

**TOWN OF DAVIS**  
**Stormwater Revenue Bonds, Series 2010 B**  
**(West Virginia SRF Program/ARRA)**

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**TOWN OF DAVIS**  
**STORMWATER REVENUE BONDS, SERIES 2010 B**  
**(WEST VIRGINIA SRF PROGRAM/ARRA)**

**BOND ORDINANCE**

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**TOWN OF DAVIS**

**CONFORMED BOND ORDINANCE**

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF A PUBLIC STORMWATER SYSTEM OF THE TOWN OF DAVIS AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$300,000 IN AGGREGATE PRINCIPAL AMOUNT OF STORMWATER REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA SRF PROGRAM/ARRA); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING AN ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE TOWN OF  
DAVIS:

**ARTICLE I**

**STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS**

Section 1.01. Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 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 Town of Davis (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Tucker County of said State.

B. The Issuer deems it necessary and desirable for the health and welfare of

the inhabitants of the Issuer that there be constructed an approximately 1300 L.F. of 15" HDPE storm sewer pipe, one (1) storm sewer manhole; eleven (11) storm sewer inlets; twenty-six service lateral and yard drain connections, and miscellaneous surface restoration and all necessary appurtenances (the "Project") (the Project and any further extensions, additions, betterments and improvements thereto are herein called the "Stormwater System Improvements"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Recorder of the Issuer.

C. It is deemed necessary for the Issuer to issue its Stormwater Revenue Bonds, Series 2010 B (West Virginia SRF Program/ARRA), in the total aggregate principal amount of not more than \$300,000 (the "Series 2010 B Bonds"), initially to be represented by a single bond, to permanently finance the costs of acquisition and construction of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor and eligible under the SRF Program; amounts which may be deposited in the Series 2010 B 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 (as hereafter defined), including the SRF Administrative Fee (as hereafter 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 2010 B 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 2010 B Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

D. The period of usefulness of the System after completion of the Project is not less than 12 years.

E. It is in the best interests of the Issuer that its Series 2010 B Bonds be sold to the West Virginia Water Development Authority (the "Authority") pursuant to the terms and provisions of a ARRA assistance agreement by and among the Issuer, the Authority and the West Virginia Department of Environmental Protection (the "DEP"), in form satisfactory to the Issuer, the Authority, and the DEP (the "ARRA Assistance Agreement"), to be approved hereby if not previously approved by resolution of the Issuer.

F. On the Closing Date, there will be no outstanding obligations of the Issuer which will rank on parity with the Series 2010 B Bonds as to liens, pledge, source of and security for payment or are secured by revenues or assets of the System.

G. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all costs of operation and

maintenance of the System, the principal of and interest on the Bonds (as hereinafter defined) and to make all payments into all funds, accounts and other payments provided for herein.

H. The Issuer has complied with all requirements of West Virginia law and the ARRA Assistance Agreement relating to authorization of the acquisition and construction of the Project and the operation of the System and issuance of the Series 2010 B Bonds, or will have so complied prior to issuance of any thereof.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2010 B 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 2010 B 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, and by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

“Act” means, collectively, Chapter 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.

“ARRA Assistance Agreement” means the ARRA Assistance Agreement heretofore entered into, or to be entered into, by and among the Issuer, the Authority and the DEP, providing for the purchase of the Series 2010 B Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by the Supplemental Resolution.

“Authority” means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2010 B Bonds, or any other agency, board or department of the State of West Virginia that succeeds to the functions of the Authority, acting in its administrative capacity and upon authorization from the DEP under the Act.

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

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

“Series 2010 B Bond Construction Trust Fund” means the Bond Construction Trust Fund established by section 5.01 hereof.

“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 2010 B 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.

“Closing Date” means the date upon which there is an exchange of the Series 2010 B Bonds for all or a portion of the proceeds of the Series 2010 B 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 Chapman Technical Group, Saint Albans, West Virginia, or any qualified engineer or firm of engineers, licensed by the State, that shall at any time hereafter be procured by the Issuer as Consulting Engineers for the System, or portion thereof, in accordance with Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended; provided however, that the Consulting Engineers shall not be a regular, full-time employee of the State or any of its agencies, commissions, or political subdivisions.

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

“DEP” means the West Virginia Department of Environmental Protection, 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.

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

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

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

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

“Mayor” means the Mayor of the Issuer.

“Net Proceeds” means the face amount of the Series 2010 B Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 2010 B 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 2010 B 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.

“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, the SRF Administrative Fee, fees and expenses of the Authority, 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.

“Outstanding,” when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered, except (i) any Bond cancelled by the Bond Registrar at or prior to said date; (ii) any Bond for the payment of which monies, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Article X hereof; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any 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 2010 B Bonds in the Supplemental Resolution, with the written consent of the Authority and the DEP.

“Project” means the Project as described in Section 1.02B hereof.

“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 Board of Treasury Investments pursuant to Chapter 12, Article 6C of the West Virginia Code of 1931, as amended; and

(i) Obligations of states or political subdivisions or agencies thereof, the interest on which is excluded 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.

"Recorder" means the Recorder of the Issuer.

"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 thereto.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by Section 5.01 hereof.

"Reserve Accounts" means, the reserve account established by Section 5.01 hereof for the Series 2010 B Bonds.

"Reserve Requirement" means collectively, the respective amounts required to be on deposit in any Reserve Account.

"Revenue Fund" means the Revenue Fund established by Section 5.01 hereof.

"Series 2010 B Bonds" means Stormwater Revenue Bonds, Series 2010 B (West Virginia SRF Program/ARRA), of the Issuer, authorized by this Bond Legislation.

"Series 2010 B Bonds Construction Trust Fund" means the Series 2010 B Bonds Construction Trust Fund established by Section 5.01 hereof.

"Series 2010 B Bonds Reserve Account" means the Series 2010 B Bonds Reserve Account established by Section 5.02 hereof.

“Series 2010 B Bonds Reserve Requirement” means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2010 B Bonds in the then current or any succeeding year.

“Series 2010 B Bonds Sinking Fund” means the Series 2010 B Bonds Sinking Fund established by Section 5.02 hereof.

“SRF Administrative Fee” means any administrative fee required to be paid pursuant to the ARRA Assistance 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 2010 B Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2010 B Bonds, and not so included may be included in another Supplemental Resolution.

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

“System” means, collectively, the Project and any and all additions, betterments and improvements thereto hereafter acquired or constructed for the 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 \$300,000, 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 2010 B Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received or will receive bids and will enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the DEP.

The cost of the Project is estimated not to exceed \$300,000, of which the entire amount will be obtained from the proceeds of the Series 2010 B Bonds.

## **ARTICLE III**

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

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest, if any, on the Series 2010 B Bonds, funding a reserve account for the Series 2010 B Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the negotiable Series 2010 B Bonds of the Issuer. The Series 2010 B Bonds shall be issued as a single bond, designated "Stormwater Revenue Bonds, Series 2010 B (West Virginia SRF Program/ARRA)", in the principal amount of not more than \$300,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2010 B Bonds remaining after funding of the Series 2010 B Bonds Reserve Account (if funded from Bond proceeds) and capitalizing interest on the Series 2010 B Bonds, if any, shall be deposited in or credited to the Series 2010 B Bonds 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 2010 B Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then

legal maximum, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the ARRA Assistance Agreement. The Series 2010 B 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, if any, on the Series 2010 B Bonds 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 2010 B 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 2010 B Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 2010 B Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

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

Section 3.03. Execution of Bonds. The Series 2010 B Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Recorder. In case any one or more of the officers who shall have signed or sealed the Series 2010 B Bonds shall cease to be such officer of the Issuer before the Series 2010 B 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 2010 B 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 2010 B 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 2010 B 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 2010 B 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 2010 B 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 2010 B 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 2010 B Bonds.

The registered Series 2010 B 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 2010 B Bonds or transferring the registered Series 2010 B Bonds are exercised, all Series 2010 B Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 2010 B Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Series 2010 B 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 2010 B Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 2010 B Bonds or, in the case of any proposed redemption of Series 2010 B Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2010 B 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 2010 B Bonds shall not, in any event, be or constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No Holder or Holders of the Series 2010 B Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2010 B Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of all Series 2010 B Bonds shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System. Such Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 2010 B 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 2010 B Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2010 B 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 2010 B 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 2010 B Bonds to the original purchasers;
- C. An executed and certified copy of the Bond Legislation;
- D. An executed copy of the ARRA Assistance Agreement; and
- E. The unqualified approving opinion of bond counsel on the Series 2010 B Bonds.

Section 3.10.            Form of Bonds. The text of the Series 2010 B 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 BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
TOWN OF DAVIS  
STORMWATER REVENUE BONDS, SERIES 2010 B  
(WEST VIRGINIA SRF PROGRAM/ARRA)

No. BR-1

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

KNOW ALL MEN BY THESE PRESENTS: The \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, that the TOWN OF DAVIS, a municipal corporation and political subdivision of the State of West Virginia in Tucker 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, 200 \_\_, to an including \_\_\_\_\_ 1, 20 \_\_ as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. This Bond shall not be subject to the SRF Administrative fee (as defined in the hereinafter describe Bond Legislation).

This Bond shall bear no interest. Principal installments of this Bond are 100% forgivable as set forth in the ARRA Assistance Agreement.

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 Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement (the "ARRA Assistance Agreement") by and among the Issuer, the Authority and the DEP, dated \_\_\_\_\_, 2009.

This Bond is issued (i) to pay the costs of the acquisition and construction of a public stormwater system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The public stormwater 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

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

**THERE ARE NO OUTSTANDING OBLIGATIONS OF THE ISSUER WHICH WILL RANK ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT.**

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, and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2010 B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with or junior to the Bonds; provided however, that so long as there exists in the Series 2010 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with or junior to 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 (as defined in the Bond Legislation), by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

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

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

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

[Remainder of Page Intentionally Blank]

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

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

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

Date: \_\_\_\_\_, 2010.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

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

EXHIBIT A  
RECORD OF ADVANCES

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

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

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

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

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

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of ARRA Assistance Agreement. The Series 2010 B Bonds shall be sold to the Authority, pursuant to the terms and conditions of the ARRA Assistance Agreement. If not so authorized by previous ordinance or resolution, the Mayor is specifically authorized and directed to execute the ARRA Assistance Agreement in the form attached hereto as "Exhibit A" and made a part hereof, and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver the ARRA Assistance Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed. The ARRA Assistance Agreement, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Bond Legislation.

Section 3.12. "Amended Schedule" Filing. Within 60 days following the Completion Date of the Project, the Issuer will file with the Authority and the DEP a schedule, the form of which will be provided by the DEP, setting forth the actual costs of the Project and sources of funds therefor.

#### ARTICLE IV

[RESERVED]

#### ARTICLE V

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

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created with and shall be held by the Depository Bank, separate and apart from all other funds or accounts of the Depository Bank and the Issuer and from each other:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund; and
- (3) Series 2010 B Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with and shall be held by the Commission, separate and apart from all other funds or accounts of the Commission and the Issuer and from each other:

- (1) Series 2010 B Bonds Sinking Fund; and
- (2) Series 2010 B 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 in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner provided in this Bond Legislation. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following manner order of priority:

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

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission, commencing 4 months prior to the first date of payment of principal, if required, of the Series 2010 B Bonds, for deposit in the Series 2010 B Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2010 B Bonds on the next ensuing quarterly principal payment date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission, commencing 4 months prior to the first date of payment of principal, if required, of the Series 2010 B Bonds, if not fully funded upon issuance of the Series 2010 B Bonds, for deposit in the Series 2010 B Bonds Reserve Account, an amount equal to 1/120th of the Series 2010 B Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2010 B Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2010 B Bonds Reserve Requirement.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund, an amount equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in 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 deficiencies in any Reserve Account (except to the extent such deficiency exists because the required payments into such accounts have not, as of the date of determination of a deficiency, funded such accounts to the maximum extent required hereof) shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

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.

All investment earnings on monies in the Series 2010 B Bonds Sinking Fund and the Series 2010 B Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2010 B Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2010 B Bonds and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 2010 B Bonds Reserve Account which result in a reduction in the balance of the Series 2010 B Bonds Reserve Account to below the Series 2010 B Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full in the priority as set forth above.

As and when additional Bonds ranking on a parity with the Series 2010 B Bonds are issued, provision shall be made for additional payments into the respective sinking fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve account in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the Series 2010 B Bonds Sinking Fund or into the Series 2010 B Bonds Reserve Account therein when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2010 B Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2010 B Bonds Sinking Fund and the Series 2010 B Bonds Reserve Account created hereunder, and all required amounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. The Issuer shall make the necessary arrangements whereby required payments into the Series 2010 B Bonds Sinking Fund and the Series 2010 B Bonds Reserve Account shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Monies in the Series 2010 B Bonds Sinking Fund and the Series 2010 B Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2010 B Bonds Sinking Fund, including the Series 2010 B Bonds Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the

purpose of servicing the Series 2010 B Bonds under the conditions and restrictions set forth herein.

B. The Issuer shall, on the first day of each month (if the first day is not a business day, then the first business day of each month), deposit with the Commission the required interest, if any, principal and reserve account payments with respect to the Series 2010 B Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. The Issuer shall, on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission, the SRF Administrative Fee as set forth in the Schedule Y attached to the ARRA Assistance Agreement.

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

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

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

G. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as 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. All remittances made by the Issuer to the Commission and the Depository Bank shall clearly identify the fund or account into which each amount is to be deposited.

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

J. All Tap Fees shall be deposited in the Revenue Fund and may be used for any lawful purpose of the System.

## ARTICLE VI

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

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the monies received from the sale of the Series 2010 B Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2010 B Bonds, there shall first be deposited with the Commission in the Series 2010 B Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest.

B. Next, from the proceeds of the Series 2010 B Bonds, there shall be deposited with the Commission in the Series 2010 B Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 2010 B Bonds Reserve Account.

C. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2010 B Bonds, such monies shall be deposited with the Depository Bank in the 2010 B Bonds Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 6.02 hereof, and until expended, are hereby pledged as additional security for the Series 2010 B Bonds.

D. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2010 B Bonds shall be expended as approved by the DEP.

Section 6.02. Disbursements From the Series 2010 B Bonds Construction Trust Fund. On or before the Closing Date, the Issuer shall have delivered to the Authority and the DEP a report listing the specific purposes for which the proceeds of the Series 2010 B Bonds will be expended and the disbursement procedures of 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 Series 2010 B Bonds Construction Trust Fund shall be made only after submission to, and approved from, the Authority and the DEP of a completed and signed "Payment Requisition Form," a form of which is attached to the ARRA Assistance Agreement, in compliance with the construction schedule.

Pending such application, monies in the Series 2010 B Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

## ARTICLE VII

### ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2010 B 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 2010 B 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 2010 B Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2010 B Bonds shall not be nor constitute a corporate indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any Series 2010 B Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2010 B Bonds or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 2010 B Bonds shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the System. The Net Revenues in an amount sufficient to pay the principal of and interest, if any, on the Series 2010 B 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. RESERVED

Section 7.05. Sale of the System. So long as the Series 2010 B 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 in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2010 B Bonds, immediately be remitted to the Commission for deposit in the Series 2010 B 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 of and interest, if any, on the Series 2010 B Bonds. Any balance remaining after the payment of the Bonds and the interest, if any, thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of

the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by resolution duly adopted, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, in writing determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding in accordance with the laws of the State. The proceeds of any such sale shall be remitted by the Issuer to the Commission for deposit in the Sinking Funds for prepayment of the Bonds. The payment of such proceeds into the Renewal and Replacement Fund and the Sinking Funds shall not reduce the amounts required to be paid into such funds by other provisions of this Bond Legislation.

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

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in this Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any 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 2010 B Bonds. All obligations issued by the Issuer after the issuance of the Series 2010 B Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Series 2010 B 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 have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2010 B Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 2010 B Bonds and the interest, if any, thereon in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the Authority and the 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. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2010 B Bonds pursuant to this Bond Legislation, without the prior written consent of the Authority and the DEP under the conditions and in the manner herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2010 B Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of design, acquisition or construction of additions, extensions, betterments or improvements to the System or refunding any outstanding Bonds, or both such purposes.

All 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 subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Net Revenues of the System and their source of and security for payment from said Net Revenues, without preference of any Bond of one series over any other Bond of the same series. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior lien of the Series 2010 B 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, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 2010 B Bonds.

No Parity Bonds shall be issued at any time, however, unless all of the payments into the respective funds and accounts provided for in this Bond Legislation with respect to the Bonds then Outstanding, and any other payments provided for in this Bond Legislation, shall have been made in full as required to the date of delivery of the Parity Bonds, and the Issuer then be in full compliance with all the covenants, agreements and terms of this Bond Legislation.

Section 7.08. Books; Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Authority and the 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 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 shall permit the Authority and the DEP or their agents and representatives, to inspect all records pertaining to the operation and maintenance the System at all reasonable times following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

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

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

The Issuer shall file with the Authority and the DEP, or any other original purchaser of the Series 2010 B Bonds, and shall mail in each year to any Holder or Holders of the Series 2010 B Bonds, requesting the same, an annual report containing the following:

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

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants (and in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto, to the extent legally required), 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 2010 B Bonds and shall submit said report to the Authority

and the DEP, or any other original purchaser of the Series 2010 B 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 ARRA Assistance Agreement and this Bond Legislation and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the ARRA Assistance Agreement and the Act, the Issuer has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

The Issuer shall 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 ARRA Assistance Agreement or as promulgated from time to time.

The Issuer 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 and commencement of operation of the Project, the Issuer shall 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. RESERVED

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

Authority and to any Holder of any Bonds, or anyone acting for and in behalf of such Holder of any Bonds.

Section 7.11. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineers in the form attached to the ARRA Assistance Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Authority and the 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 shall provide and maintain competent and adequate 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 engineer shall certify to the Authority and the DEP and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a "Performance Certificate," a form of which is attached to the ARRA Assistance Agreement as Exhibit A, to the DEP within 60 days of the end of the first year after the Project is completed.

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

Section 7.13. Enforcement of Collections. RESERVED

Section 7.14. No Free Services. RESERVED

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 2010 B Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards

of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the ARRA Assistance Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the 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 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 facilities of the System 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 Issuer or the Governing Body 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 shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of

the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Issuer shall verify such bonds prior to commencement of construction.

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

Section 7.16. Mandatory Connections. RESERVED

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

The Issuer has obtained all permits required by State and federal laws for the acquisition and construction of the Project and has obtained all approvals for the issuance of the Series 2010 B Bonds required by State law, with all appeal periods having expired without successful appeal.

Section 7.18. Compliance with ARRA Assistance Agreement and Law. The Issuer shall perform, satisfy and comply with all the terms and conditions of the ARRA Assistance Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer shall provide the DEP with copies of all documents submitted to the Authority.

The Issuer shall also comply with all applicable laws, rules and regulations issued by the Authority, 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. [RESERVED]

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

Section 7.21. Contracts; Change Orders. A. The Issuer shall, simultaneously with the delivery of the Series 2010 B Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the DEP for written

approval. The Issuer shall obtain the written approval of the DEP before expending any proceeds of the Series 2010 B Bonds held in "contingency" as set forth in the Schedule attached to the Certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the DEP before expending any proceeds of the Series 2010 B Bonds made available due to bid or construction or project underruns.

Section 7.22. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2010 B Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the 2010 B Bonds.

## ARTICLE VIII

### INVESTMENT OF FUNDS

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

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

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, or more often as reasonably requested by the Issuer, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2010 B Bonds are Outstanding and as long thereafter as necessary to assure the exclusion of interest on the Series 2010 B Bonds from gross income for federal income tax purposes.

Section 8.02. Certificate as to Use of Proceeds; Covenants as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2010 B Bonds as a condition to issuance of the Series 2010 B Bonds. In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the Series 2010 B Bonds as may be necessary in order to maintain the status of the Series 2010 B Bonds as governmental bonds; (ii) that it shall not take, or permit or suffer to be taken, any action with respect to the Issuer's use of the proceeds of the Series 2010 B Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority or the DEP, as the case may be, from which the proceeds of the Series 2010 B Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed necessary by the Issuer, or requested by the Authority or the DEP, to ensure compliance with the

covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Bond Legislation.

The Issuer shall annually furnish to the Authority information with respect to the Issuer's use of the proceeds of the Series 2010 B Bonds and any additional information requested by the Authority.

## ARTICLE IX

### **DEFAULT AND REMEDIES**

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2010 B Bonds:

- (1) If default occurs in the due and punctual payment of the principal of or interest, if any, on the Series 2010 B 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 2010 B Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2010 B 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.

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.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services

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

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

### **PAYMENT OF BONDS**

Section 10.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid to the Holders of the Series 2010 B 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 monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2010 B Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2010 B Bonds from gross income for federal income tax purposes.

## ARTICLE XI

### **MISCELLANEOUS**

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2010 B Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2010 B 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 2010 B Bonds, shall be made without the consent in writing of the Registered Owners of the Series 2010 B 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, if any, thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein pledged therefor without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 2010 B 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 2010 B 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 2010 B 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 2010 B 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. All ordinances, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 11.06. 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 Recorder 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. 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 *Parsons Advocate*, a newspaper published and of general circulation in the Town of Davis, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Series 2010 B Bonds, and that any person interested may appear before the Governing Body upon a date certain, not less than ten days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

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Section 11.08. Effective Date. This Ordinance shall take effect immediately following the public hearing and final reading hereof.

Passed on First Reading: December 23, 2009

Passed on Second Reading: December 29, 2009

Passed on Final Reading  
Following Public Hearing: January 13, 2010



Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the Town of Davis on the 13th day of January, 2010.

Dated: January 22, 2010

[SEAL]

*Mary Louise Ball*  
Recorder

12.15.09  
217390.00002

5308622.1

EXHIBIT A

ARRA Assistance Agreement included in bond transcript as Document 3.

TOWN OF DAVIS

Stormwater Revenue Bonds, Series 2010 B  
(West Virginia SRF Program/ARRA)

SUPPLEMENTAL RESOLUTION

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

WHEREAS, the council (the "Governing Body") of the Town of Davis (the "Issuer") has duly and officially adopted and enacted a bond ordinance, effective January 13, 2010 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF A PUBLIC STORMWATER SYSTEM OF THE TOWN OF DAVIS AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$300,000 IN AGGREGATE PRINCIPAL AMOUNT OF STORMWATER REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA SRF PROGRAM/ARRA); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING AN ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, capitalized terms used herein and not otherwise defined herein shall

have the same meaning set forth in the Bond Ordinance when used herein;

WHEREAS, the Bond Ordinance provides for the issuance of Stormwater Revenue Bonds, Series 2010 B (West Virginia SRF Program/ARRA), of the Issuer, in an aggregate principal amount not to exceed \$300,000 (the "Bonds" or the "Series 2010 B Bonds");

WHEREAS, the Bond Ordinance has authorized the execution and delivery of the ARRA assistance agreement relating to the Series 2010 B Bonds, including all schedules and exhibits attached thereto, by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP") (the "ARRA Assistance Agreement"), 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 ARRA Assistance Agreement and the exact principal amount, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price and other terms of the 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 ARRA Assistance Agreement has been presented to the Issuer at this meeting;

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

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the ARRA Assistance Agreement be approved and ratified by the Issuer, that the exact principal amount, the date, the maturity date, the redemption provision, 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 TOWN OF DAVIS:

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 Stormwater Revenue Bonds, Series 2010 B (West Virginia SRF Program/ARRA), of the Issuer, originally represented by a single Bond, numbered BR-1, in the principal amount of \$270,925. The Series 2010 B Bonds shall be dated the date of delivery thereof, shall finally mature December 1, 2020, and shall bear no interest. The principal of the Series 2010 B Bonds shall be forgivable quarterly, on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011, to and including December 1, 2020, and in the amounts as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Series 2010 B Bonds. The Series 2010 B Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the redemption premium, if any, and

otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2010 B Bonds. The Series 2010 B Bonds are not subject to the SRF Administrative Fee.

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 authorize, approve, ratify and accept the ARRA Assistance Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the ARRA Assistance Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the ARRA Assistance Agreement and in the applications 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 4. The Issuer does hereby appoint and designate The Huntington National Bank, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Bonds under the Bond Ordinance and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 5. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds under the Bond Ordinance.

Section 6. The Issuer does hereby appoint and designate Grant County Bank, Davis, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 7. Series 2010 B Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2010 B Bonds Sinking Fund, as capitalized interest.

Section 8. Series 2010 B Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2010 B Bonds Reserve Account.

Section 9. The proceeds of the Series 2010 B Bonds shall be deposited in or credited to the Series 2010 B Bonds Construction Trust Fund as received from the DEP from time to time for payment of the costs of the Project, including, without limitation, costs of issuance of the Bonds and related costs.

Section 10. The Mayor and the Recorder are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered on or about January 22, 2010, to the Authority pursuant to the ARRA Assistance Agreement.

Section 11. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 12. The Issuer does hereby approve and authorize all contracts relating to the financing, acquisition and construction of the Project.

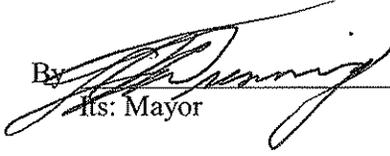
Section 13. The Issuer hereby determines to invest all monies in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such monies to be invested in such repurchase agreements or time accounts until further directed in writing by the Issuer. Monies in the Series 2010 B Bonds Sinking Fund and the Series 2010 B Bonds Reserve Account shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 14. The Special Conditions of the ARRA Assistance Agreement are attached as Exhibit A and hereby incorporated herein.

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

[Remainder of Page Intentionally Blank]

Adopted this 13th day of January, 2010.

By   
Its: Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the Town of Davis on the 13th day of January, 2010.

Dated: January 22, 2010

[SEAL]

*Mary Louise Ball*  
Recorder

12.16.09  
217390.00002

EXHIBIT A

ARRA Special Conditions

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

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

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

D. [RESERVED]

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

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

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

H. PURCHASING REQUIREMENTS – The Local Government shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an

item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of 8 specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

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

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

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

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

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

N. WAGE RATES – The Local Government shall require that all laborers and mechanics employed by its contractors and subcontractors be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor (DOL) in accordance with subchapter IV of chapter 32 of title 40, United States Code. The Local Government must require that

contractors and subcontractors obtain wage determinations from DOL and comply with DOL guidance and regulations implementing wage rate requirements applicable to ARRA funds.

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

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

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

R. BOND DESIGNATION – Each Local Bond funded by ARRA funds shall be designated “Series [2009] B” and shall contain “(WVCWSRF Program/ARRA)” in the bond name.

S. [RESERVED]

SRF-ARRA (GREEN RESERVE)  
(09/09)

ARRA ASSISTANCE AGREEMENT  
(GREEN RESERVE)

THIS WATER POLLUTION CONTROL REVOLVING FUND ARRA ASSISTANCE AGREEMENT (the "ARRA Assistance 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 DEPARTMENT OF ENVIRONMENTAL PROTECTION (the "DEP"), and the local government or other eligible recipient designated below (the "Local Government").

TOWN OF DAVIS (C-547350)  
(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 planning, design, construction, acquisition and/or improvement of wastewater treatment facilities;

WHEREAS, the United States Congress has provided additional capitalization grant funding under the Clean Water Act through the American Recovery and Reinvestment Act of 2009 (the "ARRA") for projects that address energy efficiency, water efficiency, green infrastructure and environmentally innovative processes as well as wastewater and stormwater treatment facilities (the "ARRA Project");

WHEREAS, pursuant to the provisions of Chapter 22C, Article 2 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 and the ARRA;

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 (U.S. General Services Administration; Catalog of Federal Domestic Assistance, 32nd Edition § 66.458 (1998)) 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 (the "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, the ARRA and the Act;

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

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

WHEREAS, the Local Government intends to construct, is constructing or has constructed an ARRA Project;

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

1.1 The Local Government has submitted an application to DEP for the ARRA Project more specifically described in Exhibit A hereto.

1.2 The ARRA Project has been designated as a project eligible for the Green Project Reserve as approved by United States Environmental Protection Agency (the "USEPA").

1.3 The Local Government shall covenant and agree to the terms and conditions with respect to the ARRA Project as set forth on Exhibit B hereto.

1.4 DEP has instructed the Authority to make a forgivable loan to the Local Government with the financial terms and conditions set forth in Exhibit C hereto.

1.5 DEP shall advance the proceeds of the loan for costs incurred with respect to the ARRA Project only upon receipt of invoices approved by DEP.

## ARTICLE II

2.1 The Local Government hereby warrants and represents that all information provided to the Authority and DEP in this ARRA Assistance Agreement, in the application or in any other application or documentation with respect to financing the ARRA 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 ARRA Assistance 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 Act, the SRF Regulations or this ARRA Assistance Agreement.

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

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

2.4 No waiver by any party of any term or condition of this ARRA Assistance Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, clause, phrase or other provision of this ARRA Assistance Agreement.

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

2.6 This ARRA Assistance Agreement shall terminate upon the earlier of: (i) written notice of termination to the Local Government from either the Authority or DEP; or (ii) January 28, 2010, if the ARRA Project is not under construction.

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

TOWN OF DAVIS

(SEAL)

By:   
Its: Mayor  
Date: January 22, 2010

Attest:

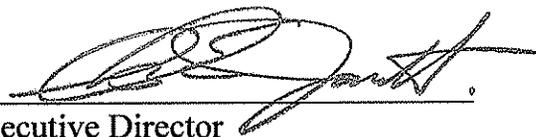
  
Its: Recorder

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION, DIVISION OF WATER AND WASTE MANAGEMENT

By:   
Its: Acting Director  
Date: January 22, 2010

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By:   
Its: Executive Director  
Date: January 22, 2010

Attest:

  
Its: Secretary-Treasurer

{C1664789.1}

## EXHIBIT A

### ARRA PROJECT DESCRIPTION

The Project consists of the construction of an approximately 1300 L.F. of 15" HDPE storm sewer pipe, one (1) storm sewer manhole; eleven (11) storm sewer inlets; twenty-six service lateral and yard drain connections, and miscellaneous surface restoration and all necessary appurtenances

## EXHIBIT B

### TERMS AND CONDITIONS

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

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

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

D. [RESERVED]

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

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

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

H. PURCHASING REQUIREMENTS – The Local Government shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of

specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

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

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

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

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

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

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

O. **OFFICE OF MANAGEMENT AND BUDGET (OMB) GUIDANCE** – The Local Government acknowledges and agrees that this ARRA Assistance is subject to all applicable provisions of implementing guidance for the American Recovery and Reinvestment Act of 2009 issued by the United States Office of

Management and Budget, including the Initial Implementing Guidance for the American Recovery and Reinvestment Act (M-09-10) issued on February 18, 2009 and available on [www.recovery.gov](http://www.recovery.gov), and any subsequent guidance documents issued by OMB.

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

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

R. BOND DESIGNATION – Each Local Bond funded by ARRA funds shall be designated “Series [2009] B” and shall contain “(WVCWSRF Program/ARRA)” in the bond name.

S. [RESERVED]

EXHIBIT C

DESCRIPTION OF LOCAL BONDS

A. Series B Bonds (ARRA)

Principal Amount of Local Bonds \$270,925

Purchase Price of Local Bonds \$270,925

The Local Bonds shall bear no interest. The Authority at the direction of the DEP shall forgive the principal amount of the Local Bonds. Principal forgiveness shall begin on March 1, 2011, and shall be made quarterly thereafter (March 1, June 1, September 1 and December 1 of each year) as set forth on Schedule Y attached hereto and incorporated herein by reference for a period of ten years.

The Local Bonds are fully registered in the name of the Authority.

The Local Government shall make monthly payments into the Renewal and Replacement Fund as required for at least the term of the Local Bonds.

The Local Government shall notify the Authority and the Council of any proposed bond indebtedness secured by the revenues of the System.

The Local Government may prepay the Local 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 Local Bonds which request must be filed at least 60 days prior to the intended date of issuance.

The Local Bonds are on a parity as to liens, pledge and source of and security for payment with the following obligations of the Local Entity: N/A.

Number of New Customers to Be Served: N/A

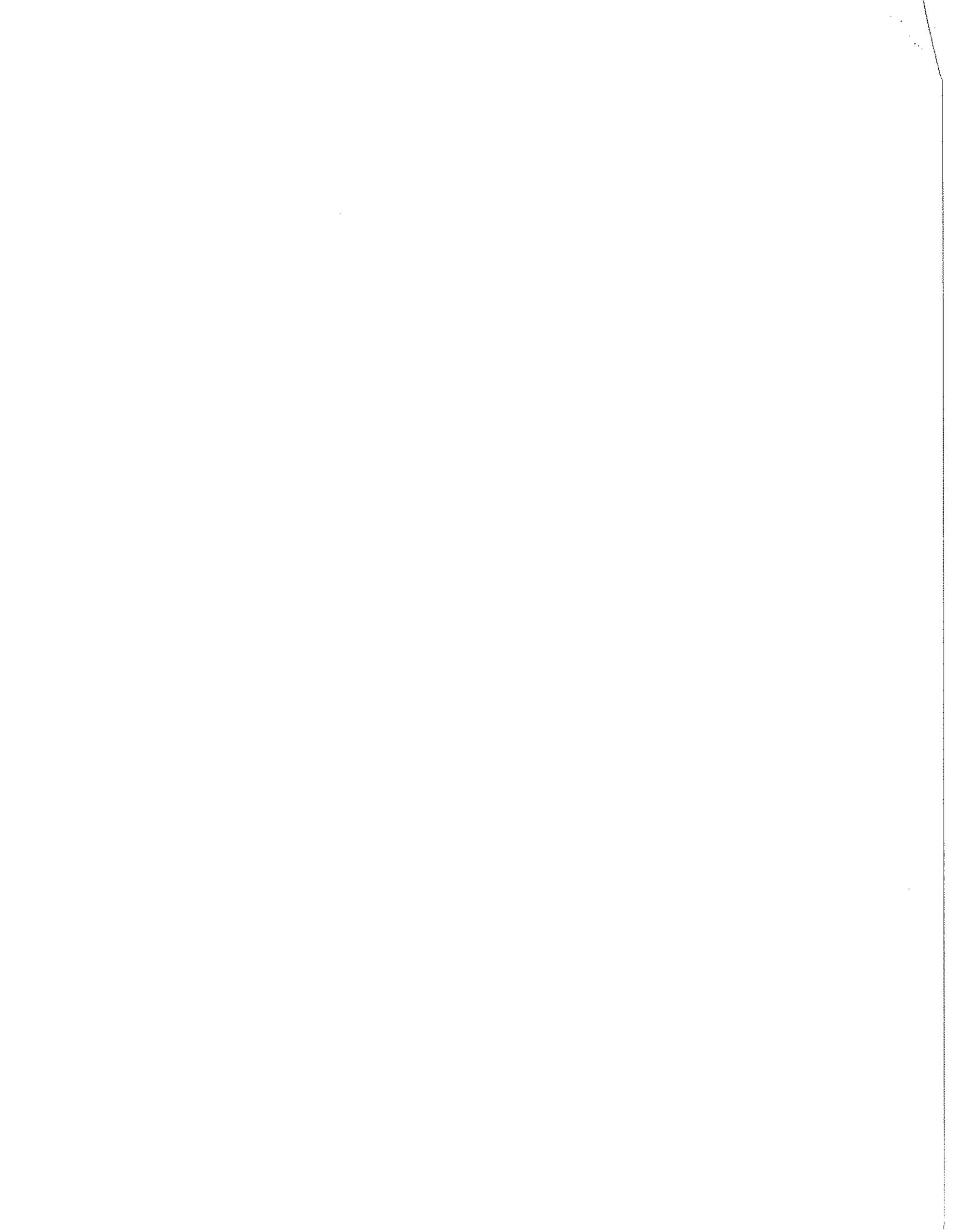
Location: N/A

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

Davis, Town of  
10 Years

Dated Date 1/22/10  
Delivery Date 1/22/10

		Series B	
Period Ending	Debt Service		Principal Forgiveness
12/1/10			
3/1/11	-6,774.00		-6,774.00
6/1/11	-6,774.00		-6,774.00
9/1/11	-6,774.00		-6,774.00
12/1/11	-6,774.00		-6,774.00
3/1/12	-6,773.00		-6,773.00
6/1/12	-6,773.00		-6,773.00
9/1/12	-6,773.00		-6,773.00
12/1/12	-6,773.00		-6,773.00
3/1/13	-6,773.00		-6,773.00
6/1/13	-6,773.00		-6,773.00
9/1/13	-6,773.00		-6,773.00
12/1/13	-6,773.00		-6,773.00
3/1/14	-6,773.00		-6,773.00
6/1/14	-6,773.00		-6,773.00
9/1/14	-6,773.00		-6,773.00
12/1/14	-6,773.00		-6,773.00
3/1/15	-6,773.00		-6,773.00
6/1/15	-6,773.00		-6,773.00
9/1/15	-6,773.00		-6,773.00
12/1/15	-6,773.00		-6,773.00
3/1/16	-6,773.00		-6,773.00
6/1/16	-6,773.00		-6,773.00
9/1/16	-6,773.00		-6,773.00
12/1/16	-6,773.00		-6,773.00
3/1/17	-6,773.00		-6,773.00
6/1/17	-6,773.00		-6,773.00
9/1/17	-6,773.00		-6,773.00
12/1/17	-6,773.00		-6,773.00
3/1/18	-6,773.00		-6,773.00
6/1/18	-6,773.00		-6,773.00
9/1/18	-6,773.00		-6,773.00
12/1/18	-6,773.00		-6,773.00
3/1/19	-6,773.00		-6,773.00
6/1/19	-6,773.00		-6,773.00
9/1/19	-6,773.00		-6,773.00
12/1/19	-6,773.00		-6,773.00
3/1/20	-6,773.00		-6,773.00
6/1/20	-6,773.00		-6,773.00
9/1/20	-6,773.00		-6,773.00
12/1/20	-6,774.00		-6,774.00
	<b>-270,925</b>		<b>-270,925</b>



***RESERVED***

TOWN OF DAVIS

Stormwater Revenue Bonds, Series 2010 B  
(West Virginia SRF Program/ARRA)

CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS

On this 22nd day of January, 2010, the undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, and the undersigned Mayor of the Town of Davis (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the date hereof, the Authority received the Stormwater Revenue Bonds, Series 2010 B (West Virginia SRF Program/ARRA), of the Issuer, in the principal amount of \$270,925, numbered BR-1, issued as a single, fully registered Bond, and dated January 22, 2010 (the "Series 2010 B Bonds").

2. At the time of such receipt, the Series 2010 B Bonds had been executed by the Mayor and the Recorder 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 Series 2010 B Bonds, of the sum of \$61,465, being a portion of the principal amount of the Series 2010 B Bonds. The balance of the principal amount of the Series 2010 B Bonds will be advanced by the Authority and the West Virginia Department of Environmental Protection to the Issuer as acquisition and construction of the Project progresses.

[Remainder of page intentionally left blank]

Dated as of the day and year first written above.

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

*Carol A. Cummings*

By: *[Signature]*

Its: Authorized Representative

TOWN OF DAVIS

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

Its: Mayor

12.16.09  
217390.00002

5308691

TOWN OF DAVIS

Stormwater Revenue Bonds, Series 2010 B  
(West Virginia SRF Program/ARRA)

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

The Huntington National Bank  
as Bond Registrar  
Charleston, West Virginia

Ladies and Gentlemen:

On this 22nd day of January, 2010, there are delivered to you herewith:

(1) Bond No. BR-1, constituting the entire original issue of the Town of Davis Stormwater Revenue Bonds, Series 2010 B (West Virginia SRF Program/ARRA), in the principal amount of \$270,925, dated January 22, 2010 (the "Bonds"), executed by the Mayor and the Recorder of the Town of Davis (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 January 13, 2010, and a Supplemental Resolution duly adopted by the Issuer on January 13, 2010 (collectively, the "Bond Legislation");

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

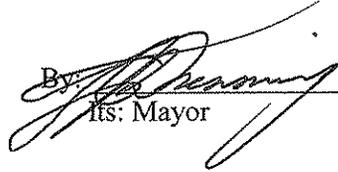
(3) Executed counterparts of the ARRA Assistance Agreement for the Series 2010 B Bonds, dated January 22, 2010, by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Department of Environmental Protection (the "ARRA Assistance Agreement"); and

(4) An executed opinion of nationally recognized bond counsel regarding the validity of the ARRA Assistance 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 \$61,465, 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 as of the day and year first written above.

TOWN OF DAVIS

By:  \_\_\_\_\_  
Its: Mayor

12.15.09  
217390.00002

SPECIMEN

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
TOWN OF DAVIS  
STORMWATER REVENUE BONDS, SERIES 2010 B  
(WEST VIRGINIA SRF PROGRAM/ARRA)

No. BR-1

\$270,925

KNOW ALL MEN BY THESE PRESENTS: The 22nd day of January, 2010, that the TOWN OF DAVIS, a municipal corporation and political subdivision of the State of West Virginia in Tucker 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 TWO HUNDRED SEVENTY THOUSAND NINE HUNDRED TWENTY FIVE DOLLARS (\$270,925), 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 March 1, 2011, to and including December 1, 2020, as set forth on the "Debt Service Schedule" attached as Exhibit B hereto and incorporated herein by reference. This Bond shall not be subject to the SRF Administrative Fee (as defined in the hereinafter describe Bond Legislation).

This Bond shall bear no interest. Principal installments of this Bond are forgivable quarterly as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

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 Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement (the "ARRA Assistance Agreement") by and among the Issuer, the Authority and the DEP, dated January 22, 2010.

This Bond is issued (i) to pay a portion of the costs of the acquisition and construction of a public stormwater system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds of this Series and related costs. The public stormwater 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 (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on January 13, 2010, and a Supplemental Resolution duly adopted by the Issuer on January 13, 2010 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THERE ARE NO OUTSTANDING OBLIGATIONS OF THE ISSUER WHICH WILL RANK ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT.

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, and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2010 B Bonds Reserve Account and unexpended proceeds of the Bonds. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

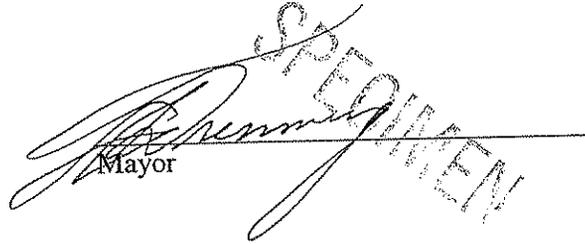
All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Bond Legislation,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

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal and interest on of 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 TOWN OF DAVIS has caused this Bond to be signed by its Mayor, and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated the day and year first written above.

[SEAL]

  
Mayor

ATTEST:

  
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

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

Date: January 22, 2010.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

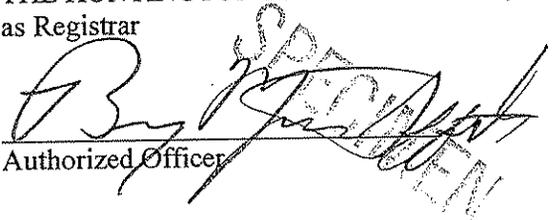
  
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$ 61,465	January 22, 2010	(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

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

EXHIBIT B

DEBT SERVICE SCHEDULE

# DEBT SERVICE SCHEDULE

Davis, Town of  
10 Years

Dated Date 1/22/10

Delivery Date 1/22/10

		Series B
Period		Principal
Ending	Debt Service	Forgiveness
12/1/10		
3/1/11	-6,774.00	-6,774.00
6/1/11	-6,774.00	-6,774.00
9/1/11	-6,774.00	-6,774.00
12/1/11	-6,774.00	-6,774.00
3/1/12	-6,773.00	-6,773.00
6/1/12	-6,773.00	-6,773.00
9/1/12	-6,773.00	-6,773.00
12/1/12	-6,773.00	-6,773.00
3/1/13	-6,773.00	-6,773.00
6/1/13	-6,773.00	-6,773.00
9/1/13	-6,773.00	-6,773.00
12/1/13	-6,773.00	-6,773.00
3/1/14	-6,773.00	-6,773.00
6/1/14	-6,773.00	-6,773.00
9/1/14	-6,773.00	-6,773.00
12/1/14	-6,773.00	-6,773.00
3/1/15	-6,773.00	-6,773.00
6/1/15	-6,773.00	-6,773.00
9/1/15	-6,773.00	-6,773.00
12/1/15	-6,773.00	-6,773.00
3/1/16	-6,773.00	-6,773.00
6/1/16	-6,773.00	-6,773.00
9/1/16	-6,773.00	-6,773.00
12/1/16	-6,773.00	-6,773.00
3/1/17	-6,773.00	-6,773.00
6/1/17	-6,773.00	-6,773.00
9/1/17	-6,773.00	-6,773.00
12/1/17	-6,773.00	-6,773.00
3/1/18	-6,773.00	-6,773.00
6/1/18	-6,773.00	-6,773.00
9/1/18	-6,773.00	-6,773.00
12/1/18	-6,773.00	-6,773.00
3/1/19	-6,773.00	-6,773.00
6/1/19	-6,773.00	-6,773.00
9/1/19	-6,773.00	-6,773.00
12/1/19	-6,773.00	-6,773.00
3/1/20	-6,773.00	-6,773.00
6/1/20	-6,773.00	-6,773.00
9/1/20	-6,773.00	-6,773.00
12/1/20	-6,774.00	-6,774.00
	<b>-270,925</b>	<b>-270,925</b>

## DEBT SERVICE SCHEDULE

Davis, Town of

10 Years

Dated Date 1/22/10

Delivery Date 1/22/10

		Series B
Period		Principal
Ending	Debt Service	Forgiveness
12/1/10		
3/1/11	-6,774.00	-6,774.00
6/1/11	-6,774.00	-6,774.00
9/1/11	-6,774.00	-6,774.00
12/1/11	-6,774.00	-6,774.00
3/1/12	-6,773.00	-6,773.00
6/1/12	-6,773.00	-6,773.00
9/1/12	-6,773.00	-6,773.00
12/1/12	-6,773.00	-6,773.00
3/1/13	-6,773.00	-6,773.00
6/1/13	-6,773.00	-6,773.00
9/1/13	-6,773.00	-6,773.00
12/1/13	-6,773.00	-6,773.00
3/1/14	-6,773.00	-6,773.00
6/1/14	-6,773.00	-6,773.00
9/1/14	-6,773.00	-6,773.00
12/1/14	-6,773.00	-6,773.00
3/1/15	-6,773.00	-6,773.00
6/1/15	-6,773.00	-6,773.00
9/1/15	-6,773.00	-6,773.00
12/1/15	-6,773.00	-6,773.00
3/1/16	-6,773.00	-6,773.00
6/1/16	-6,773.00	-6,773.00
9/1/16	-6,773.00	-6,773.00
12/1/16	-6,773.00	-6,773.00
3/1/17	-6,773.00	-6,773.00
6/1/17	-6,773.00	-6,773.00
9/1/17	-6,773.00	-6,773.00
12/1/17	-6,773.00	-6,773.00
3/1/18	-6,773.00	-6,773.00
6/1/18	-6,773.00	-6,773.00
9/1/18	-6,773.00	-6,773.00
12/1/18	-6,773.00	-6,773.00
3/1/19	-6,773.00	-6,773.00
6/1/19	-6,773.00	-6,773.00
9/1/19	-6,773.00	-6,773.00
12/1/19	-6,773.00	-6,773.00
3/1/20	-6,773.00	-6,773.00
6/1/20	-6,773.00	-6,773.00
9/1/20	-6,773.00	-6,773.00
12/1/20	-6,774.00	-6,774.00
	<b>-270,925</b>	<b>-270,925</b>

# DEBT SERVICE SCHEDULE

Davis, Town of

10 Years

Dated Date 1/22/10

Delivery Date 1/22/10

Period Ending	Debt Service	Series B
		Principal Forgiveness
12/1/10		
3/1/11	-6,774.00	-6,774.00
6/1/11	-6,774.00	-6,774.00
9/1/11	-6,774.00	-6,774.00
12/1/11	-6,774.00	-6,774.00
3/1/12	-6,773.00	-6,773.00
6/1/12	-6,773.00	-6,773.00
9/1/12	-6,773.00	-6,773.00
12/1/12	-6,773.00	-6,773.00
3/1/13	-6,773.00	-6,773.00
6/1/13	-6,773.00	-6,773.00
9/1/13	-6,773.00	-6,773.00
12/1/13	-6,773.00	-6,773.00
3/1/14	-6,773.00	-6,773.00
6/1/14	-6,773.00	-6,773.00
9/1/14	-6,773.00	-6,773.00
12/1/14	-6,773.00	-6,773.00
3/1/15	-6,773.00	-6,773.00
6/1/15	-6,773.00	-6,773.00
9/1/15	-6,773.00	-6,773.00
12/1/15	-6,773.00	-6,773.00
3/1/16	-6,773.00	-6,773.00
6/1/16	-6,773.00	-6,773.00
9/1/16	-6,773.00	-6,773.00
12/1/16	-6,773.00	-6,773.00
3/1/17	-6,773.00	-6,773.00
6/1/17	-6,773.00	-6,773.00
9/1/17	-6,773.00	-6,773.00
12/1/17	-6,773.00	-6,773.00
3/1/18	-6,773.00	-6,773.00
6/1/18	-6,773.00	-6,773.00
9/1/18	-6,773.00	-6,773.00
12/1/18	-6,773.00	-6,773.00
3/1/19	-6,773.00	-6,773.00
6/1/19	-6,773.00	-6,773.00
9/1/19	-6,773.00	-6,773.00
12/1/19	-6,773.00	-6,773.00
3/1/20	-6,773.00	-6,773.00
6/1/20	-6,773.00	-6,773.00
9/1/20	-6,773.00	-6,773.00
12/1/20	-6,774.00	-6,774.00
	<b>-270,925</b>	<b>-270,925</b>

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto  
\_\_\_\_\_  
the within Bond and does hereby irrevocably constitute and appoint  
\_\_\_\_\_, Attorney to transfer the said Bond on the books  
kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

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

\_\_\_\_\_

In the presence of:

\_\_\_\_\_



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

Writer's Contact Information

January 22, 2010

Town of Davis  
Stormwater Revenue Bonds, Series 2010 B  
(West Virginia SRF Program/ARRA)

Town of Davis  
Davis, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Department of Environmental Protection  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel to the Town of Davis (the "Issuer"), a municipal corporation and political subdivision of the State of West Virginia in connection with its \$270,925 Stormwater Revenue Bonds, Series 2010 B (West Virginia SRF Program/ARRA), dated the date hereof (the "Bonds").

We have examined the law and a certified copy of proceedings and other papers relating to the authorization of (i) an ARRA Assistance Agreement dated January 22, 2010, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Department of Environmental Protection (the "DEP"), and (ii) the Bonds to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal only to the Authority, bearing no interest, with principal forgivable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011, to and including December 1, 2020, all as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Bonds. The Series 2010 B Bonds are not subject to the SRF Administrative Fee.

The Bonds are issued for the purposes of (i) paying the costs of acquisition and construction of certain additions, betterments and improvements to the public stormwater system of the Issuer (the "Project"); and (ii) paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 16, Article 13 and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (collectively, the "Act"), and the bond ordinance duly enacted by the Issuer on January 13, 2010, as supplemented by the Supplemental Resolution duly adopted by the Issuer on January 13, 2010 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the ARRA Assistance Agreement has been undertaken. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the ARRA Assistance Agreement. All capitalized terms used herein and not defined herein shall have the same meanings set forth in the Bond Legislation.

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

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

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

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

4. The Bond Legislation and all other necessary ordinances and resolutions have been legally and effectively adopted or enacted 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 and Exhibits of the ARRA Assistance Agreement.

5. 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.

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.

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

No opinion is given herein as to the effect upon enforceability of the 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 the executed and authenticated Bond numbered BR-1, and in our opinion the form of said bond and its execution and authentication are regular and proper.

Very truly yours,



STEPHENS & JOHNSON PLLC

12.16.09  
217390.00002

January 22, 2010

Town of Davis  
Stormwater Revenue Bonds, Series 2010 B  
(West Virginia SRF Program/ARRA)

Town of Davis  
Davis, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Department of Environmental Protection  
Charleston, West Virginia

Ladies and Gentlemen:

We are counsel to the Town of Davis in Tucker County, West Virginia (the "Issuer"). As such counsel, we have examined copies of the approving opinion of Steptoe & Johnson PLLC, as bond counsel, an ARRA Assistance Agreement for the Series 2010 B Bonds, dated January 22, 2010, including all schedules and exhibits attached thereto, by and among the Issuer and the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), (the "ARRA Assistance Agreement"), a Bond Ordinance duly enacted by the Issuer on January 13, 2010, as supplemented by a Supplemental Resolution duly adopted by the Issuer on January 13, 2010 (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 same meaning set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein.

We are of the opinion that:

1. The Issuer has been duly created and is validly existing as a municipal corporation and political subdivision of the State of West Virginia, and the Mayor, Recorder and members of the council of the Issuer have been duly and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act on behalf of the Issuer in their respective capacities.

2. The ARRA Assistance Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the other parties thereto, constitute valid and binding agreements of the Issuer enforceable in accordance with its terms.

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, the ARRA Assistance Agreement and the consummation of the transactions contemplated by the Bonds, the ARRA Assistance Agreement and the Bond Legislation and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under any ordinance, order, resolution, agreement or other instrument to which the Issuer is a party or by which the Issuer or its properties are bound 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, consents, exemptions, orders, certificates and authorizations necessary for the issuance of the Bonds, the acquisition and construction of the Project, and the operation of the System.

6. 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, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the ARRA Assistance Agreement, the Bond Legislation, the acquisition and construction of the Project, the operation of the System for the validity of the Bonds.

7. We have ascertained that all successful bidders have provided the drug-free workplace affidavit, submitted their drug free workplace plan, and the contracts contain language that comply with the Drug Free Workplace Act, Article 1D, Chapter 21 of the West Virginia Code. Prior to the execution of construction contracts by the Issuer, we will verify that all successful bidders have made the required provisions for all insurance and payment and performance bonds and we will verify such insurance policies and bonds for accuracy. Prior to the execution of construction contracts by the Issuer, we will review the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, and verify that such surety bonds and policies: (1) are in compliance with the contracts; (2) are adequate in form, substance and amount to protect the various interests of the Issuer; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act, the Bond Legislation and the ARRA Assistance Agreement; and (5) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

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

Very truly yours,

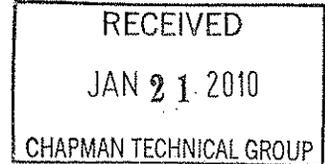
  
STEPH & JOHNSON PLLC



**JONATHAN B. ROBESON**

Attorney at Law

113 South 3rd Street  
Suite 2  
Oakland, MD 21550



phone: (301) 334-3458  
fax: (301) 334-3459  
email: jonbrobeson@aol.com

January 15, 2010

Town of Davis  
Mayor Joe Drenning  
P.O. Box 207  
Davis, WV 26260

West Virginia Department of Environmental Protection  
601-57<sup>th</sup> Street  
Charleston, WV 25304

West Virginia Water Development Authority  
180 Association Dr.  
Charleston, WV 25311

Re: Final Title Certification for Town of Davis

Ladies and Gentlemen:

I am counsel to the Town of Davis (the "Issuer") in connection with a proposed project to construct stormwater system improvements (the "Project"). I provide this final title certification on behalf of the Issuer to satisfy the requirements of the West Virginia Department of Environmental Protection (the "DEP") for the Project. Please be advised of the following:

1. I am of the opinion that the Issuer is a duly created and validly existing municipality possessed with all the powers and authority granted to municipalities under the laws of the State of West Virginia to construct, operate and maintain the Project as approved by the DEP.

2. The Issuer has obtained all necessary permits and approvals for the construction of the Project.

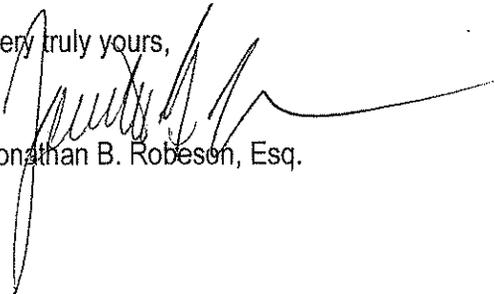
3. I have investigated and ascertained the location of, and am familiar with the legal description of, the necessary sites, including easements and/or rights of way, required for the Project as set forth in the plans for the Project prepared by Chapman Technical Group, the consulting Engineers for the Project.

Town of Davis  
West Virginia Department of Environmental Protection  
West Virginia Water Development Authority  
January 15, 2010  
Page 2

4. I have examined the records on file in the Office of the Clerk of the County Commission of Tucker County, West Virginia, the county in which the Project is to be located, and, in my opinion, the Issuer has acquired all of the necessary easements sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the facilities to be constructed.

5. All easements which have been acquired to date by the Issuer have been duly recorded in the Office of the Clerk of the County Commission of Tucker County to protect the legal interest of the Issuer.

Very truly yours,

  
Jonathan B. Robeson, Esq.

JBR/

TOWN OF DAVIS

Stormwater Revenue Bonds, Series 2010 B  
(West Virginia SRF Program/ARRA)

GENERAL CERTIFICATE OF ISSUER AND ATTORNEY ON:

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

We, the undersigned MAYOR and RECORDER of the Town of Davis in Tucker County, West Virginia (the "Issuer"), and the undersigned COUNSEL to the ISSUER, hereby certify this 22nd day of January, 2010, in connection with the Issuer's Stormwater Revenue Bonds, Series 2010 B (West Virginia SRF Program/ARRA), dated the date hereof (the "Bonds" or the "Series 2010 B Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning as set forth in the Bond Ordinance of the Issuer duly enacted January 13, 2010 and the Supplemental Resolution duly adopted January 13, 2010 (collectively, the "Bond Legislation").

2. NO LITIGATION: No controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the receipt of any grants, 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 of the Net Revenues or any other monies or security provided for the payment of the Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, sale and issuance of the Bonds, the acquisition and construction of the Project, the operation of the System, 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 duly and timely obtained and remain in full force and effect. Competitive bids for the acquisition and construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1 of the West Virginia Code of 1931, as amended, which bids remain in full force and effect.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval, execution and delivery by the Issuer of the ARRA Assistance Agreement, and the Issuer has met all conditions prescribed in the ARRA Assistance Agreement. The Issuer has or can provide the financial, institutional, legal and managerial capabilities necessary to complete the Project.

Upon issuance of the Series 2010 B Bonds, there will be no outstanding obligations of the Issuer which will rank either on a parity with or junior and subordinate to the Series 2010 B Bonds as to liens, pledge, source of and security for payment.

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

Bond Ordinance

Supplemental Resolution

ARRA Assistance Agreement

Public Service Commission Orders

Infrastructure and Jobs Development Council Approval

Charter and Rules of Procedure

Oaths of Office of Officers and Councilmembers

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

Minutes on Adoption and Enactment of Bond Ordinance and Supplemental Resolution

Evidence of Insurance

6. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is the "Town of Davis." The Issuer is a municipal corporation in Tucker 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 5 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:

Name	Date of Commencement of Office	Date of Termination of Office
F. Joe Drenning, Mayor	7/1/2009	6/30/2009
Louise Ball, Recorder	7/1/2009	6/30/2009
R. "Frenchie" Gravelle	7/1/2009	6/30/2009
Scott Eichelberger	7/1/2009	6/30/2009
Phil Ferguson	7/1/2009	6/30/2009
John Felton	7/1/2009	6/30/2009

The duly appointed and acting Counsel to the Issuer is Steptoe & Johnson PLLC, Charleston, West Virginia and the duly appointed Title Counsel to the Issuer is Jonathan B. Robeson, Oakland, Maryland.

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. Steptoe & Johnson PLLC expresses no opinion as to this paragraph.

8. MEETINGS, ETC.: All actions, ordinances, resolutions, orders and

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

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

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

The Issuer shall notify the Authority and the DEP of any proposed bond indebtedness secured by the revenues of the System.

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

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

11. INSURANCE. The Issuer will maintain or, as appropriate, will require all contractors to maintain worker's compensation, public liability, property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption

insurance, where applicable, in accordance with the Bond Legislation and the ARRA Assistance Agreement. All insurance for the System required by the Bond Legislation and the ARRA Assistance Agreement are in full force and effect.

12. VERIFICATION OF SCHEULE: The final Schedule B attached to the Certificate of Consulting Engineer, accurately represents the estimated costs of the Project, the sources of funds available to pay the costs of the Project and the costs of financing of the Bonds. Counsel to the Issuer does not certify as to this paragraph.

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

14. BOND PROCEEDS: On the date hereof, the Issuer received \$61,465 from the Authority and the DEP, being a portion of the principal amount 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.

15. 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 *Parsons Advocate*, a qualified newspaper published and of general circulation in the Town of Davis, together with a notice to all persons concerned, stating that the Bond Ordinance had been adopted and that the Issuer contemplated the issuance of the Bonds described in such Bond Ordinance, stating that any person interested may appear before the Governing Body at the public hearing held at a public meeting of Governing Body on the 13th day of January, 2010, at 6:30 p.m., at the Town Hall and present protests, and stating that a certified copy of the Bond Ordinance was on file at the office of the Recorder of the Issuer for review by interested parties during the office hours of the Issuer. At such hearing all objections and suggestions were heard by the 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.

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

17. CONFLICT OF INTEREST: No member, officer or employee of the Issuer or the Sanitary Board has a substantial financial interest, direct, indirect or by reason of

ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Bonds, 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.

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

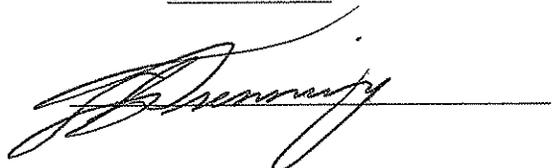
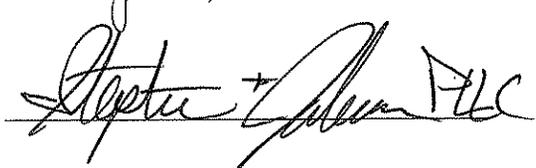
19.     CLEAN WATER ACT: The Project as described in the Bond Ordinance complies with Sections 208 and 303(e) of the Clean Water Act.

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

[Remainder of Page Intentionally Blank]

WITNESS our signatures and the official seal of the Town of Davis on the day and year first written above.

[CORPORATE SEAL]

<u>SIGNATURE</u>	<u>OFFICIAL TITLE</u>
	Mayor
Mary Louise Ball	Recorder
	Counsel to the Issuer

1.7.10  
127390.00002

## EXHIBIT A

### ARRA Special Conditions

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

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

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

D. [RESERVED]

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

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

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

H. PURCHASING REQUIREMENTS – The Local Government shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an

item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of 8 specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

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

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

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

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

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

N. WAGE RATES – The Local Government shall require that all laborers and mechanics employed by its contractors and subcontractors be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor (DOL) in accordance with subchapter IV of chapter 32 of title 40, United States Code. The Local Government must require that

contractors and subcontractors obtain wage determinations from DOL and comply with DOL guidance and regulations implementing wage rate requirements applicable to ARRA funds.

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

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

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

R. BOND DESIGNATION – Each Local Bond funded by ARRA funds shall be designated “Series [2009] B” and shall contain “(WVCWSRF Program/ARRA)” in the bond name.

S. [RESERVED]

TOWN OF DAVIS

Stormwater Revenue Bonds, Series 2010 B  
(West Virginia SRF Program/ARRA)

CERTIFICATE OF ENGINEER

I, Robert G. Belcher, Registered Professional Engineer, West Virginia License No. 13093, of Chapman Technical Group, Inc., St. Albans, West Virginia, hereby certify this 22nd day of January, 2010, as follows:

1. My firm is engineer for the acquisition and construction of certain extensions, additions, betterments and improvements (the "Project") to the existing stormwater system (the "System") of the Town of Davis (the "Issuer"), to be constructed in Tucker County, West Virginia, which acquisition and construction are being permanently financed 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 January 13, 2010, as supplemented by the Supplemental Resolution of the Issuer adopted January 13, 2010 (collectively, the "Bond Legislation") and the ARRA Assistance Agreement for the Series 2010 B Bonds, by and among the Issuer, the Authority and the West Virginia Department of Environmental Protection (the "DEP"), dated January 22, 2010 (collectively, the "ARRA Assistance Agreement").

2. The Bonds are being issued (i) to pay the costs of acquisition and construction of the Project; and (ii) to pay certain costs of issuance and related costs.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the DEP, and the Authority and any change orders approved by the Issuer, the Authority, the DEP and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least 12 years, if properly constructed, operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in the Schedule B attached hereto as Exhibit A and Steptoe & Johnson PLLC, counsel to the Issuer, will ascertain that all successful bidders have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds will be verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the successful bidders have provided the drug-free workplace affidavit as evidence of compliance with the provisions of Article 1D, Chapter 21 of the West Virginia

Code; (vi) the bid documents relating to the Project reflect the Project as approved by the DEP and the bid forms provided to the bidders contain the critical operational components of the Project; (vii) the successful bids include prices for every item on such bid forms; (viii) the uniform bid procedures were followed; (ix) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (x) the net proceeds of the Bonds, together with all other monies on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the DEP; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Final Total Cost of Project, Sources of Funds and Cost of Financing" for the Project.

4. I have received the Buy American Certification from each contractor.
5. The Project will serve 0 new customers.

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WITNESS my signature and seal on the day and year first written above.

CHAPMAN TECHNICAL GROUP

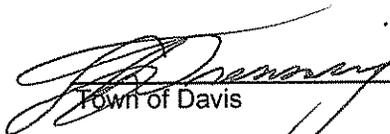


*Robert G. Belcher*  
Robert G. Belcher  
West Virginia License No. 13093

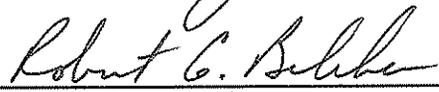
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**SCHEDULE B**  
**Town of Davis**

A. COST OF PROJECT	TOTAL	CWSRF / ARRA
1 Construction	130,308.00	130,308.00
2 Technical Services		
a Planning	5,000.00	5,000.00
b. Design Loan Interest & fees	23,420.00	23,420.00
c. Basic	7,180.00	7,180.00
d. Special	10,000.00	10,000.00
e Inspection	40,000.00	40,000.00
3 Legal	8,000.00	8,000.00
Accountant	0.00	0.00
4 Administrative	20,000.00	20,000.00
5 Contingency	6,517.00	6,517.00
6 TOTAL of Lines 1 through 5	250,425.00	250,425.00
<b>B. COST OF FINANCING</b>		
6 Capitalized Interest	0.00	0.00
7 Funded Reserve	0.00	0.00
8 Registrar	500.00	500.00
9 Bond Counsel (S&J)	20,000.00	20,000.00
10 Cost of Financing	20,500.00	20,500.00
11 TOTAL PROJECT COST line 6 plus line 10	270,925.00	270,925.00
<b>C. SOURCES OF OTHER FUNDS</b>		
12 Federal Grants	0.00	0.00
13 State Grants	0.00	0.00
14 TOTAL GRANTS Lines 12 through 13	0.00	0.00
15 Size of Bond Issue (Line 14 minus line 18)	270,925.00	270,925.00

  
 Town of Davis

1-13-10  
 Date

  
 Chapman Technical Group

1/13/10  
 Date

TOWN OF DAVIS

Stormwater Revenue Bonds, Series 2010 B  
(West Virginia SRF Program/ARRA)

CERTIFICATE AS TO USE OF PROCEEDS

The undersigned Mayor of the Town of Davis in Tucker County, West Virginia (the "Issuer"), being the official of the Issuer duly charged with the responsibility for the issuance of \$270,925 Stormwater Revenue Bonds, Series 2010 B (West Virginia SRF Program/ARRA), of the Issuer, dated January 22, 2010 (the "Bonds" or the "Series 2010 B Bonds"), on this 22nd day of January, 2010, hereby certifies as follows:

1. I am the officer of the Issuer duly charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances and estimates herein certified and duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Bond Ordinance duly enacted by the Issuer on January 13, 2010, as supplemented by Supplemental Resolution duly adopted by the Issuer on January 13, 2010 (the "Bond Legislation"), authorizing the Bonds.

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

3. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on January 22, 2010, the date on which the Bonds are being physically delivered in exchange for an initial advance of \$61,465, being a portion of the principal amount of the Series 2010 B Bonds, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

4. In the Bond Legislation pursuant to which the Bonds are issued, the Issuer has covenanted that it shall not take, or permit or suffer to be taken, any action with respect to Issuer's use of the proceeds of the Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Internal Revenue Code of 1986, as amended, and the temporary and permanent regulations promulgated thereunder or under any predecessor thereto (collectively, the "Code"), issued by the West Virginia Water Development Authority (the "Authority") or the West Virginia Department of Environmental Protection (the "DEP"), as the case may be, from which the proceeds of the Bonds are derived, to lose their status as tax-exempt bonds. The Issuer hereby covenants to take all actions necessary to comply with such covenant.

5. The Series 2010 B Bonds were sold on January 22, 2010, to the Authority, pursuant to a ARRA Assistance Agreement dated January 22, 2010, by and among the Issuer, the

Authority and the DEP, for an aggregate purchase price of \$270,925 (100% of par), at which time, the Issuer received \$61,465 from the Authority and the DEP, being the first advance of the principal amount of the Series 2010 B Bonds. No accrued interest has been or will be paid on the Series 2010 B Bonds. The balance of the principal amount of the Series 2010 B Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

6. The Series 2010 B Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying the costs of acquisition and construction of certain additions, betterments and improvements to the existing public stormwater system of the Issuer (the "Project"); and (ii) paying certain costs of issuance of the Bonds and related costs.

7. Within 30 days after the delivery of the Bonds, the Issuer shall enter into agreements which require the Issuer to expend at least 5% of the net sale proceeds of the Bonds on the Project, constituting a substantial binding commitment. The acquisition and construction of the Project and the allocation of the net sale proceeds of the Bonds to expenditures of the Project shall commence immediately and shall proceed with due diligence to completion, and with the exception of proceeds deposited in the Series 2010 B Bonds Reserve Account, 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 February 1, 2011. The acquisition and construction of the Project is expected to be completed by August 1, 2010.

8. The total cost of the Project is estimated at \$270,925. Sources and uses of funds for the Project are as follows:

SOURCES

Proceeds of the Series 2010 B Bonds	\$ 270,925
Total Sources	<u>\$ 270,925</u>

USES

Costs of Acquisition and Construction of the Project	\$ 250,425
Costs of Issuance	<u>\$ 20,500</u>
Total Uses	<u>\$ 270,925</u>

9. Pursuant to Article V of the Bond Legislation, the following special funds or accounts have been created or continued relative to the Series 2010 B Bonds:

- (1) Revenue Fund;

- (2) Renewal and Replacement Fund;
- (3) Series 2010 B Bonds Construction Trust Fund;
- (4) Series 2010 B Bonds Sinking Fund; and
- (5) Series 2010 B Bonds Reserve Account.

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

- (1) Series 2010 B Bonds proceeds in the amount of \$-0- will be deposited in the Series 2010 B Bonds Sinking Fund to cover capitalized interest.
- (2) Series 2010 B Bonds proceeds in the amount of \$-0- will be deposited in the Series 2010 B Bonds Reserve Account.
- (3) The balance of the proceeds of the Series 2010 B Bonds will be deposited in the Series 2010 B Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of the Project, including costs of issuance of the Series 2010 B Bonds and related costs.

11. Monies held in the Series 2010 B Bonds Sinking Fund will be used solely to pay principal of and interest on, if any, the Series 2010 B Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on monies in the Series 2010 B Bonds Sinking Fund and Series 2010 B Bonds Reserve Account, if any, will be withdrawn therefrom and deposited into the Series 2010 B Bonds 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 Legislation.

12. Work with respect to the acquisition and construction of the Project will proceed with due diligence to completion. The acquisition and construction of the Project is expected to be completed within 6 months of the date hereof.

13. The Issuer will take such steps as requested by the Authority to ensure that the Authority's bonds meet the requirements of the Code.

14. With the exception of the amount deposited in the Series 2010 B Bonds Reserve Account, if any, all of the proceeds of the Bonds will be expended on the Project within 12 months from the date of issuance thereof.

15. 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.

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

17. All property financed with the proceeds of the Bonds will be owned and held by (or on behalf of) a qualified governmental unit.

18. No proceeds of the Bonds will be used, directly or indirectly, in any trade or business carried on by any person who is not a governmental unit.

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

20. 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.

21. The Bonds are not federally guaranteed.

22. The Issuer has retained the right to amend the Bond Legislation authorizing the issuance of the Bonds if such amendment is necessary to assure that the Bonds remain public purpose bonds.

23. The Issuer has either (a) funded the Series 2010 B Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year with the proceeds of the Bonds, or (b) created the Series 2010 B Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2010 B Bonds Reserve Account holds an amount equal to the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year. Monies in the Series 2010 B Bonds Reserve Account and the Series 2010 B Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

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

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

expressed.

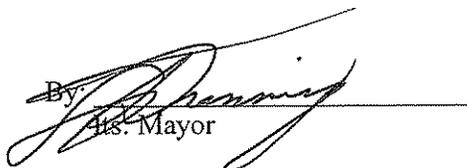
26. The Issuer will comply with instructions as may be provided by the Authority, at any time, regarding use and investment of proceeds of the Bonds, rebates and rebate calculations.

27. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

[Remainder of Page Intentionally Left Blank]

WITNESS my signature on the day and year first above written.

TOWN OF DAVIS

By   
Mts. Mayor

12.15.09  
217390.00002



A Certificate of the Council of the  
Terror of Davis of Tucker County  
was this day filed, showing that a  
change has been made, in the manner  
required by law, in the Corporate  
limits thereof, and that by such change  
the said Corporate limits are as follows  
Beginning at a Spruce Stump standing  
915 feet above the County bridge, over  
the Blackwater river, East of the town of  
Davis, the said Stump is marked  
46 x 19. thence N 6 1/2 degrees E. 3362 feet  
to a stone pile and stake marked "T"  
about 4 poles East of a road, thence  
N. 14 degrees W. 973 feet to a Spruce and  
Birch marked "20" and "50". thence S 28  
degrees W. 4545 feet to 2 dead Spruce, 2  
Hemlocks and a Birch, thence S. E. degrees  
35 W. 2511 feet to a Cuttim on the W. Va.  
R. Railroad; thence same bearing 4619 feet  
to the beginning, 2040 feet to a stake  
marked 20 x 40 thence 4619 feet to the  
beginning, containing in all 457 1/2 Acres  
more or less. It is therefore ordered that  
said change in said Corporate limits be  
and the same is hereby affirmed and  
confirmed, and the Clerk of this Court  
is directed to deliver to the said Council  
a certified copy of this order as per

AS PRACTICABLE AFTER THE RISING OF THIS COURT.

STATE OF WEST VIRGINIA

County of Tucker, to-wit:

I, Katheryn K. Mausy, Clerk of the Circuit Court of Tucker County, West Virginia, do hereby certify that the above is a true and correct copy of the Court Order entered on March 10, 1892, as the same appears in Chancery Order Book No. 4, at Page 14.

Given under my hand and official seal of said Court, this the 9th day of September, 1970.

*Katheryn K. Mausy* Clerk

ORDER CHANGING CORPORATE  
LIMITS  
TOWN OF DAVIS.

ENTER:

SIGNED) J. L. HOI

B. - P 14

March 10, 1892.

To The Honorable, The Circuit Court of Tucker County,

This is to certify that at the recent Municipal election held in Davis on the 7<sup>th</sup> day of Jan. 1892, it was, by a majority of all the votes cast both in the present corporate limits, and outside the present limits, but inside the proposed limits, carried to extend the corporate limits of the said Town of Davis to be as follows:

Beginning at a spruce stump standing 115 feet above the County Bridge over the Blackwater river, East of the town of Davis; the said stump is marked 46x19; thence  $N. 6\frac{1}{2}$  degrees E. 62 feet to a stone pile and stake marked X about four poles east of a run; thence  $N. 19$  degrees W. 973 feet to a spruce and birch marked 20x50; thence  $S. 78$  degrees W. 4545 feet to 2 dead spruce 2 Hemlocke and a birch; thence  $S. 0$  degrees 35 W. 2511 feet to a culvert on the W. & C. Railroad; thence same bearing 2040 feet to a stake marked 20x40; thence 4619 feet to the beginning, containing in all 4574 $\frac{1}{4}$  acres, more or less.

Given under our hands and corporate seal of the Town of Davis, this day of January, 1892.

E. C. Miller Mayor  
W. S. F. Hendrickson Recorder

**ORDINANCES**

—AND—

**BY-LAWS**

—OF THE—

**TOWN OF DAVIS,**

**TUCKER COUNTY, WEST VIRGINIA,**

**TO WHICH IS ATTACHED**

**THE ACT OF INCORPORATION,**

**WITH ALL CHANGES, ALTERATIONS AND AMENDMENTS OF  
ORDINANCES UP TO FEBRUARY 1, 1899.**

**PAID**

**DAVIS, W. VA.,  
PRESSES OF DAVIS REPUBLICAN,  
1899.**

THE FIRST

OFFICERS OF THE CORPORATION.

\_\_\_\_\_

MAYOR.

A. C. FINLEY.

\_\_\_\_\_

COUNCILMEN.

F. S. LANDSTREET,

JOHN RAESE,

J. M. DAVIS.

WILLIAM RADY,

J. W. HOCKMAN.

\_\_\_\_\_

SERGEANT.

E. J. LEITH.

\_\_\_\_\_

RECORDER.

F. S. FILLER.

CHAPTER I.

CHARTER

—OF THE—

TOWN OF DAVIS.

AT a Circuit Court (Law side thereof), held in and for the County of Tucker, at the Court House thereof, on Friday, the 20th day of December, 1889, the following order was entered:

Upon the filing of the petition of F. S. Landstreet, Howard J. Wagoner, O. L. Lockwood, T. E. Wilson, J. M. Smith, and J. W. Johnston, by their attorney, W. B. Maxwell praying for the incorporation of the town of Davis, in the County of Tucker, and State of West Virginia, together with the certificate as required by Chapter 47 of the Code of West Virginia, and it appearing to the satisfaction of the Court upon satisfactory proof that all the provisions of Chapter 47, Code of West Virginia, have been complied with: It is therefore ordered that the Clerk of this Court do issue a certificate of incorporation of said town of Davis, in substance and form as follows:

The certificate, under oath of H. N. Worden, C. G. Lashley, and J. F. Giffin, was this day filed, showing that a majority of all the qualified votes residing within the following boundary, to-wit:

Beginning at a Spruce stump, standing 115 feet above the county bridge over Blackwater river, east of the town of Davis and on the left bank of said stream. The said stump is marked "46x19" and "corner", thence N. 27° 30' W., 850 feet, to

the middle of Beaver creek, and in all 2093 feet to a large hemlock, placed and marked "20x93" and "corner", thence S. 78° 19' W. 3615 feet, to a point on stone culvert on West Virginia Central Railroad, in center of said culvert, transversely, and 7 feet south of the center of the railroad track; thence 2040 feet S. 0° 35' W., to a stake, driven and marked "20x40" and "corner"; thence 450 feet to the middle of Blackwater river, and in all 4619 feet to the beginning; containing 189½ acres, more or less, have been given in due form of law, in favor of the corporation of the town of Davis, in the County of Tucker, bounded as herein set forth. And it appearing to the satisfaction of the Court that all the provisions of Chapter 47 of the Code of West Virginia, have been complied with by the applicants for said incorporation, the said town is duly authorized, within the corporate limits aforesaid, to exercise all the corporate powers conferred by the said Chapter, from and after the date of this certificate.

A. COPY, TESTE:

JOHN J. ADAMS,

CLERK.

## CHAPTER II.

### PREScribing STANDING RULES FOR THE GOVERNMENT OF THE COUNCIL, OF THE TOWN OF DAVIS.

- | RULE.   | RULE.   |
|---|---|
| 1 Meeting, when held.   | 16 Of the previous question.                            |
| 2 Power to call special meetings.   | 17 A division of the question.                          |
| 3 Mayor to preside at all meetings.   | 18 When yeas and nays to be taken and recorded.         |
| 4 In the absence of the Mayor the Recorder to preside, in the absence of both, a Councilman may preside; their powers and duties. | 19 Any one member may enter a protest.                  |
| 5 On questions of order.  | 20 How Council called.                                  |
| 6 How a member transgressing the rules, called to order, may explain by permission.   | 21 Of first and second reading of an ordinance.         |
| 7 How appeals shall be allowed.   | 22 Of privileged motions.                               |
| 8 How the question upon appeal shall be put.  | 23 A motion to adjourn always in order.                 |
| 9 Every member to vote unless excused.  | 24 Motions not debatable.                               |
| 10 When motions to be in writing.   | 25 Of the recommitment of an ordinance or a resolution. |
| 11 A motion when debatable—when it may be withdrawn.  | 26 Of filling blanks.                                   |
| 12 Order of proceedings.  | 27 Committees—how appointed.                            |
| 13 Minutes preceding meeting—to be read, signed, and attested.  | 28 Of standing committees.                              |
| 14 The order of proceedings—how suspended or changed.   | 29 The number of each committee.                        |
| 15 How questions put and vote taken.  | 30 The reports to be in writing.                        |
|   | 31 Leaves of absence.                                   |
|   | 32 Charges against town officers.                       |
|   | 33 Order of debate.                                     |
|   | 34 Passage of ordinances.                               |
|   | 35 Petition for remission of fines.                     |

SECTION 1. Be it ordained by the Council of the Town of Davis, That the following standing rules shall be and the same are hereby prescribed for the government of the Council

RULE 1. The meetings of the Council shall be held at the Council Chamber, at such times as may be fixed by general order or special order of adjournment.

**RULE 2.** The Mayor, presiding officer of the Council, or any three members, shall have power to call special meetings, by reasonable notice to each member within the town.

**RULE 3.** The Mayor shall take the chair at the hour appointed for the Council to meet, and having called the members to order, shall preserve decorum and enforce a strict observance of the rules.

**RULE 4.** In the absence of the Mayor, the Recorder shall preside, and in the absence of the Mayor and Recorder, the Council may appoint a chairman, or presiding officer, by a vote of a majority of the members present, who shall exercise all the powers, and discharge all the duties, pertaining to the office of Mayor during the absence of the Mayor or Recorder.

**RULE 5.** All questions of order shall be decided by the Mayor, or other presiding officer, subject to an appeal to the Council.

**RULE 6.** If any member transgress the rules of the Council, the Mayor, or presiding officer shall, or any member may call him to order; in which case the member called to order, shall immediately sit down and be silent, unless permitted by the Council to explain; and the Council, if applied to, shall decide the matter.

**RULE 7.** An appeal from the decision of the Mayor, or other presiding officer, upon a question of order, shall be allowed to be put only upon the demand of two members beside the applicant.

**RULE 8.** The question upon an appeal shall be put in the following form: "Shall the decision of the chair be reversed?"

**RULE 9.** Every member present when a vote is put, shall vote, unless the Council for special reasons shall excuse him.

**RULE 10.** Every motion or proposition shall be reduced to writing, if the Mayor or any member require it.

**RULE 11.** When a motion is made and seconded, it shall be deemed to be in possession of the Council, and shall be

stated by the Mayor, or being in writing, read by the Recorder, previous to debate; such motion may be withdrawn at any time before decision or amendment, by consent of the Council.

**RULE 12.** The order of proceedings at the meetings of the Council shall be as follows:

### ORDER OF BUSINESS.

**FIRST**—The unfinished business appearing on the minutes.

**SECOND**—The report from committees.

**THIRD**—Reports from any officer or officers of the town.

**FOURTH**—Petitions of all kinds.

**FIFTH**—Original propositions from any member.

**RULE 13.** At each meeting the journal of the preceding meeting shall be first read, and being enacted, if necessary, shall be signed by the Mayor and attested by the Recorder.

**RULE 14.** The order of proceedings may be suspended or changed at any meeting, for the time only, by a vote of a majority of the members present.

**RULE 15.** All questions shall be put in this form—"as many as are in favor, (as the case may be,) 'Say Aye!' 'Contrary, No!'"—and in doubtful cases, or where an affirmative vote of two-thirds of the members present is necessary to carry the proposition, the Mayor may direct, or any member may call for a division.

**RULE 16.** The call for the previous question shall be decided by the following proposition. "Shall the main question be put?" The call to be admitted only on the demand of two members, and until decided shall preclude all amendment or debate of the main question.

**RULE 17.** Any member may call for a division of the question when the same will admit thereof.

**RULE 18.** The yeas and nays shall be taken and recorded upon any question before Council upon the demand of any one

member, but such call shall not preclude amendments before the main question is put.

**RULE 19.** Any one member shall have the liberty to protest against any ordinances of the Council which he may think injurious to the public or any individual, and have the reasons of his protest entered upon the journal.

**RULE 20.** When the Council are called, the names shall be in alphabetical order.

**RULE 21.** The first reading of an ordinance proposed shall be for information, and if objections be made, the question shall be, "Shall the proposition be rejected?" If no objection be made, or the question to reject be lost, the ordinance shall go to a second reading without further question, after which it shall be subject to amendment or debate.

**RULE 22.** When a question is before the Council, no motion shall be received unless to amend, postpone or commit, the main question, or to adjourn.

**RULE 23.** A motion to adjourn shall always be in order, unless the Council is engaged in voting.

**RULE 24.** Motion to adjourn or lay on the table, shall be decided without debate.

**RULE 25.** An ordinance or resolution, after reference to a committee and a report thereon, may be recommitted at any time previous to its final passage.

**RULE 26.** In filling blanks, the first name, the longest time or the largest sum shall be first put.

**RULE 27.** All standing committees shall be appointed by the Council; all select committees shall be appointed by the Mayor, unless otherwise ordered by the Council.

**RULE 28.** The standing committees shall be as follows, viz :

On Ordinances. On Finances. On Streets and Alleys.  
On Sanitary Affairs.

**RULE 29.** The standing committees shall each consist of three members, unless otherwise ordered at the time.

**RULE 30.** All reports of committees, if ordered by the Council, shall be in writing, signed by the members or chairman, and shall specify in the form of a resolution or ordinance at the close of the report, such action in the premises as the committee may recommend as proper for the Council to adopt.

**RULE 31.** No member shall leave a meeting of the Council without permission.

**RULE 32.** Charges against any officer of the town shall be preferred in writing and verified by affidavit, and having been read, shall be laid on the table or referred to a committee for investigation without debate.

**RULE 33.** When a member is about to speak, he shall rise and respectfully address himself to the Mayor, and the Mayor shall pronounce the name of the member entitled to speak when more than one member claims that right at the same time, but no member shall speak more than twice on the same question without leave from the Council.

**RULE 34.** No ordinance shall be put on its final passage until it shall have passed its third reading.

CHAPTER III.

ORDINANCES OF THE TOWN OF DAVIS.

An Ordinance

ADOPTED AT A MEETING OF THE COUNCIL  
HELD ON THE 17TH DAY OF MARCH, 1890,  
ENACTING, ORDAINING, AND PUBLISHING THE ORDINANCES  
OF THE TOWN OF  
DAVIS.

Sec. 1 Ordinances, Sec. 2 Rules of Construction,  
Sec. 3 In force from passage.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS :  
SECTION 1. That the ordinances of the Town of Davis  
be and are hereby enacted, ordained, ratified, published and  
declared to be in full force and effect as follows, to-wit :

ORDINANCE I.  
CONCERNING ELECTIONS.

- SECTION.
- 1 Time and place of holding elections
  - 2 Appointment of Commissioners and Clerks.
  - 3 When Polls to be opened.
  - 4 Oaths of Officers of Election.
  - 5 Voters, who are.
  - 6 Recorder to provide poll books.
  - 7 How poll books headed.
  - 8 Method of voting and duty of Commissioners.
  - 9 Poll books and ballots to whom delivered.
  - 10 Result declared.
  - 11 Failure to qualify.
  - 12 Contest.
  - 13 Allowance of Commissioners, etc.

taken before any person authorized to administer oaths; and shall appear properly certified on one of the poll books of every election.

SEC. 5. All persons who have been BONA FIDE residents of the town for six months next preceding an election held therein, and who are qualified voters under the Constitution and Laws of the State, and none others, shall be entitled to vote at any election held in said town. But no person shall be deemed a resident of said town by reason of being a student of any school or college therein, or being stationed there for any purpose.

SEC. 6. The Recorder shall at the expense of the town, provide and cause to be delivered in proper time, at the place of voting, two poll books, with the oaths of the Commissioners and Clerks written or printed thereon, ballot boxes, tally papers for returns, and whatever else is necessary for holding the election and making due return thereof.

SEC. 7. Every poll book shall bear on the first page thereof, the following heading: "Names of all persons voting at the election in the town of Davis, this.....day of....."

SEC. 8. The method of voting, and the duties of the Commissioners in conducting said election and ascertaining the result, shall be the same as that prescribed by the Statutes of this State in regard to general elections.

SEC. 9. The Commissioners, or one of them, shall within one day after the day on which the election was held, deliver the ballots, sealed up as provided by law, and one set of the poll books and one of the certificates provided by law, to the Recorder, and the other certificate and set of poll books to the Clerk of the County Court of Tucker county.

SEC. 10. The Council shall, on the following Thursday after the election, meet and examine the returns of the Commissioners, declare the result, and cause certificates to be issued to the successful candidates, if required. The proceedings of such meeting and the result of said election shall be entered

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS:

SEC. 1—As amended: That the annual Town election shall be held on the first Thursday in January, at such place as the Council may designate. And that at said election there shall be elected a Mayor, a Recorder, five Councilmen, Town Treasurer, Chief of Police, Street Commissioner and Assessor. Of these, the Mayor, Recorder, and five Councilmen shall be freeholders of the town. Special elections for special purposes may be held at such times and places as the Council may designate.

SEC. 2—As amended: The Council shall, before each annual election, appoint three voters, residents of the Town, to act as Commissioners of the election for each voting precinct in said Town, who shall be residents in the precinct from which they are appointed, and the Commissioners so appointed for each precinct, shall appoint two clerks to assist in holding said election. Any one or more of said Commissioners, for their respective precincts, in the absence, or refusal, or inability of the others to act, may call to his or their assistance, any qualified voter or voters present to act as such Commissioner or Commissioners. And if none of the Commissioners so appointed attend the place of voting, or if in attendance, all of said Commissioners fail or refuse to act, any three voters of the town may be appointed by the voters present to act as such Commissioners.

SEC. 3—The polls shall be opened as soon as practicable after sunrise and shall be closed at sunset.

SEC. 4—Every Commissioner and Clerk, so appointed as aforesaid, shall before entering upon the discharge of his duties, take and subscribe an oath to the following effect: "I, A. B., do solemnly swear that I will support the Constitution of the United States and the Constitution of this State, and that in the election about to be held, I will faithfully and impartially discharge the duties of my appointment to the best of my skill and judgment. So help me God." Said oath may be

upon the journal as the proceedings of other meetings, and the Council shall at said meeting, upon the demand of any candidate voted for at such election, open and examine the sealed package of ballots and recount the same, but in such case they shall seal up the same again along with the original envelope in another envelope

SEC. 11. If any person elected to an office shall fail to qualify within twenty days after his election, he shall be deemed to have abandoned any claim to the office, and the Council shall proceed at once to fill the vacancy.

Act by Con. 11-17-95  
SEC. 12.—As amended: Any person intending to contest an election of another to any office in said town, shall, within ten days after the result of the election is declared, give him notice in writing of such intention, and a list of the votes he will dispute with objections to each of the votes rejected for which he will contend. If the contestant objects to the legality of the election or the qualification of the person so returned as elected, the notice shall set forth the facts on which said objection is founded.

The person whose election is so contested, shall, within ten days after receiving such notice, deliver to the contestant a like list of the votes he will dispute, with his objections to each and of the rejected votes for which he will contend. And if he has any objections to the qualifications of the contestant, he shall specify in writing, the facts on which the objection is founded. Each party shall append to his notice his affidavit, that he verily believes the matters and things therein set forth, to be true.

And such contest shall be heard and determined in all other respects, by the Council, according to the law for contested elections for County and District offices. And that said person contesting the election of another, shall also file a notice with the Recorder of said town, which shall be an exact copy of the one served on the party whose election is contested.

The Mayor shall, as soon as said notice is filed with the

Recorder, convene the Council to hear and determine such contest.

SEC. 13. Every Commissioner and Clerk shall be allowed one dollar and fifty cents for each day he shall serve.

appointment by the Council, from among the citizens of the Town, for the unexpired term of office.

SEC. 2. The duties and powers of the various officers shall be as prescribed by the Statutes of the State of West Virginia, relating to the incorporations of towns and villages, except as modified by ordinance or resolution of the Council. Before entering upon the discharge of his duties, every person elected or appointed to office in said town, shall, within twenty days after his election or appointment, take and subscribe the following oath or affirmation: "I, A. B., do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of this State, and that I will faithfully discharge the duties of the office of. ....of the town of Davis, to the best of my skill and judgment, so help me God." The oath shall be taken before the Mayor or any person authorized to administer oaths, and a certificate thereof shall be filed with the Recorder.

SEC. 3. No member of the Council shall vote upon an order, measure, resolution, or proposition in which he may be interested, other than a citizen of said town. The Mayor and Recorder shall have votes as members of the Council, and in case of a tie the presiding officer, for the time being, shall have the casting vote.

SEC. 4. The Mayor shall be the chief executive officer of the city, town, or village, and shall take care that the orders, by-laws, ordinances, acts and resolutions of the Council thereof, are faithfully executed. He shall be EX-OFFICIO a justice and conservator of the peace within the city, town or village, and shall within the same, have, possess, and exercise all the powers, and perform all the duties vested by law in a justice of the peace, except that he shall have no jurisdiction in civil cases of action, arising out of the corporate limits of the city town or village. He shall have the same power to issue attachments in civil suits as a justice of his county has, though the cause of action arose out of his city, town, or village. But in such cases he shall have no power to try the

## ORDINANCE II. CONCERNING OFFICERS' DUTIES, FEES, &C., AS AMENDED BY COUNCIL, NOV. 17, 1898.

SECTION.	SECTION.
1 Appointments, Vacancies — how filled.	10 Assessor.
2 Duties and Powers of Officers and Oath.	11 Street Commissioner.
3 Right to Vote in Council.	12 Auditing Committee.
4 Mayor.	13 Finance Committee.
5 Recorder.	14 Street Committee.
6 Compensation of Council.	15 Ordinance Committee.
7 Duty of Treasurer.	16 Salary of Officers.
8 Repealed.	17 Witness Fees.
9 Chief of Police.	18 Officers Fees.
	19 Neglect of Duty.

### BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS :

SEC. 1. The Council shall annually at its first meeting, in February, or as soon thereafter as is practicable, ratify the sentiment of the people as expressed by their votes, and appoint a Chief of Police: as their Sergeant, Town Treasurer or Collector, Street Commissioner, and Assessor. All of said offices shall be filled by the appointment of the same parties returned as elected at the regular Town election, but said appointments shall be made by the Council in compliance with the Code of West Virginia. And said Council shall, at the same meeting, appoint an Auditing Finance Committee, consisting of three citizens of the Town, and such other officers as may be deemed proper, to continue in office at its pleasure. All Officers or Committees appointed under this Section, shall continue in office at the pleasure of the Council or until their successors are duly qualified. Vacancies in the office of Mayor, Recorder, Councilman, Town Treasurer, Chief of Police or Sergeant, Street Commissioner or Assessor, shall be filled by

same, but such attachments shall be returnable and be heard before some justice of his county. Any warrant or other process issued by him may be executed at any place within the county. He shall have control of the police of the city, town or village, and may appoint special police officers whenever he deems it necessary; and it shall be his duty especially to see that the peace and good order of the city, town or village are preserved, and that persons and property therein are protected, and to this end he may cause the arrest and detention of all riotous and disorderly persons in the city, town, or village before issuing his warrant therefor. He shall have power to issue executions for all fines, penalties, and costs imposed by him, or he may require the immediate payment thereof, and in default of such payment, he may commit the party in default, to the jail in the county in which such city, town, or village is situated, or other place of imprisonment in such corporation, if there be one, until the fine or penalty and costs shall be paid; but the term of imprisonment in such case shall not exceed thirty days. He shall, from time to time, recommend to the Council such measures as he may deem needful for the welfare of the city, town or village. The expense of maintaining any person committed to the jail of the county by him, except it be to answer an indictment, or be under the provisions of Sections two hundred and twenty-seven and two hundred and twenty-eight of Chapter fifty of the Code, shall be paid by the city, town or village. But such Mayor shall not receive any money belonging to the State, or to individuals, unless he shall give the bond and security required of a justice of the peace, by Chapter fifty of the Code; and all the provisions of said Chapter relating to moneys received by justices, shall apply to like moneys received by such Mayor. The Mayor shall receive a salary of One Hundred and Five Dollars (\$105.00) for the year.

SEC. 5. It shall be the duty of the Recorder to keep the journal of the proceedings of the Council, and have charge of and preserve the records of the city, town, or village. In the absence from the city, town, or village, or sickness of the

Mayor, or during any vacancy in the office of Mayor, he shall perform the duties of the Mayor, and be vested with all his powers. And he shall receive as a salary for the year, the sum of One Hundred Dollars (\$100.00).

SEC. 6. Each member of the town Council shall be paid One Dollar for attendance at each and every meeting, but no member shall be allowed attendance for more than two meetings in any one month, and each member of the Council, together with the Mayor and Recorder, shall be fined One Dollar, each, for being absent from a meeting, except in case of sickness or absence from the town.

SEC. 7. It shall be the duty of the town Treasurer to collect the city, town, or village taxes, levies and assessments for said town, and said collector shall commence his collections, yearly, on the 1st day of August, or as soon thereafter as he receives copies of the tax bills from the Assessor, or town Council, of said town.

It shall be the duty of said Treasurer, or collector, to give notice by posting at six of the most public places in the town of Davis, for at least 20 days before the time appointed, that he will be in his office in the town of Davis, or some other public or convenient place for the people of said town, between the 30th day of September and the 1st day of November following, for the purpose of receiving taxes due by the people residing or paying taxes in said town, and that he will make a discount of 2 1/2 per centum to all such persons as shall pay all their taxes on or before the last day of October of that year, and not otherwise. Which discount shall be made on the whole amount of taxes and levies of every kind, so collected by said Treasurer, or Collector, and shall be deducted from his commission. Such notice shall be posted on or before the 1st day of September, and said Treasurer, or Collector, failing to post the same as herein required, shall forfeit \$100.00 for every such failure.

Any goods or chattels in the town, belonging to the person or estate assessed with taxes, may be distrained therefor

after the 1st day of September in the year for which the taxes were assessed, or before that day if such goods or chattels are about to be disposed of, or about to be removed from the town, and such Treasurer shall make such distraint, or levy, and sell thereunder any such goods according to the law of West Virginia, that govern and control a sheriff for the collection of taxes by distraint or levy.

It shall be the duty of the town Treasurer, at least once in 6 months, during his continuance in office, or oftener, if required by the Council, to render an account of the taxes, fines, penalties, and assessments and other claims in his hands for collection, and return a list of such as he shall not have been able to collect, by reason of insolvency, removal, or otherwise, stating the facts as they are, to which list he shall make an affidavit, that he has used due diligence to collect the same, but has been unable to do so, and if the Council shall be satisfied of the correctness of said list, it shall allow the town Treasurer a credit for said claims. Said Treasurer shall receive for his services in the collection of taxes and assessments, a compensation of 2 per centum on all license fees, and 5 per centum on all other bills or money of any kind, or description, whatever, coming into his hands by virtue of his office, except, any amount paid into said Treasurer's hands by any other officer of said town, including the amount paid to said Treasurer for the amount of fines from the Mayor's Dock- et, or the amount of money collected as Scale Fees from the town Weighman of said town, and from any funds coming from the last named sources, said Treasurer shall receive no commission, whatever, from same. And that said Treasurer shall not receive any commission or per cent for the amount of Railroad taxes paid into the Treasurer's hands by order of the Council from the State Auditor.

And further, that said Treasurer shall not, hereafter, receive any commission or compensation for any money paid into his hands as said Treasurer, by reason of the sale of any bonds of said town for any purpose, whatever.

And said Treasurer shall pay over any and all money in

his hands belonging to said town, upon the order of said Council, which shall be signed by the Mayor, and countersigned by the Recorder and no other.

And said Treasurer, before entering upon his duty as such, shall give a bond of \$5000.00, conditioned according to law, and if he shall fail to collect any funds belonging to the town, placed in his hands for collection, by any failure on his part to perform his duty as said Treasurer, or if he fails or refuses to pay over all or any of the moneys with which he may be chargeable, belonging to the town according to the conditions of his bond and the order of the Council, it shall be the duty of said Council to recover the same by an action or motion in the Corporate name of the town in the Circuit Court of the County in which the same is situated, and where the same does not exceed \$300.00, before the Justice of the District in which the same is situated, against the town Treasurer and his sureties, or any, or either of them, or his or their executors and administrators on giving 10 days notice on such motion.

SEC. 8. Repeated.

SEC. 9. The Chief of Police shall personally direct the police force of the town, and shall have all the powers, rights, and privileges within the corporate limits of the town in regard to the arrest of persons, the collection of claims and the execution and return of process that can be legally exercised by the Constable of a district, within the same, and he shall be entitled to the same compensation therefor, and he and his sureties shall be liable to all the fines, penalties and forfeitures that a Constable of a district is liable to for any failure or dereliction in said office, to be recovered in the same manner, and in the same Courts that the said fines, penalties, and forfeitures are now recovered against such Constable.

The Chief of Police shall, before entering upon the duties of his office, execute a bond, conditioned according to law, with surety, satisfactory to the Council, payable to the town in a penalty of One Thousand Dollars, and for his services

properly rendered, he shall receive a salary of Fifty Dollars per month.

The Assistant Police shall receive a salary of Forty Dollars per month, and Special Police, Two Dollars per day.

SEC. 10. It shall be the duty of the Assessor to make an assessment of the property within the town, subject to taxation, substantially in the manner and form in which assessments are made by the Assessor of the County, and return the same to the Council on or before the first day of May in each year, and for this purpose he shall have all the powers conferred by law on the County Assessor. He shall list the number of dogs in the town and the names of persons owning or harboring the same, which list shall be entered properly on the tax bills which he shall also make out; and for his service he shall receive a salary of Seventy-five Dollars (\$75.00) per year.

SEC. 11. The Street Commissioner shall superintend the work on the Streets and Alleys, and shall see that all board walks, crossings and bridges are kept in good condition, and that the Alleys are kept clean, and charges for same made to proper parties. All extra work shall be done under the direction of the Council. He shall report to the Council at least once a month, and oftner if thought necessary. He shall be empowered to act as policeman at any time, but shall not be required to act when busily engaged at Street work. For his service he shall receive a salary of Forty-Five Dollars (\$45.00) per month.

SEC. 12. The Auditing Finance Committee shall audit the accounts and make settlement with the City Treasurer on August 15th and February 15th of each year. At the settlement on February 15th of each year, a final statement shall be made of all the financial matters of the year just ended. Each member of this Committee shall receive \$3.00 per day for the time actually employed.

SEC. 13. The Finance Committee shall examine all accounts and see that they are correct, report on all bonds, make

settlement with the various officers; annually make up and report the necessary expenditures, and perform any duty that may be required of them by the Council.

SEC. 14. The Street Committee shall have charge of the Streets, Alleys, Side Walks, Bridges, Culverts, Sewers, and Lights and other property of the town. They shall see that the same are kept free from obstruction, clean, and in good repair. They shall from time to time, recommend such improvements as ought to be undertaken by the Council, and report the probable expense thereof, and perform such other duties as may be required.

SEC. 15. The Committee on Ordinances shall have charge of all legal matters, shall draft, examine and recommend necessary ordinances, orders, resolutions, and rules, and perform such other duties as may be required of them.

SEC. 16. The Mayor, Recorder, Councilmen, Chief of Police, Town Treasurer, Assessor, Assistant Police, and Superintendent of Roads, Streets and Alleys, shall each receive a compensation for his services, to be fixed by the Council, which shall not be increased or diminished during the term for which he shall have been elected. Other officers appointed by the Council shall receive such compensation as may be allowed by the Council from time to time.

SEC. 17. Witnesses for the Town shall be allowed the same fees as witnesses before a justice.

SEC. 18. The following officers shall also be entitled to charge the following fees, to be taxed as part of the costs in any case, or to be paid by the party at whose instance the services are rendered, but in no instance to be paid out of the treasury, to-wit:

The Mayor, for all services in a case before him, the same fees as a justice of the peace.

The Sergeant, or other Police Officer, for making an arrest, One Dollar, when the body is actually taken, and for each necessary assistant, One Dollar. For other services, the

same fees as a Constable in similar cases. The Recorder for making copies from books or papers in his possession, a specific fee of twenty-five cents, or in lieu thereof, ten cents for every hundred words.

SEC. 19. Any Officer who shall knowingly neglect any of the duties of his office as prescribed by an ordinance or resolution of the Council, shall, on conviction thereof before the Mayor, forfeit and pay a fine of not less than One, nor more than Twenty Dollars, and may be removed from office by the Council.

### ORDINANCE III. CONCERNING PROCEEDINGS FOR THE ENFORCEMENT OF FINES.

SECTION.	SECTION.
1 Summons or Warrant.	7 Neglect of Officers to report of- fenses or execute warrants &c.
2 Summons - when to be issued.	8 Execution of Process.
3 Trial.	9 Repeated.
4 Warrant of Arrest.	10 Remission of Fines.
5 Contempts and resistance of Of- ficers.	11 Mayor to keep a Docket.
6 Conduct of Officers.	12 Costs-how paid.

#### BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS :

SEC. 1. Proceedings for the enforcement of all fines shall be by summons or warrant of arrest issued by the Mayor, except when an offence is committed in the presence of any police officer, member of the Council or Mayor, such officers may cause the offender to be immediately apprehended without summons or warrant.

SEC. 2. Upon any reasonable information that an offence has been committed by any person against any of the ordinances, the Mayor shall issue a summons in behalf of the town to the Sergeant or any policeman, commanding him to summon the accused at the time and place therein set forth, to answer the charge, setting it forth with sufficient certainty to give the accused full information of its nature. Such summons shall be served and returned as summons in a civil case before a justice of the peace.

SEC. 3. If the accused appear at the time of the return, the matter shall at once be tried, unless for good cause a continuance be granted. If the accused fail to appear after the summons has been duly served, and a reasonable time has

elapsed between the service and return day, the Mayor shall examine the evidence, and if the accused shall be found guilty, render a judgment for a reasonable fine as though he had appeared and plead. The Mayor may set aside any judgment and grant a hearing for good cause within ten days after payment rendered. A party charged with an offense may appear without a written summons and submit himself to the jurisdiction of the Mayor. In such case the trial shall proceed as though summons had been served.

SEC. 4. Upon information under oath, which shall be reduced to writing and signed by the complainant, the Mayor shall issue a warrant in the name of the State of West Virginia directed to the Sergeant or any policeman, requiring him to forthwith apprehend and bring before him the party accused to answer the charge, setting it forth as in case of a summons. The accused, when apprehended, shall be tried as in other cases, and may be detained in custody or released on bail, in the discretion of the Mayor, until the case is finally disposed of. If in any proceeding, whether by summons or warrant, the accused be adjudged guilty, the Mayor may require immediate payment of the fine and costs, and in default thereof, may imprison the offender until the fine and costs thereof be paid, provided such imprisonment shall not exceed thirty days.

SEC. 5. For any abusive or contemptuous language or conduct toward the Mayor while in the discharge of his official duties, or any resistance to or obstruction to an officer in the discharge of his official duties, any person may at once be apprehended without warrant and adjudged to pay a fine of not exceeding One Hundred Dollars, and be imprisoned in the county jail not exceeding ten days.

SEC. 6. Any officer while in the discharge of his official duties who shall use any profane or filthy language, or who shall conduct himself in an insolent, overbearing or abusive manner towards any peaceable or law-abiding citizen of the town, or any peaceable stranger therein, or who shall use undue violence in making an arrest, or who shall become intoxicated or loaf about houses of ill-fame, gambling and saloons,

or other places of bad repute, where his duties do not require his presence, shall forfeit and pay a fine not exceeding One Hundred Dollars.

SEC. 7. If the Sergeant or any police officer shall fail or neglect for an unreasonable time to report any offense against any ordinance that may have come to his knowledge from any source whatever, or shall neglect to execute any order of the Council, or any summons or warrant for an unreasonable time, he shall be liable to pay a fine not exceeding One Hundred Dollars.

SEC. 8. For the purpose of executing any warrant of arrest, order of the Mayor or Council, or of preventing the commission of any offence, or arresting a person in the act of committing an offence, or a fugitive from justice or for the purpose of abating any nuisance, it shall be lawful for the Mayor or any Sergeant or police officer to enter any building, house, outhouse, garden, lot, or place of amusement.

Act by Con.  
11-17-98

SEC. 9. Repealed.

SEC. 10. The Council may, on a proper application, remit in part or in whole any fine or penalty which shall be made to appear plainly unjust, illegal, or excessive. Petitions for the remission of fines shall be in writing, and set out on the grounds for the application, and be accompanied with the necessary affidavits to establish the truth of the allegation therein contained. Such petitions shall be referred to the Ordinance Committee for careful investigation and report before being acted upon by the Council.

SEC. 11. The Mayor shall keep a record of all proceedings before him in a docket to be furnished by the Council, which shall always be open for public inspection. He shall annually, before the first day of February in each year, lay a statement of the fines imposed by him before the Finance Committee.

SEC. 12. An offender against whom a fine is imposed shall pay the necessary costs of his conviction. Prosecutors

may be required to enter themselves security for costs, and in such cases if it appears the prosecution was instituted out of malice and without good cause, judgment may be given against the prosecutor for costs.

## ORDINANCE IV. CONCERNING OFFENCES AND THEIR PUNISHMENT.

SECTION.	SECTION.
1 General Prohibition.	27 Bridges, Riding, &c.
2 Bad Conduct, Profanity.	28 Bathing.
3 Public Indecency, Drunkenness.	29 Selling Provisions.
4 Indecent Pictures, Prints.	30 Poisoning Springs.
5 Riot, Noise, Tumult.	31 Dead Animals, &c.
6 Assault and Battery.	32 Infectious Diseases.
7 Idleness and Vagrancy.	33 Blowing Whistles.
8 Annoying Conduct.	34 Posting Bills.
9 Injuring Property.	35 Jumping on Trains.
10 Slop, Water, &c.	36 Repeated.
11 Obstructing Streets.	37 Killing Birds.
12 Obstructing Sewers, &c.	38 Sunday.
13 Digging up Streets.	39 Church Goers.
14 Obstructing Sidewalks.	40 Disorderly Behavior.
15 Cellar Doors.	41 Church Doors.
16 Playing on Streets.	42 Disturbing Religious Meeting, &c.
17 Racing.	43 Houses of Ill-fame.
18 Slaughter House.	44 Lewd Women.
19 Burning Shavings.	45 Prostitution.
20 Cess Pools, &c.	46 Fornication.
21 Firing Guns.	47 Gaming.
22 Powder.	48 Gambling Rooms.
23 Cruelty to Animals.	49 Lottery.
24 False Alarm of Fire.	50 Without License.
25 Lanterns and Stables.	51 Hindering Officers.
26 Unlawful Weapons.	52 Punishment.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS :

SEC. 1. It shall be unlawful for any person to do or cause to be done any act or thing, contrary to the laws of morality, decency, and good behavior, that may infringe upon the rights of another.

SEC. 2. It shall be unlawful for any person to commit or perpetrate any indecent, immodest, lewd, or filthy act, or to utter any lewd, filthy, or profane language in any street, alley,

or other public place, to the annoyance of the public.

SEC. 3. It shall be unlawful for any person to make any indecent or immoral exhibition or exposure of his person, or to cause, or to procure any person, to do the same in the presence or view of any other person, or to appear on any street, alley, or other public place, in the state of intoxication.

SEC. 4. It shall be unlawful for any person to publicly exhibit any indecent painting, engraving or print, sculpture, picture or representation, or to print, engrave make, sell or offer, or exhibit for sale any indecent, immodest or lascivious books, pamphlets, papers, pictures or stationery.

SEC. 5. It shall be unlawful for any person to commit or cause any riot, noise, disorder or tumult, or loud personal abuse of any person by words to the disturbance, or tending to the disturbance of the peace or quiet of the town.

SEC. 6. It shall be unlawful for any one to commit an assault or battery, or aid and abet, or encourage any one in so doing.

SEC. 7. It shall be unlawful for any person or persons to idly loiter upon, at or near any bridge, dwelling house, church, saloon or hotel, street, alley or sidewalk, or in any vacant lot or board-yard, or to wander about the streets by day or night, not having a known place of abode or means of livelihood, and not able to give a satisfactory account of himself, or to be in any gambling house or room used for the purpose of gambling therein.

SEC. 8. It shall be unlawful for any person on any of the bridges, sidewalks, streets or alleys, to conduct themselves in a manner annoying to persons passing by, or occupants; or residents of adjoining buildings, or to ring any door bell, or rap on any door or window to annoy or deceive the inmates of any house, office, store or shop.

SEC. 9. It shall be unlawful for any person not the owner thereof, to cut any shade or ornamental tree, or to deface, remove, injure or destroy any monument or flower, or other

thing of value in any field, yard, garden, lot, street, alley or public place, or to maliciously or intentionally engrave, deface mutilate or destroy any of the bridges or other property of the town, or any bridge, church, school-house, house, fence, railing, wall, or any goods and chattels the property of any other person, without the consent of the owner thereof, or to carry off from any building, enclosure, lot or railroad yard, any property not his own without the consent of the owner of such property or the person having it in custody.

Act by Con.  
11-17-88

SEC. 10. It shall be unlawful for any person to throw water, slop, offal, ashes, shavings, coal cinders, mud, dung or other filth from his house, kitchen, stable, hog pen, or premises into or upon any street, alley, sidewalk, or public square, or lot or property of another, or permit or suffer the same to be done by any person in his employment, or belonging to his family. Or allow any offensive liquid to be discharged from any house, factory or lot upon any street, alley or sidewalk, except ashes and cinders, which may be thrown in the middle of the streets of the town, if not put so as to obstruct the same, or fill up the ditches along said street. And manure may be placed in the alleys, if the parties who place it there will put it in good, tight boxes, so as not to obstruct the alley or fill up the ditches along same. But can not do so in any event, except by permission from the Street Commissioner or Sanitary Committee, and in a way satisfactory to them. Nor shall any person suffer or permit his waste water from his house or kitchen to run or flow upon the property of another, or into or upon any street, alley or public square, where there are sewers on such street, alley, or public square, accessible to such house. In no case shall the waste water be allowed to run over the sidewalks, but the owner of the property shall provide the necessary means to carry such waste water under the sidewalk, into the sewer or gutter, by a closed drain or piping. Nor shall any person change the natural drainage, so as to throw the water from his lot on the lot of another, without such others permission, or onto the streets, alleys, or public squares, without the permission of the Council.

SEC. 11. It shall be unlawful for any person to obstruct

any street, alley, sidewalk or public square, by allowing any wagon, cart or vehicle, or any coal, coke, wood, ashes or other filth, or any brick, stone or other material being used in building, or any incumbrance whatever, to remain on such street, alley, sidewalk or public square an unreasonable time. It shall be unlawful to sell at public auction (officers of the law excepted) any goods, wares and merchandise on the streets and sidewalks, or to lead and drive any animals or vehicles, or to roll wheel-barrow, or slide or pull any sled or sleds on any sidewalk except in cases of necessity, or to shoe horses or other work-animals thereon, or to negligently permit any such animals or vehicles to stand on any such sidewalk or street crossing, or to obstruct the streets, alleys or sidewalks for any purpose whatever unnecessarily.

SEC. 12. It shall be unlawful for any person to obstruct any sewer or gutter, or to allow any cess-pool or privy vault to empty therein.

SEC. 13. It shall be unlawful for any person to dig or break up any of the streets, alleys, sidewalks or public squares without the permission of the Council, or to allow any excavation in a street, alley, sidewalk or public square, to remain open without proper barricades around the same.

SEC. 14. It shall be unlawful for any person, without the permission of the Council, to obstruct the streets, alleys or sidewalks in any manner to any extent by building porches, porticoes, verandas, balconies, bay or show windows, steps, areas, fences, walls or railings, or erecting sign posts, signs, lamps, hitch racks, or awnings or by continuing any such porches, porticoes, verandas, balconies, bay or show windows, steps, areas, fences, walls, railings, hitch racks, sign posts, signs or awnings already erected on or over any sidewalk, street or alley, after notice in writing to remove the same has been served upon the owner thereof by direction of the Council.

SEC. 15. It shall be unlawful for any person to allow any cellar or area door, window, or coal hole opening up in a sidewalk, street or alley, to be kept open at any time between

twilight in the evening and daylight in the morning, without being properly protected and lighted.

SEC. 16. It shall be unlawful for any person to fly a kite, roll a hoop, play at foot ball, bandy or shinny, or to carelessly ride or drive any bicycle or tricycle, or engage in any play, sport or exercise which might produce any bodily injury to any one, or endanger the life or property of any person, on any street, sidewalk, landing, bridge, alley or public square.

SEC. 17. It shall be unlawful for any person to gallop any horse, gelding, mule or ass, or ride or drive any such animal at any improper and dangerous speed, or to run or race any such animal, or start the same for the purpose of running or racing within the alleys or streets, or to suffer any such animal to stand on any street, alley, road or public square without being properly fastened, or being watched by some person competent to prevent the same from starting.

SEC. 18. It shall be unlawful for any person without permission from the Council to keep any slaughter house, or to kill or slaughter for sale any animal within the jurisdiction of the town, and every day such slaughter house shall be so kept shall constitute a distinct offence.

SEC. 19. It shall be unlawful for any person to burn or cause to be burned, any shavings or other combustible in any part of the streets, alleys, public squares or any yard, except workmen whose business necessarily requires out-door fires, nor then, if in the opinion of any two respectable housekeepers, any building might thereby be endangered. Nor shall any person boil oil, tar or varnish within twenty feet of any building.

SEC. 20. It shall be unlawful for any person to remove the contents of any cess-pool or privy vault through the streets, except in the night time, after 11 o'clock p. m. to 4 o'clock a. m., and every cart or other vehicle used in the removal or transportation of the contents of any cess-pool or privy vault, shall be so constructed as to be water-tight, and securely cov-

ered so that no odor nor any part of the contents shall escape.

SEC. 21. It shall be unlawful for any person without a written permit from the Mayor, to fire or discharge within the corporate limits, any cannon, gun, pistol, or firearms of any kind, or any cracker, squib, rocket or fireworks, except in case of necessity, or in discharge of a public duty, or at a military parade by order of the officer in command.

SEC. 22. It shall be unlawful to keep any shop, store or warehouse, or other house or building, without special permission of the Council, a greater quantity of powder at any one time, than fifty pounds, or any other explosives in dangerous quantities.

SEC. 23. It shall be unlawful for any person to overdrive, overload, torture, torment, deprive of necessary sustenance or unnecessarily or cruelly beat, or needlessly mutilate, kill, or cause or procure to be overdriven, overloaded or tortured, tormented, or deprived of necessary sustenance, or to be unnecessarily or cruelly beaten, or needlessly mutilated or killed, as aforesaid, any domestic animal. Nor shall any person keep a cock-pit, or cause any game cocks to fight, or permit the same to be done on his premises.

SEC. 24. It shall be unlawful for any person to wilfully cause a false alarm of fire, or cry "fire," or ring any bell, or do anything creating, or tending to create a false alarm of fire.

SEC. 25. It shall be unlawful for any owner or occupant of any livery or other stable, or any outhouse that may contain hay, straw or other fodder, or for any person in his employment, or any other person, to use or carry therein any lighted candle or other light, unless the same be secured within a tin, horn or glass lantern.

SEC. 26. It shall be unlawful for any person to carry about his person, any revolver or other pistol, dirk or bowie knife, razor, slung shot, billy, metallic or other false knuckles, or any other dangerous or deadly weapon of like kind or character, nor shall any person sell or furnish any such weapon as

is hereinbefore mentioned, to a person whom he knows, or has reason, from his appearance, or otherwise, to believe to be under the age of 21 years; but nothing herein contained shall be so construed as to prevent any person from keeping or carrying about his dwelling house or premises such revolver or other pistol, or from carrying the same from the place of purchase to his dwelling house, or from his dwelling house to any place where repairing is done, to have it repaired, and back again.

SEC. 27. It shall be unlawful for any person to ride or drive on any bridge faster than a walk.

SEC. 28. It shall be unlawful for any person to bathe in any stream of water within the corporate limits of the town, or in Blackwater river, or Beaver Creek, within sight of any dwelling house within said town, or within one-quarter of a mile of the limits of said town in Blackwater river or Beaver Creek, from sunrise until one hour after sunset.

SEC. 29. It shall be unlawful for any person to sell any diseased, corrupted, unwholesome or adulterated provisions, whether food or drink, without first making the same known to the buyers.

SEC. 30. It shall be unlawful for any person knowingly or wilfully to throw, or cause to be thrown into any well, cistern, spring, brook, or branch of running water, which is used for domestic purposes, any dead animal's carcas, or part thereof, or the contents from any cess-pool or privy vault, or any putrid, nauseous, offensive or poisonous substance.

SEC. 31. It shall be unlawful for any person to allow on his premises, or order, or in any of his buildings, any dead animals, putrid or decaying substance, manure, dirt or filth of any kind that produces an unpleasant odor or taints the air. And if any animal, the property of any person, shall die, the owner thereof shall remove and bury it at least three hundred yards beyond the corporate limits, and at least two hundred yards from all dwelling houses, and on failure to do so, such

owner shall be deemed guilty of an offence. Nor shall any person kill any animal and allow it to remain within the corporate limits so as to become a nuisance.

SEC. 32. It shall be unlawful for any person to bring into the town any person infected with any contagious or infectious disease, or the corpse of any person who died of such disease, except it be a citizen thereof. And in case a citizen, or the corpse of any citizen so affected, shall be brought into the corporate limits, such person shall give immediate notice thereof to the Mayor, policeman or some member of the Council, and upon failure of any such person to give such notice, he shall be deemed guilty of an offence.

SEC. 33. It shall be unlawful for any engineer or other person in charge of a locomotive engine to blow the whistle of such engine within the corporate limits of the town, except to avoid or prevent an accident.

SEC. 34. It shall be unlawful for any person to post any written or printed notices or bills, or nail up any board or tin advertisement, or show pictures on any bridge, building, fence, wall, or lamp or sign post without the consent of the owner thereof; or to tear down, mutilate or destroy any such advertisement, notice or bill lawfully posted or painted.

SEC. 35. It shall be unlawful for any person to attempt to or get on a railroad engine, car or train, while the same is in motion, unless such person is an officer or employee of the railroad company, or requested or authorized so to do by the person having charge of such engine, car or train.

SEC. 36. Repealed.

SEC. 37. It shall be unlawful for any person to catch, kill or injure or pursue with such intent, any sparrow, (except an English sparrow,) robin, blue bird, martin, thrush, mockingbird, swallow, oriole, red bird, grosbeak, cat bird, chewit or ground robin, pewee or phoebe bird, wren, cuckoo, indigo bird, nut hatch, creeper, yellow hammer or flicker, warbler or finch, mavis, red start, dummock, nightingale, cross, bill or corn crane, Hungarian robin, great tit or blue tit,

humming bird or any small bird, or to disturb or destroy the eggs of any such bird.

SEC. 38. It shall be unlawful for any person to play ball, play marbles, pitch quoits or engage in any game or sport, utter loud cries, quarrel, riot, hunt, fish, or sell goods, wares, merchandise or intoxicating drinks, or engage in any common labor or secular business on the Sabbath Day, other than work of necessity or charity, except such persons as conscientiously observe Saturday as Sabbath.

SEC. 39. It shall be unlawful for any person to molest or insult any person whomsoever, when going to or returning from a religious meeting.

SEC. 40. It shall be unlawful for any person to behave rudely or disorderly in or near any church, meeting-house or place of religious worship.

SEC. 41. It shall be unlawful for any person to idly loiter at or near the door of any church, meeting-house or place of public amusement, and not depart thence peaceably and quietly when requested to do so.

SEC. 42. It shall be unlawful for any person to disturb any religious meeting or congregation or singing school, exhibition, examination, concert, or theatrical or other public entertainment, by any boisterous, rude or ungentlemanly conduct. Any officer or citizen present at any such place, may arrest, or cause the arrest, of any person committing an offence against the provisions of this section. If any officer or citizen present is unable to arrest the offenders on account of their number, it shall be the duty of such officer or citizen to take their names, and at his earliest opportunity furnish the same to the Mayor, who shall at once begin proceedings against each, separately, for the offence charged. Any officer who shall neglect his duty under this section shall be deemed guilty of an offence.

SEC. 43. It shall be unlawful for any person to keep a house of ill-fame, or bawdy or assignation house, or for the

owner of any property, or his agent, to allow such house to be kept in any premises under his ownership or control. All such houses are hereby declared to be public nuisances, and shall be abated and closed by order of the Mayor, for a period not exceeding thirty days, whenever their existence is established by competent evidence. The owner or person having control of any property in which such house is kept, shall be presumed to have knowledge of the house there kept, unless such owner or person shall show by affirmative testimony their ignorance of the nature of the house there kept, and agree to prevent its continuance by requiring the offenders to vacate the property.

SEC. 44. It shall be unlawful for any person to knowingly associate with or harbor, lewd and dissolute women, or to idly loiter about common ordinaries, restaurants or dram shops, or for the proprietor of such places to allow any drunkenness, public lewdness, obscenity, or any conduct that disturbs the peace and quiet of the neighborhood.

SEC. 45. It shall be unlawful for any person to assemble on any bridge, street, alley or public place, or in any house or out-house, board-yard or other yard, for the purpose of prostitution, lewdness or indecency. It shall be unlawful for any prostitute to be in any such place between sundown and sunrise. If any person be found loitering or lounging about a house reputed to be a bawdy house or house of ill-fame, he shall be deemed guilty of an offence, unless such person show in defense that such house is not a house of ill-fame or a bawdy house.

SEC. 46. It shall be unlawful for any person not married to each other to lewdly or lasciviously associate and co-habit, or to be guilty of adultery or fornication.

SEC. 47. It shall be unlawful for any person to play or bet on any game in or by which money or other thing of value may be won or lost, or for any person whomsoever to keep or exhibit any table, instrument, device or other thing whatsoever, used for the purpose of gaming, or on or with which money or other articles may be lost or won.

SEC. 48. It shall be unlawful for any person to keep a room, building, arbor, booth, stand, shed, tenement, railroad car, or to rent the same, the same to be used or occupied for the exhibition or keeping of any such table, instrument, device or thing, or for therein, or thereon to play any such game as is prohibited by the preceding section. If the owner or lessee of any room, building, arbor, booth, stand, shed or tenement, shall know that any table, instrument, device or thing, used for the purpose of gaming, is kept or used in or about the same, or that any game of chance or skill, by or at which money, or other thing of value, may be lost or won, is being played therein, or thereon, and shall not forthwith cause a complaint to be made against the persons so using the same, or playing at, or suffering the playing of any such game thereon or thereon, such owner or lessee, shall be taken, held, and considered to have knowingly permitted the same to be used for gaming, and shall be deemed guilty of an offence against the provisions of this ordinance. All such tables, instruments, devices or things being used for the purpose of gaming, may be seized and destroyed by any of the officers of the town.

SEC. 49. It shall be unlawful for any person to buy, sell or be interested in any lottery ticket or lottery, or to bet or wager money, or other thing of value, on any election or any thing whatsoever. And the money or other things so bet, shall be forfeited to the town and it shall be the duty of the stake-holder to turn the same over to the Mayor to be paid into the town treasury. And if any stake-holder or other person having charge of any money or other thing on a bet or wager, refuse, or neglect to turn the same over to the Mayor, as heretofore required, such stake-holder shall be deemed guilty of an offence.

SEC. 50. It shall be unlawful for any person to follow any employment or business for which a town license is required, without having first paid the license.

SEC. 51. It shall be unlawful for any person to hinder, or resist, or attempt to prevent or deter, by threat, menaces,

force, or otherwise, any officer of the town from properly discharging the duties of his office, or to refuse, when called upon to assist any such officer in making an arrest or quelling a riot.

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SEC. 52. If any person commit any of the offences prohibited or enumerated in any of the sections of the foregoing Ordinance, he shall forfeit and pay a fine of not less than One, nor more than Thirty Dollars, and may, in the discretion of the Mayor, be imprisoned not exceeding 30 days, except for a violation or an offence as provided in Sec., 26, when the party shall be fined not less than \$25.00, nor more than \$200.00, and may at the discretion of the Mayor, be confined in prison not less than one; nor more than twelve months. And if any male person so convicted and fined, under any of the sections of this chapter, and fail or refuse to pay said fine and costs, the Mayor may sentence said offender to work same out upon the streets of said town, or other work in said corporation at the rate of \$1.00 per day and board until such fine and costs are paid, under the direction of such officer or person as the Mayor may elect, and may provide for his safe keeping while performing such work, and if deemed necessary, shall provide a ball and chain to be attached to his person for such purpose as is provided in chapter 36, Sec., 11 of the Code of 1891.

## ORDINANCE V. RELATING TO THE ASSESSMENT AND COLLECTION OF TAXES.

SECTION.	SECTION.
1 Appointment of Assessor.	5 Collection, Sales.
2 Duties of Assessor.	6 Dogs not Assessed.
3 Levy, Dog Tax.	7 Delinquent List.
4 Tax Books.	8 Delinquent Lands - How sold.

### BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS :

SEC. 1. An Assessor shall be annually appointed by the Council, at the first meeting of the Council in February, or as soon thereafter as practicable.

SEC. 2. It shall be the duty of the Assessor to make an assessment of the property within the town subject to taxation, substantially in the manner and form in which assessments are made by the assessor of the county and return the same to the Council on or before the first day of May in each year, and for this purpose he shall have all the powers conferred by law on county assessors. He shall list the number of dogs in the town, and the names of the persons owning the same, which list shall be returned to the Council.

SEC. 3. There shall be levied in addition to the necessary levy on personal and real property an annual tax of fifty cents on each male dog, and one dollar and one-half on each female dog. The owner, harborer or head of the family, shall pay the taxes on any dog owned, harbored or kept by any member of the family. A dog for whom no owner can be found, or off of whom, if found, the taxes cannot be collected, shall be put to death by the Sergeant or any police officer. For putting a dog to death and removing its body, as required by or-

dinance, such officer shall receive such compensation as the Council may deem reasonable.

SEC. 4. When the property books, with levy extended, have been returned by the Assessor, and examined and found correct by the Council, they shall be turned over to the town Treasurer, or Collector, for collection, and he shall receipt therefor and be charged therewith.

SEC. 5. The town Treasurer, or Collector, shall immediately proceed to collect the taxes, and after one month from the time he receives the books, he may distrain and sell therefor, in like manner as the officer collecting the State taxes may distrain therefor, and he shall in all other respects, have the same power to enforce the payment and collection thereof. All sales under tax levies, shall be in the manner prescribed by law for sale for State and County taxes. Tax levies shall bear interest from the first day of February, next, following the time they are levied, and the town Treasurer, or Collector, shall be required to account for interest on all moneys not collected and accounted for, prior to that term.

SEC. 6. If the Sergeant find any dog within the year owned or harbored by any one, and not included in the levy, he shall cause the owner or harbinger thereof, to pay the same taxes on such dogs as if it had been duly assessed.

SEC. 7. The town Treasurer, or Collector, shall before the first day of February in each year, return to the Council two separate lists, one of personal property, and the other of real estate, delinquent for the non-payment of taxes, verified by his affidavit of his inability to collect the same, after the exercise of due diligence. If the Council be satisfied of the correctness of said lists, the town Treasurer, or Collector, shall receive credit for same in his settlement. Additional delinquent lists for any year may be returned by permission of the Council, if the Treasurer, or Collector, shall show to their satisfaction that he has faithfully endeavored to collect the taxes therein included, and has failed to do so from no fault or negligence on his part.

SEC. 8. The delinquent list of lands and lots shall be recorded by the Recorder in a book to be kept for that purpose. And the Recorder, annually, on or before the first day of August, shall certify to the State Auditor, a copy of the delinquent list of lands and lots, that the same may be sold in the manner provided by law for the sale of real estate, returned delinquent for the non-payment of State and County taxes.

SEC. 2. No person without a corporation license shall exhibit any circus, menagerie, theatrical, performance, or public show to which admission is obtained for money or other reward, or act as hawker or pedler, or as auctioneer, or practice the business of stock, or other broker by buying or selling for others stocks, securities or property for a commission or reward, or practice the business of a money broker or private banker by buying or selling uncurrent or depreciated money, or funds, or exchanging one kind of money or funds for another for profit or reward. Nor shall any person without a corporation license therefor sell or barter, or offer or expose for sale or barter, any patent right.

SEC. 3. Any person violating either of the two preceding sections, shall, except when it is otherwise provided herein for every such offence forfeit not less than Ten, nor more than Fifty Dollars.

SEC. 4. This ordinance shall not be construed to require license to keep a boarding house or boarding school, where boarders are not received for less than three days, or to require any person having license to sell spirituous liquors or wine at retail to obtain another license to sell porter, ale, or beer, or any drink of like nature, at the same place, or to require any incorporated bank, savings bank, or savings institution to obtain license as a broker or private banker or to require any resident of this State to obtain license to exhibit any work, or production of his own invention or skill, or to require license for any school exhibition, literary or scientific lecture, or musical concert, or to affect any person furnishing refreshments at a public dinner, fair, festival or celebration, or any trustee selling trust property, or any personal representative, or committee selling property belonging to the estate under his charge, or any officer or commissioner selling property under the order, decree, execution or process of any court of justice of this State, or of the United States, or colporteur or person selling religious books, nor shall any company, or person engaged in manufacturing goods in this State be required to pay a license as pedler for selling such goods, either by himself,

## ORDINANCE VI. RELATING TO LICENSES.

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| SECTION.   | SECTION.                                   |
| 1 and 2 For what a town license is necessary.    | 18 License, how transferred.               |
| 3 Penalty for acting without License.            | 19 How unexpired terms assigned.           |
| 4 In what cases License not required; Druggists. | 20 Recorder's fee.                         |
| 5 Provisions respecting Hotel or Tavern License. | 21 When license expires.                   |
| 6 Hotel license tax, how determined.             | 22 For what time license shall be issued.  |
| 7 License, when issued.                          | 23 How party aggrieved may be released.    |
| 8 How license obtained.                          | 24 License demanded to be produced.        |
| 9 Character of applicant.                        | 25 Duty of Assessor.                       |
| 10 To whom intoxicating liquors may be sold.     | 26 Classified list to be made.             |
| 11 Sale by one person for another.               | 27 List of licenses, when to be delivered. |
| 12 What deemed a nuisance.                       | 28 Duty of Assessor as to lists.           |
| 13 How owner of nuisance prosecuted.             | 29 What evidence against the Sergeant.     |
| 14 Clandestine sale of liquor.                   | 30 Penalty for failure of Assessor, grant. |
| 15 Bond required.                                | 31 When Sergeant can return delinquents.   |
| 17 What certificate for license shall specify.   | 32 Commissions of Sergeant.                |

### BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS:

SEC. 1. No person without a corporation license therefor shall within the town of Davis, or within one mile of the corporate limits thereof, keep a hotel or tavern, or furnish intoxicating drinks, or refreshments at a public theatre, or sell, offer, or expose for sale, spirituous liquors, wine, porter, ale or beer, or any drinks of like nature. And all mixtures, or preparations known as "bitters," or otherwise, which will produce intoxication, whether they are patented or not, shall be deemed spirituous liquors within the meaning of this section. Nor shall any person without such license, carry on the business of a druggist, or keep for public use or resort a bowling alley, billiard table, ba<sub>s</sub>atelle table, or any table of like kind.

or his agent, or to prohibit any druggist from selling without license, in good faith, spirituous liquors, wine or alcohol for medicinal, mechanical or scientific purposes, provided however, that no sale of any such spirituous liquors or wine, shall be made by any druggist or registered pharmacist, except upon the written prescription of a practicing physician in good standing in his profession, and not of intemperate habits, specifying the name of the person and the quantity of such liquors to be furnished by him, but no druggist or registered pharmacist, who is a practicing physician, shall himself, or by his agent or clerk, sell any such spirituous liquors or wine upon his own prescription. And if any person intrusted in or carrying on the business of a druggist, shall in violation of this ordinance, sell any such intoxicating liquors, drinks, mixtures or preparations mentioned in the first section, he shall be deemed guilty of selling without license and be punished as provided in section three of this ordinance. In any prosecution against a person carrying on or interested in the business of a druggist, for selling any such liquors, drinks, mixtures or preparations, contrary to this ordinance, if the sale be proved, it shall be presumed that such sale was unlawful unless the contrary be shown. If any physician, for the purpose of aiding a druggist or other person, in the violation of the provisions of this ordinance or otherwise, give such prescription and make such statement falsely, he shall be fined not less than Ten, nor more than One Hundred Dollars.

SEC. 5. Every house where food and lodging is usually furnished to travelers, and payment required therefor, shall be deemed a hotel or tavern. Every person licensed to keep a hotel or tavern, shall constantly provide the same with lodging and diet for travelers and servants. If any person so licensed fail to comply with this section, the license may be revoked pursuant to the twentieth section, and shall always be revoked if it appear the principal object in obtaining the same is not to provide lodgings and diet for travelers and their servants, but to use it for a facility for selling intoxicating liquor.

SEC. 6. The corporation tax on a license to keep a hotel

or tavern, shall be determined by the yearly value of the premises occupied for the purpose. The Assessor may require the proprietor, and if the premises be leased or rented, the tenant, to declare on oath the amount of rent agreed to be paid, and if either of them refuse to do so, the person so refusing shall forfeit not less than Ten nor more than Fifty Dollars. From such information, if obtained, and a comparison of the premises, when it is in his power, with other premises actually leased or rented, and other circumstances affecting the value, the Assessor shall estimate the yearly value to the best of his judgment, taking into consideration not only the house itself, but all the lots, gardens, stables, outhouses and booths, but excluding the contiguous farm and farm houses.

SEC. 7. The corporation license mentioned in the first section shall be issued only when authorized by the Council.

SEC. 8. Every person desiring to obtain a corporation license shall apply for a certificate thereof to the Assessor. If he desire such license for any purpose named in the first section, he shall deliver to the Assessor a copy of the order or resolution of the Council authorizing such license. The Assessor shall thereupon deliver to the applicant a certificate of the license to be obtained and the amount of tax to be paid thereon, which certificate shall be conformable in other respects to the provisions hereinafter contained. Such certificate shall be produced by the applicant to the town Sergeant, and his receipt for such tax, written on the certificate, shall be sufficient license, while it remains in force, to the person and for the purpose specified in the said certificate, except so far as is otherwise provided in this ordinance.

SEC. 9. The town Council shall not authorize any license mentioned in the first section, unless they are satisfied, and so enter on their record, journal or minutes, that the applicant for such license is not of intemperate habits, and the granting of a license to any person to carry on the business of a druggist, shall not be construed to authorize him to carry on said business until he has fully complied with the provisions of

chapter fifty-two, of the act of the Legislature of West Virginia, of 1881, and the amendments thereto.

SEC. 10. If any person having a corporation license to sell spirituous liquors, wine, porter, ale, beer or drinks of like nature, shall knowingly give or sell any such liquor or drink to any minor or person of unsound mind, or to any person who is intoxicated at the time, or is in the habit of drinking to intoxication, or if he permit any person to drink to intoxication on any premises under his control, or sell or give any intoxicating drink to any one on Sunday, he shall be fined not less than Ten, nor more than Thirty Dollars.

SEC. 11. A sale of any such liquors or drink by one person for another shall, in any prosecution for such sale, be taken and deemed as a sale by both, and both may be fined therefor, either jointly or separately.

SEC. 12. All houses, buildings and places of every description, where intoxicating liquors are sold or vended contrary to this ordinance, shall be held, taken and deemed to be common and public nuisances, and may be abated as such, upon the conviction of the owner or keeper thereof as herein-after provided.

SEC. 13. The owner of any house, building or other place mentioned in the next preceding section, who sells or knowingly permits intoxicating liquor to be sold or vended therein contrary to this ordinance, and every person engaged in such unlawful sale in any such house, building or place, may be prosecuted for keeping and maintaining a common and public nuisance, and upon conviction thereof he shall be fined not less than Twenty, nor more than Fifty Dollars, and at the discretion of the Mayor imprisoned in the county jail not less than ten nor more than thirty days; and judgment shall be given that such house, building, or other place be abated or closed up as a place for the sale of such liquors contrary to this ordinance, as the Mayor may determine.

SEC. 14. If any such house, building or other place, as is mentioned hereinbefore the sale of intoxicating liquors is

carried on clandestinely, or in such a manner that the person so selling cannot be seen and identified, the town Sergeant, or other officer charged with the execution of a warrant issued under this ordinance, may whenever it is necessary for the arrest or identification of the person so selling, break open such house, building or other place.

SEC. 15. The town Council shall not authorize the issuing of any license to sell spirituous liquors, wine, porter, ale, beer, or drink of like nature, until the applicant shall have given bond with good security to be approved by the Council, in the penalty of at least Three Thousand Five Hundred Dollars, conditioned that he will not permit any person to drink to intoxication on any premises under his control, and will not knowingly sell or furnish any intoxicating drink to any person who is intoxicated at the time, or who is known to him to have the habit of drinking to intoxication, or who he knows, or has reason to believe, is under the age of twenty-one years; and that he will not sell or furnish such drink to any person on Sunday. And with the further condition that he will pay all such damages as may be received against him by any person under any of the provisions of chapter thirty-two of the Code of West Virginia, as amended, and that he will not sell or furnish any such drink on election day. And such applicant, and his sureties in said bond, shall be liable in a suit or suits thereon for the fine and costs which may be received against him for any offence under this ordinance which is a violation of any of the conditions of said bond.

SEC. 16. The Council for good cause shown, may revoke any license mentioned in the first section, upon the petition in writing of any inhabitant of the town. But the person holding the license must first have reasonable notice of the proposed revocation, and the privilege of being heard in person or by counsel. After such revocation the license shall be of no effect to protect him from any penalty imposed by this ordinance.

SEC. 17. Every certificate issued by an Assessor as aforesaid, if it be to authorize the keeping of a hotel or tavern, or

bowling alley, billiard table or bagatelle table, or any table of like kind, or to carry on the business of a druggist, shall specify the house in which it is to be kept or carried on, and to keep or carry on the same at a different place shall be deemed a violation of this ordinance. Every certificate to sell spirituous liquors, wine, porter, ale, beer, or any drink of like nature, or to furnish drinks or refreshments at a public theatre, shall specify the house where they are to be sold, and a sale at any other place shall be held to be a sale without license. Other licenses shall be deemed co-extensive with the town, but of no effect beyond the limits of the town.

SEC. 18. If a person holding a corporation license which is limited to a particular house as aforesaid, desires to have such license transferred to another place, the Council may authorize the alteration and cause a memorandum thereof to be endorsed on such license by the Recorder, who shall in such case immediately make report thereof to the Assessor. After such endorsement the license shall have the same effect as if the place to which it is so transferred have been inserted therein instead of the house therein specified.

SEC. 19. A person holding any license mentioned in the first section may assign the unexpired term thereof to another, with the assent of the Council endorsed thereon by the Recorder, who shall in such case immediately make report thereof to the Assessor. If the assignment be of such a license as is mentioned in the fifth section, the assignee shall give bond and security as required by that section, and the said section shall in all respects be applicable thereto. A person holding any corporation license other than that mentioned in the first section, may transfer the unexpired term thereof to another, by an assignment endorsed on the license and attested by the Assessor. But no assignment of a license shall be of any effect unless made in the manner prescribed by this section.

SEC. 20. For every corporation license, or alteration thereof, or assignment of the same, authorized or assented to as aforesaid, the Recorder shall be entitled to a fee of fifty

cents. For every certificate for a license, or alteration or assignment of such license, the Assessor shall also be entitled to a fee of fifty cents. The said fees shall be paid by the person on whose application the license is issued, or the alteration or assignment made.

SEC. 21. Every corporation license to keep a hotel or tavern, or to sell at wholesale or retail, spirituous liquors, wine, porter, ale, beer or any drink of like nature, or keep for public use or resort, a bowling alley, billiard table, bagatelle table, or any table of like kind, or act as auctioneer, or practice the business of stock or other broker, by buying or selling for others, stocks, securities or property, for a commission or reward, or practice the business of a money broker or private banker by buying or selling uncurrent or depreciated money, or funds, or exchanging one kind of money or funds for another, for profit or reward, or to carry on the business of a druggist, shall expire on the thirtieth day of April next, after the commencement thereof. If granted for a less time than a year, the corporation tax thereof shall be computed for the annual tax in proportion to the time such license has to run.

SEC. 22. The corporation license to furnish intoxicating drinks or refreshments at a public theater, or sell patent rights, or act as hawker or pedler, shall be either for a year, four months or two months, from the commencement thereof. If for four months, the corporation tax therein shall be one-half, and if for two months, one-third of the annual tax. There shall be a corporation tax per week, on theatrical performances, and on a circus, menagerie or public show, for every exhibition.

SEC. 23. If any person desiring a corporation license of any kind, be dissatisfied with the valuation of the Assessor, or the amount of tax to be paid thereon, as stated in the Assessor's certificate, or with the decision of the Assessor respecting such license, or if any person be aggrieved by any assessment of a license tax, he may obtain relief by applying to the Council.

SEC. 24. Every person claiming to hold a corporation license of any kind shall produce the same for inspection whenever required by the Mayor or Recorder, Sergeant or any police officer, and if he refuse to do so, shall forfeit Ten Dollars for every such offense.

SEC. 25. It shall be the duty of every assessor to ascertain from time to time all persons in the town from whom a corporation license is required by the Council, and deliver them proper certificates of the licenses to be obtained and the tax to be paid thereon to the corporation, but it shall be the duty of every such person to apply to the Assessor and cause himself to be properly listed and licensed. And in case he shall transact any business for which he obtains such license, without having paid the taxes thereon, shall forfeit not less than Ten nor more than Fifty Dollars for every such offense.

SEC. 26. The Assessor shall from time to time make fair classified lists of all persons in the town from whom corporation license is required by this ordinance, specifying in such lists the date of every certificate, the name of the person to whom delivered, the amount of corporation tax, for what the license is to be obtained, and such other particulars as he may be directed by the Council to state therein.

SEC. 27. The Assessor shall complete and deliver to the town Treasurer, or Collector, before the 30th day of April, in each year, the list of licenses expiring on that day. Of other licenses, he shall make out and deliver to the town Treasurer, or Collector, proper lists at intervals not exceeding two weeks.

SEC. 28. He shall transmit to the Council from time to time proper lists of all corporation licenses for which certificates may have been issued in the town. If he shall have ascertained that the corporation tax specified in any certificate was not paid, he shall note the fact on the proper list. The said list shall be verified by the affidavit of the Assessor.

SEC. 29. Such lists shall be evidence against the town Treasurer, or Collector, to charge him with the amount of cor-

poration tax therein stated.

SEC. 30. If any Assessor fail to perform any duty required of him by this ordinance, or to obey the instructions of the Council, so far as they are not contrary to law, he shall forfeit for every such offence not less than Ten nor more than Thirty Dollars.

Act by Con. 11-17-98. SEC. 31. When the town Treasurer, or Collector, is unable to find property out of which to make the taxes imposed upon persons who may have been assessed with a license, such Treasurer, or Collector, may return such persons as insolvent, subject to all the laws in relation to uncollected taxes, as is provided by the Code of West Virginia, for the collection of State and County taxes.

Act by Con. 11-17-98. SEC. 32. Every town Collector, or Treasurer, receiving taxes on licenses under this Ordinance, shall be allowed a commission of 2 per cent. for his collections.

of like nature, Five Hundred Dollars; at wholesale, Five Hundred Dollars. And all mixtures, preparations or liquors which will produce intoxication, whether they be patented or not, shall be deemed spirituous liquors within the meaning of this section.

Act by Con. 3-27-95.  
SEC. 4. On every license to carry on the business of a druggist, Ten Dollars in addition to all other taxes.

SEC. 5. On every license to keep a bowling alley for public use or resort, Fifteen Dollars; but if more than one be kept in one house by the same person, Fifteen Dollars for the first one, and Seven Dollars and Fifty Cents for every additional one.

Act by Con. 3-27-95.  
SEC. 6. On every license to keep a bagatelle or billiard table, or table of like kind for public use or resort, Ten Dollars.

SEC. 7. On every license to act as auctioneer, Five Dollars.

Act by Con. 3-27-95.  
SEC. 8. On every license to practice the business of stock or other broker, other than of pawn broker, by buying or selling for others, stocks, securities or property for a commission or reward, Twenty-Five Dollars.

SEC. 9. On every license to practice the business of a money broker or private banker, by buying or selling uncurrent or depreciated money or funds, or exchanging one kind of money or funds for another for profit or reward, One Hundred Dollars.

Act by Con. 3-27-95.  
SEC. 10. On every license to practice the business of pawn-broker, Fifty Dollars.

SEC. 11. On every license to sell or barter patent rights, Ten Dollars.

Act by Con. 3-27-95.  
SEC. 12. On every license to act as hawker or peddler, if the person travel on foot, without a horse, Twenty Dollars; if he travel with one or more horses, with or without a wagon or other vehicle, Fifty Dollars.

## ORDINANCE VII.

### TAX ON LICENSES.

#### SECTION.

- 1 On Hotels and Taverns.
- 2 On drinks at Theatre.
- 3 On drinks at Retail and Wholesale.
- 4 Druggists.
- 5 Bowling Alley.
- 6 Bagatelle or Billiard Table.
- 7 Auctioneer.
8. Stock Broker.

#### SECTION.

- 9 Money Broker.
- 10 Pawnbroker.
- 11 Patent Rights
- 12 Peddler.
- 13 Town Tax on License.
- 14 Theatre.
- 15 Circuses, Menageries, etc.
- 16 Merry-Go-Rounds, etc.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS :

The town tax on licenses mentioned in Ordinance six, shall be as follows:

SEC. 1. On every license to keep a hotel or tavern, if the yearly rental of the house and property is less than One Hundred Dollars, \$2.50; and over One Hundred Dollars, and less than Two Hundred Dollars, \$5.00; and if the yearly rental thereof exceeds Two Hundred Dollars, and less than Three Hundred and Fifty Dollars, \$7.50; and if more than Three Hundred and Fifty Dollars, and less than Five Hundred Dollars, \$10.00; and if more than Five Hundred Dollars, and less than Eight Hundred Dollars, \$12.50; and if more than Eight Hundred Dollars, and less than One Thousand Dollars, \$15.00; and when the yearly rental of such house and property exceeds One Thousand Dollars, five per centum on such excess shall be added.

SEC. 2. On every license to furnish intoxicating drinks at a public theatre, One Hundred Dollars.

SEC. 3. On every license to sell, or offer, or expose for sale, spirituous liquors, wine, porter, ale, or beer, or any drink

SEC. 13. The town tax on licenses mentioned in all the foregoing sections, shall be for the term of one year. If any of the foregoing licenses are for four months, one-half, and if for two months, one-third of the yearly tax shall be paid therefor. And when a license is granted to a peddler or auctioneer for a shorter period, the tax shall be at the rate of One Dollar per day.

SEC. 14. On a license permitting a theatrical performance, the tax shall be Five Dollars for each week.

SEC. 15. The town tax on every license to exhibit a circus, shall be Fifty Dollars for each exhibition; on a license to exhibit a menagerie, Thirty Dollars for each exhibition; on a license to exhibit a circus and menagerie combined, Seventy-five Dollars for each exhibition; and on a license to exhibit any other public show, inclusive of each and every side show in the vicinity of a circus and menagerie, or circus and menagerie combined, Ten Dollars for each exhibition, except that license to exhibit a museum or public show, where the admission is ten cents, shall be Five Dollars a day, or Twenty-five Dollars a week.

SEC. 16. The town tax on every license to operate a merry-go-round, or steam riding gallery, shall be Fifteen Dollars a day, or Seventy-Five Dollars a week.

## ORDINANCE VIII. CONCERNING PRIVIES, &C.

### SECTION.

- 1 Duty of Owners of Privies.
- 2 Power of Council as to Privies.
- 3 Applies to Hog Pens, &c.
- 4 Duty of Sanitary Committee.
- 5 Nuisances in Streets, &c.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS:

Act by Con.  
1-18-09.

SEC. 1. All Privies, out-houses or water-closets not deposited into a proper cess-pool or sewer, shall be erected and constructed with boxes therein that will not allow any excrement to escape, and such boxes shall be placed in the privies, out-houses or water closets in such a manner that they will be convenient for the sanitary man to get from the alleys for the purpose of cleaning same.

The said privies, out-houses or water closets shall be cleaned by a man employed by the town Council as follows: Boarding houses, hotels, or taverns, twice every month during the months of November, December, January, February, March and April; three times a month during the months of May, June, July, August, September and October. All other water closets in the town shall be cleaned once a month, beginning with November, December, January, February, March and April, and twice a month during the months of May, June, July, August, September and October.

No privies or hog pens shall be constructed within ten feet from any street within the Town, but all privies and hog pens shall be on the alley.

A sanitary tax, to be fixed by the Council each year, for dwelling houses, boarding houses and hotels, and shall be charged as other taxes on real estate against the property so assessed, for each dwelling house, one sanitary tax, and each

additional family therein, one extra sanitary tax, and collect as other corporation taxes, for all privies not depositing in a cess-pool or sewer.

No person shall permit his hog pen, cow or horse stable to become foul or filthy or produce an unhealthy smell so as to become a nuisance, but every owner shall keep the same properly cleaned and disinfected. Any person who shall violate any of the provisions of this Section, of this Ordinance, shall pay a fine of not less than Two Dollars, nor more than Ten Dollars for every such offence.

SEC. 2. When any box, pit or other receptacle for night soil in privies, become full or in a condition that is proper to be cleaned, the Council shall have the authority to have the same properly cleaned immediately, without giving notice to the owners thereof, and the cost of doing the same shall be charged against the owner or owners aforesaid, and collected as corporation taxes.

SEC. 3. This ordinance shall apply to filth or manure about hog-pens, pig-sties, cess-pools or other nuisances, and the same regulations that apply to sections one and two of this ordinance, shall also apply to them.

SEC. 4. The Sanitary Committee shall have power, and it shall be its duty, to employ some suitable person to clean privies and haul away filth; the average schedule of prices to be allowed for such work and to have supervision over the same. The Recorder shall keep a correct account of all amounts charged against persons for the work named in sections one and two of this ordinance.

SEC. 5. It shall be unlawful for any person to deposit human excrement, taken from privies, in any street, alley, public square, common, lot, road, field, stream or pond of water, within the corporate limits of the town. Any person violating any of the provisions of this section shall forfeit and pay a fine of not less than Five Dollars, nor more than Twenty Dollars, or be imprisoned in the county jail for a period not exceeding fifteen days, or both at the discretion of the Mayor.

## ORDINANCE IX. CONCERNING THE DEFECTIVE CHIMNEYS, FLUES, ETC.

SECTION I Dangerous Chimneys, Flues, etc.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS :

SEC. 1. It shall be unlawful for any person to allow any dangerous chimney, flue, roof or building to remain on his premises after notice to repair or remove the same, has been given by the Mayor. Any person offending against the provisions of this section, shall be fined not less than Five, nor more than Ten Dollars.

SEC. 2. Any dangerous chimney, flue, roof or building, after reasonable notice to repair or remove the same, has been disregarded, may be abated by the Mayor, as a nuisance, at the expense of the owner of such nuisance.

SEC. 3. It shall be the duty of the Sergeant and Street Committee to see that the provision of section one of this ordinance is fully complied with, and when they suspect that any chimney, flue, roof or building, is in an unsafe or dangerous condition, the Sergeant or any member of said Committee shall have the authority to enter any house, dwelling, store-room or outbuilding to examine the same.

**ORDINANCE X.**  
**CONCERNING VICIOUS ANIMALS.**

**SECTION 1. Vicious Animals.**

**BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS:**

**SEC. 1.** It shall be unlawful for the owner of any dog, cow, bull, horse, sheep, goat, or other animal known to him to be vicious or unruly, to allow the same to be loose or run at large within the town. The Mayor shall have the power to order any such dog to be killed by the Sergeant, or such cow, bull, sheep, goat or other animal to be confined at the expense of the owner thereof, and upon failure upon reasonable notice, of the owner of any such cow, bull, sheep, goat or other animal, (except dogs) to confine and restrain the same, or to pay the expense of confining or restraining them, the Mayor shall have power, in his discretion, to have such animal killed or secured as he may deem proper to prevent injury to the public.

**ORDINANCE XI.**  
**CONCERNING REPAIRING AND CLEANING**  
**PAVEMENTS.**

**Section 1. Repairing Streets, etc.**

**BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS:**

**SEC. 1.** It shall be unlawful for the owner or owners of any lot or lots to allow the pavements or board walks in front of, or alongside of their respective lots, to remain out of repair, nor allow any snow to remain on such pavements or board walks, twelve hours after such snow falls. Any person violating this ordinance, may at the discretion of the Mayor, be fined not more than Five Dollars.

fine or costs imposed, it shall be the duty of the Sergeant to give five days notice, and sell said hog, pig, sheep or goat, and to pay out of said sale all fines imposed, and the costs incurred, and the residue he shall pay over to such owner of such hog, pig, sheep or goat. Said Sergeant shall be allowed One Dollar for taking up such hog, pig, sheep or goat, and all necessary expenses, and costs incurred for keeping same, provided the town shall not be liable to the Sergeant for any expense for taking up and keeping said hog, pig, sheep or goat.

## ORDINANCE XII. CONCERNING HOGS, &C., RUNNING AT LARGE.

Section 1. Hogs Running at Large.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS:

SEC. 1. That it shall be deemed a nuisance for any hog, pig, sheep, or goat, to run at large on any street, alley, common or public square within the town. Any person owning any hog, pig, sheep or goat, and permitting the same to run at large, shall forfeit and pay a fine of not less than One, nor more than Five Dollars for each offence. It shall be the duty of the town Sergeant to take up any hog, pig, sheep or goat found running at large within the limits of said town, and put it or them on a pound to be poundd by said town, under the direction of the Mayor, and if the owner of said hog, pig, sheep or goat is unknown to him, he shall at once post in five conspicuous places, in said town, notices describing said hog, pig, sheep or goat and the place where impounded with the amount of expense and cost for taking up the same, and if the owner of such hog, pig, sheep or goat does not appear within five days, and redeem said hog, pig, sheep or goat, it shall be the duty of the town Sergeant to advertise, and sell said hog, pig, sheep or goat, upon five days notice, and shall pay all costs and expenses incurred by him out of said sale, and the balance, if any, shall as soon as ascertained, be paid over to the owner of said hog, pig, sheep or goat, but if the owner of the hog, pig, sheep or goat be known, it shall be the duty of the Sergeant to summon him to appear before the Mayor, to show cause why he should not be fined for allowing said hog, pig, sheep or goat to run at large, and if upon conviction, such owner of said hog, pig, sheep or goat refuse or fail to pay the

the town taxes due thereon shall be paid to the Collector or Town Treasurer of the town, within thirty days of the publication of the notices aforesaid, the lot or lots so charged as aforesaid, or such part thereof as may be necessary to raise the sum thereon, and costs of advertisement, will be sold to the highest bidder for the payment of the same, with interest thereon at the rate of twelve per cent per annum, on a day therein named.

Act by Con.  
11-17-98.

SEC. 2. Whenever the Collector or Town Treasurer may deem it necessary, any lot or lots of ground upon which the taxes are remaining unpaid, which in his judgment are not sufficiently described on the assessment books, he shall have said lot or lots surveyed by a surveyor, who shall report such survey in writing, the expenses whereof shall be charged to said lot or lots, and collected and paid by the Collector or Town Treasurer as other costs and charges against said property, incident to selling the same.

Act by Con.  
11-17-98.

SEC. 3. That in all cases when the taxes aforesaid shall not be paid on the time mentioned in said advertisement, it shall or may be lawful for the Collector or Town Treasurer, and he is hereby authorized and required after making previous advertisement as aforesaid, to sell at public sale such lot or lots of ground, or each part thereof, or such undivided interest therein, when a lot cannot be divided without greatly damaging the same, as may be sufficient to discharge the said taxes, costs, interest and charges of sale, and if said sale is not completed in one day, it may be continued from day to day, until all lots chargeable with taxes are sold, provided, that any person or persons having an interest in any lot may redeem the same at any time before the same is actually sold, by paying the taxes, interest, costs and charges accrued thereon.

Act by Con.  
11-17-98.

SEC. 4. The sale shall be of such lot, or quantity thereof, or undivided interest as shall be sufficient to satisfy the town taxes thereon, including taxes for previous years, together with all costs, interest and charges, provided neither Collector, or Town Treasurer, or Deputy Collector, or Town Treas-

### ORDINANCE XIII. ORDINANCE RELATING TO THE SALE OF REAL ESTATE DELINQUENT FOR NON- PAYMENT OF TAXES.

#### SECTION.

- 1 When Taxes are Unpaid.
- 2 When Lots not Described.
- 3 When Lots to be Sold.
- 4 How much Sold.
- 5 Purchaser to Pay to Collector, or Town Treasurer.
- 6 List to be Returned.
- 7 How Redeemed.
- 8 When Deed to be Made.
- 9 Rights of Assignees.
- 10 Infants, etc.

#### BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS :

SEC. 1. That in all cases where any lot or lots of the land in the town of Davis, now are or hereafter may become charged with the payment of taxes and said taxes shall remain unpaid for the space of six months after the fifteenth day of December, in the year in which they shall have been levied and charged, it shall be the duty of the Collector or Town Treasurer, and he is hereby required to cause advertisement describing the size and location, and when known the number of said lot or lots, name of the street or streets on which they are situated, the amount of taxes respectively due, together with the name of the owner or owners thereof, when known, chargeable with the same, and if any lot or lots have changed hands since the same became chargeable, in the name or names of the persons then owning the same. Said advertisements to be written or printed, and posted in at least six conspicuous places in said town; and if the Council direct, such advertisement may be published in one or more of the newspapers that are published in the town of Davis, for such time as it may order. Said notices shall notify the said owners that unless

urer, shall purchase any lot or lots sold in pursuance of this ordinance.

SEC. 5. The taxes, interest, costs and charges for the purchase of any lot or lots sold in pursuance of this ordinance, shall be paid down to the Collector, or Town Treasurer, who, on receiving from any purchaser the amount of the purchase money, shall give him a receipt therefor, stating the lot or lots so sold, with a description thereof, the cause of said sale, and for what year or years, and what amount of taxes charged thereon for each year, together with the costs and charges thereon, and for every such receipt the Collector, or Town Treasurer shall be entitled to receive from the purchaser fifty cents.

SEC. 6. The Collector, or Town Treasurer, shall return to the Council a list of the sales, with names of the former owner or owners, when such lot or lots may have changed hands since the taxes were assessed, as well as the names of the purchasers, the date of the sale, the amount of taxes, interest, charges, costs, etc., paid, to which shall be attached an affidavit of the Collector, or Town Treasurer, setting forth that the same is a true list of all lots sold by him for non-payment of taxes, that the amounts are correct, and that he is not directly nor indirectly interested in the purchase of any said lots, which affidavit shall be subscribed by the Collector, or Town Treasurer, and sworn to by him before some person authorized to administer oaths. Said list shall be correctly copied by the Recorder in a book to be provided for that purpose and original preserved by the Recorder.

SEC. 7. The owner or owners of any real estate sold, his or their heirs or assignees, or any person having a right to charge such real estate for debt, may redeem the same by paying to the purchaser, his heirs or assignees, within one year from the sale thereof the amount specified in the receipt mentioned in the fifth section of this ordinance, and such additional taxes thereon as may have been paid by the purchaser, his heirs or assignees, on the said lot or lots, and interest at

the rate of twelve per cent per annum, on the taxes, costs and charges from the time the same shall have been paid, provided that if the purchaser cannot be found, or refuses to accept the money for the redemption of any lot or lots, as provided for in this section, the amount may be deposited with the Collector, or Town Treasurer, who is authorized to pay the same to the purchaser, and is to account for such money in the same manner as other funds which may come into his hands by virtue of his office.

SEC. 8. After the expiration of one year from the time of purchasing the same, the purchaser of any real estate sold, and which has not been redeemed in accordance with section seven of this ordinance, shall be entitled to receive from the Recorder of the town, a deed conveying the same, in which shall be recited all the material circumstances appearing in connection with said sale from the records of the Council conveying the same, provided that if the sale be of part of a lot it shall be for so many feet fronting on a street or alley, and where practicable, shall be such proportion of the lot upon which there are no buildings, and the deed shall particularly refer to the part of the lot sold by metes and bounds, and if any money has been made, as in section two of this ordinance mentioned, the deed shall refer to the Report of the Surveyor, and it is further provided that for every deed drawn and executed under this section, the Recorder shall receive Five Dollars.

SEC. 9. When the purchaser, his heirs or assignees have assigned the benefit of his purchase by a writing duly executed and acknowledged, the deed may be executed to his assignees.

SEC. 10. Any infant, married woman, insane person, or persons who may have been imprisoned, whose real estate may have been sold under this ordinance, during such disability, may redeem the same by paying to the purchaser, his heirs or assignees, within one year from the removal of such disability, the amount for which the same has been sold, with the neces-

Act by Con.  
11-17-98.

sary charges incurred by the purchaser, his heirs or assignees, in obtaining title under the sale, and such additional taxes in the estate so sold, as may have been paid by the purchaser, his heirs or assignees, and the interest on the said items at the rate of twelve per centum per annum, from the time the same was paid, and if the purchaser cannot be found, or refuses to accept the same, the amount may be deposited with the Collector, or Town Treasurer, in the same manner as provided for in section seven of this ordinance.

## ORDINANCE XIV. CONCERNING ELECTRIC LIGHTS.

### SECTION

- |   |                        |                        |
|---|------------------------|------------------------|
| 1 Privileges to Electric Light Company. | 3 Length of Franchise. | 4 When to take effect. |
| 2 Power to use Streets, &c.             |                        |                        |

An ordinance authorizing the Davis Electric Light Company, its Successors and Assigns to erect, maintain and operate an Electric Light and Power System in the town of Davis, County of Tucker and State of West Virginia, to establish and maintain proper conduits, cables, wires, conductors, poles and connections.

Be it therefore ordained by the Council of the town of Davis, County of Tucker, State of West Virginia.

Act by Con.  
4-26-08.

SEC. 1. That full right, privilege and authority be, and the same is hereby granted to the Davis Electric Light Company, its successors and assigns, to erect, construct, maintain and operate such suitable and convenient plants, as it or they may deem proper or necessary for the generation and distribution of electricity for light, power and other uses and purposes within the said Town of Davis and all additions thereto.

SEC. 2. For the purposes aforesaid, the Davis Electric Light Company, its successors and assigns, shall have the right to erect and maintain poles, masts, towers and other needful proper supports upon any and all streets, alleys and public grounds in said town, and to erect, maintain, place and string wires, cables and conductors thereon, as they may deem proper, and to lay, place and maintain wires, cables, conductors, and proper conduits underground and beneath all such streets, alleys and public grounds, provided, that all poles

shall be placed near gutters in usual manner, so that they will not unnecessarily obstruct streets or gutters, and shall be of a height not less than thirty (30) feet, and sufficiently close together to carry wire as much as twenty-five (25) feet above principal streets.

And provided, further, that if wires, conduits or cables are laid below the surface, the same shall be so placed as not to interfere with water or gas mains or pipes, and all openings shall be promptly closed, and the streets left in as good condition, as near as may be, as before openings therefor are made. Provided further, that all poles, wires and cables, if any, shall be made to conform to all changes of grades hereafter legally made by the Council.

SEC. 3. For the purposes aforesaid, the Davis Electric Light Company, its successors and assigns, shall have the exclusive pole right for such purposes in the said Town of Davis, and all additions thereto, for a period of Ten (10) years, and the franchise of the said Davis Electric Light Company shall extend Fifty (50) years from the adoption of this ordinance, thereafter.

SEC. 4. This ordinance shall take effect and be in full force from and after its approval and publication, and be binding on both parties thereafter.  
April 26th 1893.

## ORDINANCE XV. CONCERNING WEIGHING COAL, &C.

Act by Con.  
9-27-98.

On and after the 15th of October, 1893, all parties retailing Coal and Coke within the Town limits, shall have the same weighed by a sworn weighman appointed by the Council. In weighing the same, 2000 lbs. shall be considered a ton.

The persons having same weighed shall pay said weighman ten (10) cents per each load weighed. The penalty for non-compliance with this ordinance shall be One Dollar for each and every offence.

The compensation for Weighman shall be set from time to time by the Council, but shall not exceed 50 per cent. of the receipts from said weighing.

of Ten (10) years, and the franchise of the said "Volunteer Fire Department" shall extend Twenty (20) years from the adoption of this ordinance, thereafter.

SEC. 3. This Ordinance shall take effect and be in full force from and after its approval, and be binding on both parties thereafter.

## ORDINANCE XVI.

### SECTION.

- 1 Privileges.
- 2 Use of Hall.

### SECTION.

- 3 When to take effect.

An Ordinance Authorizing the Volunteer Fire Department of Davis, W. Va., its Successors and Assigns, to have and use both floors of the "Town Hall" commonly known as "Firemen's Hall" in the Town of Davis, County of Tucker and State of West Virginia, and to build to said building as they may desire or occasion may require.

Be it therefore ordained by the Council of the Town of Davis, County of Tucker, State of West Virginia:

Act by Con.  
9-9-98.

SEC. 1. That full right, privilege and authority be, and the same is hereby granted to the "Volunteer Fire Department" of Davis, W. Va., its successors and assigns, to build to, have and use all of the Town Hall, commonly known as "Firemen's Hall," and all additions made thereto, as it or they may deem proper or necessary. Reserving to the Town the right, if an additional should be built to said building, to build a basement under it, and use same for a "Lock-Up," and fit it up with cells as the said Town of Davis may desire.

Provided, however, that the "Volunteer Fire Department" shall in no way, conflict with the meetings of the Town Council, and shall always keep the rooms clean and in good repair.

SEC. 2. For the purposes aforesaid, the "Volunteer Fire Department," its successors and assigns, shall have the exclusive right to use the "Firemen's Hall Building" as aforesaid free of cost to them, and shall have the right to appropriate and use as they may deem best, all rents and profits accruing from the use of said building by outside parties, for a period

## ORDINANCE XVII.

### CONCERNING ANIMALS RUNNING AT LARGE.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS :

That on and after June 2nd, 1896, it shall be deemed a nuisance for any horse, mule, ass, bull, or steer to run at large, at any time, on any street, alley, common, or public square within the Corporate limits of the Town of Davis. Cows being privileged to run at large from five o'clock A. M. to eight o'clock P. M. of each day. Any cow allowed to run at large between the hours of eight o'clock P. M. and five o'clock A. M., the owner thereof shall forfeit and pay a fine of not less than fifty cents or more than Ten Dollars for each offence. Any person owning any horse, mule, ass, bull, or steer, and permitting the same to run at large on any street, alley, common, or public square, within the Corporate limits of the Town of Davis, shall forfeit and pay a fine of not less than One Dollar or more than Ten Dollars for each offence.

It shall be the duty of the Police Officer to take up such animals when running at large, in violation of this Ordinance and impound them, and do all other things that may be necessary to enforce this Ordinance as required by Section One of Ordinance Twelve of this Town.

## ORDINANCE XVIII.

### SECTION.

1 Unlawful for certain diseases.  
3 Duty when having such disease.

3 Penalty for not complying with this Ordinance.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS:

SEC. 1. It shall be unlawful for any person knowing himself to have any one of the following contagious diseases, viz: Cholera, Small-pox, Diphtheria, Scarlet-fever, Measles, Chicken-pox, Whooping-cough, or Mumps, to go about on any of the public streets within the corporate limits of Davis.

SEC. 2. Whenever any family has therein any of the contagions enumerated in the foregoing section, the head of such family shall give notice thereof by placing, or causing to be placed, some signal on the front door of his place of abode, showing the presence of such disease therein.

SEC. 3. All persons violating either of the foregoing sections of this ordinance shall be fined not less than One Dollar nor more than Thirty Dollars for each offence.

## ORDINANCE XIX.

- SECTION.  
1 Bond of Mayor and Recorder.

- SECTION.  
3 Filing of Bonds.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS:

SEC. 1. The Mayor and Recorder of the Town of Davis, before entering upon the duties of their respective offices, shall each enter into a bond, before the five Councilmen of said Town, with security subject to their approval, in a penalty of Five Hundred Dollars each, payable to said town of Davis, and conditioned that they will account for, and pay over, as required by law, all money which may come into their hands by virtue of said offices.

SEC. 2. Said bonds, when approved, shall be preserved with the papers of the said town, by said five Councilmen, and shall be copied into the order book of said Town.

A certified copy from said book, made under the certificate of the Recorder shall be sufficient for any legal proceedings thereon.

## ORDINANCE XX.

- SECTION.  
1 Bond Issue of 1897.  
2 Commissioner for sale of Bonds.  
3 For what purpose issued.  
4 Levies for payment of Bonds.
- SECTION.  
5 Payment and redemption of Bonds.  
6 Cancellation of Coupons.  
7 Bond of Commissioner.  
8 When to take effect.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS:

SEC. 1. That the town of Davis, issue bonds to the amount of Eighteen Hundred Dollars, (\$1800.00) which bonds shall be of the denomination of \$100.00 each, to be numbered from one to eighteen, inclusive, and shall be made payable on or before the first day of December, 1917, at the office of the Mayor, of the said town of Davis, with interest at the rate of 6 per cent, payable annually on the first day of December, 1898, and on the first day of December, in each year thereafter, until said bonds are fully paid off and cancelled, for which interest coupon in proper form shall be attached to each bond, with the signature of the Recorder engraved thereon.

The said bonds shall be signed by the Mayor, countersigned by the Recorder, and sealed with the corporate seal of the said Town of Davis.

SEC. 2. Be it further ordained, that C. E. Smith be, and is hereby appointed commissioner, and is empowered, and instructed to sell the said bonds, and not less than their par value, and in the manner provided in Chapter 141 of the Acts of 1872 and 1873 of the Legislature of West Virginia.

SEC. 3. The said bonds shall be issued for the following purposes to wit: To purchase water-pipes, and to lay them, to purchase a pump, and in other respects to improve the water-works of the said Town, in all aggregating the sum of \$1800.00.

The proceeds arising from the sale of said bonds shall be paid out by the Town Council of said Town for the purpose alone as herein before provided, and to such persons as the said Council shall from time to time, direct.

SEC. 4. There shall be annually levied by the Council of said Town of Davis, at the same time the annual levy of the Corporation taxes for other purposes is made, until all the bonds issued under the provision of this ordinance are paid, a direct tax upon all the real estate and personal property assessed by the said town for taxation, which direct tax shall be levied as a separate tax, and in addition to all other taxes that may be levied for the benefit of the town, and which shall be sufficient to pay the interest annually occurring upon said bonds, and after 1907, until the said bonds shall be fully redeemed, and satisfied, be sufficient to pay annually the interest on such of said bonds as shall be unredeemed and in addition thereto, thereto, three of said bonds issued hereunder and not paid. The said tax shall be collected, in such manner as is or may be provided by law, and the ordinances of the said Town for the collection of other taxes on real estate and personal property.

And the collector shall pay over to the Town Council, at its last regular meeting before the interest and the said bonds may come due and payable of each year the total amount of taxes levied and assessed in pursuance of the requirements of this ordinance which shall have heretofore been collected by him, and the said Council by the said money, shall pay the coupons as they severally fall due and payable, as well as the said bonds as they shall severally become due and payable until all are fully satisfied.

The said tax shall be kept and accounted for separate from all other money of the Town.

SEC. 5. The Town of Davis hereby pledges itself to pay each and every year after the year 1907 and until the said bonds are fully paid off, three of all the said bonds not paid off, and it shall be stated on the face of said bonds that they or

any of them are liable to redemption at their par value on and at any time after the first day of December, 1907.

SEC. 6. It shall be the duty of the Town Council of said town to cancel all coupons and bonds satisfied or redeemed by it, and deliver the same to the Recorder to be preserved by him.

SEC. 7. No person shall act as commissioner hereunder to make sale of the said bonds until he shall have entered into bond before the Recorder of the said town in the penalty of \$2,000 conditioned that he perform the duties of his said office to the best of his skill and judgment, and to account for and pay over to the Town Council of said town all money which may come to his hands or under his control as such Commissioner, which bond shall be approved by the said Recorder.

SEC. 8. This ordinance shall take effect from and after its ratification by the qualified voters of the Town of Davis at an election to be held on the second day of October, 1897.

to the construction, improvement and management of the water works, and submit the same to the Committee on Water Works, with such explanation thereof as will enable it to act advisedly thereon. He shall keep a complete set of books of accounts showing in itemized form the receipts and disbursements on account of the water works, which shall at all times be open to the inspection of the committee. He shall also keep a record of the proceedings of the committee at their several meetings.

Act by Con.  
1-18-90.

SEC. 5. He shall make a report to said committee on the Second Wednesday of February, in each year, or oftener if required, of such matters concerning his business, as the committee may have expressed its desire to have reported, and of the receipts and expenses of the water works during the fiscal year ending the 31st day of January, preceding. He shall be custodian of all printed and written documents, books and papers pertaining to his office, and shall exercise due care in filing and preserving same.

SEC. 6. He shall issue orders for all material and everything to be used in the construction of said department; he shall not make any purchase or sell any material of any description whatever without a permit from the committee. No work of any kind shall be done for private parties by any officer or employe of said department, unless authorized by the committee.

SEC. 7. The salary of the Recorder shall be fixed by the Committee on Water Works, with the approval of the Town Council.

## ARTICLE II.

SEC. 1. No person shall bathe or put any filth, animal matter, chips, shavings or any substance into the town Reservoir.

SEC. 2. No person shall, except authorized by the Street Commissioner, except in time of fire, take water from the fire plugs, or deposit any material or dirt in any such fire plugs, or

## ORDINANCE XXI. RELATING TO WATER.—ADOPTED BY COUNCIL ON THE 19<sup>th</sup> DAY OF JANUARY, 1898.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS:

### ARTICLE I.

SEC. 1. The mayor shall be the general administration officer of the Committee on Water Works. It shall be his duty to enforce its By-Laws and Regulations.

Act by Con.  
1-18-90.

SEC. 2. It shall be the duty of the Street Commissioner to report any violation of rules to the Mayor, and may from time to time, as he may deem necessary, submit to the Committee on Water Works such information concerning the operation and condition of the works, and any needed improvements deemed necessary by him, for the extension of said water works to further the interests of the town, and conveniences of the people, and such other information as he may possess which would give the committee a better understanding as to the condition of the system and its uses.

Act by C. A.  
1-18-90.

SEC. 3. It shall be the duty of the Recorder to submit to the Water Committee, at its meeting to be held on the second Wednesday in February, in each year, a full and detailed report of the condition and operation of the works for the year ending with the thirty-first day of January, preceding, together with an estimate of the outlays for the ensuing year. It shall be his duty to attend to the assessment and furnish the Town Treasurer with bills for the collection of water rent.

SEC. 4. He shall audit all accounts and claims pertaining

in the box or appendage connected thereto, or turn any public or private stop-cock or permit any act tending to obstruct the use thereof, or injure in any manner, any buildings, machinery, pipe apparatus or fixtures of the town water works.

SEC. 3. Any person violating either or any of the provisions of Section One and Two shall be subject to prosecution before the Mayor and on conviction thereof, be fined in any sum not less than \$5.00 nor more than \$30.00 or imprisonment, or both, at the discretion of the Mayor.

#### ARTICLE III.

Parties desiring to introduce water to their premises will apply to the Recorder for a permit, stating fixtures, etc., they desire to connect, together with a full and concise statement size and number of rooms, etc., and must answer all questions as to the possible uses and of the availability of its use to others, when the permit will be granted, governed by the rules of the Committee. The Street Commissioner only, or whom he may direct will be permitted to do work in connection with water pipes or fixtures, and when work is done to conform to the rules of the Committee the water will be turned on upon an application being signed by the Recorder but in no case will water be turned on until all requirements have been complied with, both by the plumber and consumer.

Act by Con.  
1-18-99.

SEC. 1. No deduction will be made from the water rent on account of any fixtures not being used, or not wanted by the parties so making application, they must be entirely disconnected from the pipes by the Street Commissioner, and until a written notice is given to the Street Commissioner will the charges cease to run in any case.

Act by Con.  
1-18-99.

SEC. 2. Any person desiring to use the town water and have connection made with the town mains, where mains are on the street where connection is desired, the town is to tap the main and run pipe to curb, balance of expense to be borne by consumer. Where there is no main on the street where water is desired, connection will be made under special con-

tract, the consumer to keep all pipes and fixtures in good order and repair at their own expense, and will personally be held responsible and be punishable by fine in the same manner and penalty as mentioned for violation of the law in Ordinance 5. Section 52, if they do not keep the stop box at the curb in good order, and always accessible and in a working condition.

Act by Con.  
1-18-99.

SEC. 3. Pepealed.

#### ARTICLE IV.

SEC. 1. No person other than the properly authorized agents of the Committee on Water Works will be permitted to tap or make any connection with the main or distributing pipes of the water works.

SEC. 2. A single service pipe intended to supply two or more premises or tenements, must be provided with separate and distinct stop cocks for each tenement, to be placed on the outside of each premises, on the sidewalks or in the public alley opposite the same as the committee may direct.

SEC. 3. No addition or alteration of any taps, pipes, water-cocks or the fixtures shall be made by persons taking water except by the Street Commissioner and by obtaining a permit from the Recorder.

SEC. 4. Hydrants, taps, hose, water-closets, urinals, baths, or other fixtures will not be permitted to be kept running when not in actual use.

SEC. 5. No water taker will be allowed to supply water to others, except by a special permit from the Recorder; if found doing so without a permit the supply will be stopped, and water already paid for, forfeited.

Act by Con.  
1-18-99.

SEC. 6. Water users, in sprinkling streets, may be allowed the privilege of sprinkling the streets any place in front or near his premises in the proper manner, where it will be for the benefit of the occupancy of his own premises, or for the good of the general public, and for sprinkling purposes only, on his own premises, or on the premises for which the water has been taken.

SEC. 7. Hose larger than one inch will not be permitted, and sprinkling without a nozzle, or a larger opening than one-fourth inch is forbidden.

SEC. 8. If a hydrant, street washer or hose is found out of order, leaking or converted into a jet or jets, or is sufficient to run when not used by a person engaged in sprinkling, the Commissioner shall order the supply cut off without previous notice.

SEC. 9. All rents are due and payable quarterly in advance on the first day of January, April, July and October, at the office of the Town Treasurer, and if said bills are not paid on or before the 15th day of said months, a penalty of ten per cent will be added.

WATER SCHEDULE FOR THE TOWN OF DAVIS.  
PRIVATE FAMILIES.

1st faucet.....	\$ 4 80 per annum.
2nd " .....	1 80 "
3rd " .....	1 20 "
Bath tubs in connection with supply.....	3 00 "
If supply for bath tub alone.....	5 00 "
Each additional tub.....	1 80 "
Water closet, self acting.....	2 00 "
" " Each additional.....	1 20 "
Urinal.....	1 25 "
Hose attachment with other supplies.....	4 00 "
" " Alone.....	6 00 "
Hotels and boarding houses, per room.....	60 "
Bars.....	6 00 "
Wash basin, first.....	3 00 "
" " Each additional.....	75 "
Water closets, self acting.....	4 00 "
" " Each additional.....	2 00 "
Urinals in Hotels.....	2 00 "
Bath tub, for family and boarders.....	4 00 "
" " Each additional.....	1 80 "

Drug Stores, one sink.....	\$ 7 20 per annum.
Public bath tub, 1st.....	8 00 "
" " 2nd.....	4 00 "
Barber shops, 1st chair.....	7 20 "
" " 2nd chair.....	1 80 "
Laundries.....	12 00 "
Bottling Works.....	12 00 "
Hydrant in store yard, or basement store..	5 00 "
Basin or sink, in addition to above.....	1 80 "
Water closet.....	1 80 "
Urinal.....	1 25 "
Stable, private, for each stall.....	1 00 "
" Livery.....	1 50 "

Saloon and liquor stores, with the following privileges:

One faucet, one urinal and one hose attachment.....	15 00 "
Motor or fan.....	36 00 "
Restaurant, exclusive of dwelling, 1st faucet	7 20 "
" " 2nd ".....	2 00 "
" " With bar attached.....	13 00 "
Photograph gallery.....	6 00 "
Printing office, one faucet.....	3 00 "
" " Motor.....	24 00 "
Offices, (general) each.....	3 00 "
Office building, per room.....	60 "
Water closets, 1st.....	4 00 "
" " Each additional.....	2 00 "
Wash basin.....	3 00 "
Brick, per M.....	07 "
Stone, per perch.....	05 "
Plastering, per 100 yards.....	30 "
Steam engines, from one to ten H. P. inclusive.....	
For engines exceeding ten H. P.....	

Act by Con. 1-18-96.

SEC. 10. If any person shall refuse or neglect to pay the rent when due, or permit any waste or use of water not au-

thorized by the Rules and Regulations of the Committee on Water Works, the water shall immediately be turned off, and not turned on again until all back rent and damage shall be paid, and the Town Treasurer shall charge and collect the further sum of \$1.00 for turning off and on the water, and said \$1.00 to go to the town.

Act by Con.  
1-18-99.

SEC. 11. In cases where the water has been turned off for the non-payment of water rents, or by any other rule of the Committee, by the order of any of the officers and is again found on, when in the opinion of the Committee, the turning off of the water at the stop cock is not a sufficient protection against the use or waste of water, it shall be the duty of the Committee, or Street Commissioner, to cause the ferrule to be drawn, or the pipe plugged. Upon reapplication for water, where the ferrule has been drawn, or the pipe plugged, the necessary expense for replacing the same in the former condition, will be charged to the applicant.

SEC. 12. The Committee or agent of the Committee shall have free access at all reasonable hours of the day, to all parts of the premises to which water is supplied.

SEC. 13. The Committee reserves the right to apply a meter to any service pipe, as they may deem advisable.

SEC. 14. The consequence of a violation of the preceding rule will be the stoppage of the supply of water without any preliminary notice, and it will not be restored except upon the payment of all damage and upon a satisfactory understanding with the party that no future cause for complaint shall arise.

SEC. 15. In all cases where servants, apprentices or minors shall be guilty of any breach of the preceding Rules and Regulations the employer or parent or guardian of such guilty persons shall be responsible for and subject to prosecution, for such violation of the Rules and Regulations for the protection of the Water Works.

SEC. 16. Water will not be turned on for any premises

until the owner or his authorized agent has made application therefor, and signed a contract agreeing to be responsible for the water rent on said premises.

Act by Con.  
1-18-99.

SEC. 17. The Water Schedule for the town of Davis in Article 5 of said ordinance, shall be the rate to be charged to the consumers of said town so long as the water Committee may deem it practicable, just and right, but said Committee may at any time make such changes in said schedule as they may deem necessary, but can only do so by permission of the Council.

Act by Con.  
1-18-99.

SEC. 18. The Street Commissioner when making any connections with any of the mains in said town, or for any purpose finds it necessary to cut off the water leading to any consumers of said town, who has hot water faucets, is hereby required to notify such persons at the time this will be done, and have the necessary precaution taken to not cause any accident thereby.

Act by Con.  
1-18-99.

SEC. 19. None of the foregoing Ordinances, Rules or Regulations shall be amended, reenacted, changed or annulled except by a two-thirds vote of the entire Council, at a regular meeting, including the five Councilmen, the Recorder and Mayor.

**MAYOR'S PROCLAMATION.**

**TO THE PEOPLE OF THE TOWN OF DAVIS,  
AND ALL OTHERS IN INTEREST:**

*I, Blakeney Parsons, Mayor of the town of Davis, by virtue of authority vested in me by the Council thereof, do hereby publish, proclaim, and declare the foregoing ordinances to be in full force and effect, for the government, protection, and preservation of all persons, property and rights made subject to the jurisdiction of said town by the laws of the State.*

*Given under my hand this 18th day of January, 1899.*

**BLAKENEY PARSONS,**  
*Mayor.*

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## CHAPTER II. CONCERNING OFFICERS OF THE TOWN OF DAVIS

## Article 1. The Elective Officers

Sect. 1. Powers and Duties of Mayor.--The mayor shall be the chief executive officer of the town, when not otherwise provided by law, and shall take care that the orders, by-laws, ordinances, acts and resolutions of the council thereof are faithfully executed. He shall be ex-officio a justice and conservator of the peace within the town, and shall, within the same, have and exercise all powers, and perform all duties vested by law in a justice of the peace, except that he shall have no jurisdiction in civil cases or causes of action arising out of the corporate limits of the town.

He shall have the same power to issue attachments in civil suits as a justice of his county has, though the cause of action arose out of his town. But in such case he shall have it returnable and be heard before some justice of his county.

Any warrant or other process issued by him may be executed at any place within the county or counties in which the town is situated.

He shall have control of the police of the town and may appoint special police officers whenever he deems it necessary, except when otherwise provided by law; and it shall be his duty especially to see that the peace and good order of the town are preserved, and that persons and property therein are protected; and to his end he may cause the arrest and detention of all riotous and disorderly persons in the town before issuing his warrant therefor.

He shall have power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof, and, in default of such payment, he may commit the party in default to the jail of the county, or other place of imprisonment in such corporation, if there be one, until the fine or penalty and costs shall be paid; but the term of imprisonment in such case shall not exceed thirty days. The expense of maintaining any person committed to the jail of the county by him, except if to answer an indictment, or be under the provisions of the Code, shall be paid by the town. He shall, from time to time, recommend to the council such measures as he may deem needful for the welfare of the town.

He shall have the power to disprove by his veto, any order, resolution or ordinance passed by the Council.

2. The Mayor; Further Powers and Duties.--Nothing in the preceding section shall limit the powers of the Mayor to act as ex officio member of any municipal committee, or standing or special committee of the council, or any sub-committee thereof; or to act as ex officio member or appointed member of any administrative body of the Town of Davis or to assume any of the powers and duties subsequently vested in the Mayor by virtue of the laws of the State of West Virginia, or ordinances, orders, by-laws, resolutions, rules and regulations of the common council of the Town of Davis.
3. The Recorder; Powers and Duties of.--It shall be the duty of the Recorder to keep the journal of the proceedings of the council, and have charge of and preserve the records of the town. In absence from the town, or in case of sickness, of the mayor, or during any vacancy in the office of mayor, the recorder shall perform the duties of the mayor and be invested with all his powers.

4. General Powers of Council.--The council shall have plenary power and authority therein by ordinance or resolution as the case may require ( so far as such power or authority is not in conflict with the constitution and laws of this state or the constitution of the United States) to lay off, vacate, close, open, alter, curb, recurb, pave or repave and keep in good repair roads, streets, alleys, sidewalks, crosswalks, drains and gutters, for the use of the public, and to improve and light the same, and have them kept free from obstructions on or over them; to prevent by proper fines and penalties the throwing, depositing or permitting to remain on any street, sidewalk, alley, lane, square or any public place any glass, scrapiron, nails, tacks, wire, other litter or any offensive matter or anything likely to injure the feet of persons or animals or tires of vehicles; to regulate the use of streets, lanes and sidewalks for vehicles propelled by man power, and for other vehicles the use of which is not regulated by general laws; to regulate the width of streets and the sidewalks thereon, and subject to the provisions of chapter six of the ordinances of the Town, to order the sidewalks, footways and crosswalks, to be curbed, recurbed, paved and repaved, and kept in good order, free and clean, by the owners or occupants thereof, or of the real property adjacent thereto; to establish and regulate markets, and prescribe the time of holding the same; to prevent injury or annoyance to the public or individuals from anything dangerous, offensive, or unwholesome; to prevent hogs, cattle, horses, sheep or other animals, and fowls of all kinds from going at large in the Town; to protect places of divine worship and to preserve peace and order in and about the premises where held; to arrest, convict and punish any person for keeping a house of ill-fame, or for letting to another person any house or other building for the purpose of being used or kept as a house of ill-fame, or for knowingly permitting any house owned by him, or under his control, to be kept or used as a house of ill-fame, or for loafing, boarding or loitering in a house of ill-fame, or frequenting same; to arrest, convict and punish any person for importing, printing, publishing, selling or distributing any pornographic publication; to arrest, convict and punish any person for cruelly, unnecessarily or needlessly beating, torturing, mutilating, killing, or overloading or overdriving, or wilfully depriving of necessary sustenance, any horse or other domestic animal; to arrest, convict, and punish any person for gambling or keeping gaming tables, commonly called "A, B, C," or "E, O," table or faro bank or keno table, or table of like kind, under any denomination, whether the gaming table be played with cards, dice or otherwise, or any person who shall be a partner or concerned in interest, in keeping or exhibiting such table or bank, or keeping or maintaining any gaming house or place, or betting or gambling for money or anything of value; to license, or for good cause to refuse to license in a particular case, or at its discretion to prohibit in all cases, the operation of pool and billiard rooms and maintaining for hire of pool and billiard tables, notwithstanding the general law as to state licenses for such business. In event that the council decides to license any such business, the council shall have power, and it shall be the duty of the council to make and enforce reasonable ordinances regulating the licensing and operating of such businesses; the council shall also have such power and authority to arrest, convict and punish any person for carrying about his person any revolver or other pistol, dirk, bowie knife, razor, sling shot, billy, metallic or other false knuckles, or any other dangerous or other deadly weapon of like kind or character, within such town; to arrest, convict and punish any person for driving or operating, within such town, a motor vehicle when intoxicated or under the influence of liquor, drugs or narcotics; to provide penalties for the offenses and violations of law mentioned herein in addition to the penalties for other offenses defined and created by the orders, by-laws, ordinances, resolutions, rules and regulations of the Town of Davis, but which shall not exceed

the penalties provided for by the laws of the State of West Virginia; to abate or cause to be abated anything which, in the opinion of a majority of the whole council, shall be a nuisance; to regulate the keeping of gunpowder and other combustibles; to acquire, by purchase, condemnation and otherwise, land in or near the town for providing and maintaining proper places for the burial of the dead and to regulate interments therein on such terms and conditions as to price and otherwise as may be determined by the council, and, in order to carry into effect such provisions, the council may acquire any cemetery or cemeteries already established; to provide for the regular building of houses or other structures, and for making of division fences by the owners of adjacent premises and the drainage of lots by the proper drains and ditches; to make regulations guarding against danger or damage by fire; to prevent the illegal sale of intoxicating liquors, drinks, mixtures and preparations therein; to protect the persons and property of the inhabitants of such town, and to preserve peace and good order therein, and, for this purpose, to appoint, when necessary, a police force to assist the sergeant in the discharge of his duties; except as otherwise provided, to prescribe the powers and define the duties of the officers appointed by the council, fix their terms of service and compensation, and require and take from them bonds, when deemed necessary, payable to such town, in its corporate name, with such sureties and in such penalty as the council may see fit, conditioned for the faithful discharge of their duties; to require and take from employees and contractors bonds in such penalties, with such sureties and with such conditions, as council may see fit; to erect, and authorize or prohibit the erection of gas works, electric light works, water works, and sewer treatment and disposal works within or without the town, or partly within and partly without the town, except that it shall not erect or authorize the erection of any such works partly without the town to serve persons already obtaining service from existing works of the character proposed, and where such works are by the municipality erected, or have heretofore been erected, partly within and partly without the town, it shall have the right to lay and collect charges for service rendered to those served within and those served without the town, and to prevent injury to such works or the pollution of the water and its maintenance in a healthful condition for public use within the town; to regulate and provide for the weighing of hay, coal and other articles sold or for sale in the town; to provide a revenue for the town and appropriate the same to its expenses, which power shall include the power to tax dogs; to impose a license tax on persons or companies keeping for hire carriages, hacks, buggies or wagons, or for carrying passengers for pay in any such vehicle, in such town; to adopt rules for the transaction of business, and the government and regulation of its own body.

5. Further Powers of the Council.--Nothing in the preceding section shall limit other powers and duties given the council by the laws of the State of West Virginia, or any future act of the Legislature of West Virginia, or the power of the council to carry into effective operation all needful orders, by-laws, ordinances, resolutions, rules and regulations, not contrary to the constitution and laws of the State of West Virginia.
6. Salaries of Elective Officers.--The Mayor shall receive a salary of one hundred and five dollars per annum, and the Recorder shall receive a salary of two hundred dollars per annum, provided however that no compensation shall be paid to any member of the council other than Mayor and Recorder, and further that the said salaries to Mayor and Recorder shall not be increased or diminished during their tenure of office.

7. Bond of Mayor and Recorder.--The Mayor and Recorder, before entering upon the discharge of their respective duties as such officers, shall enter into a bond before the five Councilmen, with security subject to their approval, in the penalty of Five Thousand Dollars each, payable to the Town of Davis, and conditioned that they will account for, and pay over, as required by law, all money which may come into their hands by virtue of said offices.
8. BONDS: KIND: BY WHO PAID.--The bonds to be given by the Mayor, Recorder and Sergeant, as herein before provided, shall be such bonds as are provided by Guaranty, Trust, or Bonding Companies or Agencies, authorized or licensed to do business in this State, and such bonds when approved by the Council, shall be paid for by the Town, in the manner provided for paying other bills.

## Article 2. Appointive Officers

- Sect.1. BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS, that Section 1, Article 2, Chapter II be repealed and re-enacted to read as follows:

Officers of the Town.--At the first meeting of a newly elected council the said council shall select and appoint a Town Sergeant, a Town Clerk, a Street & Water Commissioner, a Building Inspector, a Town Health Officer, and a Town Attorney, as well as the standing committees as established by section twenty eight, Article one, Chapter III of the Ordinances of the Town of Davis; ~~as well as all other officers and committees~~ as the council shall deem necessary. All officers and committees selected and appointed under this section shall continue in office at the pleasure of the Council or until their successors are appointed and qualified.

2. BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS, that Section 2, Article 2, Chapter II be repealed and re-enacted to read as follows:

Duties and Powers of the Town Clerk.--It shall be the duty of the Town Clerk to collect and promptly turn into the treasury all taxes, special assessments, fines and other money due the municipality, and such Town Clerk is vested with the same rights to distrain for the same as is vested in the Sheriff for the collection of taxes. It shall be the duty of the Town Clerk to sit from 9:00 A. M. until 12:00 Noon and from 1:00 P. M. until 3:00 P. M. on Monday, Tuesday, Wednesday and Thursday each day of the week to collect all water and sewage bills and other monies due the Town, and to deposit such amounts collected in the National Bank of Davis, to the proper funds and to report all delinquencies in payment to the Street & Water Commissioner in order that the water may be turned off. And the said Town Clerk shall deposit money, when collected in the National Bank of Davis, or any Bank designated by the Council to the order of the Town of Davis; the same to be paid out upon order of the Council, by check signed by the Mayor and countersigned by the Town Clerk, and not otherwise. Before entering upon the discharge of his duties the said Town Clerk shall enter into a bond in the penalty of at least Five Thousand Dollars, conditioned according to law, with security subject to the approval of the Council. An if he shall fail to collect any claims belonging to the Town, placed in his hands to collection, by failure on his part to perform his official duties, or if he fail or refuse to pay over all or any of the money, with which he may be chargeable, belonging to the

Town, according to the conditions of his bond upon the order of the Council, it shall be the duty of the said Council to recover the same by an action, or motion, in the corporate name of the Town, in the Circuit Court of the County, or where the amount does not exceed \$300.00, before any Justice of the Peace of the County, for the said Town Clerk or his sureties, any, either of them, or his, or their administrators or executors, giving ten days notice of such action.

3. Sergeant, Chief of Police.--The Sergeant as Chief of Police shall personally direct the police force of the town, and shall have all the powers, rights and privileges within the corporate limits of the Town in regard to the arrest of persons, the collection of claims and the execution and return of process, that can be legally exercised by a Constable, and he shall be entitled to the same compensation therefore; and he and his sureties shall be liable to all the fines, penalties and forfeitures that a Constable of a district is liable to for any failure or dereliction in said office, to be recovered in the same manner and in the same Courts that fines, penalties and forfeitures are recovered against such constable.
4. Powers and Duties of Street Commissioner.--The Street Commissioner shall personally superintend the work on the streets and alleys, and shall see that all walks, crossings and bridges are kept in good condition, and that the alleys are kept clean, and charges for same made to proper parties. All work shall be done under the direction of the Mayor and Council. He shall report to the Council once each month, or oftener if thought necessary. He shall be empowered to act as policeman at any time, but shall not be required to act when busily engaged in street work.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF DAVIS and if there be any ordinances preceeding this that they are hereby amended to read as follows. The Town Council shall employe a Water and Street Commissioner who shall be paid from the revenue and Water funds. It shall be the duty of the said Commissioner to see that the pumps, reservoir and all apparatuses pertaining to the safe supply of water to the Town shall be in first class condition and operative at all times. He shall arrange to have a man qualified for this particular part of his duties, so that in case of emergency the student can take over and operate the entire water system, At a time of year preferably early fall he should arrange to clean the reservoir and dams from which the water supply is stored or this can be at any time suggested and approved by Council, he shall at some time during the months when water is not scarce repair, paint and clean all fire hydrants. When not engaged in work pertaining to the water system he shall paint the equipment, and arrange to keep all tools sharp and in good working condition, store and neatly place all materials, arrange to clean storm sewers, fix and repair streets and alleys, cut weeds and grass as designated by Council. He shall when given the names of delinquent water accounts by the Town Clerk, with or without the Town Sergeant make collections of the accounts or turn off water and arrange that water cannot be turned on again without his knowledge. He will report to Council and make requisition for all material and tools needed, except in an emergency he shall obtain permission from the Mayor. He will at all times be under jurisdiction of the Water and Street Committee and the Mayor. He will keep the streets and alleys clear of trash and snow, he shall plow all business places and streets earliest possible, in case of cars or any other obstructions on the streets he will try to notify the owner to move same and when he again attempts to plow and street is blocked he will notify the Town Sergeant, Mayor and Councilmen who will arrange to have the obstruction towed away and bill the owner for the cost. After removal of the obstruction he will then plow the street or streets. It

shall be his duty to keep pump house clean and properly locked and repaired as well as the reservoir. He shall, upon assuming his duties, take inventory of all tools and equipment and file it with Council and as any new tools or equipment is purchased, it shall be his duty to add this to the list. He must be of good character and report and shall be Bonded. He will at all times be responsible for the satisfactory operation of the Water System, Streets and all vehicles or power tools that the Town may own or use. He shall be paid at a rate in comparison to Towns of the size of Davis and of which conditions are about the same.

5. Powers and Duties of Building Inspector.--The Building Inspector shall serve as a member of the administrative body provided for in Article two, Chapter eleven of the Ordinances of the Town of Davis, and shall have such other powers and duties as are from time to time given him by ordinances, rules, regulations, by-laws, resolutions and orders of the Council of the Town of Davis, and the laws of the State of West Virginia, pertaining thereto.
6. Powers and Duties of Town Health Officer.--The Town Health Officer shall serve as a member of the administrative body provided for in Article two, Chapter eleven, of the Ordinances of the Town of Davis, and shall exercise all the powers and duties of a health officer as provided for in the laws of the State of West Virginia, and as shall hereinafter be provided for by the ordinances, rules, regulations, by-laws, resolutions and orders of the Council of the Town of Davis. Said Health Officer shall be a regularly licensed physician residing in the Town of Davis, and if no such regularly licensed physician reside therein, the Council shall appoint a regularly licensed physician from some place outside the Town.
7. Powers and Duties of Town Attorney.--The Town Attorney shall advise the Council from time to time on any question of law that may hereinafter be given rise to and further said Town Attorney shall be ex officio a member of the Ordinance Committee and said Town Attorney shall draft all ordinances of the Town of Davis. Said Town Attorney shall be a member of the Tucker County Bar, a regularly qualified practitioner of law, and a residence of the Town of Davis, provided however that if no regularly qualified practitioner of law reside therein, the Council shall select a Town Attorney from outside the Town.
8. Further Powers and Duties of Appointive Officers.--The Council may from time to time prescribe any further powers and duties to be delegated to and officer appointed by it, so long as such delegation of power to such appointive officers is not contrary to the constitution and laws of the State of West Virginia.
9. Salary for all Appointive Officers.--The salary of all appointive officers shall be established by order of the Council, and shall be neither increased or diminished during their tenure of office.

AN ORDINANCE AMENDING THE REQUIREMENTS FOR RESIDENCY OF  
THE TOWN ATTORNEY FOR DAVIS, TUCKER COUNTY, WEST VIRGINIA.

WHEREAS, it has been determined by the Common Council of the Town  
of Davis, Tucker County, West Virginia that the Town Attorney need not be  
a resident of the Town of Davis, but must be a resident of Tucker County,  
West Virginia.

NOW THEREFORE, be it ordained by the Common Council of the Town  
of Davis in regular session assembled:

That the Town Attorney for the municipality of Davis shall be a  
resident of Tucker County, West Virginia, but need not be a resident of  
the Town of Davis.

This Ordinance shall be effective from the date of its adoption.

ADOPTED: April 25, 1979

Nancy C. Meyer  
RECORDER

Martin E. Cooper  
MAYOR

I, Nancy C. Meyer, Recorder of the Town of Davis, Tucker County,  
West Virginia, do certify that this is a True and Correct copy of the above  
Ordinance Adopted by the Council of the Town of Davis on Second  
Reading, on April 25, 1979.

(SEAL)

Nancy C. Meyer  
RECORDER

Dispensed with Third Reading as per Ordinance - Page 16, Chapter III,  
Section 26.

## CHAPTER III. RULES OF PROCEDURE GOVERNING THE COUNCIL.

## ARTICLE I. RULES OF PROCEDURE GOVERNING THE COUNCIL.

- Sect 1. Meetings, when held.--The meetings of the Council shall be held at the Council Chamber, at such times as may be fixed by general order or special order of adjournment.
2. Power to Call Special Meetings.--The Mayor, or presiding officer shall have power to call special meeting upon giving reasonable notice to each member of the Council.
3. Relating to Presiding Officer.--The Mayor shall take the chair at the hour appointed for the Council to meet, and having called the members to order shall preserve decorum and enforce a strict observance of the rules. In the absence of the Mayor the Recorder shall preside, and in the absence of the Mayor and Recorder, the Council may appoint a Chairman or presiding officer, by a vote of a majority of the members present, who shall exercise all the powers and discharge all the duties pertaining to the office of Mayor during the absence of the Mayor and Recorder.
4. On Questions of Order.--All questions of order shall be decided by the Mayor, or other presiding officer, subject to an appeal to the Council.
5. Maintenance of Discipline.--The Mayor, or presiding officer is hereby vested with the full responsibility of maintaining order in the Council meetings. He may declare that any member is transgressing the rules of Council, or any member may suggest to the Mayor, or presiding officer that some member is transgressing the rules of Council, provided however, that the Mayor, or presiding officer is the only person who may pass on the issue of whether such member is transgressing the rules of Council. In event the Mayor, or presiding officer, decides that the rules of Council are being transgressed, such Mayor, or presiding officer may direct such member to take his seat and be silent, and may impose upon said member the obligation to apologize to the Council before he will be recognized again.
6. Recognition of Member.--The Mayor, or presiding officer, shall when two or more member of the Council demand recognition at the same time recognize one of such members at his election, and further the Mayor, or presiding officer may limit debate on any matter before the Council, and allot to any one member a given time to address the Council on any one item of business before the said Council.
7. Every Member to Vote.--Every member present when a vote is taken, shall vote, unless such member is directly or indirectly interested in the matter being voted on.
8. Written Motions.--Every motion shall be reduced to writing, if the Mayor or any member require it.
9. When Motion is Debatable.--When a motion is made and seconded, it shall be deemed to be in possession of the Council, and shall be stated by the Mayor, or being in writing, read by the Recorder, previous to debate; such motion may be withdrawn at any time before decision,

or amendment, by the consent of the Council.

10. Amendments; How Made.--Any motion, ordinance, resolution, ruling, order, by-law or regulation may be amended at any time prior to passage by the Council. Such amendment may be made by any member of the Council, and must be in writing if the original motion, ordinance, resolution, ruling, order, by-law, or regulation is in writing. Such amendment may be allowed by the author of the original matter before the Council, or by majority vote of the Council.
11. Amendments, How Voted On.--An amendment to any motion, ordinance, resolution, ruling, order, by-law, or regulation shall be voted on prior to the matter before the Council, which it seeks to amend. And when there are several amendments to the same matter before the Council, they shall be voted on in the reverse order in which they were introduced.
12. Order of Proceedings at First Meeting of Newly-Elected Council.  
--At the first meeting of a newly elected Council the order of proceedings shall be as follows:

Order of Business

First--Administration of oath of office to Mayor, by some person not a member of the Council, who is eligible to administer oaths under the laws of the State of West Virginia.

Second--Administration of oaths of office to the Recorder and members of the Council by the Mayor.

Third--Calling the meeting to order, and reading the minutes of the last meeting of the Council.

Fourth--Acting on the selection and appointment of the appointive officers, as provided for in Article two, Chapter two of the ordinances of the Town of Davis, as well as any other appointive officers of the Town of Davis to be hereafter ordained and established by the Council of the Town of Davis, provided however that in event the Council fails to select and appoint such officer at this first meeting, the meeting shall proceed no further until such selections and appointments are made, unless upon the agreement of five of the members present.

Fifth;-- Administration of oaths of office to the appointive officers, by the Mayor.

Sixth--Appointment by the Mayor, of the standing committees of the Council and designation of the chairman of each such committee.

Seventh--Upon motion of any one member, the Council may assume as far as is applicable the Regular Order of Business, provided for in succeeding section of this article.

13. Regular Order of Proceedings.--At all other regular and special meetings of the Council, the order of proceeding shall be as follows.

Regular Order of Business

First--Call to order by the Mayor or other presiding officer, with direction to Recorder to call the Roll.

Second--Reading of the Minutes of the prior meeting, by the Recorder, with motion by any member to correct the reading of the minutes, or that the reading of the minutes stand approved, and signature of the Mayor or other presiding officer



19. **Votes; How Taken.**-- All questions shall be put in this form: "as many as are in favor (as the case may be) say Aye," "Contrary, No," and in doubtful cases, or where an affirmative vote of two-thirds of the members present is necessary to carry the proposition, the Mayor may direct, or any member may call for a division.
20. **Of the Previous Question.**--The call for the previous question shall be decided by the following proposition: "Shall the main question be put?" The call to be entertained only on the demand of two members, and until decided shall preclude all amendments or debate of the main question.
21. **Division of the Question.**--Any member may call for a division of the question when the same will admit thereof.
22. **Of Privileged Motions.**--When a question is before the council, no motion shall be entertained unless to amend, postpone or commit the main question, or to adjourn.
23. **Motions of Adjournment.**--A motion to adjourn shall always be in order, unless the Council is engaged in voting, except when a motion to adjourn is made and voted down it cannot be renewed without some intervening business being transacted by the Council.
24. **Motions not Debatable.**--Motions to adjourn or lay upon the table, shall be decided without debate.
25. **Recommitment.**--Any proposition, after reference to a committee and a report thereon, may be recommitted at any time previous to its final passage.
26. **As Regards Ordinances.**--The usual procedure on the passage and adoption of an ordinance shall be: The first reading of an ordinance shall be referred to a committee or committees as provided for in section twelve of this article, and after reported out of committee or committees as the case may be it shall be read a second time, after which it shall be subject to amendment or debate or both as the case may be. After the third reading the proposed ordinance may then be put to a vote, along with all amendments, provided however that the Council may by a four-fifths vote of the members present, taken by yeas and nays, dispense with the procedure prescribed by this section, and adopt the proposed ordinance on either first or second reading, and without reference to committee.
27. **As Regards Any Proposition Not an Ordinance.**--Any resolution, ruling, order, by-law, regulation or motion may be passed upon presentation without reference to the procedure set forth in the prior section.
28. **Standing Committees.**--All standing committees shall consist of three members, unless otherwise provided, and shall be the following committees: Finance, Streets and Alleys, Ordinance, Water Works, Sanitary Affairs and Cemetary.

## 29. Duties of Standing Committees.--

a. The Finance Committee shall audit the accounts of the Town Clerk, and all other officers of the Town as often as they deem necessary. They shall make complete settlement with all officers at the first regular monthly meeting of the Council, each month, and shall aid the Town Clerk in the preparation of an annual financial statement, which statement shall be published pursuant to the requirements of law.

b. The Street and Alleys Committee shall have charge of the streets, alleys, sidewalks, bridges, culverts, sewers, lights and other property of the town. They shall see that the same are kept free from obstruction, clean and in good repair. They shall from time to time recommend such improvements, as in their judgment, should be undertaken by the Council, and report the probable expense thereof, and perform such other duties as may be required.

c. The Ordinance Committee shall have charge of all legal matters, draft, examine and recommend necessary ordinances, orders, resolutions, and rules, and perform such other duties as may be required of them.

d. The Cemetery Committee shall have charge of all matters connected with the Cemetery, and see that same is kept in good condition. They shall, with the consent of the Council, employ a caretaker, whose compensation shall be fixed by the Council, and they shall perform all other duties that may be required in connection with the Cemetery.

e. The Sanitary Committee shall have supervision of the sanitary work of the Town. They shall with the consent of the Council, personally inspect the sanitary condition of the Town each three weeks during the summer season, and report to the Council thereon, and perform such other duties as may be required of them.

f. The Committee on Water Works shall have general supervision of the water system of the Town, and shall see that the laws governing the same are rigidly enforced. They shall have the power to enter the premises or house of any water taker for the purpose of investigating a complaint, or ascertaining for what purpose water is used. They, or any of them, shall also have the power to cause the supply of water to be shut off from any taker, where water is being unnecessarily wasted, or the laws in other respects are not being complied with. They shall perform such other duties as may be required of them by the Council.

30. LEAVING Council Meeting.--No member shall leave a meeting of the Council without permission.

31. Charges Against Officers.--Charges against any officer of the Town shall be preferred in writing and verified by affidavit, and having been read, shall be referred to a committee for investigation without debate.

32. Reports of Committees.--All reports of committees, if ordered by the Council, shall be in writing, signed by the members or chairman, and shall specify in the form of a resolution or ordinance at the close of the report, such action in the premises as the committee may recommend as proper for the Council to adopt.

Article 2. Definitions, Rules of Construction.

- Sect. 1. Definitions of Various Acts of Council.--The following shall henceforth be considered the definition and scope of an ordinance, resolution, regulation, ruling, order and motion of the Council of the Town of Davis:
- a. Ordinance--Any enactment of the Council, which tends to lay down a legislative statement as to what shall constitute the law governing the municipality and residents therein, so far as the authority of the Council to legislate exists, and which enactment clearly is designated as an ordinance, and further which does not violate the negative of any other hereinafter enumerated and defined act of the Council.
  - b. Resolution--A statement of resolve on the part of the Council, to carry out a stated program of activity, and which statement of resolve shall be preceded by a statement of reasons why such program of activity is necessary, provided, however, that nothing herein shall prevent the Council from proceeding any ordinance with a statement of the reasons for the passage of the same.
  - c. Regulation--Any act of the Council which tends to regulate the activity of the municipality or the residents therein and which act is promulgated after notice to the residents of the Town of its adoption and opportunity granted to the said residents to be heard, as regards the same.
  - d. Ruling--Any act of the Council which tends to regulate the activity of the municipality or the residents therein, and which act is promulgated without notice and hearing to the residents of the Town prior to its adoption, and which act is clearly labeled as a Ruling of the Council.
  - e. Order--An act of the Council, directed to any officer of the Town, which commands him to regulate the activity of the municipality or the residents therein, and which order is issued effective as of the date it bears, and which order is clearly labeled as such.
  - f. Motion--A formal proposition on the part of any member of the Council, while in any regular or special meeting of the said Council, to the effect that the Council shall act or fail to act on any matter before it, and which motion shall be subject to the limitations, as to being in writing if required, and received if proper in time and in order, as governed by the rules governing the Council.
2. Things Not Proper Subject Matter of an Ordinance.--Any franchise granted by the Council of the Town of Davis, or any permit issued to any person or persons or corporations to operate for any purpose within the said Town, or content of any contract between the said town, and any person, persons, or corporation, or any statement of resolve on the part of the Council of the said Town, or any matter which may be taken care of by way of regulation, ruling, order or motion, as provided for in the ordinances of the said Town, or any other matter which shall appear to be improper, shall not be made the subject matter of any ordinance of the said Town.
  3. Pertaining to Enacting Clause.--All the ordinances in this revised edition of the ordinances of the Town of Davis, and all ordinances hereinafter passed and adopted by the Council of the Town of Davis, shall be considered to be preceded by the following clause or phrase: "Be It Ordained by the Council of the Town of Davis," although this said clause or phrase need not be added to the reading of such ordinance or ordinances, and the same shall not be defective for the omission thereof.
  4. Cataloging, Indexing and Numbering of Future Ordinances.--All ordinances passed and adopted by the Council of the Town of

D vis, after the completion of this revised edition of the Ordinances of the Town of Davis, shall be cataloged, indexed and numbered, in the following manner:

First, the standing or special committee or committees to which the proposed ordinances is referred before adoption, shall, determine the logical Chapter under which the proposed ordinance should be placed, and shall report the same to the Council along with its report on the said proposed ordinance and along with the recommendation as to whether the said ordinance is to be considered an amendment or repeal of any existing ordinances, or to be an independent Article under such Chapter or further whether such ordinance is to constitute an independent, new and separate chapter of the Ordinances of the said Town, and the Council may confirm this said report and these said recommendations, or any part thereof, or revise the same prior to the adoption of the proposed ordinances, provided however, that if the ordinance is passed according to section 26, article one of this Charter, the Mayor may designate the Chapter and Article of the said Ordinance, subject to the approval of the Council,

Secondly, all future ordinances, shall bear a designation as to chapter, article, and section, and a caption for each chapter, article and section, provided, however no such chapter, article, or section caption exists prior thereto,

Thirdly, any ordinance which operates in amendment or repeal of any existing chapter, article or section, or part thereof, shall be designated by the same number of such chapter, article or section, and which number shall be followed by the letter A, B, B., etc.,

Fourth, the Recorder shall index any new chapters, articles and or sections within five days after the same are added.

5. Repeal of Prior Ordinances.--After the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, all prior ordinances of the Town of Davis are hereby repealed, provided however that all franchises and contracts heretofore put in the form of ordinances or otherwise, shall not be affected by the terms of this section, but the same shall remain as valid as if there had been no such repeal, but no further.

## CHAPTER IV. JURISDICTION

## Article 1. Jurisdiction of the Municipality and the Officers Therein.

- Sect. 1. Extraterritorial Operation of Powers of Council.--Whenever the powers of Council enumerated and mentioned in sections four and five, article one, chapter two of the ordinances of the town, cannot be reasonably and efficiently exercised by confining the exercise thereof within the corporate limits, the powers of the corporation shall extend beyond the corporate limits to the extent necessary to the reasonably efficient exercise of such powers within the corporate limits. But such powers unless otherwise provided, shall not extend more than one mile beyond the corporate limits, nor shall powers extend into the corporate limits of another municipality.
2. Jurisdiction of the Mayor.--The Mayor shall have no further powers than those enumerated and mentioned in section one, article one, chapter two of the ordinances of the town, except that the jurisdiction of the Mayor extends to criminal cases for offenses committed anywhere within the county, whenever he is acting as justice of the peace and enforcing a law of the State of West Virginia, and not an ordinance of the Town.
3. Jurisdictional Powers of Town Sergeant.--In addition to the powers and duties enumerated and mentioned in section two and three, article two, chapter two of the ordinances of the Town, the sergeant shall have all the powers, rights and privileges within the corporate limits of the Town in regard to the arrest of persons, the collection of claims, and the execution and return of process that can legally be exercised by a constable of a district within the same. In order to arrest for violation of municipal ordinances and as to all matters arising within the scope of his official duties, the powers of the sergeant or any policemen shall extend anywhere within the county in which the Town of Davis is located.

THE TOWN OF DAVIS  
THE COUNTY OF TUCKER  
THE STATE OF WEST VIRGINIA

**OATH**

**F. JOE DRENNING**

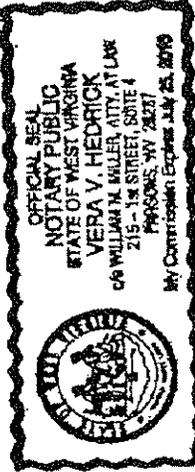
DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE CONSTITUTION OF THIS STATE AND THAT I WILL FAITHFULLY DISCHARGE THE DUTIES OF MY OFFICE AS

**MAYOR**

TERM BEGINNING JULY 1, 2009- ENDING JUNE 30, 2011  
TO THE BEST OF MY SKILL AND JUDGMENT, SO HELP ME GOD.



SUBSCRIBED AND SWORN TO BEFORE THE UNDERSIGNED, THIS THE 1ST  
DAY OF JULY, 2009.



*Vera V. Hedrick*

THE TOWN OF DAVIS  
THE COUNTY OF TUCKER  
THE STATE OF WEST VIRGINIA

**OATH**  
**LOUISE BALL**

DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE CONSTITUTION OF THIS STATE AND THAT I WILL FAITHFULLY DISCHARGE THE DUTIES OF MY OFFICE AS

**RECORDER**

TERM BEGINNING JULY 1, 2009- ENDING JUNE 30, 2011  
TO THE BEST OF MY SKILL AND JUDGMENT, SO HELP ME GOD.

Louise Ball

SUBSCRIBED AND SWORN TO BEFORE THE UNDERSIGNED, THIS THE 12<sup>TH</sup>  
DAY OF AUGUST, 2009.



THE TOWN OF DAVIS  
THE COUNTY OF TUCKER  
THE STATE OF WEST VIRGINIA

**OATH**  
**RAY BALL**

DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE CONSTITUTION OF THIS STATE AND THAT I WILL FAITHFULLY DISCHARGE THE DUTIES OF MY OFFICE AS

**COUNCILPERSON**

TERM BEGINNING JULY 1, 2001, ENDING JUNE 30, 2011  
TO THE BEST OF MY SKILL AND JUDGMENT, SO HELP ME GOD.

*Ray Ball*

SUBSCRIBED AND SWORN TO BEFORE THE UNDERSIGNED, THIS THE 8<sup>th</sup>  
DAY OF JULY, 2004.

*J. Perry*

THE TOWN OF DAVIS  
THE COUNTY OF TICKER  
THE STATE OF WEST VIRGINIA

OATH

ROLAND FRENCHIE GRAVELLE

DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE CONSTITUTION OF THIS STATE AND THAT I WILL FAITHFULLY DISCHARGE THE DUTIES OF MY OFFICE AS

COUNCILPERSON

TERM BEGINNING JULY 1, 2004, ENDING JUNE 30, 2011  
TO THE BEST OF MY SKILL AND JUDGMENT, SO HELP ME GOD.

*Roland F. Gravelle*

SUBSCRIBED AND SWORN TO BEFORE THE UNDERSIGNED, THIS THE 8  
DAY OF JULY, 2004.

*[Signature]*

THE TOWN OF DAVIS  
THE COUNTY OF TUCKER  
THE STATE OF WEST VIRGINIA

OATH

PHIL FERGUSON

DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE CONSTITUTION OF THIS STATE AND THAT I WILL FAITHFULLY DISCHARGE THE DUTIES OF MY OFFICE AS

COUNCILPERSON

TERM BEGINNING JULY 1, 2004 ENDING JUNE 30, 2004  
TO THE BEST OF MY SKILL AND JUDGMENT, SO HELP ME GOD.

*Phil Ferguson*

SUBSCRIBED AND SWORN TO BEFORE THE UNDERSIGNED, THIS THE 8<sup>th</sup>  
DAY OF JULY, 2004.

*[Signature]*

THE TOWN OF DAVIS  
THE COUNTY OF TUCKER  
THE STATE OF WEST VIRGINIA

**OATH**

**JOHN FELTON**

DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE CONSTITUTION OF THIS STATE AND THAT I WILL FAITHFULLY DISCHARGE THE DUTIES OF MY OFFICE AS

**COUNCILPERSON**

TERM BEGINNING JULY 1, 2004, ENDING JUNE 30, 2011  
TO THE BEST OF MY SKILL AND JUDGMENT, SO HELP ME GOD.

*John Felton*

SUBSCRIBED AND SWORN TO BEFORE THE UNDERSIGNED, THIS THE 8<sup>th</sup>  
DAY OF JULY, 2004.

*[Signature]*

THE TOWN OF DAVIS  
THE COUNTY OF TUCKER  
THE STATE OF WEST VIRGINIA

OATH  
SCOTT EICHELBERGER

DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE CONSTITUTION OF THIS STATE AND THAT I WILL FAITHFULLY DISCHARGE THE DUTIES OF MY OFFICE AS

COUNCILPERSON

TERM BEGINNING JULY 1, 2009 ENDING JUNE 30, 2011  
TO THE BEST OF MY SKILL AND JUDGMENT, SO HELP ME GOD.

*Scott Eichelberger*

SUBSCRIBED AND SWORN TO BEFORE THE UNDERSIGNED, THIS THE 8<sup>th</sup>  
DAY OF JULY, 2009.

*J. H. [Signature]*

# Certificate of Publication

## NOTICE OF PUBLIC HEARING ON TOWN OF DAVIS BOND ORDINANCE

A public hearing will be held on the following entitled Ordinance at a regular meeting of the Council of the Town of Davis (the "Town") to be held on Wednesday, January 13, 2010, at 6:30 p.m., in the Town Hall, 505 William Avenue, Davis, 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 A PUBLIC STORMWATER SYSTEM OF THE TOWN OF DAVIS AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$300,000 IN AGGREGATE PRINCIPAL AMOUNT OF STORMWATER REVENUE BONDS, SERIES 2010-B (WEST VIRGINIA SRF PROGRAM/ARRA), PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING AN ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

The above-entitled Ordinance was approved by the Council on December 29, 2009.

The above-quoted title of the Ordinance describes generally the contents thereof and the purposes of the Bonds contemplated thereby. The Town contemplates the issuance of the Bonds described in the Ordinance. The proceeds of the Bonds will be used (i) to pay the costs of the acquisition and construction of a public stormwater system of the Issuer (the "Project"), and (ii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The Bonds are payable solely from revenues to be derived from the ownership and operation of the system of the Town. 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 Town Clerk for review by interested parties during regular office hours.

Following the public hearing, the Council intends to enact the Ordinance upon final reading.

Dated: December 30, 2009.

/s/ Jennie Helmick  
Town Clerk  
12-30-1-6

I, Chris Stadelman, publisher of The Parsons Advocate, a weekly newspaper published at Parsons, Tucker County, West Virginia, do hereby certify that the annexed Notice of Public Hearing on Town of Davis Bond Ordinance

in the case of \_\_\_\_\_

vs. \_\_\_\_\_

has been published for 2 consecutive weeks in said newspaper, beginning with the issue of December 30

Given under my hand this 6 day of Jan 2010.  
Chris Stadelman Publisher

Publication Fee \$ 64.39  
2nd \$48.29

Total \$112.68

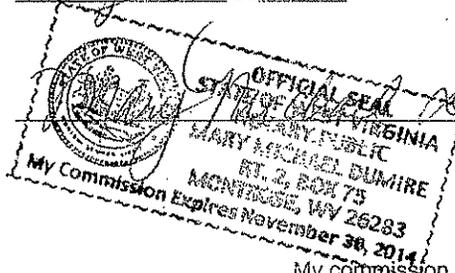
STATE OF WEST VIRGINIA, COUNTY OF TUCKER, to-wit:

Chris Stadelman, publisher of The Parsons Advocate, being duly sworn, says that statements contained in the above certificate are true and correct, to the best of his knowledge and belief.

Chris Stadelman Affiant

Sworn to and subscribed before me this the 6 day of

Jan 2010.



Notary Public

My commission expires 11/30 2014

TOWN OF DAVIS

Stormwater Revenue Bonds, Series 2010 B  
(West Virginia SRF Program/ARRA)

EXCERPT OF MINUTES ON ADOPTION OF BOND ORDINANCE  
AND SUPPLEMENTAL RESOLUTION

The undersigned RECORDER of the Town of Davis of hereby certifies that the following is a true and correct excerpt of the minutes of a regular meeting of the said Council:

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The Council of the Town of Davis met in regular session, pursuant to notice duly posted, on the 13th day of January, 2010, in Tucker County, West Virginia, at the hour of 6:30 p.m.

PRESENT:

F. Joe Drenning, Mayor  
Louise Ball, Recorder  
Sandra Carr  
R. "Frenchie" Gravelle  
Ray Ball  
Rex Liller  
John Stump, Steptoe & Johnson

F. Joe Drenning, Mayor, presided, and Lousie Ball, acted as Recorder. The Mayor announced that a quorum of members was present and that the meeting was open for any business properly before it.

Thereupon, the Mayor opened the floor for the public hearing on the Bond ordinance. Questions were posed concerning the exact location of the Project and clarification of the need for a bond. There were no further comments and The Mayor presented for third reading the Bond Ordinance entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF A PUBLIC STORMWATER SYSTEM OF THE TOWN OF DAVIS AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$300,000 IN AGGREGATE PRINCIPAL AMOUNT OF STORMWATER REVENUE BONDS, SERIES 2010 B

(WEST VIRGINIA SRF PROGRAM/ARRA); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING AN ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

and caused the same to be read and there was discussion. Thereupon, upon motion duly made by Ray Ball and seconded by R. "Frenchie" Gravelle it was unanimously ordered that the said Ordinance be adopted and be in full force and effect on and from the date hereof.

Thereupon, the Mayor presented a proposed Supplemental Resolution and Conformed Bond Ordinance in writing entitled:

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

and caused the same to be read and there was discussion. Thereupon, upon motion duly made by Rex Liller and seconded by Ray Ball it was unanimously ordered that the said Supplemental Resolution and Conformed Bond Ordinance be adopted and be in full force and effect on and from the date hereof.

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There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

TOWN OF DAVIS

Stormwater Revenue Bonds, Series 2010 B  
(West Virginia SRF Program/ARRA)

EXCERPT OF MINUTES ON ADOPTION OF BOND ORDINANCE

The undersigned RECORDER of the Town of Davis of hereby certifies that the following is a true and correct excerpt of the minutes of a special meeting of the said Council:

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The Council of the Town of Davis met in special session, pursuant to notice duly posted, on the 29th day of December, 2009, in Tucker County, West Virginia, at the hour of 6:30 p.m.

PRESENT:           F. Joe Drenning, Mayor  
                      Louise Ball, Recorder  
                      Sandra Carr  
                      R. "Frenchie" Gravelle  
                      Ray Ball  
                      Rex Liller

F. Joe Drenning, Mayor, presided, and Lousie Ball, acted as Recorder. The Mayor announced that a quorum of members was present and that the meeting was open for any business properly before it.

The Mayor presented for second reading the Bond Ordinance entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF A PUBLIC STORMWATER SYSTEM OF THE TOWN OF DAVIS AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$300,000 IN AGGREGATE PRINCIPAL AMOUNT OF STORMWATER REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA SRF PROGRAM/ARRA); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING AN ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

and caused the same to be read and there was discussion. Thereupon, upon motion duly made and seconded and it was unanimously ordered that the said Ordinance be approved on second reading. The Public Hearing is scheduled for January 13, 2010.

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There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

TOWN OF DAVIS

Stormwater Revenue Bonds, Series 2010 B  
(West Virginia SRF Program/ARRA)

EXCERPT OF MINUTES ON ADOPTION OF BOND ORDINANCE

The undersigned RECORDER of the Town of Davis of hereby certifies that the following is a true and correct excerpt of the minutes of a regular meeting of the said Council:

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The Council of the Town of Davis met in regular session, pursuant to notice duly posted, on the 23rd day of December, 2009, in Tucker County, West Virginia, at the hour of 6:30 p.m.

PRESENT: F. Joe Drenning, Mayor  
Louise Ball, Recorder  
Sandra Carr  
R. "Frenchie" Gravelle  
Ray Ball  
Rex Liller  
John Stump, Steptoe & Johnson

F. Joe Drenning, Mayor, presided, and Lousie Ball, acted as Recorder. The Mayor announced that a quorum of members was present and that the meeting was open for any business properly before it.

John Stump from Steptoe & Johnson provided a brief overview of the stormwater project financing and the Mayor presented for first reading the Bond Ordinance entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF A PUBLIC STORMWATER SYSTEM OF THE TOWN OF DAVIS AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$300,000 IN AGGREGATE PRINCIPAL AMOUNT OF STORMWATER REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA SRF PROGRAM/ARRA); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING AN ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

and caused the same to be read and there was discussion. Thereupon, upon motion duly made and seconded and it was unanimously ordered that the said Ordinance be approved on first reading.

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There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of the Town of Davis and that such actions remain in full force and effect and have not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 22nd day of January, 2010.

  
Recorder

WV MUNICIPAL BOND COMMISSION  
 1207 Quarrier Street  
 Suite 401  
 Charleston, WV 25301  
 (304) 558-3971

**NEW ISSUE REPORT FORM**

Date of Report: 1/22/2010

ISSUE: <u>Town of Davis</u>	
<u>Stormwater Revenue Bonds, Series 2010 B (West Virginia SRF Program/ARRA)</u>	
ADDRESS: <u>505 William Avenue, Davis, WV 26260</u>	COUNTY: <u>Tucker</u>
PURPOSE OF ISSUE:	
New Money: <u>X</u>	REFUNDS ISSUE(S) DATED: <u>NA</u>
Refunding: _____	
ISSUE DATE: <u>1/22/2010</u>	CLOSING DATE: <u>1/22/2010</u>
ISSUE AMOUNT: <u>\$270,925</u>	RATE: <u>0%; Administrative Fee 0%</u>
1ST DEBT SERVICE DUE: <u>100% forgivable</u>	1ST PRINCIPAL DUE <u>100% forgivable</u>
1ST DEBT SERVICE AMOUNT <u>100% forgivable</u>	PAYING AGENT: <u>Municipal Bond Commission</u>
BOND COUNSEL:	
Firm: <u>Step toe &amp; Johnson PLLC</u>	UNDERWRITERS COUNSEL
Contact <u>John Stump, Esquire</u>	Firm: <u>Jackson Kelly, PLLC</u>
Phone: <u>(304) 353.8196</u>	Contact: <u>Samme Gee, Esquire</u>
	Phone: <u>(304) 340-1318</u>
CLOSING BANK:	
Bank: <u>Grant County Bank</u>	ESCROW TRUSTEE:
Contact: <u>Jason Hamrick</u>	Firm: _____
Phone: <u>3204.259.5201</u>	Contact: _____
	Phone: _____
KNOWLEDGEABLE ISSUER CONTACT	
Contact: <u>F. Joe Drenning</u>	OTHER:
Position: <u>Mayor</u>	Agency: <u>W.V. Department of Environmental</u>
Phone: <u>304.259.5302</u>	<u>Protection</u>
	Contact: <u>Rosalile Brodersen</u>
	Position: <u>Program Manager</u>
	Phone: <u>(304) 926.0499 (ext. 1608)</u>
DEPOSITS TO MBC AT CLOSE	
By: _____ Wire _____	Accrued Interest: \$ _____
_____ Check _____	Capitalized Interest: \$ _____
	Reserve Account: \$ _____
	Other: \$ _____
REFUNDS & TRANSFERS BY MBC AT CLOSE	
By: _____ Wire _____	To Escrow Trustee \$ _____
_____ Check _____	To Issuer \$ _____
_____ IGT _____	To Cons. Invest. Funi \$ _____
	To Other: _____ \$ _____
NOTES: <u>The Series 2010 B Bonds are 100% forgivable. The Series 2010 B Bonds Reserve Account will not be funded.</u>	
FOR MUNICIPAL BOND COMMISSION USE ONLY:	
DOCUMENTS REQUIRED: _____	
TRANSFERS REQUIRED: _____	



## American Recovery and Reinvestment Act of 2009 (ARRA)

### Project Certification

**Program:** West Virginia Clean Water State Revolving Fund

**Project:** Davis, Tucker County

**Description:**

Installation of two storm water lines and storm inlets to provide for the disconnection of residential downspouts from the sanitary sewer system. This is a designated "green" infrastructure project under ARRA.

**Total Project Cost**

\$270,925

**ARRA Assistance Provided**

\$270,925

I hereby certify that the above project has received the full review and vetting required by federal law and that the investment of federal and state funds in this infrastructure project is an appropriate use of taxpayer dollars.

This certification will be posted on the Governor's website and linked to the federal ARRA website [www.recovery.gov](http://www.recovery.gov).

  
\_\_\_\_\_  
Randy C. Huffman, Cabinet Secretary

  
\_\_\_\_\_  
Date



west virginia department of environmental protection

TOWN OF DAVIS

Stormwater Revenue Bonds, Series 2010 B  
(West Virginia SRF Program/ARRA)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

Grant County Bank, Davis, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Ordinance of the Town of Davis (the "Issuer") enacted by the Issuer on January 13, 2010, and a Supplemental Resolution adopted by the Issuer on January 13, 2010 (collectively, the "Bond Legislation"), authorizing issuance of the Issuer's Stormwater Revenue Bonds, Series 2010 B (West Virginia SRF Program/ARRA), dated January 22, 2010, issued in the original aggregate principal amount of \$270,925 (the "Bonds"), and agrees to serve as Depository Bank in connection with the Bonds, all as set forth in the Bond Legislation.

WITNESS my signature on this 22nd day of January, 2010.

GRANT COUNTY BANK

By:   
Its: Authorized Officer

12.16.09  
217390.00002

5308688

TOWN OF DAVIS

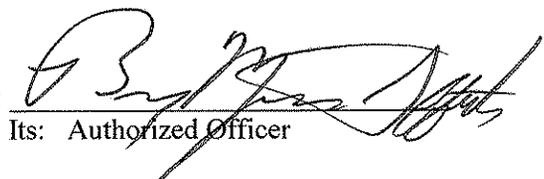
Stormwater Revenue Bonds, Series 2010 B  
(West Virginia SRF Program/ARRA)

ACCEPTANCE OF DUTIES AS REGISTRAR

The Huntington National Bank, Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the Town of Davis Stormwater Revenue Bonds, Series 2010 B (West Virginia SRF Program/ARRA), dated January 22, 2010, in the aggregate principal amount of \$270,925 (the "Series 2010 B Bonds"), and agrees to perform all duties of Registrar in connection with the Series 2010 B Bonds, all as set forth in the Bond Legislation authorizing issuance of the Series 2010 B Bonds.

WITNESS my signature on this 22nd day of January, 2010.

THE HUNTINGTON NATIONAL BANK

By:   
Its: Authorized Officer

12.16.09  
217390.00002

TOWN OF DAVIS

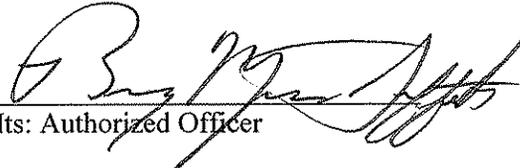
Stormwater Revenue Bonds, Series 2010 B  
(West Virginia SRF Program/ARRA)

CERTIFICATE OF REGISTRATION OF BONDS

THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia, as Registrar under the Bond Legislation and Registrar's Agreement providing for the above-captioned Bonds of the Town of Davis (the "Issuer"), hereby certifies that on the date hereof, the single, fully registered Stormwater Revenue Bonds, Series 2010 B (West Virginia SRF Program/ARRA), of the Issuer, dated January 22, 2010, in the principal amount of \$270,925, numbered BR-1, was registered as to principal only in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of The Huntington National Bank, as Registrar.

WITNESS my signature on this 22nd day of January, 2010.

THE HUNTINGTON NATIONAL BANK

By:   
Its: Authorized Officer

1.7.10  
217390.00002

TOWN OF DAVIS

Stormwater Revenue Bonds, Series 2010 B  
(West Virginia SRF Program/ARRA)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 22nd day of January, 2010, by and between the Town of Davis, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$270,925 Stormwater Revenue Bonds, Series 2010 B (West Virginia SRF Program/ARRA), in fully registered form (the "Bonds"), pursuant to a Bond Ordinance of the Issuer duly enacted January 13, 2010, and a Supplemental Resolution of the Issuer duly adopted January 13, 2010 (collectively, the "Bond Legislation");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Bond Legislation, a copy of which is attached as EXHIBIT A hereto and incorporated herein by reference;

WHEREAS, the Bond Legislation provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Bond Legislation and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Bond Legislation and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Bond Legislation, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exclusion of interest on the Bonds from gross income for federal income tax purposes, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar the compensation for services rendered as provided in the annexed schedule.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Bond Legislation with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Bond Legislation, the terms of the Bond Legislation shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Bond Legislation will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER: Town of Davis  
505 William Avenue  
Davis, West Virginia 26260  
Attention: Mayor

REGISTRAR: The Huntington National Bank  
One Huntington Square  
Charleston, West Virginia 25301  
Attention: Corporate Trust Department

8. The Registrar shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement. The registrar shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Registrar to carry out these requirements is a material breach of this Agreement which may result in the termination of this Agreement or other legal available remedies.

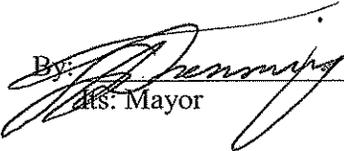
9. This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same document.

10. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Bond Legislation.

[Remainder of Page Intentionally Left Blank]

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.

TOWN OF DAVIS

By:  \_\_\_\_\_  
Its: Mayor

THE HUNTINGTON NATIONAL BANK

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

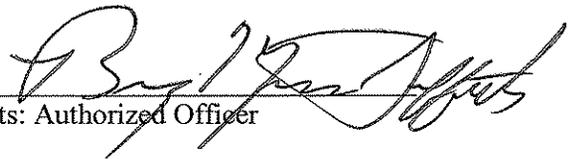
10.28.09  
514960.00002

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.

TOWN OF DAVIS

By: \_\_\_\_\_  
Its: Mayor

THE HUNTINGTON NATIONAL BANK

By:   
Its: Authorized Officer

10.28.09  
514960.00002

EXHIBIT A

Bond Legislation included in bond transcript as Documents No. 1 and No. 2

SCHEDULE OF COMPENSATION

(See attached)

Private Financial Group  
P.O. Box 633 - WE3013  
Charleston, West Virginia 25322-0633



STATEMENT OF REGISTRAR'S FEES  
Invoice Date January 22, 2010

**Town of Davis**  
**Account Number 6089001809**

Town of Davis  
Stormwater Revenue Bonds, Series 2010 B  
C/o John C. Stump  
Steptoe & Johnson, PLLC  
P.O. Box 1588  
Charleston, WV 25326-1588

SUMMARY OF ACCOUNT

\*\*\*\*\*

FEE CALCULATION FOR January, 2010

\*\*\*\*\*

TOTAL AMOUNT	\$ 500.00
TOTAL DUE	<u>\$ 500.00</u>

**MAIL CHECK TO:**  
**THE HUNTINGTON NATIONAL BANK**  
**ATTN: BARRY GRIFFITH – WE3013**  
**PO BOX 633**  
**CHARLESTON, WV 25322-0633**

**PLEASE INCLUDE A COPY OF THIS INVOICE WITH YOUR PAYMENT**

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT  
Barry Morgan Griffith at (304) 348-5035



**STEP TOE &  
JOHNSON**  
FLLC  
ATTORNEYS AT LAW

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

Writer's Contact Information

## CLOSING MEMORANDUM

**To:** Financing Team

**From:** John C. Stump, Esquire

**Date:** January 22, 2010

**Re:** Town of Davis Stormwater Revenue Bonds, Series 2010 B (West Virginia SRF Program/ARRA)

---

1. DISBURSEMENTS TO THE TOWN OF DAVIS

Payor: West Virginia Department of Environmental Protection  
 Source: Series 2010 B Bonds Proceeds  
 Amount: \$61,465  
 Form: Wire  
 Payee: Town of Davis, 505 William Avenue, Davis, WV 26260  
 ABA #: 052203046  
 Account #: 60-00474  
 Bank: Grant County Bank, 901 William Avenue, Davis, WV 26260  
 Contact: Jason Hamrick, 304.259.5201  
 Account: Series 2010 B Bonds Construction Trust Fund

01.13.10  
514960.00002

CH5308683.1

24

DEP PAYMENT REQUISITION FORM

Rev 04/07/09

1. LOAN RECIPIENT/VENDOR:

NAME: Town of Davis  
 ADDRESS: PO Box 207  
Davis, WV 26260  
 FEIN: 55-6000168  
 DUNS: 120750950

2. SRF #: C-547 350

3. INVOICE NUMBER: 1

4. PERIOD COVERED BY THIS REQUEST (MO/DAY/YR)

FROM: (MO/DAY/YR) 9/1/2009 TO: (MO/DAY/YR) 1/7/2010

5. % of PHYSICAL CONSTRUCTION COMPLETION 0%

JAN 1 2010

CLASSIFICATION	A) APPROVED BUDGET	B) PREVIOUS APPROVED	C) THIS REQUEST	D) TOTAL COLUMNS B&C	E) AGENCY USE ONLY	
					SRF	ARRA
1) CONSTRUCTION	\$ 130,306					
2) EQUIPMENT						
3) ENGINEERING						
a. Planning	\$ 5,000	\$ -	\$ 5,000	\$ 5,000		\$ 5,000
b. Design	\$ 23,420	\$ -	\$ 22,920	\$ 22,920		\$ 22,920
c. Const Basic	\$ 7,180	\$ -				
d. Spec Services	\$ 10,000					
e. Inspection	\$ 40,000					
4) LEGAL	\$ 8,000		7,470	7,470		\$ 7,470
5) ACCOUNTING						
6) ADMINISTRATIVE	\$ 20,000	\$ -	\$ 5,575	\$ 5,575		\$ 5,575
7) CONTINGENCY	\$ 6,517					
8) LOAN REPAYMENT						
9) RESERVE FUND						
10) CLOSING COSTS	\$ 20,500	\$ -	\$ 20,500	\$ 20,500		\$ 20,500
11) SUBTOTAL	\$ 270,925	\$ -	\$ 61,465	\$ 61,465		\$ 61,465
12) LESS PREVIOUSLY PAID				\$ -00		-00
13) INVOICE AMOUNT				\$ 61,465		\$ 61,465

14) <u>[Signature]</u> <u>1/7/10</u> AUTHORIZED SIGNATURE DATE <u>Joe Drenning, Mayor</u> TYPED OR PRINTED NAME AND TITLE	15) _____ PERSON PREPARING FORM SIGNATURE DATE _____ TYPED OR PRINTED NAME AND TITLE
--	---

AGENCY USE ONLY:

THIS REQUEST APPROVED BY: <u>[Signature]</u> <u>1/12/10</u> PROJECT REVIEWER DATE	WV DEPARTMENT OF ENVIRONMENTAL PROTECTION <u>[Signature]</u> <u>1/13/10</u> AUTHORIZED OFFICER DATE
---	---

State of West Virginia  
**WATER DEVELOPMENT AUTHORITY**  
 180 Association Drive, Charleston, WV 25311-1217  
 (304) 558-3612 - (304) 558-0299 (Fax)  
 Internet: www.wvwda.org - Email: contact@wvwda.org

**PRECLOSING ATTENDANCE LIST**

Date 1/21/2010 Time \_\_\_\_\_ LGA Town of Davis Program CWSRF/Green

NAME	COMPANY, AGENCY, OR ORGANIZATION	TELEPHONE	FAX	E-MAIL
Carol A. Cummings	WDA	304-558-3612	304-558-0299	cummings@wvwda.org
Samme Lee	Thackert Kelly LLC	304-340-1318	304-340-1272	sglee@thackertkelly.com
ROSE BRODERSEN	WV DEP	304-926-0499	304-926-0496	Rosalie.M.Brodersen@wv.gov
John Stump	Stump & Johnson PLLC	304-353-8196	304-353-8181	john.stump@stumpjohnson.com

The Authority requests that the following information concerning the individual who will be responsible for sending Debt Service Payments to the Municipal Bond Commission be provided. (If that individual is in attendance, he/she should also sign above.) Please Print:

Name Joe Prewing, Mayor Telephone 304-259-5302 E-Mail N/A  
 Address 505 William Avenue, Davis, WV 26260

REMINDER: As a participant in this program, the Local Governmental Agency (LGA) agrees and is required to submit annually to the WDA a copy of its audited financial statements and a copy of its adopted budget. Also, pursuant to the Loan Agreement and the Non-Arbitrage Certificate (both of which are contained in the bond transcript) you are to provide annually to the WDA a rebate calculation certificate or an exception opinion showing whether a rebate amount is due to the US Government under arbitrage requirements in Section 148(f) of the US Internal Revenue Code, 1986, as amended.