- (2) Have custody of all funds of the city or of any office, department or agency thereof, and deposit such funds in the bank or banks designated by the council.
- (3) Supervise the purchase, storage and distribution of all equipment and supplies used by any office, department or agency of the city.
- (4) Supervise the receipt and disbursement of all moneys and control all expenditures to ensure that budget appropriations are not exceeded. No proposed

expenditure shall be made unless the director of finance shall certify that there is available for the purpose an unencumbered balance in the proper item of appropriation.

- (5) Maintain a general accounting system for the city and each of its offices, departments and agencies, and keep a separate account for each item of appropriation in the budget, showing the total appropriation, the amounts paid therefrom, the unpaid obligations charged thereto, and the unencumbered balance.
- (6) Prepare for submission to the council by the city manager a cumulative monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city and each of its offices, departments and agencies.
- (7) Prepare for submission to the council by the city manager a complete financial statement and report as of the end of each fiscal year.
- (8) Compile for use by the city manager in the preparation of the budget an estimate of anticipated revenues during the coming year and an estimate of probable expenditures for current expenses and capital improvements.
- (9) Perform such other duties as may be required of him by this charter, by general law, or by city ordinance or order of the city manager not inconsistent with this charter or with general law.

**SECTION 17. BUDGET AND BUDGET MESSAGE; PUBLIC HEARING;
ADOPTION AND REVISION.**

The fiscal and budget year of the City shall begin on the 1st day of July and shall end on the 30th day of June of each calendar year. The budget for each succeeding fiscal year submitted and amended as provided in this section, shall be adopted by the council not later than the 28th day of March of the then current fiscal year.

Not later than the 1st day of March of each year, the City Manager shall submit to the Council a budget for the next fiscal year, together with a budget message which shall contain an outline of the proposed financial operation of the City for the coming year, shall describe the important features of the budget plan, and shall set forth the reasons for the salient changes from the previous year in cost and revenue items. The budget prepared by the City Manager shall not cover the financial operations of the Water Department. In respect to proposed appropriations for capital improvements, there shall be included in the budget message, or attached thereto, a program and schedule of capital projects recommended by the City Planning Commission for the next five fiscal years. A copy of the budget and budget message, and all supporting documents, shall at the same time the budget is submitted to the Council be filed with the City Clerk as a public record, and shall be available for inspection by any interested person.

The budget shall provide a complete financial plan for the budget year, including any estimate of any anticipated surplus at the beginning of the year, an estimate of anticipated revenues from all sources during the year, and a detailed estimate of proposed appropriations for expenditure during the year by each office, department, and agency of the City. The total of appropriations of the budget as submitted by the Manager or as adopted by the Council shall not exceed the sum of estimated revenues and surplus.

At a regular or special meeting of Council between the 7th and 28th days of March of each year, there shall be a public hearing on the proposed budget, at which time all interested persons shall be given an opportunity to be heard for or against any estimate of revenue or any item of appropriation contained therein. At said meeting, Council shall ascertain the fiscal condition of the corporation, and make an itemized statement setting forth:

- (1) The amount due and the amount that will become due and collectible from every source during the current fiscal year except from the levy of taxes to be made for the year;
- (2) The interest, sinking fund and amortization requirements for the fiscal year of bonded indebtedness, legally incurred upon a vote of the people as provided by law, prior to the adoption of the tax limitation amendment;
- (3) Other contractual indebtedness, not bonded, legally incurred prior to the adoption of the tax limitation amendment, owing by the Municipality;
- (4) All other expenditures to be paid out of the receipts of the Municipality for the current fiscal year with proper allowance for delinquent taxes, exonerations, and contingencies;
- (5) The total amount necessary to be raised by the levy of taxes for the current fiscal year;
- (6) The proposed rate of levy in cents on each one hundred dollars assessed valuation of each class of property; and
- (7) The separate and aggregate assessed valuations of real, personal and public utility property in each class in the Municipality.

The Recording Officer of the Municipality shall forward immediately a certified copy of the statement to the Tax Commissioner, and shall publish the statement forthwith. The session shall then stand adjourned until the 3rd Tuesday in April, at which time it shall reconvene.

The Council shall, when it reconvenes upon the 3rd Tuesday in April, hear and consider any objections made orally or in writing by the City Attorney, by the Tax Commissioner or his representative, or by any taxpayer of the City, for the estimate and proposed levy, or to any item thereof. Council shall enter of record any objections so made and the reasons and grounds therefor. The Council, after hearing objections, shall reconsider the proposed original estimate and proposed rates of levy, and if the objections are well taken, shall correct the estimate and levy. No such estimate and levy, however, shall be entered until the same shall have first been approved, in writing, by the Tax Commissioner. When the same shall have been approved by the Tax Commissioner, the Clerk shall then enter the estimate and levy, together with the order of the Council approving them and the written approval of the Tax Commissioner thereof, in the proper record book.

In addition to the provisions set forth herein, Council shall be subject to the requirements contained in Chapter 11, Article 8, Section 1, et seq. of the West Virginia Code, as amended, as the same may apply to municipal corporations.

After the beginning of the fiscal year, the Council shall make only such changes in the budget as may be required because of action taken by the State Tax Commissioner in respect to the proposed tax levy of the City or as may be permitted or required by general law. Thereafter, the Council shall make no other changes in the budget unless permitted or required to do so by general law. After the final adoption of the budget, the several amounts stated therein as proposed appropriation shall be appropriated to the specified objects and purposes. Except as otherwise provided by general law, the City Manager may at any time transfer any unencumbered appropriation balance of an appropriated line item from that line item to another line item with the same account category established by the State Tax Commissioner, subject to the approval of City Council. No transfers from one account category to another may be made without revision of the budget and approval by the Tax Commissioner pursuant to Chapter 11, Article 8, Section 1, et seq.

For the purposes of accounting for the budget, the modified accrual basis of accounting will be used, or any other basis of accounting required by the State Tax Commissioner. The ending unencumbered balance at the end of the fiscal year shall be the starting unencumbered balance for the new fiscal year.

In addition to the foregoing, Council and the City Manager shall comply with all applicable federal and state laws which in any way relate to the governing of the financial affairs of a municipal corporation.

(Amended 6-1-93)

SECTION 18. BONDS OF OFFICERS AND EMPLOYEES; AUDITS AND ACCOUNTS.

The chief of police and every member of the police department, and every officer and employee of the city into whose custody or control shall come any of the moneys or funds of the city shall before entering upon the discharge of his duties give a bond with corporate surety conditioned upon the faithful discharge of his duties and the faithful accounting for all moneys or funds coming into his hands by reason of his office or employment. The amount of the bond shall be fixed by resolution of the council or, in the case of officers and employees of the water department, by resolution of the water board. As required by law, all

bonds shall be payable to the state of West Virginia and shall as to form and substance be subject to the approval of the city attorney, evidenced by his signed endorsement on each bond. All bonds when executed and approved shall be recorded in a book kept for that purpose by the city clerk, who is hereby made custodian of all such bonds. At the annual audit made by the state tax commissioner, the auditor shall report to the city council and to the water board respectively whether the required bonds are in any respect insufficient, and may require of any official or employee a new or additional bond. Any new or additional bond so required shall be given within thirty days after notice of such requirement, and a failure to give such bond shall at the expiration of thirty days work a forfeiture of the office or employment of the official or employee failing to give the same. The premium on all bonds given as provided in the section shall be paid from the appropriate fund of the city.

The council by resolution shall provide for such system of collecting, disbursing, budgeting, auditing, accounting and record-keeping, not inconsistent with other provisions of this charter, as may in its opinion be necessary or desirable.

In addition to the regular annual audit made by the state tax commissioner, the council may at any time it is deemed necessary employ qualified public accountants to make a special independent audit of the finances of the city or of the accounts of any city officer, department or agency, other than the accounts of the water board.

SECTION 19. BOARD OF PARK COMMISSIONERS; SUPERINTENDENT OF PARKS AND RECREATION.

The board of park commissioners heretofore created and now existing shall be continued. As authorized under the provisions of chapter ninety-one, acts of the legislature, regular session, one thousand nine hundred thirty-nine, as amended, the city council shall by ordinance provide that the board shall consist of five members, and shall also provide that the members shall be appointed by the council. Of the four members first appointed after the membership has been increased from three to five, two shall be appointed for terms of two years and two for terms of six years. Thereafter all appointments shall be for terms of six years. The members of the board in office on the date this charter becomes effective shall, unless sooner removed, continue to serve until their respective terms expire and their successors have been appointed.

The board shall have the powers and shall perform the duties conferred and required by general law. More particularly, the board shall be charged with the responsibility of providing public parks, playgrounds, athletic fields, swimming pools and other recreational facilities, and of providing an adequate recreational program for the inhabitants of the city. The board shall appoint a superintendent of parks and recreation, who shall be a person of proved executive and administrative ability, with experience or professional training in physical education and community recreation. At the time of his appointment he need not be a resident of the city or state, but during his tenure of office shall reside in Harrison County.

The council shall provide and allocate in the annual city budget sufficient funds for the operation and maintenance of an adequate system of city parks and recreational facilities and of an adequate recreational program.

As provided by law, the board may in its own name accept and disburse any funds it may receive by gift, bequest or devise for park or recreational purposes.

SECTION 20. BOARD OF DIRECTORS OF PUBLIC LIBRARY.

The Board of Directors of the public library heretofore created and now existing shall be continued. The members of the Board in office on the date this Charter as amended become effective, shall unless sooner removed, continue to serve until their respective terms expire and their successors are appointed. The five members of the Board shall be appointed, in

accordance with the provisions of Chapter 10, Article I of the Official Code of West Virginia as amended. Future appointments to the Board of Directors of the Public Library shall be made as follows: The Harrison County Commission shall appoint a person to a five-year term beginning July 1, 1983, and such person so appointed shall reside outside the city limits of the City of Clarksburg; the Clarksburg City Council shall appoint a person to a five-year term beginning July 1, 1984, and said person shall reside within the City of Clarksburg; the Harrison County Board of Education shall appoint a person to a five-year term beginning July 1, 1985, and said person shall reside outside the corporate limits of the City of Clarksburg. The Clarksburg City Council shall appoint a person to a five-year term beginning on July 1, 1986 and July 1, 1987, and such person shall reside within the corporate limits of the City of Clarksburg, West Virginia.

The Board of Directors shall have the powers and shall perform all the duties conferred and required by general law.

The Clarksburg City Council, the Harrison County Commission and the Harrison County Board of Education shall jointly provide sufficient funds in their respective budgets for the adequate operation, maintenance and repair of the Clarksburg-Harrison County Public Library, and transfer such funds to the Board of Directors.

The Board shall be known as the Clarksburg-Harrison County Public Library.

This charter amendment will not become effective until formal action is taken by the Harrison County Commission and the Harrison County Board of Education agreeing to join with the City of Clarksburg in creating the new Clarksburg-Harrison County Public Library Board. (Ord. 83-17. Passed 7-21-83.)

SECTION 21. CITY PLANNING COMMISSION; ZONING COMMISSION AND BOARD OF ADJUSTMENT.

The council shall provide for the establishment and the financial support of a city planning commission as provided in article five, chapter eight of the official code of West Virginia, as amended. The commission shall be composed of eleven members, who shall be nominated by the city manager and confirmed by the council. The members of the commission shall be freeholders of the city. The commission shall have the powers and shall perform the duties prescribed by general law. It shall be the responsibility of the commission to prepare comprehensive plans for the future development of the city, including recommendations concerning needed streets, bridges, parks, parkways, playgrounds, public buildings, and other public improvements. Such plans and recommendations shall be submitted to the city manager and to the council and other appropriate agencies of the city for such action as the council or other agencies may deem proper. In addition, the commission shall submit annually to the city manager, not less than ninety days prior to the beginning of the budget year, a list of recommended capital improvements which in the opinion of the commission are necessary or desirable to be constructed during the forthcoming five-year period. Such list shall be arranged in order of preference, with recommendations as to which projects shall be constructed in which year.

The planning commission shall also act as the zoning commission and as such shall have the authority and shall perform the duties prescribed by general law, including the authority and duty to prepare and recommend to council for enactment any revisions or amendments of the city zoning ordinance it may deem advisable. The council shall in the manner prescribed by law provide for a board of adjustment which shall hear all appeals arising in connection with the enforcement of the city zoning ordinance.

SECTION 22. PUBLIC HEALTH UNIT.

The city council either by itself or in conjunction with one or more other political subdivisions shall in the manner provided by law establish and maintain a public health unit. The public health unit so established shall have the powers and shall perform the duties

SECTION 23. SANITARY BOARD.

The council shall provide for the establishment of a sanitary board which shall have the powers and shall perform the duties prescribed by general law with respect to the construction, operation and maintenance of sewage disposal facilities. The sanitary board shall be composed of the city manager, who shall be the chairman of the board, and two other persons appointed by the council, one of whom shall be a registered professional engineer.

SECTION 24. PARKING AUTHORITY.

The parking authority heretofore created and now existing shall be continued. The parking authority shall have the power and the responsibility to establish, operate and finance automobile parking facilities for the city, as provided in article four-a, chapter eight of the official code of West Virginia, as amended.

SECTION 25. THE WATER BOARD; CONTINUANCE; QUALIFICATIONS, TERM OF OFFICE, AND SALARY OF MEMBERS; SELECTION OF PRESIDENT; VACANCIES.

The water board of the city in existence on the date this charter is adopted shall be continued. The water board shall consist of three members to be elected at large by the qualified voters of the city for terms of four years beginning on the first day of July following their election. The terms of office of all members of the water board in office on the date this charter is adopted shall continue until the close of business on the thirtieth day of June following the date on which their terms of office would otherwise expire. At the first election held under the provisions of this charter one member of the water board shall be elected. At each regular election thereafter either one or two members of the board, as the case may be, shall be elected to succeed the incumbent member or members whose term of office expires on the thirtieth day of June following the election.

Members of the water board shall be qualified voters of the city, shall have been residents of the city for at least one year prior to their nomination for the office, shall hold no other public office except that of notary public or member of the National Guard or naval or military reserve, and shall not be employed by the city in any capacity. If a member of the board shall cease to be qualified or shall be convicted of any crime involving moral turpitude, his office shall immediately become vacant.

A special meeting of the water board shall be held at 7:30 P.M. on the first day of July following each regular city election. Following the selection of a temporary chairman, the newly elected member or members of the water board shall first be inducted into office. The board shall then elect one of its members to serve as president for a term of two years.

The salary of each member of the water board shall be twenty dollars for each meeting of the board attended by him, not to exceed five hundred dollars in any fiscal year. Until the maximum limit is reached, the salary of each member shall be paid monthly as earned.

If any vacancy occurs on the water board, the board shall within thirty days appoint a qualified person to fill the vacancy for the unexpired term. If the vacancy is not so filled within thirty days after it occurs, then of the unsuccessful candidates for the office of member of the water board at the last election, who are still qualified and willing to serve, the one who received more votes than any of the others shall be entitled to the office. If the vacancy is not filled by either of these methods, it shall be filled at a special election to be

held on a date not more than four months after the vacancy occurs. In the resolution calling the special election, the council shall specify procedures for the conduct of the election, and dates for the circulation and filing of nominating petitions and for the holding of the election, which shall conform as nearly as may be practicable to the procedures and schedule established by this charter for regular city elections.

SECTION 26. MEETINGS OF THE WATER BOARD; RULES OF PROCEDURE; JOURNAL.

Regular meetings of the water board shall be held at least twice each month, on such days and at such times as the board may by published resolution prescribe. Special meetings may be held at any time upon call by the president or any two members and upon such notice as the board may by rule prescribe. All meetings of the board shall be open to be public.

Two members of the board shall constitute a quorum. The president shall be entitled to vote on all matters before the board.

The board shall by resolution adopt by-laws prescribing its own rules, procedure, and order of business, and shall keep a journal of all of its proceedings, which shall be available for public inspection.

SECTION 27. GENERAL POWERS OF THE WATER BOARD.

All of the powers now or hereafter conferred upon municipalities by the laws of the state for the operation of a water system, and all powers and duties of the city pertaining to the construction, acquisition, establishment, improvement, operation, management, maintenance, and repair of the municipal water system, and the determination of all matters of policy with respect thereto, are vested in and shall be exercised by the water board. The water board shall have full and exclusive jurisdiction of the exercise and discharge of such municipal powers so conferred upon it, independent of control by the council and the city manager. The city council shall upon request of the water board enact such ordinances, enter such orders, and adopt such resolutions as may be required by law in connection with the issuance of any water works revenue bonds, the acquisition by purchase or condemnation of any property needed for the proper operation of the water department, or the transaction of any other business of the water board.

In addition to the general powers mentioned in the preceding paragraph, and without any limitation upon such powers, the water board subject to provisions of general law shall have the following authority and shall perform the following duties:

- (1) Fix, regulate and change rates and charges for water supplied to all consumers; adopt and prescribe reasonable rules and regulations which shall be observed by all consumers in reference to the use and consumption of water taken from the city mains, the terms and conditions upon which connections to the mains shall be permitted, and the place and manner of making the same; fix penalties by way of additional charges for failure to pay water bills promptly, and to this end the board may discontinue the supply of water to any consumer who fails to pay for the same as required; require all users of water for temporary purposes to pay for the privilege in advance; refuse to furnish water to any building or habitation unless the owner thereof shall assume liability for the payment of the charges for the water so furnished, and charge to and collect from the owner the cost of water furnished to any tenant or occupant of such building or habitation not paid for by the tenant or occupant; charge the cost of installing water service lines from the curb line to the main against the landowner, and require

payment in advance for installing and connecting such line with the water main. The powers of the water board to fix and charge rates for water and water service and to make rules and regulations governing the supply of such water and water service shall be subject to the supervision, regulation and control of the Public Service Commission of the state to the extent and in the manner now or hereafter prescribed by general law.

- (2) Whenever the city council shall determine to pave or repave any street in the city, the water board is authorized to make a proper connection and lay a water service line from the main to the curb for each and every lot or for any part of a lot under separate ownership, although no water service may, at any time be necessary or required for any such lot or part of lot, and to charge the cost of making such connection and laying such water service line against the owner of the property. The cost of laying such water service lines and making such connections shall in every instance be a lien upon the lot or part of lot to be benefited thereby, and the water board shall have the right, in the name of the city, to institute and prosecute any proper suit in the circuit court of Harrison County for the collection of such charges by a sale of the property on which the same constitutes a lien. Whenever the council decides to pave or repave any street, it shall be the duty of the water board to lay necessary water mains and service lines as soon as may be practicable in order not to delay the paving program. In order to coordinate the making of such improvements it shall be the duty of both the council and the water board to cooperate with each other in making plans for such improvements or repairs, and to keep each other informed concerning future needs and plans.
- (3) The board shall have power from time to time to repair, extend and amplify the water works plant and system, and to make such additions to the pumping station, filtration plant and water mains and lines as may at any time be deemed necessary for the proper operation of the system.
- (4) The water board shall require the general manager to examine the sources of water supply for the city and to report to the board from time to time whether the waters are being polluted. The water board may, in the name of the city, institute and prosecute in any court having jurisdiction any legal action, civil or criminal, necessary to enjoin any person, firm or corporation from continuing any nuisance caused by such pollution or to prohibit the violation of any city ordinance or of any provision of general law concerning pollution or concerning the protection of the city water supply.
- (5) Whenever the city shall in the manner prescribed by law provide for the imposition of a sewage service charge based on the consumption of water upon the customers of the water department, it shall be the duty of the water board to add the charge to the water bills and collect the same. All sewage charges collected by the water board shall be accounted for monthly and paid into the operating fund of the sanitary board. The sanitary board shall pay any additional cost incurred by the water board in the collection of sewage charges.

SECTION 28. APPOINTMENT AND TENURE OF GENERAL MANAGER OF THE WATER DEPARTMENT.

The water board shall appoint a general manager of the water department to serve for an indefinite term, and may at any time remove him from office by the affirmative vote of not less than two of its members. At least thirty days before such removal shall become effective, the board shall adopt a preliminary resolution stating the reasons for his removal and specifying the date on which his removal shall become final. At any time within ten days after the adoption of such resolution, upon the written request of the manager, he shall be afforded an opportunity to be heard at a public meeting of the board, which shall be held no earlier than ten nor later than twenty days after the request was made, and at a time and place to be fixed by the water board. After such public hearing if one is requested, and after full consideration, the board by affirmative vote of two if its members may adopt a final resolution of removal. By the preliminary resolution the board may suspend the manager with pay for a period not to exceed thirty days, and may designate some other person to perform the duties of the manager during the period of his suspension.

The general manager shall be a person of proved executive and administrative ability, preferably with experience and training in the management of a water or other utility system. At the time of his appointment he need not be a resident of the city or state, but during his tenure of office shall reside in Harrison County. No member of the water board, during his term and for a year thereafter, shall be eligible for appointment as general manager of the water department.

Neither the water board nor any of its members shall direct or in any manner interfere with or obstruct the appointment or removal of any employee by the general manager or by any of his subordinates. Except for the purpose of inquiry, the board and its members shall deal with the employees of the water department solely through the general manager and shall give no orders to such employees, either publicly or privately. If any member of the board shall violate the provisions of this section, he shall be subject to removal from office in the manner provided for the removal of municipal officers in section seven, article six, chapter six of the official code of West Virginia, as amended.

SECTION 29. POWERS AND DUTIES OF GENERAL MANAGER OF THE WATER DEPARTMENT.

The general manager of the water department shall be the administrative authority of the city insofar as the water department is concerned. He shall be ex officio the secretary and treasurer of the water board, and shall devote all of his time to his official duties. He shall be responsible to the board for the proper and efficient administration of the water department, and to that end he shall have power and shall be required to:

- (1) Appoint and, when he deems it necessary or advisable, remove all employees of the water department, except as he may authorize such appointment and removal by his subordinates.
- (2) Prepare the annual budget of the water department, submit it to the board for adoption, and be responsible for its administration after adoption.
- (3) Prepare and submit to the board as of the end of each fiscal year a complete report on the finances and the administration of the department for the preceding year.

- (4) Advise the board with respect to future plans and physical needs of the water department, and keep it informed concerning the current financial condition of the department.
- (5) Enforce, or cause the enforcement of, all city ordinances and all laws of the state applicable to the water system, and of all rules and regulations of the water board.
- (6) Prepare and cause to be served all notices required to be given to any person, firm or corporation in connection with any activity or business of the water board, and after the proper service and return of any notice he shall file and preserve the same.
- (7) Collect all revenues of the water department, deposit them in the bank or banks designated by the water board, and disburse them upon such requisition or order as the board may prescribe.
- (8) Supervise the purchase, storage and distribution of all equipment and supplies for the water department.
- (9) Make and keep up to date, and place on file for public information at the office of the water board, complete maps, plans and details showing the dams, pumping stations, reservoirs, tanks, pipes, valves, connections, water lines, fire hydrants, and all other data necessary to show all the physical properties of the water department.
- (10) Attend all meetings of the water board, give notice of its meetings, keep the journal of its proceedings, and keep or cause to be kept full and accurate record books and books of account covering all the business and transaction of the water department, all of which shall be available for public inspection.
- (11) Execute on behalf of the water board all legal and other written documents requiring execution by the chief executive officer of the board, acknowledge the same if necessary, and perform all other acts and duties required of the chief executive officer of the board.
- (12) Perform such other duties as may be required of him by this charter, by general law, or by order of the board not inconsistent with this charter or with general law.

The general manager may by letter filed with the president of the board designate one of his subordinates to perform the duties of the general manager during his temporary absence or disability. If the manager fails to make such designation, the board may by resolution appoint an employee of the water department to act for the manager during his absence or disability.

SECTION 30. EMPLOYMENT OF COUNSEL BY WATER BOARD; AUDITS AND ACCOUNTS.

The water board may employ legal counsel to assist and advise it in the discharge of its duties, and to represent it and the city in all litigation conducted by the water board in connection with the exercise of its powers and the transaction of its business. The cost of all such litigation, including any judgment or decree against the water board in the name of the city, as well as all fees and compensation for counsel employed by it, shall be paid out of the revenues of the water board.

The water board by resolution shall provide for such system of collecting, disbursing, budgeting, auditing, accounting and record-keeping, not inconsistent with other provisions of this charter, as may in its opinion be necessary or desirable.

In addition to the regular annual audit made by the state tax commissioner, the board may at any time it is deemed necessary employ qualified public accountants to make a special independent audit of the finances of the water board or of the accounts of the general manager or any other employee of the water department.

SECTION 31. APPLICATION OF FUNDS OF WATER BOARD.

All revenues derived from the operation of the water department, from the sale of water works bonds, or from the sale by the water board of any of its property, shall be applied by the water board solely for the payment of expenses incurred in the exercise of authority or in the discharge of duties imposed on the board by this charter or by general law, for the payment of the cost of operating, improving, and managing the water system, and for the payment of principal, interest and sinking fund requirements necessary for the discharge of any water works bonds heretofore or hereafter issued.

SECTION 32. CONTRACTS AND PURCHASES.

All contracts and purchases by any City officer, department or agency shall be void unless made in conformity with all applicable provisions of general law, this Charter, and with all rules and regulations fixed by ordinance, from time to time, concerning a dollar amount for which competitive bids shall be required for contracts for improvements or purchases of materials, supplies and equipment.

In the case of contracts for the construction of any improvements in which competitive bids shall be required, sealed competitive bids shall be obtained by notice published at least once each week for two successive weeks in two newspapers of opposite politics published in the City. The notice shall refer to necessary specifications and plans, shall invite the submission of bids, and shall specify the date on which the bids will be opened. In the case of contracts or purchases of supplies, materials and equipment or personal services, sealed competitive bids shall be obtained either (a) by published notice inviting bids as in the case of contracts for the construction of improvements, or (b) by mailed notice stating the necessary specifications, inviting the submission of bids, and stating the date on which the bids will be opened. The first of these methods shall be used unless the Council or Water Board, as the case may be, shall enter an order of record authorizing the use of the second method and stating the reasons why such method was authorized. Whether or not it is so stated in the published mailed notice, all bids may be rejected. No City officer, department or agency shall subdivide any contract or purchase for the purpose of evading the requirements of this section with respect to competitive bidding.

The Water Board with respect to any improvements, extensions or additions to the water system, and the Council with respect to City improvements under its jurisdiction, shall cause to be prepared accurate and complete maps, plans and specifications therefor and shall have the authority to cause such work to be done either by the employment of labor and the furnishings of material, or by entering into a contract for the performance of the labor and for the material. If a contract is let for any improvement, the Water Board or the Council, as the case may be, shall require the contractor to give a sufficient bond with corporate surety to guarantee the faithful performance of the contract and the payment for all labor performed and all materials furnished in the performance of the contract, as provided in section thirty-nine, article two, chapter thirty eight of the official code of West Virginia, as amended. Any change or alteration in the contract after it is entered into shall be made only upon resolution passed by the Water Board, or the Council, as the case may be, and shall not be effective until the price to be paid for the work and material, or both, under the altered or modified contract, shall have been agreed upon in writing and such agreement signed by the contractor and the general manager with the approval of the Water Board, or the City Manager with the approval of the Council, as the case may be.

The Water Board with respect to contracts and purchases of the Water Department, and the City Council, with respect to contracts and purchases of other City offices, departments and agencies, may by resolution prescribe additional rules and regulations governing the making of contracts and purchases, not inconsistent with general law or with the provisions of this Charter.

In the case of an emergency the City Council or Water Board, as the case may be, may by special resolution setting forth the facts constituting the emergency dispense with the requirement of competitive bidding and with the requirements of its rules and regulations governing contracts and purchases.

Any officer or employee of the City who shall be directly or indirectly interested in any contract with the City, or in the profits to be derived therefrom, shall forthwith forfeit his office or employment, and in addition thereto any such contract shall be void and unenforceable against the City. The acceptance by any officer or employee of any interest in such contract or of any gift or gratuity from any person, firm or corporation dealing with the City which might influence the officer or employee and in the discharge of his duties shall forever disqualify such officer or employee from holding any office or employment in the City government, and in addition he shall be subject to criminal prosecution as provided by general law or by City ordinance. (Amended February 18, 1982)

SECTION 33. STATUS OF EXISTING OFFICERS AND EMPLOYEES.

Every person holding an appointive office or employment in the city government on the effective date of this charter shall retain the same or the similar office or employment hereunder, pending action by the competent authority of the city having the power appointment and removal with respect to such office or position. At any time within four months after the effective date of this charter, the city manager and the general manager of the water department in office on that date shall be subject to replacement by the council and by the water board, respectively, without regard to the removal provisions of sections seven and twenty-eight of this charter.

SECTION 34. DISCRIMINATORY PRACTICES PROHIBITED.

No person holding any appointive office or employment in the service of the city, or seeking appointment thereto, shall be appointed, promoted, demoted or removed, or in any way favored or discriminated against because of political opinions or affiliations, or because of race, color or religious beliefs.

SECTION 35. SOCIAL SECURITY.

The city council, the water board, and every other board or commission provided for in this charter, or hereafter created by council pursuant to general law, shall in the manner prescribed by law provide social security coverage for all eligible city officers and employees.

SECTION 36. OATH OF OFFICE.

Before taking office every officer of the city and the head of each administrative department shall take the oath of affirmation required by section five, article four of the constitution of the state.

SECTION 37. ELECTIONS.

Regular city elections shall be held on the first Tuesday in June, one thousand nine hundred fifty-seven, and on the first Tuesday in June of every second year thereafter. Special elections shall be held at such times as may be fixed by the council in accordance with the provisions of this charter and of general law.

The ballot to be used in city elections shall be prepared by the council and shall have set forth thereon in one division the names of all properly nominated candidates for election to membership on the council, and in another division the names of all properly nominated candidates for election to membership on the water board. In the printing of the ballots, the position of the names of the candidates shall be in like manner as is provided by general law for the printing of official primary ballots. The ballots shall state that the election is non-partisan and shall clearly indicate the number of candidates for each office for whom the voter is entitled to vote. At least ten days before the election a sample ballot showing the names of all properly nominated candidates shall be published once in two newspapers published in the city in the same manner as is provided by law for the publication of the list of nominations in a general election.

Except as otherwise provided in this charter, city elections shall be conducted and the result determined and certified in accordance with the provisions of general law with respect to primary, general and special elections, so far as they are applicable, except that the duties devolving upon the county court and the clerk thereof under the general laws for conducting elections shall be performed by the city council and the city clerk. The council shall appoint three commissioners and two clerks to serve as election officials in each precinct in the city. At least three days before the date of the election the city clerk shall procure from the clerk of the county court the necessary registration records and other election supplies and shall deliver them together with the ballots to the election officials. The election officials shall as soon as possible after the closing of the polls on election day return to the city clerk the ballots, tally sheets, certificates of the result of the election, registration records, ballot boxes and other election supplies. On the first Monday following the election the council shall canvass the returns of the election and declare the result. In the case of a contest the council shall be the judge of the election and qualifications of all city officials.

The cost incurred in holding and conducting regular city elections, after deducting all nomination fees received in connection therewith, shall be paid one-half out of the general city revenues and one-half out of the revenues of the water board. The costs of conducting special elections shall be paid out of general city revenues, except that the cost of any election held at the request of the water board shall be paid out of its revenues.

SECTION 38. CANDIDATES FOR CLARKSBURG CITY COUNCIL OR CLARKSBURG WATER BOARD; FILING FEE; FILING DATE.

A filing fee to be set by ordinance and candidate's signed certificate of announcement stating that he/she is a qualified voter of the City and he/she has resided therein for at least ~~one year~~^{30 days} and that he/she declares himself/herself ~~to be~~^{to be} a candidate for election to such office of Councilman/Councilwoman of the Clarksburg City Council or Member of the Water Board and will serve if elected, shall be filed in person with the City Clerk in the office of the City Clerk, Municipal Building, Clarksburg, West Virginia, not earlier than the first day of March, nor later than 4:30 p.m. on the fifteenth day of March preceding the election. The Clerk shall make a record of the exact time each statement and fee was filed and the name and address of the person by whom it was filed. The filing dates provided herein shall be changed or amended by regular ordinance thereafter.

In case there shall not be a number of candidates for any office equal to the number of persons to be elected to such office at any election, then the Council for the office of Councilman/Councilwoman and the Water Board for the office of a member of the Water Board, shall on or before the 20th day of March preceding the election make by appropriate resolution such additional nominations of candidates to be elected to such office. The nomination of any person by such a resolution shall, however, not be complete unless the person so nominated shall within three days after his nomination pay to the City Clerk the prescribed filing fee and file with the Clerk a signed statement that he/she is a qualified voter of the City and has resided therein for at least ~~one year~~^{30 days} before his/her nomination, and that he/she accepts the nomination and will serve, if elected.

The word announce or announcement as used herein or as used in the Clarksburg City Charter shall for the purposes of the Clarksburg City Charter be synonymous with and shall mean the same as nominate or nomination. The word nominate or nomination as used herein or as used in the Clarksburg City Charter shall for the purposes of the Clarksburg City Charter be synonymous with and shall mean the same as announce or announcement.

(Amended 6-1-93)

SECTION 39. FORM OF CERTIFICATE OF ANNOUNCEMENT; BLANK FORMS TO BE FURNISHED BY CITY CLERK.

The City Clerk shall prepare and furnish printed forms for certificates of announcement substantially in the form set forth and authorized by ordinance of the City Council.
(Amended 6-1-93)

SECTION 40. EFFECT OF CHARTER ON EXISTING ORDINANCES AND ADMINISTRATIVE RULES AND REGULATIONS.

All existing ordinances and all existing administrative rules, regulations and practices, if not inconsistent or in conflict with this charter, shall continue in full force and effect until repealed or modified by the council or other competent authority of the city. All ordinances, rules, regulations and practices that are inconsistent or in conflict with this charter shall, unless sooner repealed or modified, continue in full force and effect for a period of sixty days only, and at the end of that period shall to the extent of such inconsistency or conflict be of no further force or effect.

SECTION 41. REFERENCE TO GENERAL LAW.

A reference contained in this charter to a provision of general law shall be construed to mean the provision as it now exists or as it may hereafter be amended. Where additional sections are added to the subject matter of a provision of general law referred to in this charter, the reference shall include such additional sections.

SECTION 42. MEETINGS AND OTHER ACTS ON LEGAL HOLIDAYS.

Whenever under the provisions of this charter it is required that a meeting be held or that an act be done on a date which is a legal holiday, the meeting shall be held or the act shall be done on the next day not a legal holiday.

SECTION 43. SEPARABILITY.

The provisions of this charter shall be construed as severable, and should any provision be held unconstitutional, or for any other reason invalid, such holding shall in no way affect any other provision thereof.

SECTION 44. EFFECTIVE DATE OF CHARTER.

For the purpose of extending the terms of office of present elective officers and for the purpose of nominating candidates and conducting the first election held hereunder, this charter shall be in effect from and after the date of its adoption by the voters of the city. For all other purposes it shall be in effect on and after the first day of July next following the first election held under its provisions.

State of West Virginia:

COUNTY OF HARRISON, CITY OF CLARKSBURG, TO WIT:

I,PATRICIA L. D'ANSELMI....., Clerk of said City of Clarksburg, certify thatROBERT T. FLYNN..... this day in said City personally appeared before me, and being by me duly sworn, deposes and says: that he was on the...6th..... day ofJUNE....., 19.....95....., ELECTED AS COUNCILMAN of the City of Clarksburg, in said County of Harrison, for the term of...FOUR.....years, commencing on the...1st.....day of.....JULY....., 19.....95....., and that he will support the Constitution of the United States, the Constitution of the State of West Virginia and the Charter of the City of Clarksburg, and that he will faithfully discharge the duties of his office ofCOUNCILMAN..... of the City of Clarksburg, to the best of his skill and judgment, so help him God.

Robert T. Flynn

Taken, subscribed and sworn to before me, in said City and County, on this1st.....day of.....JULY....., 19.....95.....

Patricia L. D'Anselmi
Clerk

State of West Virginia:

COUNTY OF HARRISON, CITY OF CLARKSBURG, TO WIT:

I, PATRICIA L. D'ANSELMI, Clerk of said City of Clarksburg, certify that LOUIS J. IQUINTO this day in said City personally appeared before me, and being by me duly sworn, deposes and says: that he was on the.....6th..... day of JUNE, 19.95, Elected as Councilman of the City of Clarksburg, in said County of Harrison, for the term of.....FOUR.....years, commencing on the.....1st.....day of.....JULY....., 19.....95....., and that he will support the Constitution of the United States, the Constitution of the State of West Virginia and the Charter of the City of Clarksburg, and that he will faithfully discharge the duties of his office of COUNCILMAN of the City of Clarksburg, to the best of his skill and judgment, so help him God.

Louis J. Iquinto.....

Taken, subscribed and sworn to before me, in said City and County, on this1st.....day of.....JULY....., 19.....95.....

Patricia L. D'Anselmi.....
Clerk

State of West Virginia:

COUNTY OF HARRISON, CITY OF CLARKSBURG, TO WIT:

I, PATRICIA L. D'ANSELMI, Clerk of said City of Clarksburg, certify that FRANK MARINO this day in said City personally appeared before me, and being by me duly sworn, deposes and says: that he was on the.....6th..... day of JUNE 19..95....., ELECTED AS A COUNCILMAN of the City of Clarksburg, in said County of Harrison, for the term of.....FOUR.....years, commencing on the.....1st.....day of.....JULY....., 19..95....., and that he will support the Constitution of the United States, the Constitution of the State of West Virginia and the Charter of the City of Clarksburg, and that he will faithfully discharge the duties of his office of COUNCILMAN of the City of Clarksburg, to the best of his skill and judgment, so help him God.

.....*Frank Marino*.....

Taken, subscribed and sworn to before me, in said City and County, on this1st.....day of.....JULY....., 1995.....

.....*Patricia L. D'Anselmi*.....
Clerk

State of West Virginia:

COUNTY OF HARRISON, CITY OF CLARKSBURG, TO WIT:

I, PATRICIA L. D'ANSELMI, Clerk of said City of Clarksburg, certify that KATHRYN V. FOLIO this day in said City personally appeared before me, and being by me duly sworn, deposes and says: that she was on the...21st..... day of MARCH, 1994....., Sworn in as a member of the Council..... of the City of Clarksburg, in said County of Harrison, for the term of...3 1/4.....years, commencing on the...21st.....day of.....MARCH....., 19..94....., and that she will support the Constitution of the United States, the Constitution of the State of West Virginia and the Charter of the City of Clarksburg, and that she will faithfully discharge the duties of her office ofCOUNCILPERSON..... of the City of Clarksburg, to the best of her skill and judgment, so help her God.

Kathryn V. Folio

Taken, subscribed and sworn to before me, in said City and County, on this21st.....day of.....MARCH....., 1994.....

Patricia L. D'Anselmi
Clerk

State of West Virginia:

COUNTY OF HARRISON, CITY OF CLARKSBURG, TO WIT:

I,PATRICIA L. D'ANSELMI....., Clerk of said City of Clarksburg, certify thatJAMES C. HUNT..... this day in said City personally appeared before me, and being by me duly sworn, deposes and says: that he was on the...1st..... day ofJUNE....., 19.93....., ELECTED AS A COUNCILMAN..... of the City of Clarksburg, in said County of Harrison, for the term of...FOUR.....years, commencing on the...1st.....day of.....JULY....., 19.93....., and that he will support the Constitution of the United States, the Constitution of the State of West Virginia and the Charter of the City of Clarksburg, and that he will faithfully discharge the duties of his office ofCOUNCIL PERSON..... of the City of Clarksburg, to the best of his skill and judgment, so help him God.

.....James C. Hunt.....

Taken, subscribed and sworn to before me, in said City and County, on this1st.....day of.....JULY....., 19.93.....

.....Patricia L. D'Anselmi.....
Clerk

State of West Virginia:

COUNTY OF HARRISON, CITY OF CLARKSBURG, TO WIT:

I, PATRICIA L. D'ANSELMI, Clerk of said City of Clarksburg, certify that DAN THOMPSON this day in said City personally appeared before me, and being by me duly sworn, deposes and says: that he was on the.....FIRST.. day of JUNE, 19.93....., ELECTED AS A COUNCILMAN..... of the City of Clarksburg, in said County of Harrison, for the term of.....FOUR.....years, commencing on the...1st.....day of.....JULY....., 19.93....., and that he will support the Constitution of the United States, the Constitution of the State of West Virginia and the Charter of the City of Clarksburg, and that he will faithfully discharge the duties of his office ofCOUNCIL PERSON..... of the City of Clarksburg, to the best of his skill and judgment, so help him God.

Dan Thompson

Taken, subscribed and sworn to before me, in said City and County, on this1st.....day of.....JULY....., 19.93.....

Patricia L. D'Anselmi
Clerk

State of West Virginia:

COUNTY OF HARRISON, CITY OF CLARKSBURG, TO WIT:

I, PATRICIA L. D'ANSEMI Clerk of said City of Clarksburg, certify that HERMAN E. KESLING, JR. this day in said City personally appeared before me, and being by me duly sworn, deposes and says: that he was on the..... 1st day of JUNE 19. 93 ELECTED AS A COUNCILMAN of the City of Clarksburg, in said County of Harrison, for the term of..... FOUR years, commencing on the..... 1st day of..... JULY 19. 93 and that he will support the Constitution of the United States, the Constitution of the State of West Virginia and the Charter of the City of Clarksburg, and that he will faithfully discharge the duties of his office of COUNCIL PERSON of the City of Clarksburg, to the best of his skill and judgment, so help him God.

Herman E. Kesling, Jr.

Taken, subscribed and sworn to before me, in said City and County, on this 1st day of..... JULY 19. 93

Patricia L. D'Anselmi
Clerk

State of West Virginia:

COUNTY OF HARRISON, CITY OF CLARKSBURG, TO WIT:

I, PATRICIA L. D'ANSELMI Clerk of said City of Clarksburg, certify

that PERCY C. ASHCRAFT this day in said City personally appeared

before me, and being by me duly sworn, deposes and says: that he was on the 22nd

day of DECEMBER 19 95 APPOINTED AS CITY MANAGER

of the City of Clarksburg, in said County of Harrison, for the term of INDEFINITE years,

commencing on the 27th day of DECEMBER 19 95 and that he

will support the Constitution of the United States, the Constitution of the State of West

Virginia and the Charter of the City of Clarksburg, and that he will faithfully discharge

the duties of his office of CITY MANAGER

of the City of Clarksburg, to the best of his skill and judgment, so help him God.

Percy C. Ashcraft

Taken, subscribed and sworn to before me, in said City and County, on this

..... 27th day of DECEMBER 19 95

Patricia L. D'Anselmi
Clerk

State of West Virginia:

COUNTY OF HARRISON, CITY OF CLARKSBURG, TO WIT:

I, ~~ROBERT T. FLYNN~~ ^{Mayor} of said City of Clarksburg, certify

that ~~ANNETTE M. WRIGHT~~ this day in said City personally appeared

before me, and being by me duly sworn, deposes and says: that ~~he~~ ^{she} was on the 6TH

day of MAY 19 96 CITY CLERK

of the City of Clarksburg, in said County of Harrison, for the term of ~~an~~ ^{indefinite} years, commencing on the 6TH day of MAY 19 96, and that ~~he~~ ^{she}

will support the Constitution of the United States, the Constitution of the State of West Virginia and the Charter of the City of Clarksburg, and that ~~he~~ ^{she} will faithfully discharge the duties of ~~his~~ ^{her} office of CITY CLERK ~~her~~

of the City of Clarksburg, to the best of ~~his~~ ^{her} skill and judgment, so help ~~me~~ ^{God}.

Annette M. Wright

Taken, subscribed and sworn to before me, in said City and County, on this

6TH day of MAY 19 96

[Signature]
~~Clerk~~ Mayor



17/5/5

"AN ORDINANCE TO AMEND AND RE-ENACT AN ORDINANCE CREATING A SANITARY BOARD FOR THE CITY OF CLARKSBURG IN HARRISON COUNTY, WEST VIRGINIA, PRESCRIBING THE QUALIFICATIONS AND FIXING THE COMPENSATION OF ITS MEMBERS, DEFINING ITS POWERS AND DUTIES."

BE IT ORDAINED BY THE CITY OF CLARKSBURG:

Section 1. That there be and is hereby created a Sanitary Board for the City of Clarksburg, in Harrison County, West Virginia.

Section 2. That the Sanitary Board of the City of Clarksburg shall be appointed by the City Council, and the members of said Board, upon their appointment, shall qualify by taking the oath of office required of other public officials of the City.

Section 3. That the Sanitary Board, as herein created, shall be composed of the City Manager of the City of Clarksburg, and two persons appointed by City Council, one of which must be a registered professional engineer. The engineer member of said Board need not be a resident of said City. No officer or employee shall be eligible to appointment on said Sanitary Board until at least one year after the expiration of the term of his public office.

Section 4. That the appointment of the original board shall be for the term of two and three years respectively, and upon the expiration of each term, and each succeeding term thereafter the appointment of a successor shall be made in like manner for a term

three years. Vacancies shall be filled for the unexpired term in the same manner as the original appointment. The City Manager's term shall coincide with his tenure of office.

Section 5. That the Sanitary Board shall have the control over and supervision of the construction, acquisition, improvement, equipment, custody, operation and maintenance of a sewage collection system and sewage treatment plant or plants; intercepting sewers; outfall sewers; force mains; pumping stations; ejector stations, the collection and treatment, purification and disposal, in a sanitary manner of liquid and solid waste, night soil and industrial waste of the City of Clarksburg; and in addition thereto, said Board shall be vested with and shall exercise all of the rights and perform all of the duties conferred upon it by Article 11 and 13 of Chapter 16 of the Code of West Virginia, and all acts amendatory and supplemental thereto.

Section 6. That the City Manager of said City shall act as Chairman of the Sanitary Board, which shall select from its members a vice-chairman and shall designate a Secretary and Treasurer (but the Secretary and Treasurer may be one and the same), who need not be a member or members of the Sanitary Board. The Vice-Chairman, secretary and treasurer shall hold office at the will of the Sanitary Board. The appointive members of the Sanitary Board shall

each receive as compensation for their services a sum of twenty-five (\$25.00) dollars for each meeting of the Board, provided, however, that members of the Board shall not be paid for meetings in excess of six meetings per month.

Section 7. This ordinance shall be effective from passage.

Section 8. The provisions of this ordinance are several, and if any section, provision, sentence, clause or word of this ordinance be declared invalid, such decision shall not affect or impair any of the remaining provisions of this ordinance. It is hereby declared to be the intent of the Council of said City that this ordinance would have been adopted had the invalid portion not been included therein.

Passed by the Council of the City of Clarksburg, the 5th day of December, 1955.

(s) Glen R. Peterson
City Manager

ATTEST:

(s) Angela Marshall
City Clerk

RESOLUTION OF CLARKSBURG SANITARY BOARD

BE IT HEREBY RESOLVED that the Clarksburg Sanitary Board petition the City Council of the City of Clarksburg to commence enactment of an ordinance authorizing issuance of sewer revenue bonds of the City of Clarksburg, in the aggregate principal amount of not more than \$6,500,000, such petition to be presented to City Council at its regular meeting set for August 1, 1996 and to be in substantially the following form:

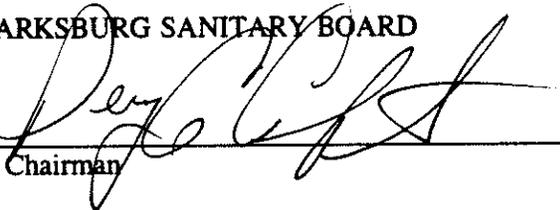
The Clarksburg Sanitary Board hereby petitions the Council of the City of Clarksburg (the "City") to enact an ordinance directing that sewer revenue bonds of the City be issued pursuant to the provisions of Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended, such bonds to be in an amount not to exceed \$6,500,000 for the purpose of financing the costs of acquisition and construction of additions, betterments and improvements to the existing public sewerage system of the City, together with all necessary appurtenances, and the costs of issuance and related costs.

Directed this 23rd day of July, 1996.

This Resolution shall be effective immediately.

Adopted this 23rd day of July, 1996.

CLARKSBURG SANITARY BOARD

By 
Chairman

07/22/96
CSRFJM.D1
155510/95003

ORDINANCE OF THE CITY OF CLARKSBURG, WEST VIRGINIA, AMENDING AND RE-ENACTING SECTION 933.02 OF ARTICLE 933 OF CHAPTER 3 OF THE CODE OF THE CITY OF CLARKSBURG, RELATING TO THE IMPOSITION OF RATES FOR THE USE OF THE SERVICES RENDERED BY THE SEWERAGE SYSTEM, AND ESTABLISHING STANDARDS FOR THE USE OF SUCH SYSTEM AND THE COMPUTATION OF SUCH RATES FOR RESIDENTS OF THE CITY OF CLARKSBURG.

NOW, THEREFORE, BE IT HEREBY ENACTED BY THE CITY COUNCIL OF CLARKSBURG, WEST VIRGINIA, AS FOLLOWS:

In order to provide, re-establish and maintain just and equitable rates or charges for the use of and the service rendered by the Clarksburg sewerage system by residents of the City of Clarksburg, and to provide for the necessary rates and charges to finance the required capital additions thereto and expenses of operation, repair, replacement and maintenance of such system, and for other required and necessary charges, Section 933.02, Article 933 of Chapter 3 of the Code of the City of Clarksburg relating to the imposition of rates for the use of the services rendered by the sewerage system, and establishing standards for the use of such system and the computation of such rates is hereby amended and re-enacted to read as follows:

"Sec. 933.02 - A. Schedule of Rates - Residents:

The service charge for any person, firm or corporation situate within the municipal limits of the City of Clarksburg having any connection with the City's public sanitary sewerage system and discharging sewage, industrial wastes, water or other liquids into such system shall be based upon the quantity of water used on or in said premises as the same is measured by the Clarksburg Water Board meter or meters there in use, and shall be charged bi-monthly or monthly at the following rates:

The first 4,000 cubic feet per month or 8,000 cubic feet used bi-monthly at 2.88 per 100 cubic feet.

The next 16,000 cubic feet used per month or 32,000 cubic feet used bi-monthly at 2.12 per 100 cubic feet.

All over 20,000 cubic feet used per month or 40,000 cubic feet used bi-monthly at 1.37 per 100 cubic feet.

The minimum charge to any customer will be \$13.00 per month or \$26.00 bi-monthly. Delayed Payment Penalty. The above schedule is net. On all account where payment is not received in full in the office of the Clarksburg Water Board, which is the collection agency for the Sanitary Board, by 4:30 p.m., of the due date, which is twenty (20) days after the date of the bill, a penalty of ten percent (10%) will be added to the amount shown on the bill. This delayed payment penalty is not interest and is collected only once for each bill where is appropriate."

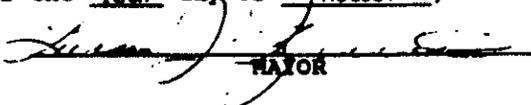
Effective Date of this Ordinance. This Ordinance shall take effect forty-five (45) days after final enactment hereof,

after public hearing as provided by law, or at the time prescribed by the Public Service Commission of West Virginia if that body acquires jurisdiction over the matter as provided by law.

Notice to Customers. The Clerk is hereby directed to provide notice of the change in rates contemplated by this Ordinance by causing to be published, within five (5) days after the second reading of this Ordinance and adoption thereof in The Clarksburg Exponent and The Clarksburg Telegram, a press release that announces the adoption of the proposed rate change and contains the substance and form of Municipal Rate Change Form Number 1 or Cooperative Rate Change Form No. 1 as promulgated by the Public Service Commission of West Virginia, and by publishing a Class II legal advertisement to conform with said Municipal Rate Change Form Number 1 or Cooperative Rate Change Form No. 1. The first said publication must incur within five (5) days after the second reading and adoption of said rate change. The City Clerk is also directed to post a notice of said proposed rate change in a conspicuous place at the Sanitary Board beginning at least five (5) days prior to the second reading and adoption of said Ordinance and to remain posted through the thirty (30) day appeal period provided by West Virginia Code Section 24-2-4(b). Said posted notice must also conform with Municipal Rate Change Form Number 1 or Cooperative Rate Change Form No. 1 aforesaid.

PASSED by the Council of the City of Clarksburg on
FIRST READING this the 21st day of JUNE, 1994.

PASSED by the Council of the City of Clarksburg on
SECOND AND FINAL READING this the 18th day of AUGUST, 1994.


MAYOR

ATTEST:


CITY CLERK

ORDINANCE OF THE CITY OF CLARKSBURG, WEST VIRGINIA, AMENDING AND RE-ENACTING SECTION 933.02 OF ARTICLE 933 OF CHAPTER 3 OF THE CODE OF THE CITY OF CLARKSBURG, RELATING TO THE IMPOSITION OF RATES FOR THE USE OF THE SERVICES RENDERED BY THE SEWERAGE SYSTEM, AND ESTABLISHING STANDARDS FOR THE USE OF SUCH SYSTEM AND THE COMPUTATION OF SUCH RATES, FOR NON-RESIDENTS OF THE CITY OF CLARKSBURG.

NOW, THEREFORE, BE IT HEREBY ENACTED BY THE CITY COUNCIL OF CLARKSBURG, WEST VIRGINIA, AS FOLLOWS:

In order to provide, establish and maintain just and equitable rates or charges for the use of and the service rendered by the Clarksburg sewerage system to persons, firms, corporations, public service districts, municipalities and other legal entities outside the municipal limits, and to provide for the necessary rates and charges to finance the required capital additions thereto and expenses of operation, repair, replacement and maintenance of such system, and for other required and necessary charges, Section 933.02, Article 933 of Chapter 3 of the Code of the City of Clarksburg relating to the imposition of rates for the use of the services rendered by the sewerage system, and establishing standards for the use of such system and the computation of such rates, for non-residents of the City of Clarksburg is hereby amended and re-enacted to read as follows:

"Sec. 933.02 - B. Schedule of Rates; Non-residents; Persons, Firms, Corporations, and Other Legal Entities outside the municipal limits.

The service charge for any persons, firms or corporations and other legal entities situate without the municipal limits of the City of Clarksburg, not a municipal corporation nor a public service district having any connection with the City's public sanitary sewerage system and discharging sewage, industrial wastes, water or other liquids into such system shall be based upon the quantity of water used on or in said premises as the same is measured by the Clarksburg Water Board meter or meters there in use, or by such other meters there in use or who are connected to the Clarksburg Sanitary Sewer System and receive water from a source other than the Clarksburg Water Board and pay sewer service charges directly to the Clarksburg Sanitary Board; and shall be charged bi-monthly or monthly at the following rates:

The first 4,000 cubic feet per month or 8,000 cubic feet used bi-monthly at 2.88 per 100 cubic feet.

The next 16,000 cubic feet used per month or 32,000 cubic feet used bi-monthly at 2.12 per 100 cubic feet.

All over 20,000 cubic feet used per month or 40,000 cubic feet used bi-monthly at 1.37 per 100 cubic feet.

The minimum charge to any customer will be \$13.00 per month or \$26.00 bi-monthly."

"Sec. 933.02 - C. Schedule of Rates; Non-residents; The Municipality of Nutter Fort:

The service charge for the Municipality of Nutter Fort, so long as its sewerage system continues having a connection with the City's public sanitary sewerage system and discharging sewage, industrial wastes, water or other liquids into such system shall be based upon the quantity of water used on or in said municipality as the same is measured by the Clarksburg Water Board meter or meters there in use, for water delivered to said municipality by said Board, and shall be charged bi-monthly or monthly at the following rate:

\$1.51 per 100 cubic feet."

"Sec. 933.02 - D. Schedule of Rates; Non-Residents; The Municipality of Stonewood:

The service charge for the Municipality of Stonewood, so long as its sewerage system continues having a connection with the City's public sanitary sewerage system and discharging sewage, industrial wastes, water or other liquids into such system shall be based upon the quantity of water used on or in said municipality as the same is measured by the Clarksburg Water Board meter or meters therein use, for water delivered to said municipality by said Board, and shall be charged bi-monthly or monthly at the following rate:

\$1.51 per 100 cubic feet."

"Sec. 933.02 - E. Schedule of Rates' Non-residents; The Municipality of Anmoore:

The service charge for the Municipality of Anmoore, so long as its sewerage system continues having a connection with the City's public sanitary sewerage system and discharging sewage, industrial wastes, water or other liquids into such system shall be based upon the quantity of water used on or in said municipality as the same is measured by the Clarksburg Water Board meter or meters there in use, for water delivered to said municipality by said Board, and shall be charged bi-monthly or monthly at the following rate:

\$1.51 per 100 cubic feet."

"Sec. 933.02 - F. Schedule of Rates' Non-residents; Public Service Districts:

The service charge for Public Service Districts, so long as its sewerage system continues having a connection with the City's public sanitary sewerage system and discharging sewage, industrial wastes, water or other liquids into such system shall be based upon the quantity of water used on or in said Public Service Districts as the same is measured by the Clarksburg Water Board meter or meters there in use, for water delivered to said Public Service Districts by said Board, and shall be charged bi-monthly or monthly at the following rate:

\$1.51 per 100 cubic feet."

"Sec. 933.02 - G. Schedule of Rates; Non-residents; Billed by a Governmental Unit other than the Clarksburg Water Board:

The service charge for legal entities which are non-residents of Clarksburg, not municipalities or public service districts, which receive water from the Clarksburg Water Board, which have a connection with Clarksburg's public sewer system, who are billed for sewer service by a governmental agency other than the Clarksburg Water Board, shall be based upon the quantity of water used as the same is measured by water meters installed for such purpose for water delivered by the Clarksburg Water Board, and shall be charged bi-monthly or monthly at the following rate:

\$1.51 per 100 cubic feet."

"Sec. 933.02 - H. Delayed Payment Penalty.

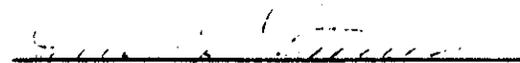
The above schedule is net. On all accounts where payment is not received in full in the office of the Clarksburg Sanitary Board, by 4:30 p.m. of the due date, which is twenty (20) days after the date of the bill, a penalty of ten percent (10%) will be added to the amount shown on the bill. This delayed payment penalty is not interest and is collected only once for each bill where is appropriate."

Effective Date of this Ordinance. This Ordinance shall take effect forty-five (45) days after final enactment hereof, after public hearing as provided by law, or at the time prescribed by the Public Service Commission of West Virginia if that body acquires jurisdiction over the matter as provided by law.

Notice to Customers. The Clerk is hereby directed to provide notice of the change in rates contemplated by this Ordinance by causing to be published, within five (5) days after the second reading of this Ordinance and adoption thereof in The Clarksburg Exponent and The Clarksburg Telegram, a press release that announces the adoption of the proposed rate change and contains the substance and form of Municipal Rate Change Form Number 1 or Cooperative Rate Change Form No. 1 as promulgated by the Public Service Commission of West Virginia, and by publishing a Class II legal advertisement to conform with said Municipal Rate Change Form Number 1 or Cooperative Rate Change Form No. 1. The first said publication must incur within five (5) days after the second reading and adoption of said rate change. The City Clerk is also directed to post a notice of said proposed rate change in a conspicuous place at the Sanitary Board beginning at least five (5) days prior to the second reading and adoption of said Ordinance and to remain posted through the thirty (30) day appeal period provided by West Virginia Code Section 24-2-4(b). Said posted notice must also conform with Municipal Rate Change form Number 1 or Cooperative Rate Change Form No. 1 aforesaid.

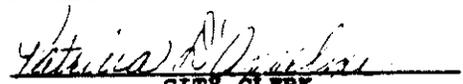
PASSED by the Council of the City of Clarksburg on
FIRST READING this the 21st day of June, 1994.

PASSED by the Council of the City of Clarksburg on
SECOND AND FINAL READING this the 18th day of AUGUST, 1994.



MAYOR

ATTEST:



CITY CLERK

PUBLISHER'S CERTIFICATE

VS.

STATE OF WEST VIRGINIA,
COUNTY OF HARRISON

PUBLIC HEARING

A public hearing will be held prior to final vote on adoption of the following ordinance during the next regular meeting of council of the City of Clarksburg to be held on Thursday, August 18, 1994 at 7:30 P.M. at the Harrison County Board of Education Building, on Water Street, at which time any interested parties may appear at said meeting and be heard with respect to this proposed ordinance. Copies of this proposed ordinance are available for public inspection in the office of the City Clerk at said City Hall during regular business hours. A TDD is available for the hearing impaired. It is located in the Engineering Office at City Hall. The number is 224-1606.

Ordinance of the City of Clarksburg, West Virginia, amending and re-enacting Section 933.02 of Article 933 of Chapter 3 of the code of the City of Clarksburg, relating to the imposition of rates for the use of the services rendered by the sewerage system, and establishing standards for the use of such systems and the computation of such rates for residents of the City of Clarksburg.

Passed by the Council of the City of Clarksburg on first reading on the 21st day of June, 1994.

I, Deborah S. Veltri

Classified Office Manager of THE CLARKSBURG EXPONENT, a newspaper of general circulation published in the City of Clarksburg, County and State aforesaid, do hereby certify that the annexed

Public Hearing

was published in said THE CLARKSBURG EXPONENT once a week for 2 successive weeks,

commencing on the 9 day of August 1994
and ending on the 16 day of August 1994

The publisher's fee for said publication is \$ 17.94

Given under my hand this 16 day of August 1994

Deborah S. Veltri
Classified Office Mgr. of The Clarksburg Exponent

SEAL

Subscribed and sworn to before me this 16 day
of August, 1994

Debra Kay Swiger
Notary Public in and for Harrison County, WV.

My commission expires on the 25th day of August, 2003

Form CA-15 E

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
Debra Kay Swiger
Route 1, Box 236A
Wallace, WV 26448
My Commission Expires August 25, 2003

21A

PUBLISHER'S CERTIFICATE

VS.

STATE OF WEST VIRGINIA,
COUNTY OF HARRISON

I, Deborah S. Veltri

Classified Office Manager of CLARKSBURG TELEGRAM, a newspaper of general circulation published in the City of Clarksburg, County and State aforesaid, do hereby certify that the annexed

Public Hearing

was published in said CLARKSBURG TELEGRAM once a week for 2 successive weeks,

commencing on the 9 day of August 19 94 and ending on the 16 day of August 19 94

The publisher's fee for said publication is \$ 22.42

Given under my hand this 16 day of August 19 94

Deborah S. Veltri

Classified Office Mgr. of Clarksburg Telegram



Subscribed and sworn to before me this 16 day

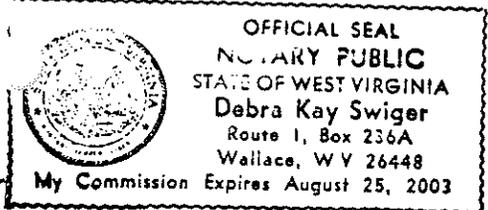
of August, 19 94

Debra Kay Swiger
Notary Public in and for Harrison County, WV.

My commission expires on the 25th day of August, 2003.

Form CA-15 T

PUBLIC HEARING
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Ordinance of the City of Clarksburg, West Virginia, amending and renumbering Section 933.02 of Article 933 of Chapter 3 of the Code of the City of Clarksburg, West Virginia to the imposition of metering the use of the services rendered by the sewerage system, and establishing standards for the use of such systems and the computation of such rates for residents of the City of Clarksburg.
Passed by the Council of the City of Clarksburg on first reading on the 21st day of June, 1994.



PUBLISHER'S CERTIFICATE

VS.

STATE OF WEST VIRGINIA,
COUNTY OF HARRISON

PUBLIC HEARING

A public hearing will be held prior to final vote on adoption of the following ordinance during the next regular meeting of council of the City of Clarksburg to be held on Thursday, August 18, 1994 at 7:30 P.M. at the Harrison County Board of Education Building, on Water Street, at which time any interested parties may appear at said meeting and be heard with respect to this proposed ordinance. Copies of this proposed ordinance are available for public inspection in the office of the City Clerk at said City Hall during regular business hours. A TDD is available for the hearing impaired. It is located in the Engineering Office at City Hall. The number is 624-1606.
Ordinance of the City of Clarksburg, West Virginia, amending and reenacting Section 933.02 of Article 933 of Chapter 3, of the code of the City of Clarksburg, relating to the imposition of rates for the use of the services rendered by the Sewerage system; and establishing standards for the use of such system and the computation of such rates for non-residents of the City of Clarksburg. Passed by the Council of the City of Clarksburg on first reading on the 21st day of June, 1994.

I, Deborah S. Veltri

Classified Office Manager of THE CLARKSBURG EXPONENT, a newspaper of general circulation published in the City of Clarksburg, County and State aforesaid, do hereby certify that the annexed

Public Hearing

was published in said THE CLARKSBURG EXPONENT once a week for 2 successive weeks,

commencing on the 9 day of August 19 94

and ending on the 16 day of August 19 94

The publisher's fee for said publication is \$ 17.85

Given under my hand this 16 day of August 19 94

Deborah S. Veltri
Classified Office Mgr. of The Clarksburg Exponent

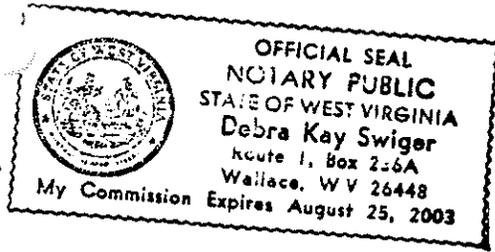


Subscribed and sworn to before me this 16 day
of August 19 94

Debra Kay Swiger
Notary Public in and for Harrison County, WV.

My commission expires on the 25th day of August, 2003

Form CA-15 E



21B

PUBLISHER'S CERTIFICATE

VS.

STATE OF WEST VIRGINIA,
COUNTY OF HARRISON

I, Deborah S. Veltri

Classified Office Manager of CLARKSBURG TELEGRAM, a newspaper of general circulation published in the City of Clarksburg, County and State aforesaid, do hereby certify that the annexed

Public Hearing

was published in said CLARKSBURG TELEGRAM once a week for 2 successive weeks,

commencing on the 9 day of August 19 94 and ending on the 16 day of August 19 94

The publisher's fee for said publication is \$ 22.31

Given under my hand this 16 day of August 19 94

Deborah S. Veltri

Classified Office Mgr. of Clarksburg Telegram

SEAL

Subscribed and sworn to before me this 16 day

of August, 19 94

Debra Kay Swiger

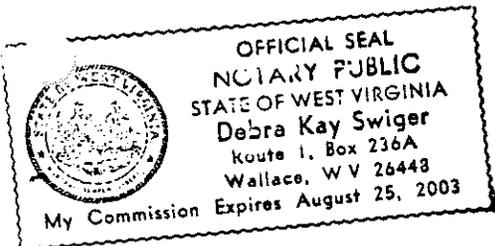
Notary Public in and for Harrison County, WV.

My commission expires on the 25th day of August 2003

Form CA-15 T

PUBLIC HEARING

A public hearing will be held prior to final vote on adoption of the following ordinance during the next regular meeting of council of the City of Clarksburg to be held on Thursday, August 18, 1994 at 7:30 P.M. at the Harrison County Board of Education Building, on Water Street, at which time any interested parties may appear at said meeting and be heard with respect to this proposed ordinance. Copies of this proposed ordinance are available for public inspection in the office of the City Clerk at said City Hall during regular business hours. A TDO is available for the hearing impaired. It is located in the Engineering Office at City Hall. The number is 624-1808. Ordinance of the City of Clarksburg, West Virginia, amending and reenacting Section 933.02 of Article 933 of Chapter 3, of the code of the City of Clarksburg, relating to the imposition of rates for the use of the services rendered by the Sewerage system; and establishing standards for the use of such system and the computation of such rates for non-residents of the City of Clarksburg. Passed by the Council of the City of Clarksburg on first reading on the 21st day of June, 1994.



JUNE 21, 1994

The Council of the City of Clarksburg met in SPECIAL SESSION on Thursday, June 21, 1994 at 8:00 A.M. in Council Chambers, City Hall with the Honorable Mayor Louis J. Iquinto presiding.

COUNCIL MEMBERS PRESENT:	ALSO PRESENT:
Roger Diaz, Vice Mayor	Paul J. Shives, City Manager
Tom Flynn	Patricia D'Anselmi, City Clerk
Kathryn Folio	Walter Williams, Attorney
James Hunt (arrived late)	
Herman Kesling	
Dan Thompson	
Louis J. Iquinto, Mayor	

Following roll, Councilwoman Folio offered the opening prayer and the Pledge of Allegiance was led by Councilman Thompson.

MOTION by Councilwoman Folio, SECONDED by Councilman Kesling for approval of the minutes of the REGULAR SESSION of Council held on June 2, 1994 and the SPECIAL SESSION of Council of June 9, 1994. MOTION UNANIMOUSLY APPROVED.

CHRIS GREEN. P. O. Box 7: came before Council to discuss the historic preservation of the Moore's Opera House theater. He noted that Senator Rockefeller took the people who came to West Virginia to Hi-Gate in Fairmont. He said he didn't think history would look fondly at Moore's Opera House becoming a drive through for ATM or whatever. Hi-Gate has been restored and Rockefeller took the visitors there for dinner.

The Mayor noted the continuation of the Public Hearing for Agenda Item 5. Mr. Glenn Shaw of 130 Washington Avenue then appeared to state again that he doesn't think the City should be giving away Public Property to individuals. Mayor Iquinto again explained property which abandoned has usually been maintained by abutting property owners anyway. The people are paying for this property.

The City Manager said an agreement dated August 20, 1941 had agreed to abandon this C & P property, with alley to go to the property owners.

Councilman Kesling said when we get rid of these properties, the new property owner takes over the payment of

the property taxes.

With no one else appearing to speak for or against the ordinance, the Public Hearing was declared closed.

MOTION by Councilman Diaz, SECONDED by Councilman Kesling for adoption on SECOND AND FINAL READING of an ORDINANCE PROVIDING FOR THE ABANDONMENT OF THAT CERTAIN 14 FOOT SECTION OF ALLEY LOCATED IN THE DISTRICT OF CLARK, CITY OF CLARKSBURG, HARRISON COUNTY, WEST VIRGINIA, WHICH IS LOCATED BY THE BELL ATLANTIC CENTRAL OFFICE BUILDING AS SHOWN IN THE PETITION FOR SAID ABANDONMENT ON FILE IN THE CITY CLERK'S OFFICE; PROVIDING FOR FINDINGS OF FACT IN CONNECTION WITH SAID ABANDONMENT; AND AUTHORIZING THE EXECUTION OF THE PROPER QUITCLAIM DEED.

Councilman Hunt asked if Planning and Zoning had held a Public Hearing and investigated the abandonments. If biddings were held for these properties, he didn't think it would follow state code as a way of abandoning property. MOTION CARRIED BY A VOTE OF 6-1 WITH Councilwoman Folio casting the negative vote.

✓ MOTION by Councilman Diaz, SECONDED by Councilman Kesling for adoption on First Reading, as presented by titled of an ORDINANCE OF THE CITY OF CLARKSBURG, WEST VIRGINIA AMENDING AND REENACTING SECTION 933.02 OF ARTICLE 933 OF CHAPTER 3 OF THE CODE OF THE CITY OF CLARKSBURG, RELATING TO THE IMPOSITION OF RATES FOR THE USE OF THE SERVICES RENDERED BY THE SEWERAGE SYSTEM, AND ESTABLISHING STANDARDS FOR THE USE OF SUCH SYSTEM AND THE COMPUTATION OF SUCH RATES FOR RESIDENTS OF THE CITY OF CLARKSBURG. Mr. Shives explained there was one change in the last paragraph of this ordinance. Attorney Walter Williams said the effective date should be 45 days after final enactment for both rate ordinances. MOTION CARRIED 5-0-1. Mayor Iquinto abstained from the vote due to the fact he works for the Public Service Commission and has been advised not to vote on any item which comes up in this respect.

✓ MOTION by Councilman Diaz, SECONDED by Councilman Hunt for adoption of an ORDINANCE OF THE CITY OF CLARKSBURG, WEST VIRGINIA, AMENDING AND REENACTING SECTION 933.02 OF ARTICLE 933

OF CHAPTER 3, OF THE CODE OF THE CITY OF CLARKSBURG, RELATING TO THE IMPOSITION OF RATES FOR THE USE OF THE SERVICES RENDERED BY THE SEWERAGE SYSTEM, AND ESTABLISHING STANDARDS FOR THE USE OF SUCH SYSTEM AND THE COMPUTATION OF SUCH RATE, FOR NON-RESIDENTS OF THE CITY OF CLARKSBURG, on FIRST READING as presented by title. MOTION CARRIED BY A VOTE OF 6-0-1 WITH Mayor Iquinto abstaining.

MOTION by Councilman Kesling, SECONDED by Councilman Diaz for adoption on First Reading, as presented by title of an ORDINANCE AMENDING AND REENACTING SECTION 759.04 OF ARTICLE 759 (private clubs) OF PART 7 OF THE CODIFIED ORDINANCES OF THE CITY OF CLARKSBURG, 1981, AS AMENDED, BY CHANGING THE LICENSE FEES SPECIALLY FOR PRIVATE CLUBS THAT ARE INVOLVED IN THE RESTAURANT BUSINESS; BY ADDING SUBSECTION (c) SEVERABILITY. MOTION CARRIED 6-0-1 with Councilwoman Folio abstaining, due to the fact she has a business which deals with the liquor licensees in the City of Clarksburg.

MOTION by Councilman Diaz, SECONDED by Councilman Hunt for adoption on first reading, as presented by title, of an ORDINANCE AMENDING ARTICLE 115, SECTION 115.01 BY AUTHORIZING CLARKSBURG CITY COUNCIL TO HOLD MEETINGS AT ALTERNATE LOCATIONS. MOTION CARRIED UNANIMOUSLY.

MOTION by Councilman Diaz, SECONDED by Councilman Thompson for adoption on First Reading, as presented by title of an ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF CLARKSBURG, 1961, BY AMENDING THE ZONING MAP THEREFORE; REZONING ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF CLARKSBURG, CLARK DISTRICT, HARRISON COUNTY, WEST VIRGINIA, AND DESCRIBED AS LOT NO. 66, PARCEL 187 (AS SHOWN ON THE ATTACHED MAP OR PLAT) FROM R-2 TO B-2. Councilman Diaz noted he is voting for this to get it to second reading and a public hearing. This is East Main and Marshall Street. MOTION CARRIED UNANIMOUSLY.

MOTION by Councilman Diaz, SECONDED by Councilman Hunt for adoption on FIRST READING of an ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF CLARKSBURG, 1961, BY AMENDING THE

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ZONING MAP THEREFORE; REZONING ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF CLARKSBURG, CLARK DISTRICT, HARRISON COUNTY, WEST VIRGINIA, AND DESCRIBED AS PARTS OF LOTS 2, 3 AND 4, INCLUDING PARCELS, 141, 144 AND 145 (AS SHOWN ON THE ATTACHED MAP OR PLAT) FROM R-2 TO B-2. Mr. Shives explained this is 139 Marshall Street. MOTION CARRIED UNANIMOUSLY.

MOTION by Councilman Diaz, SECONDED by Councilman Hunt for adoption of an ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF CLARKSBURG, 1961, BY AMENDING THE ZONING MAP THEREFORE; REZONING ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF CLARKSBURG, CLARK DISTRICT, HARRISON COUNTY, WEST VIRGINIA, AND DESCRIBED AS LOT. NO. (a) PARCEL 189 (AS SHOWN ON THE ATTACHED MAP OR PLAT) from R-2 to B-2, on First Reading, by title. MOTION UNANIMOUSLY APPROVED.

MANAGER'S REPORT:

I. INFORMATION ONLY:

ITEM NO. 1. CHANGE IN RECYCLING ROUTES - City residents are being notified of a change in some of the recycling pickup routes by our contract carrier Mid American Waste Systems of West Virginia, Inc. The changes will result in recycling pickup every other week by geographical areas that will make the operation more efficient. Fliers will be distributed to our residents and we will publish the new schedule in our upcoming news letter.

ITEM NO. 2. UPCOMING COUNCIL MEETING DATES AND LOCATIONS - Our City Clerk has finalized the following council meeting locations for future meetings:

July 21 - St James Gym - North View

August 18 - Kelly Miller Building Auditorium (Broad Oaks, Monticello, Water Street)

September 15 - Morgan School (Stealey)

October 20 - American Legion (Goff Plaza, Arbutus Park)

November 17 - City Garage (East End, Montpelier, Glen Elk)

December 15 - Broadway School (Broadway area)

These meeting dates and locations will be published in the newspaper prior to each meeting.

II. FOR ACTION BY CITY COUNCIL:

ITEM NO. 1. EXPLORATORY RIGHT OF ENTRY AGREEMENT WITH DIVISION OF ENVIRONMENTAL PROTECTION - I am requesting authorization to execute a Right of Entry Agreement with the West Virginia Division of Environmental Protection to permit that agency to conduct borings in and along public rights of way in the vicinity of N. 14th Street and Crisp Avenue in the City. A copy of the agreement is attached hereto.

ITEM NO. 2. - MEMORANDUM OF AGREEMENT BETWEEN THE DIVISION OF ENVIRONMENTAL PROTECTION AND THE CITY OF CLARKSBURG - I am also requesting authorization to execute a memorandum of agreement between the City and the Division of Environmental Protection Office of Abandoned Mine Lands and Reclamation that will permit the City to assist the State in cleaning drainage systems within the City's jurisdiction on abandoned mine land projects. I should note this is a continuation of an agreement that the City had with the DEP in the past. A copy of this agreement is attached hereto.

ITEM NO. 3. - APPOINTMENT TO FIRE PREVENTION BOARD OF APPEALS
- The Clerk has attached the data sheets for the following appointments that I am recommending for the Fire Prevention Board of Appeals:

Thomas H. Sharpe - One year term
Thomas J. Lanham - One year term
Harry I. Kennedy - Two year term
Wesley R. Drake - Two year term
William E. Yoke Jr. - Three year term

City Manager Shives said he had received a letter from the Art Center requesting the City make a contribution to offset the expense for the July 3 "Symphony Under the Stars" event at the City Park. Last year the City gave \$1,500.00.

He also stated he had received a request from property owners abutting an alley between Verdun and Traction Sts. for the City to add the resurfacing of this alleyway to the City's list, with the property owners paying the cost. They would then be in the City system and repairs would be the City's responsibility. Mr. Shives said it is in the City system now.

Three firms were interviewed and there is one more to be interviewed for the consultants on the Comprehensive Plan.

Yesterday afternoon, Mr. Shives talked with the attorney working on the Adamston Flat Glass case. There are 4 defendants in this case. The Department of Justice has reached an agreement with 3 of the 4 for a clean-up plan at that location. The cleanup may happen before the summer is over and it will take 3 to 4 weeks to complete. It is for cleanup on the site (asbestos) - no further demolition. There is nothing further the City can do toward clean-up. The Health Dept. can do something regarding the health problems (mosquitoes, rats, etc.)

Councilman Hunt said if the City became involved in any further demolition of the Adamston Glass Plant, it would mean the City should look at the Fourco Glass Plant in Northview and the Anchor Hocking Plant. We have to be fair. Clean-up at Adamston Flat would be probably \$150,000.

UNFINISHED BUSINESS;

Councilman Thompson said a house was demolished on Fairmont Avenue a week or so ago. The Street had already been milled. They picked up a lady's car and put it on the sidewalk and didn't put it back down when they got done. On the part of Fairmont Avenue, which we didn't mill, they tore it up. The

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milling company should be responsible for this expense. Mr. Duffer said he will check this out. The guy who took out the permit is responsible. Mr. Williams said if the car was damaged it is the car owners responsibility to go after them for that.

Councilman Thompson said he understands Winding way is on the paving list and will be cut and paved in two weeks. Somebody needs to be up there to be sure the dirt is put back and compacted. It will have to be tested for compaction.

Councilman Diaz questioned if 17th Street would also be checked.

Councilwoman Folio questioned why when milling the streets, the beautiful brick streets could not be left as they are. Mr. Shives said aesthetically, the bricks look wonderful, but repairs to brick streets are all hand labor. Any money saved by not paving would be used up in maintenance. Water Board, Sanitary Board, all tear these streets up periodically. Councilman Hunt said Park Boulevard is an example of the brick streets in town.

Councilwoman Folio commended the City Manager and the proper department for cleaning up the mess on Camden Street. She also mentioned the new Autozone Store and the beautiful work they have done and then across the street on the corner of Main and Water Street, a building is falling down (an old bar). Mr. Duffer stated his department had checked this out and had given the man a limited time to do repairs, but the time is now up and they can go back and look at it again.

From W. Main to Kelly Miller, there is a lot of debris due to the recent storms. Mr. Shives said the City can look at cleaning this up.

Councilwoman Folio also questioned the status of the Sam Isabella property on Broadway. Mr. Duffer said he has asked for a week to get started. The City can now issue another 7 day notice and then go back for clean up.

She also questioned the procedure to be followed for new businesses coming in town and asked that a written report be

given on what is going on in the Economic Development office.

She heard Sheetz, McDonald's, and other businesses are going in out near the new high school and although it isn't in the City limits, feels Council should be aware of these developments.

Mr. Shives said he isn't in favor of department heads doing written reports. Mayor Iquinto then asked if Council could have a verbal briefing once a month from Ms. Antolini and Mr. Shives said that was possible.

Councilman Hunt asked if there was a possibility the summer youth could clean up the other side of the street across from Auto Zone and also the lot across from Fairmont State College, there is a huge mud hole.

NEW BUSINESS;

MOTION by Councilwoman Folio, SECONDED by Councilman Hunt to contribute \$1,500 to the Arts Center for the Concert, with money to come from the Contingency Fund.

MOTION by Councilman Hunt to amend the MOTION TO MAKE THE CONTRIBUTION \$2,000. SECONDED by Councilwoman Folio. MOTION TO AMEND. CARRIED UNANIMOUSLY.

MOTION to contribute \$2,000 to the Arts Center CARRIED UNANIMOUSLY.

MOTION by Councilman Hunt to authorize execution of the 2 Right of Entry Agreements with the WV. Department of Environmental Protection to permit that agency to conduct borings in and along public rights of way in the vicinity of N. 14th Street and Crislip Avenue. SECONDED by Councilman Thompson and MOTION CARRIED UNANIMOUSLY.

MOTION by Councilman Kesling to make the following appointments to the Fire Code Appeals Board: Thomas Sharpe - one year; Thomas J. Lanham - One year; Harry I. Kennedy - 2 years; Wesley R. Drake - 2 years; and William E. Yoke, Jr.- 3 years. SECONDED by Councilman Diaz and MOTION UNANIMOUSLY APPROVED.

MOTION by Councilman Hunt, SECONDED by Councilman Thompson to include the alley between Verdun and Traction Street on the

City's paving list. MOTION CARRIED 5-0-1 with Councilman Kesling abstaining.

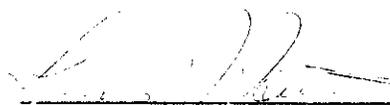
Mayor Iquinto asked that a letter be sent to the state asking that something be done at Arden to prevent kids from getting in that area to swim. 2 or 3 kids are lost every year.

Councilman Thompson said when the lines were put on the street down by Angle Inn up to Chestnut street, apparently there were no cars on the street. Therefore, if cars are parked on the left hand side, there is not room for 2 lanes to come up thru there. Mr. Shives said he will have a look at it.

He also said when crossing the Camden Street Bridge, the railroad track is out past the bridge and there is an 8" or 10" drop off. It needs to be checked out.

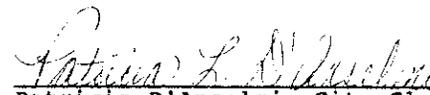
Councilwoman Folio commended the work done by the Park Board at Jackson Park. They have also started in a couple of other places. Councilman Diaz said perhaps a letter could be written to them thanking them and encouraging them to keep up the good work.

There being no further business to come before Council, meeting was adjourned by MOTION of Councilman Hunt, SECONDED and UNANIMOUSLY APPROVED.



LOUIS J. IQUINTO, MAYOR

APPROVED; JULY 7, 1994



Patricia D'Anselmi, City Clerk

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AUGUST 18, 1994

The Council of the City of Clarksburg met in Regular Session on Thursday, August 18, 1994 at 7:30 P.M. in the Board of Education Building with the Honorable Mayor Louis J. Iquinto presiding.

COUNCIL MEMBERS PRESENT;
Roger Diaz, Vice Mayor
Tom Flynn
Kathryn Folio
James Hunt
Herman Kesling
Dan Thompson
Louis Iquinto, Mayor

ALSO PRESENT;
Paul Shives, City Manager
Patricia D'Anselmi, City Clerk
Michael McDonald, City Attorney

Following the roll call, Councilman Diaz offered the opening prayer and the Pledge of Allegiance was led by Councilwoman Folio.

MOTION by Councilman Flynn, SECONDED by Councilman Hunt for approval of the minutes of the Regular Session of Council held on August 4, 1994. MOTION CARRIED UNANIMOUSLY.

MOTION by Councilman Kesling, SECONDED by Councilman Thompson for approval of Council Minutes of August 9, 1994. MOTION CARRIED UNANIMOUSLY.

This being a community meeting for the Council to listen to complaints of citizens in the area, the Mayor opened the meeting for public comments.

Scott Davis, Locust Avenue: came before Council to present a petition signed by himself and several residents in the area asking that the City take action with regard to apartments located at 761 through 765 Locust Avenue, which is owned by Sam Isabella. They asked that it be condemned, they are an eyesore and are depreciating the value of surrounding properties.

Mr. Duffer, City Engineer said this individual has been cited and repairs are to be made. Mr. Shives said this is a health department issue also. Mr. Duffer said some building permits have been issued and there is a time frame involved.

VICTOR FOLIO, 202 E. Main Street: is the owner of Andrew and Ballard Book Cellar. He voiced concerns for the safety of individuals who work in the downtown area, the area around the Courthouse. Individuals set on the wall and make lewd comments, etc. He also said there is one firm which employes 35 people, which is moving out of the downtown for that reason.

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Fights are occurring on the Courthouse Plaza in the evenings. People do not feel safe in walking in the area during daylight hours, and they avoid that side of the street. There have been drunks laying in the bus lane and other drunks move them off the street. Possibly the County Court could be asked to eliminate the phone from the area beside the Courthouse. Maybe do something with the wall around the Courthouse to prevent anyone sitting on the wall during the day.

Chief Durrett said the County has been asked to have the phones removed and the County in turn contacted Bell Atlantic to get the phones eliminated on Court Street. The "beat man" has been covering for vacations and was not available to be on the street. That can now be corrected and he will be back on the beat. A fence could also be installed around the wall to prevent people setting on the Courthouse Wall.

The Mayor asked that the City Manager write to the County and request they redesign the area around the wall to discourage loitering.

The Chief said individuals can only be cited, not incarcerated for making lewd remarks. It is cited as disorderly conduct.

Some discussion was held with regard to the lack of a facility to incarcerate drunks.

Councilman Hunt said the cruisers could possible cruise that area and take a little more time there.

CRIS GREEN, P. O. Box 7: asked if an individual could call for a police escort. Chief Durrett said they do that service for people quitting work or anyone who requests it. Mr. Green also asked what would be done with the Italian Festival inebriates. Chief Durrett said it is hoped the recertification of the detox facility at the Fairmont Valley Health Service will be on line prior to the festival.

Councilwoman Folio said a monthly report is done by companies who deal with sale of wine to private clubs. All private clubs are charged a 5% tax. A minimum of 75% of that

tax is to be remitted to the city or county from which it was collected, for the sole treatment of alcoholics. Chief Durrett said this money is coming back to Summit Center.

Councilman Diaz asked that a letter be written to Jim Paige to get a clarification and a copy of the State Code that deals with this.

RICHARD ALBERT, 213 Park Avenue: said he uses Ben Street, Lee Avenue, Water Street, Washington Avenue and he cannot remember these streets being paved since 1969. It looks very bad - it's an eyesore. City Manager Shives said he would get these on next years paving list.

ERSKINE NUNN, Water Street: spoke regarding (1) vacant houses, grass as tall as he is; (2) Ben Street has a vacant house ready to fall down, (3) the row houses on Monticello. He asked to see action with regard to these matters. Mr. Duffer said the house on Water Street will be torn down on Saturday or Monday, The 3 houses at the end of Ben Street have some asbestos, but they will come down in 2 to 3 weeks.

Mr. Shives said a couple of things are being done in terms of the row houses on Monticello. Thru the cooperation of the Assoc. of Retarded Citizens and the Housing Development Fund, the City will cooperate in a program which will result in the demolition of those structures. The City has spent in excess of \$20,000 or \$30,000 in fees to get to the point where we are now. The City people will take a look at cutting the weeds along the river bank on Water Street.

JOSEPH TIERNEY, Water Street: said there is a parking lot on Water Street which the City and County say they do not own. We cannot set on our porches in the evenings because of people using that empty parking lot for a bathroom. He said there is partying going on in the evenings - he thinks drugs and alcohol. He asked that a cruiser go down there sometimes. The parking lot needs cleaned up. It was the general consensus that the parking lot belongs to the School Board and the City Manager will check into the matter.

ROSEMARY HILL, Monticello Avenue: spoke regarding a vacant

building next to the playground in their area. Mr. Nunn said that building belongs to the Masonic Temple and it is going to be taken care of.

On the corner of Washington Avenue and Water Street there is a building which needs cleaned up. The traffic for the Italian Festival is routed down this street and it needs to be looked at. The Mayor said this will be taken care of.

Councilwoman Folio questioned the status of the building on the corner of Water and Main Streets, where bricks are starting to come loose and fall. Mr. Duffer said the owner has not been cited yet, but the Inspectors will be looking at that the first of next week.

The Clerk stated Publisher's Certificates had been received for Agenda Items 5, 6, 7, 8, and 9. The Mayor then declared the PUBLIC HEARING open on Agenda Item 5. With no one appearing to speak for or against, the hearing was declared closed.

✓

MOTION by Councilman Flynn, SECONDED by Councilman Thompson for adoption on SECOND AND FINAL READING as presented by title, of AN ORDINANCE OF THE CITY OF CLARKSBURG, WV. AMENDING AND REENACTING SECTION 933.02 OF ARTICLE 933 OF CHAPTER 3 OF THE CODE OF THE CITY OF CLARKSBURG, RELATING TO THE IMPOSITION OF RATES FOR THE USE OF THE SERVICES RENDERED BY THE SEWERAGE SYSTEM, AND ESTABLISHING STANDARDS FOR THE USE OF SUCH SYSTEM AND THE COMPUTATION OF SUCH RATES FOR RESIDENTS OF THE CITY OF CLARKSBURG. MOTION CARRIED 5-1-1 with Councilwoman Folio casting the "no" vote and Mayor Iquinto abstaining.

The Mayor then declared the Public Hearing open on Agenda Item 6 and with no one appearing to speak for or against, the hearing was declared closed.

✓

MOTION by Councilman Diaz, SECONDED by Councilman Hunt for adoption on Second and Final Reading, by title of an ORDINANCE OF THE CITY OF CLARKSBURG, WEST VIRGINIA, AMENDING AND REENACTING SECTION 933.02 OF ARTICLE 933 OF CHAPTER 3, OF THE CODE OF THE CITY OF CLARKSBURG, RELATING TO THE IMPOSITION OF RATES FOR THE USE OF THE SERVICES RENDERED BY THE SEWERAGE

SYSTEM, AND ESTABLISHING STANDARDS FOR THE USE OF SUCH SYSTEM AND THE COMPUTATION OF SUCH RATES, FOR NON-RESIDENTS OF THE CITY OF CLARKSBURG. MOTION CARRIED 6-0-1 with Mayor Iquinto abstaining from the vote.

The Public Hearing was declared open on Agenda Item 7. The City Manager explained this ordinance is to provide assistance to the Fire Chief in enforcing the Fire Code. The Public Hearing was then closed.

MOTION by Councilman Diaz, SECONDED by Councilman Kesling for adoption on Second and Final Reading of an ORDINANCE OF THE CITY OF CLARKSBURG AMENDING ARTICLE 1515 OF PART 15 FIRE PREVENTION CODE, OF THE CODIFIED ORDINANCES OF THE CITY OF CLARKSBURG TO AMEND SECTION 1515.04, AMENDMENTS TO STATE FIRE CODE, TO PROVIDE SPECIFIC AUTHORITY TO THE FIRE OFFICIAL TO ENFORCE THE PROVISIONS OF THE FIRE CODE AND TO AMEND SECTION 13.02 SO THAT THE APPEAL PERIOD BEGINS TO RUN UPON MAILING OF THE NOTICE OR ORDER OF THE FIRE OFFICIAL. MOTION UNANIMOUSLY APPROVED.

The Public Hearing was declared open on Agenda Item #8 and with no one appearing to speak for against, the Mayor declared the hearing closed.

MOTION by Councilman Kesling, SECONDED by Councilman Diaz for adoption on ~~Sec~~ond and Final Reading of an ORDINANCE OF THE CITY OF CLARKSBURG AMENDING PART 13, PLANNING AND ZONING CODE, CHAPTER 3, ZONING DISTRICTS AND REGULATIONS, ARTICLE 1323 , RESIDENTIAL DISTRICTS AND USES, SECTION 1323.03 OF THE CODIFIED ORDINANCES OF THE CITY OF CLARKSBURG TO ADD A RESTRICTION ON THE SALE AND ADVERTISEMENT OF VEHICLES IN A RESIDENTIAL ZONE AND TO REVISE THE TITLE OF SECTION 1323.03 TO INCLUDE SUCH RESTRICTION.

Mr. Shives said this ordinance would prohibit individuals from advertising for sale, vehicles in a residential zone, other than those they own.

QUESTION CALLED AND MOTION CARRIED UNANIMOUSLY.

A Public Hearing was declared open on Agenda Item 9. Mr. Shives explained this excess levy ballot must be separate from

the county ballot, according to the City Attorney. The County has indicated it would be very cumbersome for the levy election to be conducted using a separate ballot, as the City Attorney recommended. He said there are 3 alternatives: (1) move ahead with the ordinance and explore this further - he said he doesn't

think that's feasible. (2) go with the question in November and include it as part of the County's ballot, (3) defeat this ordinance, take up the matter for consideration later in the year and put it on the City ballot in June. The Public Hearing was closed.

MOTION by Councilman Diaz to table Agenda Item 9, CONSIDERATION of SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE AND ORDER DETERMINING THE NECESSITY FOR AN INCREASE OF LEVIES FOR THE FISCAL YEARS BEGINNING JULY 1, 1995, JULY 1, 1996 AND JULY 1, 1997 FOR IMPROVEMENTS, MAINTENANCE, REPAIRS AND CAPITAL PROJECTS TO BRIDGES AND RELATED STRUCTURES BY THE CITY OF CLARKSBURG DEPARTMENT OF PUBLIC WORKS AND PROVIDING FOR SUBMISSION TO THE VOTERS WITHIN THE CITY OF CLARKSBURG, WEST VIRGINIA, OF THE QUESTION OF AN ADDITIONAL LEVY AT A REGULAR COUNTY WIDE ELECTION TO BE HELD ON THE 8TH DAY OF NOVEMBER, 1994, AND PROVIDING FOR THE HOLDING AND DETERMINATION OF SUCH ELECTION. MOTION TO TABLE SECONDED by Councilman Hunt. MOTION UNANIMOUSLY APPROVED.

MOTION by Councilman Kesling, SECONDED by Councilman Diaz for adoption on First reading as presented by title of an ORDINANCE OF THE CITY OF CLARKSBURG, WEST VIRGINIA, AMENDING PART 3, TRAFFIC CODE, CHAPTER 5, VEHICULAR OPERATION, ARTICLE 335, SPEED RESTRICTIONS OF THE CODIFIED ORDINANCES OF THE CITY OF CLARKSBURG TO ADD A NEW SECTION ENTITLED 335.06 TO PERMIT THE USE OF MECHANICAL SPEED DETECTION DEVICES. MOTION UNANIMOUSLY APPROVED.

MOTION by Councilman Hunt, SECONDED by Councilman Flynn for adoption on FIRST READING, as presented by title of an ORDINANCE OF THE CITY OF CLARKSBURG AMENDING ARTICLE 957 OF PART 9 OF THE CODIFIED ORDINANCES OF THE CITY OF CLARKSBURG TO AMEND SECTION 957.11 RATES; FEES; CHARGES ESTABLISHED TO

PROVIDE FOR A FIRE SERVICE CHARGE FOR SERVICES PROVIDED TO NON-RESIDENTS OF THE CITY OF CLARKSBURG. Mr. Shives explained this ordinance will enable the fire department and the City administration to charge a fee if fire services are rendered to non-residents. Residents pay a fire fee, plus they pay property taxes that go to support Fire departments. This ordinance authorizes the City to bill for a call for a vehicular accident on Rt. 50 for a non-resident, if the call is handled by the City Fire Department.

The fees were discussed and following some questioning, Mr. Shives said he felt the fees needed to be discussed by Council, but not in public forum. The service will be the same, there will just be a charge for it. Fees can be discussed and decided on prior to second reading of this ordinance.

Following a question by Councilman Hunt, Councilman Diaz explained that automobile insurance will not take care of a fee such as this. It is not covered on those policies. MOTION CARRIED by a vote of 4-3 with Councilman Diaz, Councilman Kesling, and Councilman Thompson casting "no" votes.

MOTION by Councilman Kesling, SECONDED by Councilwoman Folio for adoption on FIRST reading of an ORDINANCE OF THE CITY OF CLARKSBURG AMENDING PART 17, ARTICLE 1779 OF THE CODIFIED ORDINANCES OF THE CITY OF CLARKSBURG TO PROVIDE FOR INCREASED FINES IN THE EVENT OF REPEAT OFFENSES AND TO PROVIDE FOR THE PUBLICATION OF THE NAMES OF VIOLATORS. Councilman Diaz stated that in paragraph 4, the word Telephone, should be Telegram. The Mayor said the change has already been noted and changed. MOTION CARRIED UNANIMOUSLY.

MOTION by Councilman Hunt, SECONDED by Councilman Flynn for adoption of a RESOLUTION AUTHORIZING AND DIRECTING THAT CERTAIN ACTION BE TAKEN IN CONJUNCTION WITH THE SMALL BUSINESS DEVELOPMENT CENTER PROJECT. Mr. Shives, City Manager, explained this resolution will authorize the City to return funds to the State of W.Va. Development Office (\$69,744.28) - funds expended already for the small business development

center (Incubator project) which we have determined not feasible to continue and it further directs the City Manager to solicit bids for demolition of buildings already purchased for the incubator project and authorizes the City Manager to sign an agreement terminating the grant. We spent \$200,000 of our money to purchase the property and \$69,000 was spent out of the State funds. MOTION CARRIED UNANIMOUSLY.

MOTION by Councilman Kesling to Award Contract #1994-08 for cleaning and pressing of uniforms for the Police and Fire Departments to Rady & Deem in the amount of \$20,968.50, which was the lowest of 3 bids. SECONDED by Councilman Thompson and MOTION UNANIMOUSLY APPROVED.

MOTION by Councilman Hunt, SECONDED by Councilman Flynn to award contract #1994-09 for Gasoline, Diesel Fuel and Kerosene to the one bidder who responded, Rob-Lu Oil Company, P. O. Box 2733, Clarksburg. MOTION UNANIMOUSLY APPROVED.

MANAGER'S REPORT;

I. INFORMATION ONLY:

ITEM NO. 1. - BRIDGE MAINTENANCE POLICY - In accordance with our discussion during the Conference Session on August 11, 1994, I am currently preparing a written policy that I will bring to Council for adoption concerning an annual bridge maintenance program. I have requested the assistance of John Giese, our consulting engineer, as well as the assistance of our city staff in preparing this policy. We will try to be as detailed as possible in light of Council's concerns.

II. FOR ACTION BY CITY COUNCIL

ITEM NO. 1. AWARD OF CONTRACT FOR PURCHASE OF 4 WHEEL DRIVE VEHICLE - During the 1994-95 budget process, City Council approved an appropriation for the replacement of a 4 wheel drive vehicle for our Traffic/Public Works Department. We received sealed bids for this replacement vehicle on July 29, 1994 from the following four vendors:

Mountaineer Oldsmobile, Chenoweth Ford, Harry Green Chevrolet, and John Oliverio's Buick-GMC. A copy of a summary of the bids is attached to the Manager's Report. I am recommending an award of a contract to John Oliverio's Buick-GMC for one 1994 Jimmy in the amount of \$19,494.45. It should also be noted that we researched the possibility of purchasing this vehicle under state contract, however, the vehicle would not be available until early January and there were no cost savings to the City to be realized through this procedure. I am therefore recommending the award to John Oliverio's Buick-GMC.

ITEM NO. 2. ORDINANCE REGARDING LASER DEVICES FOR SPEED CONTROL - Our City Attorney has prepared an ordinance that will permit the use of all reliable and accurate mechanical speed detection devices for speed control including laser, microwave or radar devices. This ordinance will give the Police Department flexibility to utilize this equipment in view of a changing standard of measurement throughout the nation. We currently utilize two laser devices in the Police Department and it is likely that as time goes on we will be replacing all the radar devices with laser devices.

ITEM NO. 3. ORDINANCE REGARDING NON-RESIDENT FIRE FEE FOR USE

OF FIRE SERVICES - Our City Attorney has also drafted an ordinance establishing a charge for non-resident use of fire services. This matter has been discussed significantly in the past by Council and it would require any non-resident, who utilizes fire services provided by the City, to be charged the fees as outlined in the ordinance. This fee has been enacted in other jurisdictions in the State and it is mostly utilized on interstates when accidents are involved.

ITEM NO. 4. ORDINANCE REGARDING GRASS & WEED VIOLATIONS - Our City Attorney has prepared an updated ordinance pertaining to more streamlined enforcement for grass and weed complaints. A discussion of this issue is contained in the City Attorney's report.

**COMPETITIVE BID SUMMARY
PURCHASE OF 4 WHEEL DRIVE VEHICLE
TRAFFIC DEPARTMENT**

BID OPENING: July 29, 1994 at 11a.m. in the City Hall Council Chambers

Summary of Bids:

Vendor Name and Address	Vehicle	Bid Amount
1. Mountaineer Oldsmobile P.O. Drawer 1230 Clarksburg, WV 26301 623-5600	1994 Isuzu Rodeo S Variation: Engine only 3.2 Bid Spec was minimum 4.0	\$20,999
2. Chenoweth Ford P.O. Box 1640 Clarksburg, WV 26301 623-6501	1994 Ford Explorer	\$20,525
3. Harry Green Chevrolet P.O. Box 1527 Clarksburg, WV 26301 624-6304	1994 Jeep Cherokee Variation: Color was White Bid Spec was Blue	\$18,600
Comment: Vehicle was bid on condition that it was still available when bid was awarded. The vehicle was sold the weekend the bids were opened. It is no longer available.		
Vendor proposed a second vehicle: 1995 Jeep Cherokee Sport Variation: Color is black Bid Spec was blue		\$20,921
Comment: Harry Green's Body Shop believe a paint job would be \$1,500 minimum		
4. John Oliverio's Buick-GMC P.O. Box 1310 Clarksburg, WV 26301 623-6781	1994 Jimmy	\$19,494.45
Vendor proposed a second vehicle: 1995 Jimmy		\$19,669.46
*Recommendation: Purchase of a 1994 Jimmy from John Oliverio Buick at a price of \$19,494.45, with a delivery time of 6-8 weeks.		

Mr. Shives reported on the response received from the State with regard to changing the traffic flow on Main and Pike Streets in the downtown area. The DOH says they have done an analysis of intersections which would need to be changed and the estimate for the change of that equipment would be \$350,000

to \$400,000 and the cost would have to be borne by the City. They would need a commitment from the City for the funds prior to pr ce

The Planning and Zoning Commission, by letter of August 17, has asked Council to again review and revise the code to include barber shops and beauty shops as home occupations. He said if this is something Council wants to change, the time to do that would be during the Comprehensive Plan changes.

He presented Council with a letter from the City Engineer requesting authorization to award contract for demolition of five structures: 320 Parrill Court, 322 Parrill Court, 513 Ben Street, 513 1/2 Ben Street, 631 S. 7th Street. The total of the bid award would be \$43,440 to Sac Environmental from Sistersville, WV.

UNFINISHED BUSINESS:

Councilman Hunt said appointment was made to the Development Authority Tuesday, July 13 and after receiving the minutes of the meeting, the letter which went from the City Clerk to the County did not reflect the fact that the motion was made "when a vacancy exists", the Council asked that Mr. Bernard Folio be appointed to the Development Authority.

MOTION by Councilman Diaz that the City Manager be directed to write a letter to the County Commission stating verbatim what was in the minutes so far as Mr. Hunt's position on the Harrison County Development Authority - concerning the vacancy if a vacancy would exist and the action Mr. Hunt would take in the event that those two matters occurred in sequence. SECONDED by Councilman Thompson and MOTION CARRIED 6-0-1 with Councilwoman Folio abstaining.

Councilwoman Folio questioned what the study for the Police Department was intended to do. She said she has been on the Council since April and all she has heard is problems in the Police Department and she sees nothing at all being done. Mr. Shives said the study is to aid him as a management tool and he will not discuss some of it publicly.

Councilwoman Folio specifically brought up the fact that

drunks are sleeping in doorways and alleyways and drinking in alleyways in Glen Elk. Curfews are not being enforced. Buildings on Main Street are being spray painted. They are sitting in cars in parking lots and vacant lots on Main Street drinking. There are no patrol cars in neighborhoods and on Main Street. She asked that patrol cars be on the street visibly patrolling. Lunch breaks are not staggered, they are taking them at the same time. Council is on notice that there is a problem - something needs to be done. Police need to be out and visible. The citizens deserve the visibility of their police on the street instead of at Hardees, Canteen, Eat & Park.

Councilman Diaz said he had also asked over the past couple of years that there be more neighborhood patrols. He said there is a breakdown in communication occurring, whether it is lack of supervision on the part of the Chief, on the part of his Lieutenants, on the part of both, whatever. These people, as police officers, should do their job to the best of their ability. There are 38 police officers - if it takes a change in taking officers from the day turn and putting them on nights, the people are entitled to that protection/security.

Councilman Kesling said at each community meeting, there has been a request for community patrols.

Councilman Hunt said we are growing as a community. We have problems we have never had before. His feeling is we are growing into a city that needs a larger police department. MOTION that the City Manager investigate the addition of between 4 and 6 officers to our police department and that addition be specifically targeted to the scat patrol and the effects of that addition on the budget. SECONDED by Councilman Thompson. Councilman Diaz says it is easy to say put new people on the force, but he said they have to start cleaning their house up inside first. He said he wants to see every call made on 3 to 11 and 11 to 7 for the last year, how many people were working that shift, how many people were off, why they were off and if they were excused or unexcused

absences. Also wants to know why there are so many people sick in this city and they get to take off. Some departments - if they don't work, they don't get paid. Others have so many sick days a year and people take them. He said he thinks if you get paid, you should work, and you should do a days work for what you get paid.

Further discussion ensued with the City Manager explaining his report would be ready in about 3 weeks and it would give every call the department answered, if there is an abuse problem, response time, how many officers were off on each shift. We need to find out if the neighborhood patrols are feasible, given what they are doing now.

Mayor Iquinto asked if there is not an emergency or another call, could the patrols be split between business and neighborhoods? Chief Durrett said that could be done.

Councilman Hunt said the proper policy should be to go to the City Manager and direction should be given in the form of a motion. It is not following the charter for Council to give direction to department heads. With a poll of Council members, it was agreed to ask for neighborhood patrols.

Question called on the Motion and MOTION CARRIED UNANIMOUSLY.

Councilwoman Folio asked where the money was to come from to tear down the incubator buildings. She said she is concerned that money, which may be needed to cover the City with Anchor Hocking suit, is being used to tear down these buildings. Mr. Shives said a recommendation will be made on source of funds, when bids are in.

CONSIDERATION OF NEW BUSINESS:

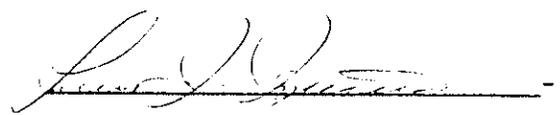
Councilman Hunt questioned what the chances were for recovery of money used for the demolition on Parrill Court? Mr. Shives said there is a chance of recovery - we will go after them legally.

MOTION by Councilman Diaz that Council authorize the City Manager to enter into a contract with SAC ENVIRONMENTAL INC to demolish buildings located at 320 Parrill Court, 322 Parrill Court, 513 Ben Street, 513 1/2 Ben Street and 631 S. Seventh

Street for a total expenditure of \$43,400 all inclusive of asbestos removal and demolition. SECONDED by Councilman Hunt. Councilwoman Folio questioned the fact it said in the last paragraph there is a need for an additional \$23,000 to complete this list, plus an estimated \$20,999 for 127 Coleman Street and 2 future projects. She asked if that was to be included with this much here and Mr. Shives replied "no". This is only to award the contract and at a future date he will come back on those contracts. QUESTION CALLED. MOTION CARRIED UNANIMOUSLY.

MOTION by Councilman Diaz that barber shops and beauty shops be excluded in the home occupancy definition part of the code. SECONDED by Councilwoman Folio and MOTION UNANIMOUSLY APPROVED.

There being no further business to come before Council, meeting was adjourned by MOTION of Councilman Kesling, SECONDED and UNANIMOUSLY APPROVED.



LOUIS J. IQUINTO, MAYOR

APPROVED;----- SEPTEMBER 15, 1994

ATTEST;


Patricia L. D'Anselmi, City Clerk

**NOTICE OF PUBLIC HEARING
ON THE CITY OF CLARKSBURG
SEWER REVENUE
BOND ORDINANCE**

A public hearing will be held on the following - entitled Ordinance at a regular meeting of the Council of the City of Clarksburg to be held on September 19, 1996, at 7:30 p.m. in the Council chambers at the Clarksburg City Hall, 227 West Main Street, Clarksburg, West Virginia, and at such hearing any person interested may appear before the Council and present protests, and all protests and suggestions shall be heard by the Council and it shall then take such actions as it shall deem proper in the premises upon an Ordinance entitled: **ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF CLARKSBURG AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$8,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1996 (WEST VIRGINIA SRF PROGRAM); 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 A LOAN 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 - entitled Ordinance was adopted by the Council of the City of Clarksburg on September 5, 1996.

The above - quoted title of the Ordinance describes generally the contents thereof and the purposes of the Bonds contemplated thereby. The City of Clarksburg contemplates the issuance of the Bonds described in said Ordinance. The proceeds of the Bonds will be used to provide permanent financing of a portion of the costs of acquisition and construction of additions, betterments and improvements to the existing public sewerage system of the City of Clarksburg. The Bonds are payable solely from revenues to be derived from the ownership and operation of the sewerage system of the City. No taxes may at any time be levied for the payment of the Bonds or the interest thereon. A certified copy of the above - entitled Ordinance is on file with the Council at the office of the City Clerk of the City of Clarksburg for review by interested parties during regular office hours. Following said public hearing, the Council intends to enact said Ordinance upon final reading.

Dated: September 6, 1996.
s/s Annette M. Wright
City Clerk

08/22/96
CSRF/M.E2
155510/95003

NOTARY PUBLIC
STATE OF WEST VIRGINIA
Debra Kay Sviger
Route 1, Box 200A
Wallace, WV 26448
My Commission Expires August 25, 2003

PUBLISHER'S CERTIFICATE

VS.

STATE OF WEST VIRGINIA,

COUNTY OF HARRISON

I, DEBORAH S. VELTRI

Classified Manager of CLARKSBURG TELEGRAM, a newspaper of general circulation published in the City of Clarksburg, County and State aforesaid, do hereby certify that the annexed

NOTICE OF PUBLIC

was published in said CLARKSBURG TELEGRAM once a week for 2 successive weeks,

commencing on the 6th day of September 19 96

and ending on the 13th day of September 19 96

The publisher's fee for said publication is \$ \$60.06

Given under my hand this 13th day of September 1996

Deborah S. Veltri
Classified Manager of Clarksburg Telegram



Subscribed and sworn to before me this 13th day of

September, 19 96

Debra Kay Sviger
Notary Public in and for Harrison County, WV.

My commission expires on the 25th day of August, 2003
Form CA-15 T

**NOTICE OF PUBLIC HEARING
ON THE CITY OF CLARKSBURG
SEWER REVENUE
BOND ORDINANCE**

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Dated: September 6, 1996.

s/ Annette M. Wright
City Clerk

08/22/96
CSR/FJM.E2
155510/95003

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
Debra Kay Swiger
Route 1, Box 236A
Wellface, W.V. 26448

PUBLISHER'S CERTIFICATE

VS.

STATE OF WEST VIRGINIA,

COUNTY OF HARRISON

I, DEBORAH S. VELTRI

Classified Manager of THE CLARKSBURG EXPONENT, a newspaper of general circulation published in the City of Clarksburg, County and State aforesaid, do hereby certify that the annexed

NOTICE OF PUBLIC

was published in said THE CLARKSBURG EXPONENT once a week for 2 successive weeks,

commencing on the 6th day of September 19 96

and ending on the 13th day of September 19 96

The publisher's fee for said publication is \$ 50.96

Given under my hand this 13th day of September 19 96

Deborah S. Veltri
Classified Manager of The Clarksburg Exponent



Subscribed and sworn to before me this 13th day of

September, 19 96

Debra Kay Swiger
Notary Public in and for Harrison County, WV.

My commission expires on the 25th day of August, 2003.
Form CA-15 E

AUGUST 15, 1996

The Council of the City of Clarksburg met in REGULAR SESSION on Thursday, August 15, 1996 at 7:30 P.M. in Council Chambers, City Hall with the Honorable Robert T. Flynn presiding.

COUNCIL MEMBERS PRESENT:

ALSO PRESENT:

James Hunt
Louis Iquinto
Herman Kesling
Frank Marino
Dan Thompson, Vice Mayor
Robert T. Flynn, Mayor

Percy C. Ashcraft, City Manager
Annette M. Wright, City Clerk
Shawn Morgan, City Attorney

COUNCIL MEMBERS ABSENT:

Kathryn Folio

Following roll call, Councilman Hunt offered the opening prayer and the Pledge of Allegiance was led by Councilman Marino.

The Mayor, on behalf of Council, presented unto Dean Otto and Thomas Veltri of the Clarksburg Fire Department plaques in recognition of their heroic acts above and beyond their call of duty in apprehending a purse snatcher.

The Mayor called for petitions, communications and public hearings, with the following appearances:

FRANK ICONIS, 1630 N. 20th Street, appeared before Council to discuss "City problems" -

A situation on Barn Street (below 20th Street) regarding a need to apply gravel at this section. The City Manager noted this matter for attention. Mr. Iconis referenced page 9, Article 7 of the Charter regarding the maintenance of curbs, sidewalks and streets.

Mr. Iconis discussed abortion and voiced his strong objections thereto. Upon the request of Mr. Iconis, Councilman Hunt read a "true story" article submitted by Mr. Iconis.

JOHN D. WILLIAMS, Vice President of Local 743, 408 Elk Avenue, Stonewood, appeared before Council to share information. Mr. Williams informed Council that the union, as a group, rated the appraisal evaluations at 100%. Mr. Williams stated that in the past, the evaluation process was met with great resistance and contributed the much-improved success of the evaluation process to

the open communication between the workers and the administration/City Manager. He further stated that he hoped that in the future the evaluation process would hold more meaning by offering merit raises rewarding those deserving for their efforts and achievements.

Mr. Williams commented on the section regarding community service and civil duty. Mr. Williams stated that the union requested that this section be deleted from the evaluation process as the union perceived this section as a personal choice as to the events or organizations the employee wished to support. Mr. Williams reported the following contributions presented on behalf of the union: a food drive organized at Christmas wherein a substantial amount of food was delivered to the Salvation Army; furnished local families with turkey dinners; furnished turkeys to the Mission; made financial donations to families whose residences were destroyed by fires; made financial donations to the Eagle Glass Convex workers' account, as well as individual participation.

Mr. Williams noted that the vehicle maintenance program received 100% on the Loss Control Policy rating and contributed the perfect rating to efficient management and the supervisors. Mr. Williams apprised Council of the Safety Committee Program in place which has financially benefited the City wherein union personnel perform in-house work rather than contracting the work. Mr. Williams stated the need for training, education and cross-training and noted the restrictions thereon due to the budget.

In closing, Mr. Williams informed Council that the union received a Certificate of Appreciation from the Salvation Army for their dedication and contributions.

Councilman Iquinto commented that he believed that the union should be acknowledged by Council for their work and dedication to these community services.

MOTION by Vice Mayor Thompson, SECONDED by Councilman Hunt for approval of the minutes of Regular Session of Council of August 1, 1996, as presented. MOTION UNANIMOUSLY APPROVED.

✓ AGENDA ITEM NO. 5 - CONSIDERATION OF FIRST READING OF AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF CLARKSBURG AND THE FINANCING OF THE COST NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$6,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1996 (WEST VIRGINIA SRF PROGRAM); 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 A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO

MOTION by Councilman Iquinto, SECONDED by Councilman Hunt for approval of the above-entitled ordinance on first reading. During discussion, Councilman Hunt inquired of the City Manager if a change had been made to the dollar amount of the project and, if so, why. The City Manager responded to Councilman Hunt's inquiry indicating that a change had been made in the amount of the project and that the original amount was approximately \$4.2 or \$4.5 million. The City Manager further responded that Thrasher Engineering, the engineering firm for the Sanitary Board, explained that environmental regulations and other issues relating to the upgrade increased the amount of the bids. The City Manager indicated that the bids received were well in excess of the \$7.3 million amount and negotiations are on going to reduce the cost even further before an award is made. The City Manager stated that the Sanitary Board will approve the \$7.5 million from its general fund in order to prevent asking this body to approve a rate increase. Councilman Hunt expressed his concerns to the amount of the increase and the results thereof. The City Manager informed Council that this matter would be further discussed at the work session scheduled for August 21, 1996. MOTION APPROVED UNANIMOUSLY.

MOTION by Councilman Hunt, SECONDED by Vice Mayor Thompson that the Engineer and Bond Counsel be at the Conference Session prepared to discuss the issue and also be present at the September 5th meeting to possibly discuss this issue. MOTION APPROVED UNANIMOUSLY.

AGENDA ITEM NO. 6 - MANAGER'S REPORT:

Boards & Commissions

Traffic Commission

The Traffic Commission met on August 9 and made the following recommendations:

- Install "Slow-Children Playing" Sign at 517 Kuhl Avenue;
- Install "Slow-Children Playing" Sign at 77 Worley Avenue;
- Install "Handicapped" sign at 192 Bond Street;
- Install "Handicapped" sign at 708 Clark Street;
- Approved "one-hour parking request" in front of Phillip's Restaurant and Parsons Hotel;
- Repeal request to install "new yellow" at 22 Bailey Street.

Recommendation:
Approve the actions taken by the Traffic Commission.

Sanitary Board

The Sanitary Board met on August 6 and August 13 and received an update on the upgrade of the Wastewater Treatment Facility.

A project budget was discussed by the Board, which includes

\$6,484,243 which will be borrowed for the project from the Division of Environmental Protection.

The total cost for Phase II of the project, which includes the construction and soft costs, will be 7,334,243.

The Board's engineer and City staff are reviewing the bids, and an award is expected to be made very soon.

The amount of money needed to complete the project came in higher than originally expected because of greater environmental standards needed. The Sanitary Board contributed \$750,000 from its Revenue Fund and \$100,000 from its Repair and Restoration Fund to complete the financing.

(A copy of the Project Budget can be found in each member's booklet under "Reports.")

Parking Authority

The Parking Authority met in special session on August 9 and authorized the expenditure of \$4,000 for two signs to be painted on the City's Parking Garage as motorists exit the U.S. Route 50.

Loss Control Policy Statement

Members of Council were informed several weeks ago regarding a report from our insurance carrier, Accordia, regarding the City establishing a Loss Control Policy.

MANAGER'S REPORT (continued):

The first step toward establishment of such policy is the adoption of a "policy statement." (The statement can be found under "Reports" in each member's booklet).

The statement consists of a summary and parameters in which the City will implement a Loss Control Policy.

Recommendation:
Approve the Loss Control Policy Statement.

Ms. WV Senior America

The City has received a request from the Harrison County Senior Citizens Center to make Thursday, September 6 as "Ms. West Virginia Senior America, Wilma Williams Day" in Clarksburg.

The request comes as a result of the Senior Center being one of the sponsoring agencies.

Ms. Williams is a resident of Fairview and she will be traveling to Biloxi, Mississippi to represent West Virginia against 39 other states for the national award.

Recommendation:
Approve the request to make Thursday, September 6, 1996 "Ms. West Virginia Senior America, Wilma Williams Day" in Clarksburg.

Dry Cleaning Services

The City recently sent out proposals for bids from any vendor which was interested in the cleaning and pressing of uniforms and other items for the Police and Fire departments.

The deadline to receive bids was August 9. In each member's booklet under "Reports," information is listed regarding the proposals which were received.

Rady and Deem Co. on East Pike Street is the lowest bidder overall on units submitted.

Recommendation:
Approve the bids to Rady and Deem Co. for dry cleaning of uniforms for the fire and police departments.

The City Manager indicated an addition to his report which was not printed thereon. Said addition being the approval of Steptoe & Johnson to serve as Bond Counsel to oversee the activity of the loan with the DEP for the upgrade of the Wastewater Treatment facility. Steptoe & Johnson will receive the sum of \$27,500.00 once the loan has been properly closed and completed.

UNFINISHED BUSINESS: NONE.

NEW BUSINESS:

The Mayor read a "thank you" received from Stitch-N-Time for the attendance at their grand opening and ribbon cutting ceremony. The Mayor commented that he believed Council should participate more in these functions.

The following discussions were had and/or actions were taken in conjunction with the Manager's Report:

MOTION by Councilman Iquinto, **SECONDED** by Councilman Hunt to approve the bid to Rady and Deem Co. for dry cleaning of uniforms for the fire and police departments. **MOTION APPROVED UNANIMOUSLY.**

MOTION by Councilman Marino, SECONDED by Councilman Hunt for approval of the Loss Control Policy Statement. MOTION APPROVED UNANIMOUSLY.

MOTION by Councilman Kesling, SECONDED by Councilman Hunt for approval of the actions taken by the Traffic Commission (as outlined in the Manager's Report). MOTION APPROVED UNANIMOUSLY.

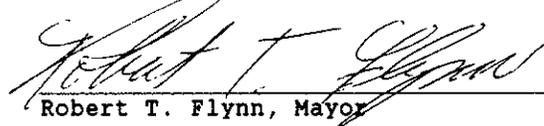
MOTION by Councilman Iquinto, SECONDED by Vice Mayor Thompson to approve the request to make Thursday, September 6, 1996 as "Ms. West Virginia Senior America, Wilma Williams Day" in Clarksburg. MOTION APPROVED UNANIMOUSLY.

MOTION by Vice Mayor Thompson, SECONDED by Councilman Marino to approve Steptoe & Johnson as Bond Counsel to oversee the loan process for the upgrade of the Wastewater Treatment Facility and to receive the sum of \$27,500.00 for their services as Bond Counsel. MOTION APPROVED UNANIMOUSLY.

MOTION by Councilman Hunt, SECONDED by Councilman Iquinto for adjournment into EXECUTIVE SESSION pursuant to Chapter 6, Article 9A, Section 4 of the W.Va. Code to discuss personnel matters and that the following persons be present: Mayor and Members of City Council, City Manager, City Attorney, Chief of Police and City Clerk. MOTION APPROVED UNANIMOUSLY.

Following EXECUTIVE SESSION, MOTION made, SECONDED and UNANIMOUSLY CARRIED to reconvene into REGULAR SESSION.

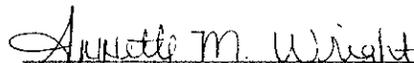
There being no further business to come before Council, MOTION by Councilman Iquinto, SECONDED by Councilman Hunt for the adjournment of said meeting. MOTION APPROVED UNANIMOUSLY.



Robert T. Flynn, Mayor

September 5, 1996

Approved



Annette M. Wright, City Clerk

SEPTEMBER 5, 1996

The Council of the City of Clarksburg met in REGULAR SESSION on Thursday, September 15, 1996 at 7:30 P.M. at the Kelly Miller Building, located at Water Street, Clarksburg, with the Honorable Robert T. Flynn presiding.

COUNCIL MEMBERS PRESENT:

ALSO PRESENT:

Kathryn Folio
Louis Iquinto
Herman Kesling
Frank Marino
Dan Thompson, Vice Mayor
Robert T. Flynn, Mayor

Percy C. Ashcraft, City Manager
Annette M. Wright, City Clerk
Shawn Morgan, City Attorney

COUNCIL MEMBERS ABSENT:

James Hunt

Following roll call, Councilwoman Folio offered the opening prayer and the Pledge of Allegiance was led by Vice Mayor Thompson.

The Mayor called for petitions, communications and public hearings, with the following appearance:

GLENN R. SHAW, SR., 130 Washington Avenue, addressed Council concerning Clarksburg "in general."

Mr. Shaw inquired as to the operating hours of the V.A. Park program (the game room and miniature golf). John Cooper, Director of the Park Board, responded to Mr. Shaw's inquiry stating that at the present, the operating hours are 5:00 p.m. to 10:00 p.m., Monday through Friday, and 11:00 a.m. until 10:00 p.m. on the weekend.

Mr. Shaw expressed his disconcern with the nepotism policy being deleted from the handbook which was approved by Council.

Mr. Shaw inquired as to the status of the letter to be written to former Police Chief Thomas Durrett. The Mayor responded to Mr. Shaw stating that Council agreed to present a letter to former Police Chief Thomas Durrett and, at present, the letter has not been written.

MOTION by Councilman Iquinto, SECONDED by Councilwoman Folio for approval of the minutes of Regular Session of Council of August 15, 1996, as presented. MOTION UNANIMOUSLY APPROVED.

✓ AGENDA ITEM NO. 5 - CONSIDERATION OF SECOND READING OF AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF CLARKSBURG AND THE FINANCING OF THE COST NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$6,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1996 (WEST VIRGINIA SRF PROGRAM); 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 A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO

MOTION by Councilman Iquinto, SECONDED by Vice Mayor Thompson for approval of the above-entitled ordinance on second reading. MOTION APPROVED UNANIMOUSLY.

AGENDA ITEM NO. 6 - MANAGER'S REPORT:

Training Proposal

One of the goals of this administration is to increase the amount of training and long-range planning skills for all employees.

Members of City Council discussed at the the August 21 work session a training proposal submitted by R. David Blackman & Associates. This proposal would offer training in the areas of leadership and long-range planning for both department heads and first-line supervisors.

The heart of the training would be two off-site sessions which would be held in September and November.

Other aspects of the training proposal included departmental profiles and assistance in formulating goals and objectives for each department, and the City as a whole.

Recommendation:
Approve training proposal by R. David Blackman & Associates in an amount not to exceed \$4,000.

Elevator Maintenance

The maintenance contract for the City's elevators in City Hall and the Parking Garage was recently put out for bid.

Three vendors responded to the bid and lowest was Millar Elevator of Morgantown for a total of \$4,160 for the next two years.

(A copy of the proposed agreement and financial terms can be found in each member's packet under "memorandums")

Recommendation:
Approve Millar Elevator of Morgantown for elevator maintenance for \$4,160 for the next years.

New City Hall Address

At the August 21 work session, members of Council were asked to consider an address for the new city hall.

A number of proposals were offered, and 222 W. Main Street seemed to be the consensus of members present.

Recommendation:
Approve 222 W. Main Street as the address for the new City Hall.

MANAGER'S REPORT (continued):

Boards And Commissions

Since there has been much discussion in the last few months regarding the appointment process for members serving on Boards and Commissions, many vacancies currently exist.

Several members have continued to serve in their present positions despite not officially being re-appointed. Others have resigned without any appointment being made.

The following is a list of names of individuals who have expressed desire to fill the vacancies on the various Boards and Commissions:

Park Board (6-year term) - Joe A. Marra.

Urban Renewal Authorities (5-year term) - John Madia and Gene William Bee.

Transit Authority (3-year term) - Mrs. J.E. McCoy.

Municipal Building Commission (5-year term) - Lee Gustafson.

BOCA Code Appeals Board (2-year term) - Edward R. Davisson.

Housing Authority (5-year term) - Rud, Colombo.

Plazzing & Zoning Commission (3-year term) - Louise Shaw, Ronald Hanlan, Truman Rhoades.

Board of Zoning Appeals (3-year term) - John Thrasher, George Shellhammer.

Police Civil Service Commission (4-year term) - Dr. Carl Frasure.

Recommendations: Fill the current vacancies on the Boards and Commissions with either the current list or with other nominations submitted by members and Council.

Fuel Bids

The City recently let out to bid a contract for our gasoline, diesel fuel and kerosene.

Two bids were received. (Copies of the bids can be found in each member's packet under 'Reports'.)

Rob-Lu Oil Company, Inc. of Clarksburg was the overall low bidder.

Recommendation: Approve Rob-Lu Oil Company as the low bidder for provided gasoline, diesel fuel and kerosene.

Councilman Hunt Honored

Last week, Councilman James Hunt was selected as a recipient of the *American Hometown Leadership Award*.

This award program is the only national award program to recognize leaders from town, townships and small governments whose community service exhibits the highest standards of dedication, ability, creativity and leadership.

Hunt will be in Washington, D.C. Thursday, September 5 to receive the award. He will join 254 other award winners.

In addition, a community development grant will be given to each recipient for use in their respective hometown.

The program is sponsored by the National Association of Towns and Townships.

Employee Of The Month

John Workman, lead mechanic in the Public Works Department, has been chosen the *Employee of the Month* for September.

Mr. Workman has served the City for eight years as a full-time worker in the Public Works operation. He is a second generation worker as his father formerly worked for the City.

Mr. Workman's title is mechanic, but his contribution to the City extends beyond his designated responsibilities. He has been singled out on two different occasions this

past month for exemplary performance.

Recently, a study on the City's loss control program cited Vehicle Maintenance as the only program which recieved a grade of 100 percent. Through the significant contributions made by Mr. Workman, the City has saved \$34,700 this year compared to the same period last year.

Supervisors have described Mr. Workman as being dynamic, dedicated and loyal.

Mr. Workman lives in North View with his wife Gloria and three children. He spends most of his spare time caring for his children who have been actively involved in soccer and gymnastics.

Mr. Workman will receive a certificate of appreciation and a \$50 United States Savings Bond.

In connection with the Manager's Report, the City Manager advised Council as to the status of the Adamston Flat Glass property indicating that the City has been working diligently to clean up said property and is now in the second half of the Phase I aspect of that clean up. The City Manager further stated that it is now necessary for the asbestos to be removed from said property and that bid proposals have been received by three companies to remove the asbestos. The company submitting the lowest bid was AMI of Morgantown quoting a bid of \$19,000.00.

UNFINISHED BUSINESS: NONE.

NEW BUSINESS:

The following discussions were had and/or actions were taken in conjunction with the Manager's Report:

MOTION by Councilman Iquinto, **SECONDED** by Councilwoman Folio to fill the expired terms or vacancies on the Boards and Commissions by those individuals noted in the Manager's Report. **MOTION APPROVED UNANIMOUSLY.**

MOTION by Councilwoman Folio, **SECONDED** by Councilman Marino to approve the training proposal by R. David Blackman & Associates in an amount not to exceed \$4,000. **MOTION UNANIMOUSLY APPROVED.**

MOTION by Councilwoman Folio, **SECONDED** by Councilman Marino for approval to accept AMI's proposal of \$19,000 to remove the asbestos from the Adamston Flat Glass property. **MOTION UNANIMOUSLY APPROVED.**

MOTION by Councilman Marino, **SECONDED** by Councilman Kesling for approval of 222 W. Main Street as the address for the new City Hall. **MOTION APPROVED UNANIMOUSLY.**

MOTION by Councilman Kesling, **SECONDED** by Councilman Marino to approve Millar Elevator of Morgantown for elevator maintenance for \$4,160 for the next two years. **MOTION APPROVED UNANIMOUSLY.**

MOTION by Councilwoman Folio, **SECONDED** by Councilman Marino to approve Rob-Lu Oil Company as the low bidder for provider of gasoline, diesel fuel and kerosene. **MOTION APPROVED UNANIMOUSLY.**

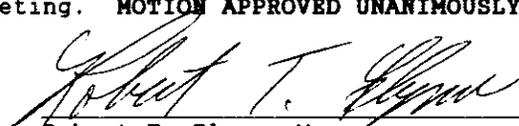
EMPLOYEE OF THE MONTH PROGRAM - The City Manager recognized John Workman, lead mechanic in the Public Works Department, as the "Employee of the Month" and presented Mr. Workman with a Certificate of Appreciation and a \$50.00 savings bond.

Vice Mayor Thompson inquired as to whether there would be a "Fall Clean-up" this year. The City Manager indicated that the City would pursue the possibility of the Fall Clean-up; however, at present, it is an unbudgeted item.

The Mayor recognized the department heads in attendance at the meeting and expressed Council's appreciation for their attendance.

Councilman Iquinto commented concerning the blighted condition of Pike Street during the Italian Heritage Festival and his discontent that the property owners did not take measures to cover the windows or enhance a better display of these buildings.

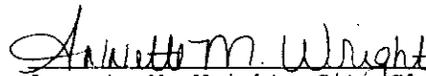
There being no further business to come before Council, **MOTION** by Councilwoman Folio, **SECONDED** by Vice Mayor Thompson for the adjournment of said meeting. **MOTION APPROVED UNANIMOUSLY.**



Robert T. Flynn, Mayor

September 19, 1996

Approved



Annette M. Wright, City Clerk

SEPTEMBER 19, 1996

The Council of the City of Clarksburg met in REGULAR SESSION on Thursday, September 19, 1996 at 7:30 P.M. in Council Chambers, City Hall with the Honorable Robert T. Flynn presiding.

COUNCIL MEMBERS PRESENT:

ALSO PRESENT:

Kathryn Folio
James Hunt
Louis Iquinto
German Kesling
Frank Marino
Dan Thompson, Vice Mayor
Robert T. Flynn, Mayor

Percy C. Ashcraft, City Manager
Annette M. Wright, City Clerk
Shawn Morgan, City Attorney

Following roll call, Councilwoman Folio offered the opening prayer and the Pledge of Allegiance was led by Vice Mayor Thompson.

The Mayor called for petitions, communications and public hearings, with the following appearances:

FRANK ICONIS, 1630 N. 20th Street, addressed Council concerning the city workers and the streets and sidewalks. Mr. Iconis indicated that he believed there is problems with the waste department wherein there is not enough workers to perform the job accurately.

GEORGE SHELHAMMER, 322 Pinnickinick Street, appeared before Council to discuss employment objectives. Mr. Shelhammer, on behalf of the Job Service, asked that Council draft a letter requesting that contractors who are awarded contracts for construction projects utilize local work force and businesses when possible. Mr. Shelhammer requested that a list of local employers and businesses be furnished to him in order that he can provide this information to these contractors to make the contractors aware of the local services available.

MOTION by Councilman Iquinto, SECONDED by Councilman Hunt directing the City Manager to draft said letter indicating Council's support for the utilization of local job force and businesses. MOTION APPROVED UNANIMOUSLY.

Recognizing the attendance of Domenick Poster of The Spa, Council deviated from the Order of Business to discuss AGENDA ITEM NO 7 - CONSIDERATION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLARKSBURG AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE HARRISON COUNTY YMCA TO INSTITUTE A WELLNESS PROGRAM FOR CITY EMPLOYEES

Upon discussion of this matter, Agenda Item No. 7 was revised as follows: MOTION by Councilman Hunt, SECONDED by Councilman Iquinto to authorize the City Manager to institute a wellness program for City employees with a budget amount of \$5,000 and that the City Manager be instructed to work with local health club providers and present to Council an appropriate program to benefit all parties. MOTION APPROVED UNANIMOUSLY.

MOTION by Councilman Iquinto, SECONDED by Councilwoman Folio for approval of the minutes of Regular Session of Council of September 5, 1996, as presented. MOTION UNANIMOUSLY APPROVED.

✓ AGENDA ITEM NO. 5 - CONSIDERATION OF THIRD AND FINAL READING OF AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF CLARKSBURG AND THE FINANCING OF THE COST NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$6,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1996 (WEST VIRGINIA SRF PROGRAM); 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 A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO

Vince Collins of Steptoe & Johnson, serving as bond counsel to the City for this project, indicated that said above-entitled Ordinance was published on September 6, 1996 and September 13, 1996 in both The Clarksburg Telegram and The Clarksburg Exponent.

The Mayor declared the PUBLIC HEARING on this Ordinance open. With no appearances to speak for or against this Ordinance, the Mayor closed the PUBLIC HEARING.

MOTION by Councilman Iquinto, SECONDED by Vice Mayor Thompson for approval of the above-entitled ordinance on third and final reading.

During discussion of this matter, Councilman Hunt inquired as to whether the City Manager received an explanation as to why the Municipal League's Interim Financing Program was not feasible for this project. The City Manager indicated that said explanation was provided in the packet information.

Vince Collins, in providing an update concerning the funding of this project, responded to Councilman Hunt's inquiry regarding municipal funds. Mr. Collins stated that Steptoe & Johnson has had discussions with the Municipal League regarding the possibility of using Municipal League's Interim Financing Program. Mr. Collins stated that the problem with utilizing this program for this particular project is that there will not be any monies to invest due to the way the loan is being made. The SRF Program provides a low interest rate of 2%; however, the money is not provided at the date of Closing. The money is provided on the basis of reimbursement after invoices are actually incurred and presented for payment. In light of said reimbursement process, there is no proceeds to invest and no interim construction financing that could be invested of these proceeds. Mr. Collins concurred with Mr. Hunt's statement that possibly the Municipal League Interim Financing Program could be utilized for some other future financing project. MOTION APPROVED UNANIMOUSLY.

✓ AGENDA ITEM NO. 6 - CONSIDERATION OF A SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1996 (WEST VIRGINIA SRF PROGRAM), OF THE CITY OF CLARKSBURG; RATIFYING AND APPROVING A LOAN 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

MOTION by Councilman Iquinto, SECONDED by Councilwoman Folio for approval of the above-entitled Supplemental Resolution (Agenda Item No. 6). MOTION APPROVED UNANIMOUSLY.

AGENDA ITEM NO. 8 - MANAGER'S REPORT:

Boards & Commissions

Traffic Commission

The Traffic Commission met Friday, September 13 and offers the following recommendations:

- Install 'Stop' sign for Harvey Street at Chestnut Street;
- New yellow for sidewalk at 535 South Third Street;
- Install 'Slow-Children Playing 15 MPH' sign at 152 South Howard Street;
- New yellow across from garage in rear of 1307 North 19th Street;
- New yellow opposite City right-of-way beside 100 Rodney Street and driveway for 1 1/2 Waverly Way;
- New yellow opposite 325 Despard Street;
- Install 'Stop' sign at 3rd and Hewes travelling north.

Called a special meeting for Friday, September 27 to discuss a new policy for handicapped parking.

Recommendation:
Approve the actions taken by the Traffic Commission.

- Among young claimants, there is a high number of high coronary claims;
- Moderate amount of claims for hypertension, but again unusually high filing by young claimants;
- Simple sprains cost the City over \$10,000, which showed an unnecessary use of emergency room and doctor's office visits;
- Just 20 women obtained routine mammograms during the past two years;
- Costs related to smoking are at the high end.

A wellness committee has been established to begin to address these and other issues on a monthly basis. The committee is chaired by Mr. Patrick Comiskey, Manager of Human Resources.

Employees can expect to see many different kinds of activities which are aimed at reducing health insurance claims and increase productivity.

Preference For C.P.A. Firm

Every year, the Chief Inspector Division of the West Virginia Department of Tax & Revenue requests proposals from public accounting firms to conduct the annual audit of all funds of the City at the end of each fiscal year.

Under state law, the Chief Inspector Division appoints the firm to conduct the audit for the fiscal year ending June 30, 1996.

The City has an option to express a preference for a particular firm to conduct the audit. This must be done by an affirmative vote of the majority of members of Council.

Bids will be received until 4:30 p.m. September 19. A preference letter must then be issued within 10 days after the opening of the proposals.

Mr. Frank Ferrari, Director of Finance, has prepared a recommendation which can be found in the "Memorandums" section in each member's booklet.

Mr. Ferrari has recommended the firm of Tetrick Bartlett and Company be issued by preference to conduct the audit.

Tetrick Bartlett has conducted the annual audit for the past several years and is very familiar with the City's operating procedures, accounting records and personnel. Its findings are also the ones the City is trying to correct.

Tetrick Bartlett is also a local firm and is the only local firm which has bid on the City's audit.

Recommendation:
Issue a letter of preference to the WV Department of Tax & Revenue for the firm: Tetrick Bartlett & Company to conduct the 1995-96 audit.

Wellness Program

As the City moves toward implementation of a Wellness program, one of the first tasks was to find out lifestyle information about our employees.

This information was collected through our health insurance carrier, Self-Funded. Most of the information was formulated by reviewing our health insurance claims as submitted by our employees or their families from July 1, 1994 through June 30, 1996.

Because of the sensitivity of the information gathered, the report will not be made public. However, members of Council had the report included in their packets.

A few general statements which can be made regarding the report include:

- There were 15 categories in which claims were analyzed. Only four of those categories were no claims filed against;

MANAGER'S REPORT (continued):

Demographics

Every year, the City subscribes to a service which provides us with an annual report related to demographics.

The report touches on two areas, a **Market Profile Report** and a **Retail Profit Report**.

(Copies of those reports are included in each member's packets under the tab 'Reports'.)

This year's report includes some very interesting information. The Administration is now analyzing the data. It is helpful to know all about the makeup of our citizens so we can continually improve the level of services we offer.

W.V. Patriot Award

The City was recently presented the "West Virginia Patriot Award" from the Adjutant General for support of the members of the West Virginia Army National Guard.

The City has two employees who serve in the National Guard and both are given leave time when necessary to serve their state and country.

The "Patriot Award" is the Adjutant General's way of expressing gratitude for supporting the National Guard Program.

Municipal Government Week

The West Virginia Municipal League has proclaimed October 14-18 Municipal Government Week throughout West Virginia. This was established to provide a unified statewide opportunity to educate citizens on what municipal government is all about.

Part of this process would be to reach our young people in the greatest way possible. One way would be to have students from our Partner in Education, Robert C. Byrd High School, spend a full day and actually serve as honorary department heads and council members.

Recommendation:
Proclaim October 14-18
"Municipal Government
Week."

Fall Clean-Up

In recent years, the City has been offering a special service for extraordinary cleanup now known as the Fall Clean-Up.

This year, as a result of above average rainfall, there is plenty of debris left for our citizens to dispose.

The budget does not include funding for the cleanup, which could cost as much as \$15,000. However, our waste disposal carrier, Mid-American, is working with state officials to see if there can be some relief on taxes on tipping fees which could keep the cost down.

Recommendation:
Approve the Fall
Clean-Up for 1986.

UNFINISHED BUSINESS:

Councilman Kesling inquired as to the status of the paving project and stated that he has received several complaints concerning this issue. The City Manager indicated that the paving program started today with West Virginia Avenue, Jackson Avenue and North Park Avenue as the first streets to be paved. Councilman Iquinto noted that the delay in the paving project was due to the West Virginia State Highway purchasing all the blacktop readily available for the I-79 project which resulted in the need to await the availability of blacktop to commence paving. Mr. Scarcelli commented that the paving project should be complete in four to five working days.

Councilwoman Folio commented concerning the letter sent to Walter Hanglund of Mullin & Lonergan Associates, Inc. by the City Attorney. Councilwoman Folio inquired as to the status of the Comprehensive Plan. The City Manager responded to Councilwoman Folio's inquiry stating that he contacted Mr. Haglund's office today and, although Mr. Haglund did not respond personally, he left a message that the Comprehensive Plan has been completed and inquired as to the number of copies needed. Councilwoman Folio reiterated her offer to have her Pittsburgh counsel pick up the Plan from Mullin & Lonergan.

Councilman Iquinto commented concerning the need to condemn and demolish the Manhattan Building and to proceed to "clean up" Pike Street. Councilman Iquinto noted the City's positive growth wherein a new building is to be constructed and indicated that the blighted areas located thereat needs attention.

In support of Councilman Iquinto's position, **MOTION** by Councilwoman Folio, **SECONDED** by Councilman Hunt that Council direct the City Manager to contact the West Virginia Municipal League requesting their assistance in working with the West Virginia Legislature in the 1997 Session to help municipalities, such as Clarksburg, to reduce the amount of "red tape" and bureaucracy in cleaning up the blighted areas within the City and to help the municipalities to fund the clean up. **MOTION APPROVED UNANIMOUSLY.**

Councilman Iquinto suggested that a letter be sent to our Legislature requesting that a law be passed requiring insured dwellings sustaining fire damage be cleaned up and that the insurance proceeds not be released until said clean up has been completed. The City Attorney responded that a new West Virginia law now exists which allows a city to recoup from insured property owners the monies utilized in cleaning up said fire damaged dwellings.

MOTION by Councilwoman Folio, **SECONDED** by Councilman Kesling that Council direct the City Manager to forward a letter to federal representatives requesting their assistance in working with the municipalities to reduce the amount of "red tape" and bureaucracy

in cleaning up our blighted areas and to help fund the same. Councilwoman Folio commented on the "road blocks" presented to the City when trying to clean up blighted areas, such as the Adamston Flat Glass property and the Monticello apartments, and stated the need for cooperation between the various levels of government to accomplish said clean up. **MOTION APPROVED UNANIMOUSLY.**

MOTION by Councilman Hunt, **SECONDED** by Councilman Iquinto that prior to condemnation of blighted buildings, the building inspectors perform inspections on said buildings located on Pike Street, Water Street and Washington Avenue and provide reports relative thereto to Council at the next scheduled work session. **MOTION APPROVED UNANIMOUSLY.**

Councilwoman Folio commented that three or four months ago, Council requested that the Municipal League draft some type of legislation allowing a property owner to make improvements to his property without being penalized by immediately having his property taxes increased. Said legislation would further allow said property owner a three to four year reprieve prior to an increase in his property taxes. Councilman Hunt responded that this issue will go before the Legislative Committee, whose first meeting is scheduled for the month of October.

MOTION by Councilwoman Folio, **SECONDED** by Councilman Hunt that Council direct the City Manager to forward a letter to the West Virginia Municipal League requesting that the League draft some legislation to give property owners a reprieve on their property taxes if improvements are made to the benefit of the neighborhood and/or area in which the property is located. **MOTION APPROVED UNANIMOUSLY.**

NEW BUSINESS:

The following discussions were had and/or actions were taken in conjunction with the Manager's Report:

MOTION by Councilman Marino, **SECONDED** by Councilman Kesling to approve the actions taken by the Traffic Commission as outlined in the Manager's Report. **MOTION UNANIMOUSLY APPROVED.**

MOTION by Councilman Iquinto, SECONDED by Councilman Hunt to issue a letter of preference to the WV Department of Tax & Revenue for the firm of Tetrick, Bartlett & Company to conduct the 1995-96 audit. MOTION APPROVED UNANIMOUSLY.

MOTION by Councilman Iquinto, SECONDED by Councilman Hunt to proclaim October 14-18 as "Municipal Government Week." MOTION APPROVED UNANIMOUSLY.

MOTION by Councilman Iquinto, SECONDED by Councilman Marino to approve the Fall Clean Up for 1996. MOTION APPROVED UNANIMOUSLY.

MOTION by Councilwoman Folio, SECONDED by Councilman Hunt to forward the rezoning petition of the Old Broadway School Building filed by Sam Ferris to the Planning & Zoning Commission for their review. MOTION APPROVED UNANIMOUSLY.

Councilman Iquinto stated that Mr. Ashcraft has served as City Manager for nine months and is deserving of an evaluation.

Councilman Kesling commended Frank Scarcelli on the report provided to Council concerning the expenses associated with the Italian Heritage Festival. MOTION by Councilman Kesling, SECONDED by Councilwoman Folio that a break down of all costs incurred by all departments, such as the Fire Department and Police Department, relative to the Italian Heritage Festival be provided to Council. MOTION APPROVED UNANIMOUSLY.

Councilwoman Folio commented that in reviewing said report provided by Mr. Bellotte and Mr. Scarcelli, she noted the increase compared to the amount of last year's expense. The City Manager responded that in the past, there were too few officers to provide the adequate services and Mr. Bellotte and Mr. Scarcelli felt the need for more staffing.

Councilwoman Folio commented on the Municipal Building project budget stating that as of August 31, 1996, the legal fees are over the budget amount. Councilwoman Folio inquired as to the remaining amount due to the architects. Councilwoman Folio further commented that she believed the budget for this service was to be "capped" at a certain amount and said capped amount has been exceeded. The City Manager responded that whenever a request is made to the

architect that is outside the scope of the original agreement, a recommendation is made for increased payment. The City Manager further responded that there has been occasions wherein the architect's services have been requested beyond the scope of the agreement. The City Manager stated that the Municipal Building Commission is doing its best to stay within the architect and legal budget amount. Councilwoman Folio requested that the Finance Director provide a projection as to the amount of monies to be paid to UDA in the future. The City Manager indicated he would make said request to the Finance Director; however, future change orders or unforeseen changes may cause an increase in the projection. The City Manager stated that the City is \$16,000 above budget after completion of 27% or 28% of the project.

Councilwoman Folio stated that a three-day training seminar was held in Morgantown concerning child abuse and inquired as to the attendance by police department personnel. Chief Edgell responded that Lieutenant Walker, who is a member of the Child Abuse Task Force, attended the seminar. Discussion was had concerning dissemination of information to City personnel and other interested parties gathered by Lieutenant Walker at this seminar. Councilman Kesling inquired as to the legalities of an employee who attended a seminar to instruct others. The City Attorney responded that the nature of the issue would need to be considered to determine whether said individual would be considered qualified to instruct others. The City Attorney further responded that she felt it more appropriate that those attending seminars share the material and knowledge obtained to others in their department rather than teaching a seminar based upon one's attendance at a seminar.

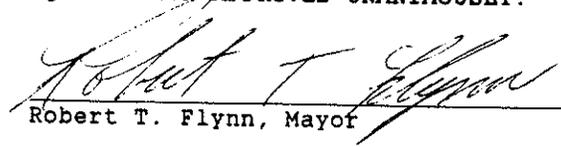
The City Manager indicated that \$7,500 has been budgeted for training and all training requests are submitted to the City Manager for approval.

Councilman Hunt commented on the radius of "areas" classified on the market profile report.

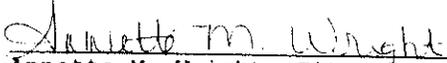
MOTION by Councilman Iquinto, SECONDED by Councilman Hunt for adjournment into EXECUTIVE SESSION pursuant to Chapter 6, Article 9A, Section 4 of the W.Va. Code to discuss personnel matters and that the following persons be present: Mayor and Members of City Council, City Manager, City Attorney, Chief of Police and City Clerk. MOTION APPROVED UNANIMOUSLY.

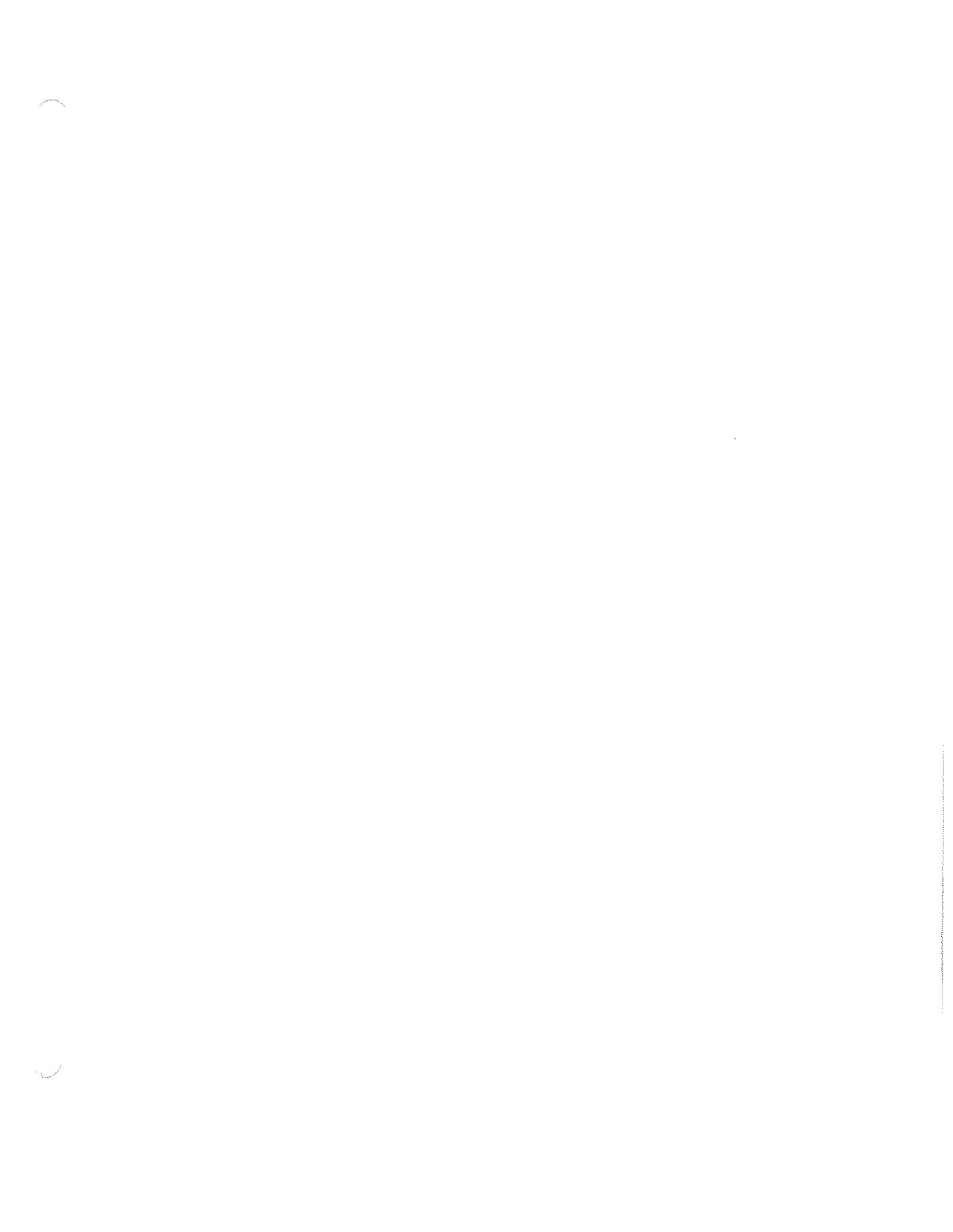
Following EXECUTIVE SESSION, MOTION by Councilman Hunt, SECONDED by Councilman Iquinto and UNANIMOUSLY APPROVED to reconvene into REGULAR SESSION.

There being no further business to come before Council, MOTION by Councilman Marino, SECONDED by Councilman Iquinto for the adjournment of said meeting. MOTION APPROVED UNANIMOUSLY.


Robert T. Flynn, Mayor

October 3, 1996
Approved


Annette M. Wright, City Clerk



STEPTOE & JOHNSON

ATTORNEYS AT LAW

SIXTH FLOOR

BANK ONE CENTER

P. O. BOX 2190

CLARKSBURG, W. VA. 26302-2190

(304) 624-8000

FACSIMILE (304) 624-8183

October 24, 1996

City of Clarksburg

Sewer Revenue Bonds, Series 1996

(West Virginia SRF Program)

SEVENTH FLOOR, BANK ONE CENTER
P. O. BOX 1588
CHARLESTON, W. VA. 25326-1588
(304) 353-8000
FACSIMILE (304) 353-8180

1000 HAMPTON CENTER
P. O. BOX 1816
MORGANTOWN, W. VA. 26507-1816
(304) 598-8000
FACSIMILE (304) 598-8116

126 EAST BURKE STREET
P. O. BOX 2629
MARTINSBURG, W. VA. 25401-5429
(304) 263-8991
FACSIMILE (304) 263-4785

104 WEST CONGRESS STREET
P. O. BOX 100
CHARLES TOWN, W. VA. 25414-0100
(304) 725-1414
FACSIMILE (304) 725-1913

THE BRYAN CENTRE
P. O. BOX 570
82 WEST WASHINGTON STREET, FOURTH FLOOR
HAGERSTOWN, MARYLAND 21740-0570
(301) 739-8600
FACSIMILE (301) 739-8742

FOURTH FLOOR - RILEY BUILDING
P. O. BOX 150
14TH AND CHARLIE STREETS
WHEELING, W. VA. 26003-0020
(304) 233-0000
FACSIMILE (304) 233-0014

THE PNC BUILDING, SUITE 101
P. O. BOX 828
417 GRAND PARK DRIVE
PARKERSBURG, W. VA. 26102-0828
(304) 422-6463
FACSIMILE (304) 422-6462

WRITER'S DIRECT DIAL NUMBER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Internal Revenue Service
Internal Revenue Service Center
Philadelphia, Pennsylvania 19255

Ladies and Gentlemen:

Enclosed herewith is a completed and executed Internal Revenue Service Form 8038-G and a file copy thereof with regard to the above-captioned issue. Please file the original form in the appropriate Internal Revenue Service records and return the copy marked in red as the "File Copy" to me (after acknowledging receipt of the same) in the enclosed self-addressed, stamped envelope. Thank you for your attention to this matter.

Very truly yours,

Francesca Tan

Francesca Tan

FT/jmm

Enclosures

Copy of letter with enclosure to:

Mr. Percy C. Ashcraft

Samme L. Gee, Esquire

8038.LTR

155510/95003

Part I Reporting Authority If Amended Return, check here

1 Issuer's name
City of Clarksburg

2 Issuer's employer identification number
55 : 6000164-001

3 Number and street (or P.O. box if mail is not delivered to street address)
227 West Pike Street

Room/suite

4 Report number
G19 96 - 1

5 City, town, or post office, state, and ZIP code
Clarksburg, West Virginia 26301

6 Date of issue
October 24, 1996

7 Name of issue
City of Clarksburg

8 CUSIP number
N/A

Sewer Revenue Bonds, Series 1996 (WV SRF Program)

Part II Type of Issue (check applicable box(es) and enter the issue price)

9	<input type="checkbox"/> Education (attach schedule—see instructions)	9	\$
10	<input type="checkbox"/> Health and hospital (attach schedule—see instructions)	10	
11	<input type="checkbox"/> Transportation	11	
12	<input type="checkbox"/> Public safety	12	
13	<input checked="" type="checkbox"/> Environment (including sewage bonds)	13	6,484,243
14	<input type="checkbox"/> Housing	14	
15	<input type="checkbox"/> Utilities	15	
16	<input type="checkbox"/> Other. Describe (see instructions) ▶	16	
17	If obligations are tax or other revenue anticipation bonds, check box ▶ <input type="checkbox"/>		
18	If obligations are in the form of a lease or installment sale, check box ▶ <input type="checkbox"/>		

Part III Description of Obligations

	(a) Maturity date	(b) Interest rate	(c) Issue price	(d) Stated redemption price at maturity	(e) Weighted average maturity	(f) Yield	(g) Net interest cost
19 Final maturity.	6/1/2018	2.000 %	\$98,051.02	\$98,051.02			
20 Entire issue			\$6,484,243	\$6,484,243	10.788 years	3.011 %	2.000 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

21	Proceeds used for accrued interest	21	-0-
22	Issue price of entire issue (enter amount from line 20, column (c))	22	\$6,484,243
23	Proceeds used for bond issuance costs (including underwriters' discount)	23	\$30,000
24	Proceeds used for credit enhancement	24	-0-
25	Proceeds allocated to reasonably required reserve or replacement fund	25	-0-
26	Proceeds used to currently refund prior issues	26	-0-
27	Proceeds used to advance refund prior issues	27	-0-
28	Total (add lines 23 through 27)	28	\$30,000
29	Nonrefunding proceeds of the issue (subtract line 28 from line 22 and enter amount here)	29	\$6,454,243

Part V Description of Refunded Bonds (Complete this part only for refunding bonds.) N/A

30 Enter the remaining weighted average maturity of the bonds to be currently refunded ▶ _____ years

31 Enter the remaining weighted average maturity of the bonds to be advance refunded ▶ _____ years

32 Enter the last date on which the refunded bonds will be called ▶ _____

33 Enter the date(s) the refunded bonds were issued ▶ _____

Part VI Miscellaneous

34 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) 34 -0-

35 Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(i)(II) (small issuer exception) 35 -0-

36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions) 36a -0-

b Enter the final maturity date of the guaranteed investment contract ▶ _____

37 Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units 37a -0-

b If this issue is a loan made from the proceeds of another tax-exempt issue, check box and enter the name of the issuer ▶ _____ and the date of the issue ▶ _____

38 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box

39 If the issuer has identified a hedge, check box

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Please Sign Here

Signature of issuer's authorized representative: _____ Date: 10/24/96

Type or print name and title: Robert T. Flynn, Mayor





812 Quarrier Street
Suite 300
Charleston, WV 25301
(304)558-3971

NEW ISSUE REPORT FORM

Date of Report: October 24, 1996

(See Reverse for Instructions)

ISSUE: City of Clarksburg Sewer Revenue Bonds, Series 1996 (WV SRF Program)

ADDRESS: 227 West Pike Street, Clarksburg, WV 26301 COUNTY: Harrison

PURPOSE: New Money Refunding Refunds issue(s) dated: _____

ISSUE DATE: October 24, 1996 CLOSING DATE: October 24, 1996

ISSUE AMOUNT: \$ 6,484,243 RATE: 2% Administrative Fee: 1%

1st DEBT SERVICE DUE: 9/1/98 1st PRINCIPAL DUE: 9/1/98 \$66,120.06

1st DEBT SERVICE AMOUNT: \$98,541.28 PAYING AGENT: Municipal Bond Commission

ISSUERS
BOND COUNSEL: Steptoe & Johnson

UNDERWRITERS
BOND COUNSEL: Jackson & Kelly

Contact Person: Vincent A. Collins, Esq.
Phone: 624-8161

Contact Person: Samme L. Gee, Esq.
Phone: 340-1318

CLOSING BANK: Bank One, WV, NA

ESCROW TRUSTEE: _____

Contact Person: _____
Phone: 624-3400

Contact Person: _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT

OTHER: _____

Contact Person: Frank Ferrari
Position: Finance Director
Phone: 624-1650 FAX: _____

Contact Person: _____
Function: _____
Phone: _____

DEPOSITS TO MBC AT CLOSE:	Accrued Interest:	\$ _____
By <input type="checkbox"/> Wire	Capitalized Interest:	\$ _____
<input type="checkbox"/> Check	Reserve Account:	\$ _____
	Other:	\$ _____

REFUNDS & TRANSFERS BY MBC AT CLOSE:	To Escrow Trustee:	\$ _____
By <input type="checkbox"/> Wire	To Issuer:	\$ _____
<input type="checkbox"/> Check	To Cons. Invest. Fund:	\$ _____
<input type="checkbox"/> IGT	To Other:	\$ _____

NOTES: _____

FOR MUNICIPAL BOND COMMISSION USE ONLY:

DOCUMENTS
REQUIRED: _____
TRANSFERS
REQUIRED: _____

The purpose of the **NEW ISSUE REPORT FORM** is to provide the WV Municipal Bond Commission with an early warning of three basic facts no later than the day of closing on any issue for which the Commission is to act as fiscal agent. These are:

1. Formal notification that a new issue is outstanding.
2. Date of first action or debt service.
3. Contact people should we lack documents, information, or funds needed to administer the issue by the date of the first action or debt service.

The Commission recognizes that as bond transcripts become increasingly long and complex, it has become more difficult to assemble and submit them to the Commission within the 30 days specified by the WV Code 13-3-8. This notice is not intended to provide all the information needed to administer an issue, but to alert the Commission and ensure that no debt service payments are missed due to delays in assembling bond transcripts. If, at the time of closing, documents such as the ordinance and all suppliments, debt service schedules, and a specimen bond or photostat are available and submitted with this form, it will greatly aid the Commission in the performance of its duties. These documents are needed to set up the proper accounts and to advise the issuer of monthly deposit requirements as far in advance of the first debt service as possible.

It is not necessary to complete all items if they are not pertinent to your issue. Indicate the County of the issuer. With PSDs that overlap more than one county, indicate the county of their business office. Complete "Rate" only if the issue has only one rate. Please complete a separate form for each series of an issue. Other important information can be recorded under "Notes".

Again, please submit this form on each new issue on the day of closing. If fund transfers into or out of the Commission at close are required, please submit this form before closing. If no significant facts change by closing, no resubmission at close is required. If, however, there are changes, please submit an updated form, with changes noted, at close.

If you should have any questions concerning this form, please call the Commission.



CITY OF CLARKSBURG

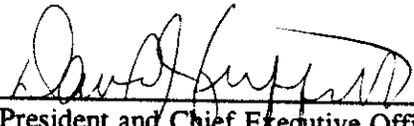
Sewer Revenue Bonds, Series 1996
(West Virginia SRF Program)

ACCEPTANCE OF DUTIES AS DEPOSITORY BANK

BANK ONE, WEST VIRGINIA, NA, Clarksburg, West Virginia, a national banking association, hereby accepts appointment as Depository Bank in connection with a Bond Ordinance of the City of Clarksburg (the "Issuer") enacted by the Council of the Issuer on September 19, 1996, and a Supplemental Resolution of the Issuer adopted by the Council of the Issuer on September 19, 1996 (collectively, the "Bond Legislation"), authorizing issuance of the Issuer's Sewer Revenue Bonds, Series 1996 (West Virginia SRF Program), dated October 24, 1996, in the aggregate principal amount of \$6,484,243 (the "Bonds"), and agrees to perform all duties of Depository Bank in connection with the Bonds, all as set forth in the Bond Legislation.

WITNESS my signature on this 24th day of October, 1996.

BANK ONE, WEST VIRGINIA, NA



President and Chief Executive Officer

10/09/96
CSRJFM.P2
155510/95003



CITY OF CLARKSBURG

Sewer Revenue Bonds, Series 1996
(West Virginia SRF Program)

ACCEPTANCE OF DUTIES AS REGISTRAR

ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association with its principal office in Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the City of Clarksburg Sewer Revenue Bonds, Series 1996 (West Virginia SRF Program), dated October 24, 1996, in the aggregate principal amount of \$6,484,243 (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 24th day of October, 1996.

ONE VALLEY BANK, NATIONAL
ASSOCIATION


Assistant Vice President

09/25/96
CSRFJM.Q1
155510/95003



CITY OF CLARKSBURG

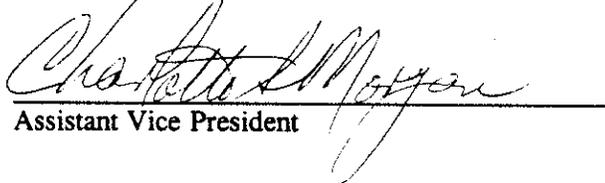
Sewer Revenue Bonds, Series 1996
(West Virginia SRF Program)

CERTIFICATE OF REGISTRATION OF BONDS

ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association with its principal office in Charleston, West Virginia, as Registrar under the Bond Legislation and Registrar's Agreement providing for the above-captioned Bonds of the City of Clarksburg (the "Issuer"), hereby certifies that on the date hereof, the single, fully registered Sewer Revenue Bond, Series 1996 (West Virginia SRF Program), of the Issuer, dated October 24, 1996, in the principal amount of \$6,484,243, numbered R-1, was registered as to principal and interest in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of One Valley Bank, National Association, as Registrar.

WITNESS my signature on this 24th day of October, 1996.

ONE VALLEY BANK, NATIONAL
ASSOCIATION


Assistant Vice President

09/25/96
CSRFJM.R1
155510/95003



REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 24th day of October, 1996, by and between the CITY OF CLARKSBURG, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$6,484,243 principal amount of Sewer Revenue Bonds, Series 1996 (West Virginia SRF Program), in fully registered form (the "Bonds"), pursuant to a Bond Ordinance of the Issuer duly enacted September 19, 1996, and a Supplemental Resolution of the Issuer duly adopted September 19, 1996 (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 exemption of interest on the Bonds from federal income taxation, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar, from time to time, the compensation for services rendered as provided in the annexed schedule and reimbursement for reasonable expenses incurred in connection therewith.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the 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:

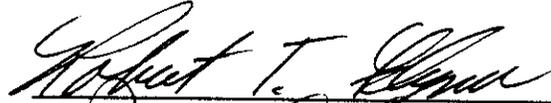
ISSUER: City of Clarksburg
227 West Pike Street
Clarksburg, West Virginia 26301
Attention: Mayor and City Manager

REGISTRAR: One Valley Bank, National Association
Post Office Box 1793
One Valley Square
Charleston, West Virginia 25326
Attention: Corporate Trust Department

8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Bond Legislation.

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 CLARKSBURG

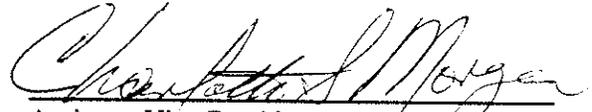


Mayor



City Manager

ONE VALLEY BANK, NATIONAL
ASSOCIATION



Assistant Vice President

10/07/96
CSRFBM.T2
155510/95003

EXHIBIT A

Bond Legislation included in bond transcript as Documents No. 1 and No. 2

SCHEDULE OF COMPENSATION

1

2

3

CITY OF CLARKSBURG
SEWER REFUNDING REVENUE BONDS, SERIES 1995

BOND ORDINANCE

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CITY OF CLARKSBURG

AN ORDINANCE AUTHORIZING THE REFUNDING AND REDEMPTION OF THE SEWER REVENUE REFUNDING BONDS, SERIES OF 1973, DATED DECEMBER 1, 1973, OF THE CITY OF CLARKSBURG; THE ISSUANCE OF SEWER REFUNDING REVENUE BONDS, SERIES 1995, OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$1,300,000, THE PROCEEDS OF WHICH, TOGETHER WITH OTHER FUNDS OF THE CITY, SHALL BE EXPENDED FOR SUCH REFUNDING AND TO PAY COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT AND OTHER DOCUMENTS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS.

WHEREAS, the City of Clarksburg (the "Issuer") presently owns and operates through its sanitary board (the "Board") a municipal sewage treatment and collection system (the "System") and has heretofore financed or refinanced the acquisition and construction of the System and certain additions, betterments and improvements thereto by issuance of its bonds or refunding bonds, of which there are presently outstanding the Sewer Refunding Revenue Bonds, Series of 1973, dated December 1, 1973 (the "Prior Bonds"), originally issued in the aggregate principal amount of \$3,035,000, of which \$1,235,000 will be outstanding as of the date of enactment of this Ordinance;

WHEREAS, the Prior Bonds were issued pursuant to an ordinance of the Issuer enacted by the city council of the Issuer on March 30, 1974 (the "Prior Ordinance");

WHEREAS, the Issuer has determined and hereby determines that it is in the best interest of the residents of the Issuer and the users of the System to refund the Prior Bonds as hereinafter set forth;

WHEREAS, under the provisions of Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), the Issuer is authorized and empowered to issue refunding revenue bonds to refund, pay or discharge all or any part of the outstanding Prior Bonds;

WHEREAS, the Issuer has determined and hereby determines that it would therefore be to the benefit of the Issuer and its residents to refund the Prior Bonds in the manner set forth herein with proceeds of a series of bonds to be designated the "City of Clarksburg Sewer Refunding Revenue Bonds, Series 1995" (the "Series 1995 Bonds"), in the aggregate principal amount of not more than \$1,300,000, and other moneys of the Issuer;

WHEREAS, the Issuer now desires to authorize the refunding of the Prior Bonds as aforesaid, and to provide for the financing thereof by the issuance of the Series 1995 Bonds as hereinafter provided;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLARKSBURG HEREBY ORDAINS:

ARTICLE I

DEFINITIONS; STATUTORY AUTHORITY; FINDINGS

Section 1.01. Definitions. All capitalized terms used in this Ordinance and not otherwise defined in the recitals hereto shall have the meanings specified below, unless the context expressly requires otherwise:

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

"Authorized Officer" means the Mayor or City Manager of the Issuer or any other officer of the Issuer specifically designated by resolution of the Council of the Issuer.

"Board" means the Sanitary Board of the Issuer, or any successor thereto.

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

"Bond Counsel" means any law firm having a national reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal Bonds, appointed by the Issuer or the Board, and shall initially mean Steptoe & Johnson, Clarksburg, West Virginia.

"Bondholder," "Holder of the Bonds," "Holder," "Registered Owner" or any similar term means any person who shall be the registered owner of any outstanding Bond.

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

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

"Bonds" means, collectively, the Series 1995 Bonds, and any additional parity Bonds hereafter issued within the terms, restrictions and conditions contained herein.

"Business Day" means any day other than a Saturday, Sunday or a day on which national banking associations or West Virginia banking corporations are authorized by law to remain closed.

"Certificate of Authentication and Registration" means the Certificate of Authentication and Registration on the Series 1995 Bonds, in substantially the form set forth in EXHIBIT A hereto.

"City" or "Issuer" means the City of Clarksburg, a municipal corporation and political subdivision of the State of West Virginia, in Harrison County, West Virginia, and, unless the context clearly indicates otherwise, includes the Council, the Board and any successor thereto.

"City Clerk" means the City Clerk of the Issuer.

"City Manager" means the City Manager of the Issuer.

"Closing Date" means the date upon which there is an exchange of the Series 1995 Bonds for the proceeds representing the original purchase price thereof.

"Code" means the Internal Revenue Code of 1986, as amended and supplemented from time to time, and Regulations thereunder.

"Consulting Engineers" means any qualified engineer or firm of engineers that shall at any time now or hereafter be retained by the Issuer as Consulting Engineers for the System, or portion thereof.

"Costs" or similar terms means all those costs now or hereafter permitted by the Act to be financed with the Series 1995 Bonds issued pursuant hereto, including, without limitation, the costs of refunding the Prior Bonds, interest accruing or to accrue thereon, redemption premiums, expenses for fiscal or other agents, legal expenses and any other costs or expenses necessary, incidental, desirable or appurtenant to the issuance of the Series 1995 Bonds and the refunding of the Prior Bonds.

"Costs of Issuance Fund" means the Costs of Issuance Fund created by Section 4.01 hereof.

"Council" means the Council of the Issuer or any other governing body of the Issuer that succeeds to the functions of the Council as presently constituted.

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

"Escrow Agent" means the escrow agent under the Escrow Agreement, which shall be the Bond Commission.

"Escrow Agreement" means the agreement to be entered into between the Issuer and the Bond Commission, as Escrow Agent, providing for the defeasance and

ultimate payment of the Prior Bonds, the deposit therein of proceeds of the Series 1995 Bonds, the disposition of moneys in the various funds and accounts under the Prior Ordinance and other matters in connection therewith, the form of which shall be approved by the Supplemental Resolution.

"Escrow Fund" means the Escrow Fund established pursuant to the Escrow Agreement.

"Event of Default" means any occurrence or event specified in Section 7.01.

"FDIC" means the Federal Deposit Insurance Corporation or 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.

"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, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided that, "Gross Revenues" shall not include any proceeds from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined).

"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 purpose except keeping the accounts of the System in the normal operations of its business and affairs.

"Investment Property" means any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract, investment-type property or any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan, excluding, however, obligations the interest on which is excluded from gross income, under Section 103 of the Code, for federal income tax purposes other than specified private activity bonds as defined in Section 57(a)(5)(C) of the Code.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 1995 Bonds, plus accrued interest and premium, if any, less original issue discount, if any. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

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

"Nonpurpose Investment" means any Investment Property which is acquired with the gross proceeds or any other proceeds of the Series 1995 Bonds and is not acquired in order to carry out the governmental purpose of the Series 1995 Bonds.

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

"Original Purchaser" means the purchaser or purchasers of the Series 1995 Bonds directly from the Issuer, as determined by a resolution supplemental hereto.

"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 issued and delivered except (a) any Bond or Prior Bond canceled by the registrar for such Bond or Prior Bond at or prior to said date; (b) any Bond or Prior Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity, shall be held in trust under this Ordinance and set aside for such payment (whether upon or prior to maturity); (c) any Bond deemed to have been paid as provided by Section 9.01; and (d) with respect to determining the number or percentage of Bondholders or Bonds for the purpose of consents, notices and the like, any Bond registered to the Issuer.

"Paying Agent" means the Bond Commission or such other entity as may be designated as Paying Agent for the Series 1995 Bonds by the Issuer in a resolution supplemental hereto.

"Prior Bonds" shall have the meaning set forth in the recitals hereto.

"Prior Ordinance" shall have the meaning set forth in the recitals hereto.

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

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

- (a) Government Obligations;
- (b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;
- (c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;
- (d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;
- (e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must

mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

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

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

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

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

"Registrar" means the bank to be designated in the Supplemental Resolution as the Registrar for the Series 1995 Bonds, and any successor and assigns thereto.

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

"Renewal and Replacement Fund" means the Renewal and Replacement Fund created by Section 4.01 hereof.

"Revenue Fund" means the Revenue Fund created by Section 4.01 hereof.

"Series 1995 Bonds" means the Sewer Refunding Revenue Bonds, Series 1995, of the Issuer, originally authorized to be issued pursuant to this Ordinance and the Supplemental Resolution.

"Series 1995 Bonds Sinking Fund" means the Series 1995 Bonds Sinking Fund created by Section 4.02 hereof.

"State" means the State of West Virginia.

"Supplemental Resolution" means any ordinance or resolution amendatory hereof or supplemental hereto and, when preceded by the article "the," refers specifically to the Supplemental Resolution to be adopted by the Issuer following enactment of this Ordinance, setting forth the final amounts, maturities, interest rates and other terms of the Series 1995 Bonds and authorizing the sale of the Series 1995 Bonds to the Original Purchaser; provided, that any provision intended to be included in the Supplemental Resolution and not so included may be contained in any other Supplemental Resolution.

"System" means, collectively, the complete existing municipal sewage treatment and collection system of the Issuer, as presently existing in its entirety or any integral part thereof, and shall include any additions, betterments and improvements thereto hereafter acquired or constructed for said sewage treatment and collection system from any sources whatsoever, both within and without the Issuer.

Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations and vice versa; and words importing the masculine gender shall include the feminine and neuter genders and vice versa.

Additional terms and phrases are defined in this Ordinance as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with generally accepted accounting principles.

The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Ordinance; and the term "hereafter" means after the date of enactment of this Ordinance.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Ordinance so numbered.

Section 1.02. Authority for this Ordinance. This Ordinance is enacted pursuant to the provisions of the Act and other applicable provisions of law.

Section 1.03. Findings. The Council hereby finds and determines as follows:

A. The Issuer is a municipal corporation and political subdivision of the State of West Virginia, in Harrison County of said State.

B. The Issuer now owns and operates, through the Board, the System, the acquisition and construction of which has been financed or refinanced in part by the proceeds of the Prior Bonds.

C. The Issuer derives Net Revenues from the System which are pledged for payment of the Prior Bonds. Except for such pledge, the Net Revenues are not pledged or encumbered in any manner.

D. The Issuer intends to issue the Series 1995 Bonds and to pledge the Net Revenues of the System for the payment thereof.

E. The estimated revenues to be derived in each year after the date hereof from the operation of the System will be sufficient, upon refunding and defeasance of the Prior Bonds, to pay all costs of repair, maintenance and operation of the System, the principal of and interest on the Series 1995 Bonds and all payments into the Series 1995 Bonds Sinking Fund and the Renewal and Replacement Fund, as hereinafter provided, and to make all other payments provided for in this Ordinance.

F. One of the purposes of issuing the Series 1995 Bonds is to effect the release, termination or modification of liens, restrictions, conditions, or limitations imposed in connection with the Prior Bonds.

G. It is in the best interest of the Issuer, and the inhabitants thereof, that the Issuer issue the Series 1995 Bonds and secure the Series 1995 Bonds by a pledge of the Net Revenues derived from the operation of the System, the moneys in the Series 1995 Bonds Sinking Fund and unexpended proceeds of the Series 1995 Bonds, all as further set forth herein.

H. The Series 1995 Bonds and the Certificate of Authentication and Registration to be endorsed thereon are to be in substantially the form set forth in EXHIBIT A - BOND FORM attached hereto and incorporated herein by reference, with necessary and appropriate variations, omissions and insertions as permitted or required by this Ordinance or a Supplemental Resolution or as deemed necessary by the Registrar or the Issuer.

I. All things necessary to make the Series 1995 Bonds, when authenticated by the Registrar and issued as in this Ordinance provided, the valid, binding and legal special obligations of the Issuer according to the import thereof, and to validly pledge and

assign those funds pledged hereby to the payment of the principal of and interest on the Series 1995 Bonds, will be timely done and duly performed.

J. The enactment of this Ordinance, and the execution and issuance of the Series 1995 Bonds, subject to the terms thereof, will not result in any breach of, or constitute a default under, any instrument to which the Issuer is a party or by which it may be bound or affected.

K. The Issuer is a governmental unit which has general taxing powers to finance operations of or facilities of the nature of the System; 95% or more of the Net Proceeds of the Series 1995 Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and the Issuer, all subordinate entities, all entities which issue obligations on behalf of the Issuer, and all entities formed or, to the extent provided under Section 148 of the Code, herein defined, availed of, to avoid the purposes of Section 148(f)(4)(D) of the Code and all other entities benefiting thereby reasonably expect to issue less than \$5,000,000 aggregate principal amount of tax-exempt obligations (other than private activity bonds) during the calendar year in which the Series 1995 Bonds are to be issued.

Section 1.04. Ordinance Constitutes Contract. In consideration of the acceptance of the Bonds by those who shall own or hold the same from time to time, this Ordinance 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 legal Holders of any and all of such Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bond, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

ARTICLE II

AUTHORIZATION OF REFUNDING AND REDEMPTION OF PRIOR BONDS

Section 2.01. Authorization of Refunding and Redemption of Prior Bonds. All Prior Bonds Outstanding as of the date of issuance of the Series 1995 Bonds are hereby ordered to be refunded pursuant to the terms of the Escrow Agreement, and the pledge of Net Revenues in favor of the Holders of such refunded Prior Bonds imposed by the Prior Ordinance, the moneys in the funds and accounts created by the Prior Ordinance and any other funds pledged by the Prior Ordinance thereto are hereby ordered terminated, discharged and released upon the payment into the Escrow Fund from the proceeds of the Series 1995 Bonds, together with other moneys available therefor, of the following: (a) if required by the Escrow Agreement, an amount equal to the fiscal and paying agent charges and the Escrow Agent charges to become due and payable in connection with the Prior Bonds and (b) an amount which will be simultaneously invested in Government Obligations bearing interest and having maturities sufficient, together with certain cash which may also be deposited, to provide for the payment of the principal of, interest and redemption premium on such Prior Bonds on the first date upon which the entire aggregate amount of the Prior Bonds shall be redeemed, which date shall be set forth in the Supplemental Resolution, all as set forth in the Escrow Agreement. Contemporaneously with the deposit of the proceeds of the Series 1995 Bonds into the Escrow Fund, the amounts on deposit in the sinking fund, including the reserve account therein, and all other funds and accounts created and maintained on behalf of the Prior Bonds shall be deposited in the Escrow Fund or such other fund or account as shall be set forth in the Escrow Agreement, and invested as provided in the Escrow Agreement and this Ordinance.

ARTICLE III

THE BONDS

Section 3.01. Authorization of Bonds. For the purposes of refunding and redeeming all of the Outstanding Prior Bonds of the Issuer and paying costs in connection therewith, there shall be and are authorized to be issued the Series 1995 Bonds of the Issuer, in an aggregate principal amount of not more than \$1,300,000. The Series 1995 Bonds shall be designated "Sewer Refunding Revenue Bonds, Series 1995;" shall be issued in fully registered form; shall be dated such date; shall be in such aggregate principal amount; shall bear interest at such rate or rates, not exceeding the then legally permissible rate; shall be payable on such dates; shall mature on such dates and in such amounts; shall be redeemable, in whole or in part; and shall have such other terms, all as the Issuer shall prescribe herein and in the Supplemental Resolution.

Section 3.02. Execution of Bonds. The Series 1995 Bonds shall be executed in the name of the Issuer by the Mayor and the City Manager, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the City Clerk. In case any one or more of the officers who shall have signed or sealed the Series 1995 Bonds shall cease to be such officer of the Issuer before the Series 1995 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 Series 1995 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 3.03. Authentication and Registration. No Series 1995 Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in EXHIBIT A attached hereto and incorporated herein by reference with respect to the Series 1995 Bonds, shall have been manually executed by the Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Ordinance. The Certificate of Authentication and Registration on any Series 1995 Bond shall be deemed to have been executed by the Registrar if manually signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.04. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 1995 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 1995 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 1995 Bonds remain outstanding, the Issuer, through the Registrar or its agent, shall keep and maintain books for the registration and transfer of such Bonds.

The registered Series 1995 Bonds shall be transferable only upon the books of the 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 Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Series 1995 Bonds or transferring the registered Series 1995 Bonds are exercised, all Series 1995 Bonds shall be delivered in accordance with the provisions of this Ordinance. All Series 1995 Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Registrar. For every such exchange or transfer of Series 1995 Bonds, the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Registrar shall not be obliged to make any such exchange or transfer of Series 1995 Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 1995 Bonds or, in the case of any proposed redemption of Series 1995 Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the 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 Registrar may incur. All Bonds so surrendered shall be cancelled by the 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 3.06. Bonds not to be Indebtedness of the Issuer. The Series 1995 Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No holder or holders of the Series 1995 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 1995 Bonds or the interest thereon.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of all Series 1995 Bonds shall be secured forthwith equally and ratably with each other by a lien on the Net Revenues derived from the System. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 1995 Bonds and to make the other payments hereinafter set forth, are hereby irrevocably pledged to the payment of the principal of and interest on the Series 1995 Bonds as the same become due.

Section 3.08. Delivery of Bonds. The Issuer shall execute and deliver the Series 1995 Bonds to the Registrar, and the Registrar shall authenticate, register and deliver the Series 1995 Bonds to the Original Purchaser upon receipt of the documents set forth below:

(A) A list of the names in which the Series 1995 Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Registrar may reasonably require;

(B) A request and authorization to the Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 1995 Bonds to the Original Purchaser;

(C) Certified copies of this Ordinance and the Supplemental Resolution; and

(D) The unqualified approving opinion upon the Series 1995 Bonds by Bond Counsel.

Section 3.09. Form of Series 1995 Bonds. The text of the Series 1995 Bonds shall be in substantially the form set forth in EXHIBIT A - BOND FORM attached hereto and incorporated herein by reference, with such omissions, insertions and variations as may be authorized or permitted hereby, or by any Supplemental Resolution or supplemental ordinance adopted prior to the issuance thereof.

Section 3.10. Disposition of Proceeds of Series 1995 Bonds. From the moneys received from the sale of the Series 1995 Bonds, the Issuer shall apply the proceeds thereof as follows:

A. An amount of the Series 1995 Bond proceeds which, together with other moneys or securities deposited therein and the earnings thereon, shall be sufficient to accomplish the refunding and defeasance of the Prior Bonds (which amount shall be set forth in the Escrow Agreement) shall be deposited in the Escrow Fund.

B. The balance of the proceeds of the Series 1995 Bonds shall be deposited with the Depository Bank in the Costs of Issuance Fund and shall be drawn out, used and applied by the Issuer solely to pay costs of issuance of the Series 1995 Bonds and any costs of refunding the Prior Bonds at the written direction of the Issuer. Moneys not to be applied immediately to pay such costs of issuance and refunding may be invested in accordance with this Ordinance, subject however, to applicable yield restrictions as may be in effect under the Code. If for any reason such proceeds, or any part thereof, are not necessary for, or are not applied to such purpose, such unapplied proceeds shall be used by the Issuer to prepay or redeem the Series 1995 Bonds. All such proceeds shall constitute a trust fund for such purposes, and there hereby is created a lien upon such moneys until so applied in favor of the Holders of the Series 1995 Bonds from which such proceeds are derived.

Section 3.11. Designation of Bonds as "Qualified Tax-Exempt Obligations". The Issuer hereby designates the Bonds as "qualified tax-exempt obligations" for purposes of Section 265(b)(3)(B) of the Code and covenants that the Bonds do not constitute private activity bonds as defined in Section 141 of the Code, and that not more than \$10,000,000 aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Code) from gross income for federal income tax purposes (excluding, however, obligations issued to currently refund any obligation of the Issuer to the extent the amount of the refunding obligation does not exceed the amount of the refunded obligation and private activity bonds, as defined in Section 141 of the Code, other than qualified 501(c)(3) bonds as defined in Section 145 of the Code), including the Bonds, have been or shall be issued by the Issuer, including all subordinate entities of the Issuer, during the calendar year 1995.

ARTICLE IV

FUNDS AND ACCOUNTS; SYSTEM REVENUES; FLOW OF FUNDS

Section 4.01. Establishment of Funds and Accounts with Depository Bank. The following special funds are hereby created with, and shall be held by, the Depository Bank, separate and apart from all other funds and accounts of the Depository Bank or the Issuer and from each other:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund; and
- (3) Costs of Issuance Fund.

Section 4.02. Establishment of Funds and Accounts with Bond Commission. The following special fund is hereby created with, and shall be held by, the Bond Commission, separate and apart from all other funds and accounts of the Bond Commission or the Issuer and from each other:

- (1) Series 1995 Bonds Sinking Fund.

Section 4.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt by the Issuer in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Ordinance and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. All moneys in the Revenue Fund shall be disposed of only in the following manner and order of priority:

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

(2) The Issuer shall next, on the first day of each month, commencing 7 months prior to the first date of payment of interest on the Series 1995 Bonds for which interest has not been capitalized, transfer from the Revenue Fund and remit to the Bond Commission for deposit in the Series 1995 Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on the Series 1995 Bonds on the next ensuing semiannual interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1995 Bonds Sinking Fund and the next ensuing semiannual interest payment date is less

than 7 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next ensuing semiannual 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, commencing 7 months prior to the first date of payment of principal on the Series 1995 Bonds, transfer from the Revenue Fund and remit to the Bond Commission for deposit in the Series 1995 Bonds Sinking Fund, a sum equal to 1/6th of the amount of principal which will mature and become due on the Series 1995 Bonds on the next ensuing semiannual principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1995 Bonds Sinking Fund and the next ensuing semiannual principal payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next ensuing semiannual principal payment date, the required amount of principal coming due on such date.

(4) Thereafter, from the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, transfer to the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month. 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 as provided herein. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, repairs, improvements or extensions to the System.

Moneys in the Series 1995 Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 1995 Bonds as the same shall become due.

All investment earnings on moneys in the Series 1995 Bonds Sinking Fund shall be returned, not less than once each year, by the Bond Commission to the Issuer, and such amounts shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment due on the Series 1995 Bonds and then to the next ensuing principal payment due thereon.

The Issuer shall not be required to make any further payments into the Series 1995 Bonds Sinking Fund when the aggregate amount of funds in the Series 1995 Bonds Sinking Fund is equal to the aggregate principal amount of the Bonds issued pursuant to this Ordinance then Outstanding and all interest to accrue until the maturity thereof.

B. The Bond Commission is hereby designated as the fiscal agent for the administration of the Series 1995 Bonds Sinking Fund created hereunder, and all amounts required for the Series 1995 Bonds Sinking Fund

shall be remitted to the Bond Commission from the Revenue Fund by the Issuer at the times provided herein. All remittances made by the Issuer to the Bond Commission shall clearly identify the fund or account into which each amount is to be deposited.

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

D. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; 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, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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

ARTICLE V

INVESTMENTS; NON-ARBITRAGE

Section 5.01. Investments. Any moneys held as a part of the funds and accounts created by this Ordinance other than the Revenue Fund, shall be invested and reinvested by the Bond 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 Ordinance, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 5.01.

Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Bond 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, 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 if 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 Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest on the Bonds from gross income for federal income tax purposes.

Section 5.02. Arbitrage. The Issuer covenants that (i) it shall not take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Series 1995 Bonds which would cause the Series 1995 Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a Federal information return with respect to the Series 1995 Bonds) so that the interest on the Series 1995 Bonds will be and remain excludable from gross income for Federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 5.03. Small Issuer Exemption from Rebate of Excess Investment Earnings to the United States. In accordance with Section 148 (f)(4)(D) of the Code, the Issuer covenants that it is a governmental unit with general taxing powers; that no part of the Series 1995 Bonds are private activity bonds; that 95% or more of the Net Proceeds of the Series 1995 Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and that the aggregate face amount of all the tax-exempt obligations (other than private activity bonds) issued by the Issuer during the calendar year in which the Series 1995 Bonds are issued does not and will not exceed \$5,000,000, determined in accordance with Section 148(f)(4)(D) of the Code and the Regulations from time to time in effect applicable to the Series 1995 Bonds. For purposes of the first paragraph of Section 5.03 and for purposes of applying Section 148(f)(4)(D) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a governmental unit to make loans to other governmental units with general taxing powers not subordinate to such unit shall, for purposes of applying this first paragraph of Section 5.03 and Section 148(f)(4)(D) of the Code, be treated as not issued by such unit; all obligations issued by a subordinate entity shall, for purposes of applying this first paragraph of Section 5.03 and Section 148(f)(4)(D) of the Code to each other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(D) of the Code and all other entities benefiting thereby shall be treated as one issuer.

Notwithstanding the foregoing, if in fact the Issuer is subject to the rebate requirements of Section 148(f) of the Code, and not exempted from such requirements, the Issuer covenants to make, or cause to be made, all rebate calculations, computations and payments in the time, manner and as required in Section 148(f) of the Code and the Regulations from time to time in effect and applicable to the Series 1995 Bonds and otherwise covenants and agrees to comply with the provisions of such Section 148(f) of the Code and the Regulations from time to time in effect and applicable to the Series 1995 Bonds. In the event of a failure to pay any such amount or amounts, the Issuer will pay, from any lawful sources available therefor, to the United States an amount equal to the sum of 50% of the amount not paid, plus interest at the required rate on the portion of the amount which was not paid on the required date, beginning on such date, unless waived. In order to provide for the administration of this paragraph, the Issuer may provide for the employment of independent attorneys, accountants and consultants compensated on such reasonable basis as the Issuer may deem appropriate.

ARTICLE VI

ADDITIONAL COVENANTS OF THE ISSUER

Section 6.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Ordinance shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Bonds. In addition to the other covenants, agreements and provisions of this Ordinance, the Issuer hereby covenants and agrees with the Holders of the Bonds, as hereinafter provided. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Bonds or the interest thereon, are Outstanding and unpaid.

Section 6.02. Bonds not to be Indebtedness of the Issuer. The Bonds shall not be or constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Ordinance. No Holder or Holders of any Bonds issued hereunder shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Bonds or the interest thereon.

Section 6.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of all of the Bonds shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System. The Net Revenues in an amount sufficient to pay the principal of and interest on the Bonds and to make the payments into the Series 1995 Bonds Sinking Fund, and all other payments provided for in this Ordinance, are hereby irrevocably pledged in the manner provided herein to the payment of the principal of and interest on the Bonds as the same become due and for the other purposes provided in this Ordinance.

Section 6.04. Rates and Charges. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the sewer rate ordinance of the Issuer enacted on August 18, 1994.

Section 6.05. Sale of the System. The System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay the Series 1995 Bonds or to defease the pledge created by this Ordinance as provided by Section 9.01 hereof. The proceeds from such sale, mortgage, lease or other disposition of the System shall be immediately remitted to Bond Commission for deposit in the Series 1995 Bonds Sinking Fund, and the Issuer shall direct the Bond Commission to apply such proceeds to the payment of principal of and interest on the Series 1995 Bonds as prescribed by Section 9.01 hereof. Any balance remaining after the payment of the Series 1995 Bonds and the interest thereon shall be remitted to the Issuer by the Bond 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 \$50,000, the Issuer shall, in writing, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Issuer may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Revenue Fund. If the amount to be received from such sale, lease or other disposition of said property shall be in excess of \$50,000 but not in excess of \$200,000, the Issuer shall first, in writing, determine with the written approval of the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Issuer 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 \$50,000 and not in excess of \$200,000, shall be deposited by the Issuer into the Renewal and Replacement Fund.

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 \$200,000 and insufficient to defease the pledge created by this Ordinance as provided by Section 9.01 hereof, without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of 60% in amount of Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 6.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in Section 6.07 hereof, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from revenues with the Bonds. All obligations hereafter issued by the Issuer payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate as to lien on and source of and security for payment from such revenues and in all other respects to the Bonds; provided that, no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts established by this Ordinance at the time of issuance of such subordinate obligations have been made and are current.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or, except with respect to such additional parity Bonds, being on a parity with

the lien of the Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Ordinance or upon the System or any part thereof.

Section 6.07. Additional Parity Bonds. No additional parity Bonds, as in this section defined, payable out of the revenues of the System, shall be issued after the issuance of any Bonds pursuant to this Ordinance, except under the conditions and in the manner herein provided.

No such additional parity Bonds shall be issued except for the purpose of financing the costs of the acquisition and construction of additions, betterments or improvements to the System, refunding all or a portion of one or more series of Bonds issued by the Issuer, to pay claims which may exist against the revenues or facilities of the System or any combination of such purposes.

No such additional parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the City 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 expected to be received in each of the three succeeding years after the date of issuance of such parity Bonds, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

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

The "estimated average increased annual Net Revenues expected to be received in each of the three 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) any improvements to be financed by such additional 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 delivery of such additional parity Bonds. For purposes of this test, the terms "Gross Revenues" and "Net Revenues" shall not include proceeds from the sale of capital assets.

The term "additional parity Bonds," as used in this section, shall be deemed to mean additional Bonds issued under the provisions and within the limitations of this section, payable from the Net Revenues of the System on a parity with the Series 1995

Bonds. All the covenants and other provisions of this Ordinance (except as to details of such additional parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Series 1995 Bonds and the Holders of any additional parity Bonds theretofore or subsequently issued from time to time within the limitations of and in compliance with this section. All the Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the 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 Ordinance required for and on account of such additional parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Ordinance.

The term "additional parity Bonds," as used in this section, 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 Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or equally, as to lien and source of and security for payment from such revenues, with the Bonds except in the manner and under the conditions provided in this section.

No additional parity Bonds, as in this section defined, shall be issued at any time, however, unless all of the payments into the respective funds and accounts provided for in this Ordinance on account of the Bonds then Outstanding, and any other payments provided for in this Ordinance, shall have been made in full as required to the date of delivery of the additional parity Bonds.

Section 6.08. Books and Records. 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 Board or 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 shall have the right at all reasonable times to inspect the System, and all parts thereof, and all records, accounts and data of the Board or the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles, to the extent allowable under and in accordance with the rules and regulations of the Public Service Commission of West Virginia and the Act. Separate control accounting records shall be maintained by the Board. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books and along with other bookkeeping records as prescribed by the Board. The Board 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 Board shall be reported to such agent of the Board as it shall direct.

The Issuer or the Board shall file with the Original Purchaser, and mail to any Bondholder requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, and Net Revenues derived from the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Ordinance and status of said funds and accounts.

(C) The amount of any Bonds, notes or other obligations payable from the revenues of the System outstanding.

The Issuer or the Board shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Certified Public Accountants, shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of Bonds issued pursuant to this Ordinance and shall file said report with the Original Purchaser.

Section 6.09. Rates. Equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the City Clerk, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all reasonable expenses of operation, repair and maintenance of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinance described in Section 6.04 hereof.

Section 6.10. Operating Budget. The Board shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the certificate of a registered professional engineer that such increased expenditures are necessary for the continued operation of the System. The Board shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Original Purchaser 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 Original Purchaser and to any Bondholder or anyone acting for and in behalf of such Bondholder who requests the same.

Section 6.11. No Competing Franchise. To the extent legally allowable, neither the Issuer nor the Board will grant or cause, consent to or allow the granting of any franchise or permit to any person, firm, corporation or body, or agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 6.12. Enforcement of Collections. The Issuer or the Board 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 and to the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, all delinquent rates, rentals and other charges, if not paid, shall become a lien on the premises served by the System. The 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 and facilities of the System and any services and facilities of the Issuer's waterworks system, to all delinquent users of services and facilities of the System and will not restore such services of the System (or waterworks system) until all billing for charges for the services and facilities of the System, plus reasonable interest penalty charges for the restoration of service, has been fully paid.

Section 6.13. No Free Services. The Board will not render or cause to be rendered any free services of any nature by its System; and, in the event the Board, the Issuer or any department, agency, instrumentality, officer or employee thereof shall avail himself 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 Board, the Issuer and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the Board or the Issuer shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. The revenues so received shall be deemed to be revenues derived from the operation of the System and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 6.14. Insurance and Bonds. The Issuer hereby covenants and agrees, that so long as the Bonds remain Outstanding, the Issuer or the Board will, as an Operating Expense, procure, carry and maintain insurance and bonds and worker's compensation coverage with a reputable insurance carrier or carriers or bonding company or companies covering the following risks and 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 original cost thereof. 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 damaged or destroyed portion or for the other purposes provided herein for the Renewal and Replacement Fund. The Board 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 Board and the Issuer during any construction in the full insurable value thereof.

(2) **PUBLIC LIABILITY INSURANCE**, with limits of not less than is customarily carried by municipalities of equivalent size with respect to works and properties similar to the System to protect the Issuer and the Board from claims for bodily injury and/or death and 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 and the Board 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 OR COMPLETION 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 Board 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) **FLOOD INSURANCE**, if the System is or will be located in designated special flood or mudslide prone areas and to the extent available at reasonable cost to the Issuer.

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

(6) FIDELITY BONDS will be provided as to every officer 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.

Section 6.15. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer, and in order to assure the rendering harmless of sewage and waterborne 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, 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 and every such owner, tenant or occupant shall, after a 30-day notice of the availability of sewerage services of the System, pay the rates and charges established therefor.

Any such house, dwelling or building from which emanates sewage or waterborne 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 residents of the Issuer and a public nuisance which shall be abated to the extent permitted by law and as promptly as possible by proceedings in a court of competent jurisdiction.

Section 6.16. Operation and Maintenance. The Issuer shall maintain the System in good condition and shall operate the same as a revenue-producing enterprise in an efficient and economical manner, making such expenditures for equipment and for renewal, repair and replacement as may be proper for the economical operation and maintenance thereof from the revenues of said System in the manner provided in this Ordinance.

Section 6.17. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. PRIVATE BUSINESS USE LIMITATION. The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) in the event that both (A) in excess of 5% of the Net Proceeds of the Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of

the interest due on the Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the System, or if the Bonds are for the purpose of financing more than one project, a portion of the System, and shall not exceed the proceeds used for the governmental use of that portion of the System to which such Private Business Use is related, all of the foregoing to be determined in accordance with the Code.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of the lesser of 5% of the Net Proceeds of the Bonds or \$5,000,000 are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be directly or indirectly "federally guaranteed" within the meaning of Section 149(b) of the Code and Regulations promulgated thereunder.

D. INFORMATION RETURN. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Bonds and the interest thereon, including without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer will take all actions that may be required of it so that the interest on the Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

ARTICLE VII

DEFAULTS AND REMEDIES

Section 7.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Bonds:

(A) If default occurs in the due and punctual payment of the principal of or interest on any Bond;

(B) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part in this Ordinance or any Supplemental Resolution or in the Bonds contained, and such default shall have continued for a period of 30 days after written notice specifying such default and requiring the same to be remedied shall have been given to the Issuer by any Bondholder, the Bond Commission, the Depository Bank or the Registrar; or

(C) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

Section 7.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds; (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners.

Section 7.03. 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 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 on behalf of the Issuer, with the power to charge rates, rentals, fees and other

charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this 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.

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

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

ARTICLE VIII

[RESERVED]

ARTICLE IX

DEFEASANCE

Section 9.01. Defeasance of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of the Series 1995 Bonds the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Ordinance, then this Ordinance and the pledges of the Net Revenues and other moneys and securities pledged hereunder, and all covenants, agreements and other obligations of the Issuer on behalf of the Holders of the Series 1995 Bonds made hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest on the Series 1995 Bonds from gross income for federal income tax purposes.

Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due the respective principal of and interest on such Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Bond Commission or an escrow trustee either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Bond Commission or said escrow trustee at the same or earlier time shall be sufficient, to pay when due the principal of, any redemption premium on and interest due and to become due on said Bonds on and prior to the maturity date thereof, or if the Issuer irrevocably determines to redeem any of said Bonds prior to the maturity thereof, on and prior to said redemption date. Neither securities nor moneys deposited with the Bond Commission or an escrow trustee pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and interest on said Bonds; provided, that any cash received from such principal, redemption premium, if any, and interest payments on such securities deposited with the Bond Commission or said escrow trustee, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal of and redemption premium, if any, and interest to become due on said Bonds on and prior to such maturity or redemption dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Bond Commission or said escrow trustee, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

ARTICLE X

MISCELLANEOUS

Section 10.01. Amendment of Ordinance. Prior to issuance of the Series 1995 Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 1995 Bonds, this Ordinance and any Supplemental Resolution may be amended or modified without the consent of any Bondholder or other person, solely for the purpose of maintaining the tax-exempt status of the Bonds. Otherwise, no materially adverse amendment or modification to this Ordinance, or of any Supplemental Resolution, may be made without the written consent of the Holders of 60% in aggregate principal amount of the Bonds then Outstanding and affected thereby, which must be filed with the City Clerk of the Issuer before any such modification or amendment may be made. No such modification or amendment shall extend the maturity of or reduce the interest rate on, or otherwise alter the terms of payment of the principal of or interest on, any Bond without the express written consent of the Holder of such Bond, nor reduce the percentage of Bonds required for consent to any such modification or amendment.

Section 10.02. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance.

Section 10.03. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 10.04. Conflicting Provisions Repealed. All ordinances, orders, resolutions or parts thereof in conflict with the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed.

Section 10.05. 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 City Manager, the City Clerk and members of the Council were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 10.06. Statutory Notice and Public Hearing. Upon adoption of this Ordinance, the City Clerk is hereby authorized and directed to have an abstract of this

Ordinance, which abstract has been determined by the Council of the Issuer to contain sufficient information to give notice of the contents of such Ordinance, published once each week for 2 successive weeks, with not less than six full days between each publication, the first such publication to be not less than 10 days before the date stated below for the public hearing, in The Clarksburg Exponent and The Clarksburg Telegram, two newspapers published and having a general circulation in the City of Clarksburg, together with a notice to all persons concerned, stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Bonds described in this Ordinance and that any person interested may appear before the Council at the public hearing to be had at a public meeting of Council on the 20th day of July, 1995, at 7:30 p.m., in the meeting room of the Council in the City Hall of the City of Clarksburg and present protests, and that a certified copy of this Ordinance is on file with the City Clerk for review by interested parties during the office hours of the City Clerk. At such hearing all protests and suggestions shall be heard by the Council and it shall then take such action as it shall deem proper in the premises.

Section 10.07. Effective Date. This Ordinance shall become effective following public hearing hereon in accordance with the Act.

Passed on First Reading: June 15, 1995

Passed on Second Reading: July 6, 1995

Effective on Final Reading
Following Public Hearing: July 20, 1995



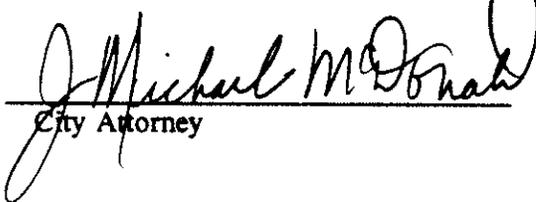
Mayor

ATTEST:



City Clerk

APPROVED AND CORRECT AS TO FORM:



City Attorney

CERTIFICATION

Certified a true, correct and complete copy of an Ordinance duly enacted by the Council of the CITY OF CLARKSBURG on July 20, 1995.

Dated this 7th day of September, 1995.

[SEAL]

Patricia L. D'Anselmi
City Clerk

EXHIBIT A - BOND FORM

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF CLARKSBURG
SEWER REFUNDING REVENUE BOND,
SERIES 1995

No. R- _____

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That the City of Clarksburg, a municipal corporation and political subdivision of the State of West Virginia in Harrison 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 order of

or registered assigns (the "Registered Owner"), the principal sum of _____ (\$ _____), plus interest as follows:

A. Interest on this Bond shall be payable at the rate of _____ % per annum (hereinafter sometimes called the "Tax-Exempt Rate"). Interest shall be computed on the basis of a year of 360 days and 12 months of 30 days each, payable for the actual number of days elapsed during any portion of a month.

B. Notwithstanding any other provision herein, in the event the interest on this Bond is declared to be includible in gross income for federal income tax purposes by the Internal Revenue Service ("Determination of Taxability"), interest on this Bond shall be payable at the rate of _____ % per annum (hereinafter sometimes called the "Taxable Rate"). Interest at the Taxable Rate shall commence to accrue on the date of Determination of Taxability and such interest rate shall be charged retroactively and prospectively for all periods in which interest paid on this Bond is asserted, declared or determined to be includible in gross income for federal income tax purposes, and shall continue until the entire principal of and interest on this Bond are paid, notwithstanding that the entire principal amount of this Bond may have been paid in full prior to the Determination of Taxability. Any interest being past due on this Bond by reason of such increase shall become immediately due and payable.

C. The principal of and interest on this Bond shall be payable in semiannual installments on _____ 1 and _____ 1 of each year, commencing _____, _____, to and including _____, _____.

D. All payments received by the Paying Agent on account of the Bond shall be applied first to payment of interest accrued on the Bond and next to payment of principal of the Bond. If not sooner paid, the entire principal amount of this Bond unpaid on _____, _____, together with all accrued interest and any other sums due and owing upon this Bond shall be due and payable on such date.

The principal of and interest on this Bond is payable in any coin or currency which on the date of payment thereof is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond is subject to prepayment of principal in whole or in part at any time, without penalty.

This Bond is issued (i) to refund and redeem in full the City of Clarksburg Sewer Revenue Refunding Bonds, Series of 1973, dated December 1, 1973 (the "Prior Bonds"), and (ii) to pay the costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and a Bond Ordinance duly enacted by the Issuer on _____, 199____, and supplemented by a supplemental resolution duly adopted by the Issuer on _____, 199____ (collectively, the "Ordinance"), and is subject to all the terms and conditions of said Ordinance. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance.

The Bonds and the interest thereon are payable only from and are secured by the Net Revenues (as defined in the Ordinance) to be derived from the operation of the System, all moneys in the Series 1995 Bonds Sinking Fund established under the Ordinance, and the unexpended proceeds of the Bonds, and the Issuer hereby and in the Ordinance pledges such revenues and moneys to such payment. 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 shall be set aside as a special fund hereby pledged for such purpose and to make the other payments required by the Ordinance.

This Bond does not constitute an indebtedness of the Issuer within any constitutional or statutory provision or limitation, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1995 Bond Sinking Fund and said unexpended Bond proceeds. Under the Ordinance, the Issuer has covenanted and agreed to fix, establish and collect just and equitable rates or charges for the use of the services and facilities of the System and to revise the same from time to time as will always be sufficient to pay all operating expenses of the System and to produce revenues net of such operating expenses equal to at least 115% of the maximum amount payable in any year for principal of and interest on the Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds. 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 Ordinance. Remedies provided the Registered Owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

All moneys received from the sale of the Bonds shall be applied solely to refund the Prior Bonds and pay all costs in connection therewith and costs of issuance of the Bonds, and there shall be, and hereby is, created and granted a lien upon such moneys, until so applied, in favor of the Registered Owners of said Bonds.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of said 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 said Issuer for the prompt payment of the principal of and interest on this Bond.

This Bond, under the provisions 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, but may be transferred only upon the surrender hereof at the office of _____, West Virginia, as registrar (the "Registrar") and otherwise as provided by the within-described Ordinance.

This Bond and the interest hereon are, under the Act, exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

This Bond is hereby designated a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended.

This Bond shall not be entitled to any benefit under the Ordinance, or become valid or obligatory for any purpose, until the certificate of authentication and registration attached hereto shall have been signed by the Registrar.

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

IN WITNESS WHEREOF, the CITY OF CLARKSBURG has caused this Bond to be signed by its Mayor and City Manager, and its corporate seal to be imprinted hereon and attested by its City Clerk, and has caused this Bond to be dated _____, 199__.

[SEAL]

Mayor

City Manager

ATTEST:

City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the fully registered Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the Registered Owner on the date set forth below.

Dated: _____, _____.

as Registrar

By _____
Its Authorized Officer

ASSIGNMENT

Social Security or Other Identifying Number of Assignee _____

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

the within Bond and does hereby irrevocably constitute and appoint _____

to transfer the said Bond on the books kept for registration thereof with full power of
substitution in the premises.

Dated: _____, _____.

In the presence of:

09/06/95
CSEWJ.A3
155510/95001

CITY OF CLARKSBURG

Sewer Refunding Revenue Bonds, Series 1995

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO DATE, PRINCIPAL AMOUNT, MATURITY, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REFUNDING REVENUE BONDS, SERIES 1995, OF THE CITY OF CLARKSBURG; AUTHORIZING AND APPROVING AN ESCROW AGREEMENT AND OTHER INSTRUMENTS RELATING TO SUCH REFUNDING AND BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO HUNTINGTON NATIONAL BANK WEST VIRGINIA; DESIGNATING A REGISTRAR, PAYING AGENT, ESCROW AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS AND THE REFUNDING.

WHEREAS, the city council (the "Governing Body") of the City of Clarksburg (the "Issuer"), has duly and officially adopted and enacted a bond ordinance, effective July 20, 1995 (the "Bond Ordinance"), entitled:

AN ORDINANCE AUTHORIZING THE REFUNDING AND REDEMPTION OF THE SEWER REVENUE REFUNDING BONDS, SERIES OF 1973, DATED DECEMBER 1, 1973, OF THE CITY OF CLARKSBURG; THE ISSUANCE OF SEWER REFUNDING REVENUE BONDS, SERIES 1995, OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$1,300,000, THE PROCEEDS OF WHICH, TOGETHER WITH OTHER FUNDS OF THE CITY, SHALL BE EXPENDED FOR SUCH REFUNDING AND TO PAY COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT AND OTHER DOCUMENTS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND

ENACTING OTHER PROVISIONS WITH RESPECT TO
SUCH BONDS.

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

WHEREAS, the Bond Ordinance provides for the issuance of Sewer Refunding Revenue Bonds, Series 1995, of the Issuer (the "Bonds"), in an aggregate principal amount not to exceed \$1,300,000, for the purpose of refunding the Issuer's outstanding Sewer Revenue Refunding Bonds, Series of 1973, dated December 1, 1973 (the "Prior Bonds"), all in accordance with Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"); and in the Bond Ordinance it is provided that the date, exact principal amount, maturity date, interest rates, interest and principal payment dates, sale price and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Bonds are proposed to be purchased by Huntington National Bank West Virginia, Clarksburg, West Virginia (the "Purchaser"), pursuant to a commitment letter dated June 9, 1995; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and that the date, the exact principal amount, the maturity date, the interest rates, the interest and principal payment dates, the sale price and other terms of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

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

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewer Refunding Revenue Bonds, Series 1995, of the Issuer, originally represented by a single Bond, numbered R-1, in the principal amount of \$600,000. The Bonds shall be dated September 7, 1995, shall finally mature on September 7, 2003, and shall be payable in 16 equal amortized semiannual installments of principal and interest on March 1 and September 7 of each year, commencing March 1, 1996, and shall bear interest at the rate of 5.9375% per annum (the "Tax-Exempt Rate"), provided that, in the event that the interest on the Bonds is determined to be subject to Federal income taxation by the Internal Revenue Service, such interest shall be payable at the rate of 8.69% per annum from the date of such determination of taxability. Interest shall be computed on the basis of a year of 360 days, and 12 months of 30 days each, payable for the actual number of days elapsed

during any portion of a month. The Bonds shall be subject to redemption in whole or in part at any time, without premium, at the price of 100% of the principal amount redeemed, plus interest accrued to the date fixed for redemption.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Bond Ordinance.

Section 3. The Escrow Agreement by and between the Issuer and the West Virginia Municipal Bond Commission, as escrow agent, to be dated as of the date of delivery of the Bonds, substantially in the form submitted to this meeting shall be and the same is hereby approved. The Mayor and City Manager shall execute and deliver the Escrow Agreement with such changes, insertions and omissions as may be approved by the Mayor, City Manager and the City Clerk is hereby authorized and directed to affix the seal of the Issuer thereto and to attest the seal. Execution of the Escrow Agreement by the Mayor and City Manager shall be conclusive evidence of any approval required by this Section.

Section 4. The Bonds shall be sold to Huntington National Bank West Virginia, Clarksburg, West Virginia, and shall be registered in the name of such bank. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon.

Section 5. The Issuer does hereby appoint and designate Huntington National Bank, West Virginia, Clarksburg, West Virginia, as Registrar (the "Registrar") for the Bonds.

Section 6. The Issuer does hereby appoint and direct the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds.

Section 7. The Issuer does hereby appoint Bank One, West Virginia, NA, Clarksburg, West Virginia, as Depository Bank under the Bond Ordinance.

Section 8. The firm of Tetrick, Bartlett & Co., Clarksburg, West Virginia, is hereby engaged for the purposes of verifying yield of the Bonds and the yield and sufficiency of the Escrow Fund.

Section 9. The Prior Bonds shall be redeemed in full on December 1, 1995, at the price of 101% of the principal amount then outstanding, plus interest accrued to the redemption date.

Section 10. Based upon the actual principal amount, maturity schedule and interest rates for the Bonds, as set forth in Section 1 hereof, it is hereby determined that the Bonds do not show a net savings to the Issuer after deducting all expenses of the refunding. However, one of the purposes of issuing the Bonds is to effect the release, termination or

modification of liens, restrictions, conditions or limitations imposed in connection with the Prior Bonds, namely, a reduction in "debt service coverage" requirements to permit issuance of other proposed bonds without a rate increase. Prior to delivery of the Bonds, the Issuer shall have obtained from Tetrick, Bartlett & Co., or such other independent certified public accountant acceptable to the Mayor, a verification of the yield on the Bonds and the Escrow Fund, and sufficiency of the Escrow Fund to effect defeasance of the Prior Bonds. The Mayor is hereby authorized and directed to employ Tetrick, Bartlett & Co. or such other independent certified public accountant satisfactory to Bond Counsel to supply the verification required herein and to take other actions required in connection with the refunding.

Section 11. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder or under any predecessor thereto (the "Code"), by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions necessary to comply with the Code and Treasury Regulations to be promulgated thereunder.

Section 12. The Issuer is a governmental unit with general taxing powers to finance operations of or facilities of the nature of the Project and the System; no part of the Bonds are private activity bonds; 95% or more of the net proceeds of the Bonds are to be used for local governmental activities of the Issuer; and the Issuer reasonably expects to issue less than \$5,000,000 aggregate principal face amount of tax-exempt obligations (other than private activity bonds) during the calendar year 1995, being the calendar year in which the Bonds are to be issued. For purposes of this Section and for purposes of applying Section 148(f)(4)(D) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a governmental unit to make loans to other governmental units with general taxing powers not subordinate to such unit shall, for purposes of applying this Section and Section 148(f)(4)(D) of the Code, be treated as not issued by such unit; all obligations issued by a subordinate entity shall, for purposes of applying this Section and Section 148(f)(4)(D) of the Code to each other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(D) of the Code and all other entities benefiting thereby shall be treated as one issuer.

Section 13. The Issuer and all subordinate entities do not reasonably expect to issue more than \$10,000,000 of tax-exempt obligations (other than private activity bonds and obligations issued to currently refund any obligation of the Issuer to the extent the amount of the refunding obligation does not exceed the amount of the refunded obligation) during the calendar year 1995 and the Issuer hereby designates the Bonds as "qualified

tax-exempt obligations," as defined in Section 265(b) of the Internal Revenue Code of 1986, as amended.

Section 14. The Mayor, the City Manager and the City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds, hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered on or about September 7, 1995, to the Purchaser pursuant to the commitment letter.

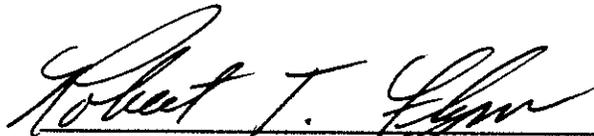
Section 15. The Escrow Agent is hereby instructed to purchase the Government Securities listed on Schedule A of the Escrow Agreement, in accordance with the provisions of the Escrow Agreement.

Section 16. The Mayor is hereby authorized and directed to transfer from the sinking funds and reserve accounts created for the Prior Bonds, and held by the West Virginia Municipal Bond Commission, the amounts set forth in the Escrow Agreement, to the Escrow Fund.

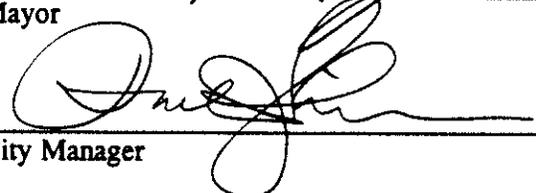
Section 17. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 17th day of August, 1995.

CITY OF CLARKSBURG

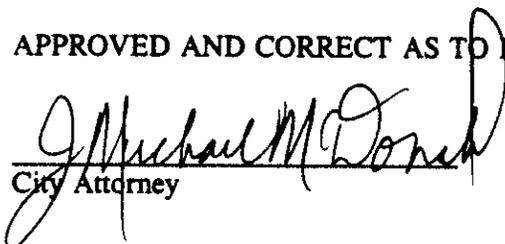


Mayor



City Manager

APPROVED AND CORRECT AS TO FORM:



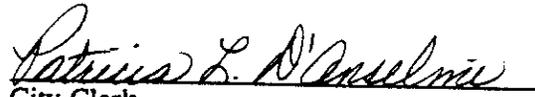
City Attorney

CERTIFICATION

Certified a true, correct and complete copy of a Supplemental Resolution duly adopted by the Council of the City of Clarksburg on the 17th day of August, 1995.

Dated this 7th day of September, 1995.

[SEAL]


City Clerk

09/06/95
CSEWJ.G2
155510/95001

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2

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Huntington National Bank West Virginia
Clarksburg Office
P.O. Box 2490
Clarksburg, WV 26302-2490
(304) 623-7100
Direct Dial



October 24, 1996

City of Clarksburg
Sewer Revenue Bonds, Series 1996
(West Virginia SERF Program)

TO WHOM IT MAY CONCERN:

The undersigned duly authorized representative of Huntington National Bank West Virginia, the registered owner of the entire outstanding aggregate principal amount of the City of Clarksburg Sewer Revenue Bonds, Series 1995 (the "Series 1995 Bonds"), hereby consents to the issuance of the Sewer Revenue Bonds, Series 1996 (West Virginia SERF Program) (the "Bonds"), in the original aggregate principal amount of \$6,484,243, by the City of Clarksburg (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 outstanding Series 1995 Bonds.

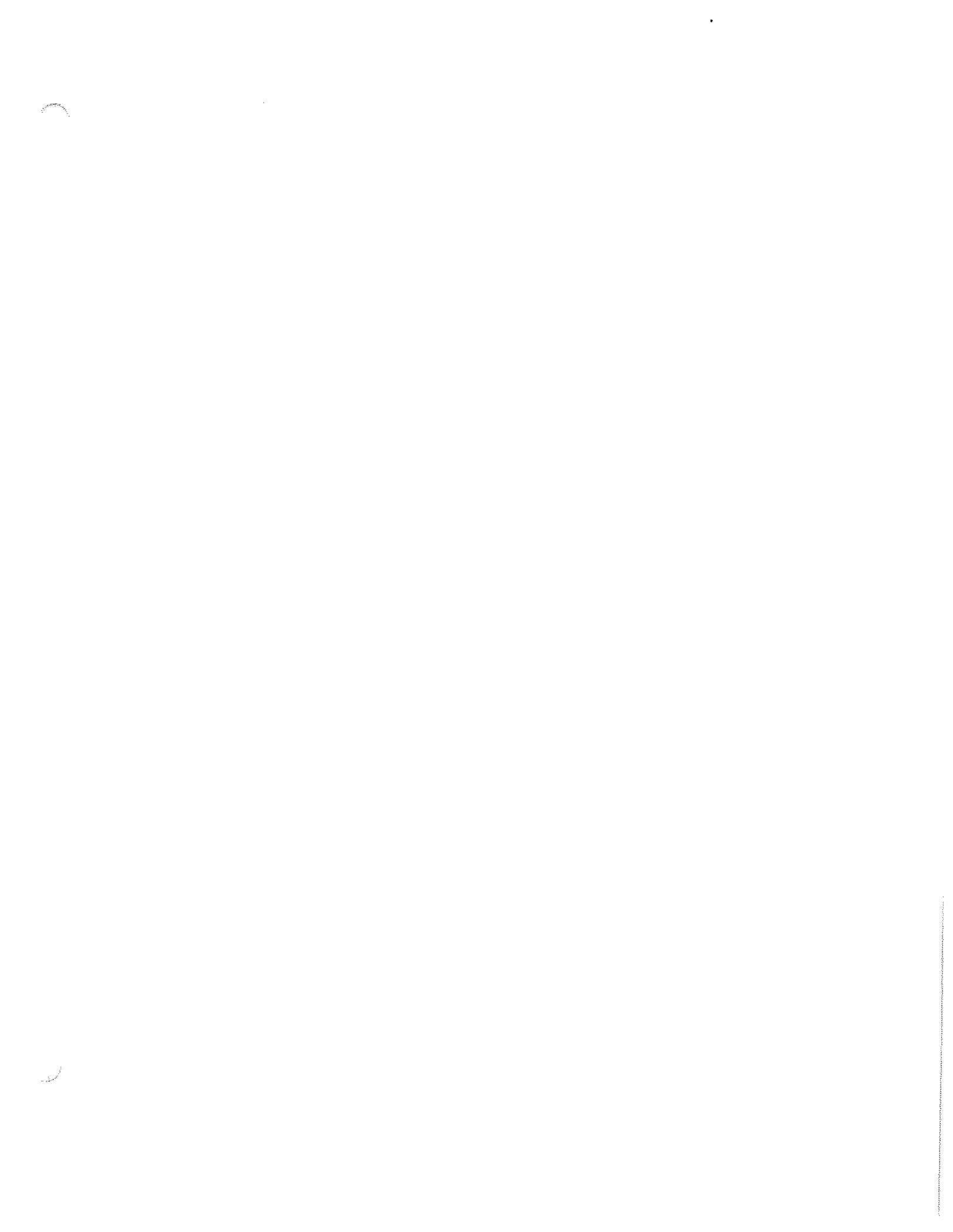
HUNTINGTON NATIONAL BANK WEST VIRGINIA



President-Harrison Branch

09/25/96
CSRFJM.S1
155510/95003

Your Hometown Personal Bankers





DIVISION OF ENVIRONMENTAL PROTECTION

1201 Greenbrier Street
Charleston, WV 25311-1088

GASTON CAPERTON
GOVERNOR

LAIDLEY ELI McCOY, Ph.D.
DIRECTOR

September 30, 1996

Percy Ashcraft, Chairman
Clarksburg Sanitary Board
227 West Pike Street
Clarksburg, WV 26301

CERTIFIED RETURN RECEIPT REQUESTED

Dear Mr. Ashcraft:

Enclosed find WV/NPDES Water Pollution Control Permit No. WV0023302, dated the 30th day of September 1996, for the City of Clarksburg Sanitary Board's sewage treatment system.

Please note Section G.7 on page 27 of 44, prohibiting the acceptance of new nondomestic wastewater discharges without prior Office approval. Also, note Section G.11 on page 32 of 44 which requires the development of a POTW pretreatment program.

Note the attachment to this Permit which describes the annual permit fee requirement.

We wish to respond to the comments contained in your letter of August 19, 1996. We will use the numbers contained in your comment letter to respond.

- 1) The 7Q10 flow used by Clifton Browning as the basis of your current wasteload allocation is the flow which the Army Corp of Engineers has guaranteed from its upsteam releases. Flow data used to calculate past wasteload allocations could not be substantiated by Mr. Browning, therefore the 7Q10 flow was reduced to 33.0 cfs.
- 2) We have amended the facility description to show this change.
- 3) This Office feels that this change need not be implemented at this time. The approval of a permissible land application site will require a major modification of your WV/NPDES permit. Should you wish to add land application as an approved sludge management method, this Office can at that time add the lime stabilization process units to the permit.

Percy Ashcraft, Chairman
Page 2
September 30, 1996

- 4/5) This Office is currently reviewing and working on the final approval of the City's CSO Plan. This Office understands that the City is initiating a plant upgrade and collection line project which will drastically affect the characteristics of the CSOs within the collection system. This project will meet a number of the requirements found in Section A.2 of this permit. Should changes become necessary to this plan, you may submit additional information and we can work out these issues. Also, the current compliance schedule and the CSO requirements contained in Section A.2 of your permit is nearly identical to the requirements found in all facilities that have CSOs in their sewage collection systems. A large portion of these requirements come from the EPA's guidance documents and from our perspective are not that burdensome to the permittee.
- 6) We have amended Section G.12.d to show the change in the monitoring requirements.
- 7) There seems to be some confusion about the moisture content of sewage sludge being disposed of at a landfill. Condition H.10 on pages 37-38 of 44 lists the necessary monitoring requirements and composite sampling procedures based upon the particular sludge processing methods used. This monitoring is to be done on a quarterly basis and the results are then to be submitted on the Sludge Monitoring Reports attached to the back of this permit. The Sewage Sludge Management Form must also be submitted quarterly. Condition H.6 on page 36 of 44 lists the proper analytical method to be performed on the sewage sludge.

Further, our records indicate that you received your last annual permit fee invoice in June 1996 on the anniversary date of your previous permit. Enclosed please find a pro-rated annual permit fee invoice, which covers the period from June 1996 to the issuance date of this permit. Your new annual permit fee billing cycle begins on the issuance date of this permit and you will not receive your next invoice until the anniversary of this permit.

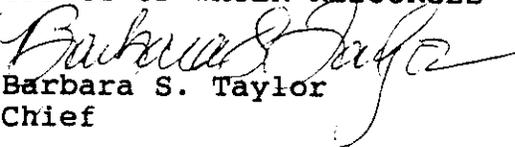
All fees are now due and may be included in one check or money order made payable to the WV Division of Environmental Protection. Two (2) copies of the invoice are enclosed. Please return one(1) copy with your remittance to ensure immediate credit to your permit number. If you have any invoice related questions, you may contact Mr. Chris Reger at (304) 558-3888 or TTD No. 558-2751.

Percy Ashcraft, Chairman
Page 3
September 30, 1996

If you have any questions regarding the permit, please contact Robert Bates of at 304-558-4086 or by TDD at 304-558-2751.

Very truly yours,

OFFICE OF WATER RESOURCES


Barbara S. Taylor
Chief

BST:rb1

Enclosures

cc: Public Information Office
Chris Reger, Administration
U. S. EPA



RD 1A-82
Revised 4/95

STATE OF WEST VIRGINIA
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF WATER RESOURCES
1201 GREENBRIER STREET
CHARLESTON, WV 25311

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

WATER POLLUTION CONTROL PERMIT

Permit No. WV0023302

Issue Date: September 30, 1996

Subject: Sewage Facilities

Effective Date: October 30, 1996

Expiration Date: September 29, 2001

Supersedes: WV/NPDES Permit No.
WV0023302 issued June 28, 1991

Location:	Clarksburg (City)	Harrison (County)	Monongahela (Drainage Basin)
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Outlet	Latitude: 39° 18' 24" N
Sites:	Longitude: 80° 21' 06" W

To whom it may concern:

This is to certify that Clarksburg Sanitary Board
227 West Pike Street
Clarksburg, WV 26301

is hereby granted a NPDES Water Pollution Control Permit to operate and maintain an existing 5.5 MGD sewage collection and treatment system consisting of various diameter gravity sewer lines, five (5) lift stations, force mains, a mechanically cleaned bar screen, a grit separator, flow meters, two (2) 224,400 gallon primary clarifiers, six (6) 205,000 gallon aeration tanks, two (2) 302,000 gallon secondary clarifiers, chlorine disinfection with two (2) 76,370 gallon contact tanks, a 173,500 gallon sludge thickener, two (2) sludge belt vacuum filters, and all other necessary appurtenances.

The system is to serve a maximum of 40,000 persons in the City of Clarksburg, Town of Anmoore, Town of Stonewood, Town of Nutter Fort, East View PSD, Summit Park PSD, Mount Clare Road PSD, and Sun Valley PSD, and to discharge the treated wastewater to the West Fork River (28.6 miles from its mouth) of the Monongahela River.

(Continued on Page 2)

Also, to acquire, construct, install, operate, and maintain an additional 302,000 gallon secondary clarifier, an additional 76,370 gallon chlorine contact tank, and a dechlorination system as a part of a treatment plant expansion project. This project also includes the replacement of the existing vacuum belt filters with a 2.0 meter filter belt press, the replacement of the existing turbine aerators with a fine bubble diffusion system to increase the oxygen exchange efficiency, and the replacement of the airlift sludge return pumps with centrifugal sludge return pumps and all other improvements associated with this project.

Upon the completion of the treatment plant additions and improvements the average design flow for the sewage treatment system shall increase to 8.0 MGD.

This permit is subject to the following terms and conditions:

Bureau of Public Health Permit No. 3091.

The information submitted on and with Permit Application No. WV0023302 dated the 28th day of November 1995, along with plans and specifications approved by the Construction Assistance Branch on the 25th day of June 1996, is all hereby made terms and conditions of this Permit with like effect as if all such permit application information was set forth herein, and with other conditions set forth in Sections A, B, C, D, E, F, G, and H.

The validity of this permit is contingent upon the payment of the applicable annual permit fee, as required by Chapter 22, Article 11, Section 10 of the Code of West Virginia.

**SEWAGE TREATMENT FACILITIES IMPROVEMENTS CONSTRUCTED IN ACCORDANCE WITH:
PLANS, SPECIFICATIONS AND REPORTS:**

Date Approved: June 25, 1996

Prepared by: Chester Engineering
600 Club House Drive
Moon Township, PA 15108

Title: Sanitary Board, City of Clarksburg
Harrison County, West Virginia
For Wastewater Treatment Plant Expansion
Contract 2 and 3
SRF C-544060