

**TOWN OF DELBARTON**

**Water Revenue Bonds, Series 2001 A  
(West Virginia DWTRF Program)**

**Date of Closing: July 18, 2001**

**BOND TRANSCRIPT**

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**BOND TRANSCRIPT**

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**TOWN OF DELBARTON**

**WATER REVENUE BONDS, SERIES 2001 A  
(WEST VIRGINIA DWTRF PROGRAM)**

**BOND ORDINANCE**

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TOWN OF DELBARTON

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE TOWN OF DELBARTON AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$300,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2001 A (WEST VIRGINIA DWTRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 8, Article 19 and Chapter 16, Article 13C 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 Delbarton (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Mingo County of said State.

B. The Issuer presently owns and operates a public waterworks system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain extensions, additions, betterments and improvements to the existing public waterworks system of the Issuer, consisting of replacing portions of existing water mains, installing 2,430 linear feet of 10 inch, 13,050 linear feet of 8 inch, 5,965 linear feet of 6 inch and 2,700 linear feet of 2 inch water lines, one master meter station, all necessary valves and piping controls, abandoning the Issuer's existing water treatment plant and water storage tank and connecting to Mingo County Public Service District's water distribution system, together with all appurtenant facilities (collectively, the "Project") (the existing public waterworks system of the Issuer, the Project and any further extensions, additions, betterments and improvements thereto are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

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

D. It is deemed necessary for the Issuer to issue its Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), in the total aggregate principal amount of not more than \$300,000 (the "Series 2001 A Bonds"), to be initially represented by a single bond, to permanently finance 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; interest upon the Series 2001 A Bonds prior to and during acquisition and construction of the Project and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Series 2001 A Bonds Reserve Account (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority, including the Administrative Fee (as hereinafter defined), discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2001 A 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 2001 A Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

E. The period of usefulness of the System after completion of the Project is not less than 35 years.

F. It is in the best interests of the Issuer that its Series 2001 A Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement by and between the Issuer and the Authority, on behalf of the West Virginia Bureau for Public Health (the "BPH"), in form satisfactory to the Issuer, the Authority and the BPH (the "Loan Agreement"), to be approved hereby if not previously approved by ordinance of the Issuer.

G. There are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

H. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all costs of operation and maintenance of the System, the principal of and interest on the Bonds (as hereinafter defined) and payments into all funds and accounts and other payments provided for herein, all as such terms are hereinafter defined.

I. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 2001 A Bonds, or will have so complied prior to issuance of any thereof, including, among other things and without limitation, the obtaining of a certificate of public convenience and necessity and approval of this financing and necessary user rates and charges described herein from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 2001 A Bonds or such final order will not be subject to appeal or rehearing.

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

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2001 A Bonds by the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners, 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 Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of

the same series, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

"Act" means, collectively, Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended and in effect on the date of enactment hereof.

"Administrative Fee" means any administrative fee required to be paid pursuant to the Loan Agreement for the Series 2001 A Bonds.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2001 A 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 BPH under the Act.

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

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

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

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

"Bonds" means, collectively, the Series 2001 A Bonds, and where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another ordinance of the Issuer.

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

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

for the purchase of the Series 2001 A Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified, by the Supplemental Resolution.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 2001 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 2001 A 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 2001 A 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 only of Operating Expenses, as hereinafter defined.

"Nonpurpose Investment" means any Investment Property as defined in Section 148(b) of the Code, that is not a purpose investment.

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

"Outstanding," when used with reference to Bonds, and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered except (i) any Bond canceled by the Bond Registrar, at or prior to said date; (ii) any Bond for the payment of which moneys, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust 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 Bond 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 such other entity or authority as may be designated as a Paying Agent for the Series 2001 A Bonds by the Issuer in the Supplemental Resolution.

"Private Business Use" means use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit; provided that, use as a member of the general public shall not be taken into account.

"Project" means the Project as described in Section 1.20B 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 Investment Management Board pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

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

"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.

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

"Series 2001 A Bonds" means not more than \$300,000 in aggregate principal amount of Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), of the Issuer, authorized by this Ordinance.

"Series 2001 A Bonds Construction Trust Fund" means the Series 2001 A Bonds Construction Trust Fund established by Section 5.01 hereof.

"Series 2001 A Bonds Reserve Account" means the Series 2001 A Bonds Reserve Account established in the Series 2001 A Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 2001 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2001 A Bonds in the then current or any succeeding year.

"Series 2001 A Bonds Sinking Fund" means the Series 2001 A Bonds Sinking Fund established by Section 5.02 hereof.

"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 2001 A Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2001 A Bonds, and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Bonds, including the Sinking Funds, the Reserve Accounts and the Renewal and Replacement Fund.

"System" means the existing waterworks system of the Issuer, as expanded and improved by the Project, and includes the complete waterworks system of the Issuer and all waterworks facilities owned by the Issuer and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with the waterworks system; and shall also include any and all additions, extensions, improvements, properties or other facilities at any time acquired or constructed for the waterworks system after the completion of the Project.

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

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

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 neuter gender shall include any other gender; and any requirement for execution or attestation of the Bonds or any certificate or other document by the Mayor or the Recorder shall mean that such Bonds, certificate or other document may be executed or attested by an Acting Mayor or Acting Recorder.

## 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 \$1,550,000, 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 2001 A Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received bids and has entered into or will enter into contracts for the acquisition and construction of the Project, in an amount and otherwise compatible with the financing plan submitted to the Authority and the BPH.

The cost of the Project is estimated not to exceed \$1,550,000, of which not more than \$300,000 will be obtained from proceeds of the Series 2001 A Bonds and \$1,250,000 will be obtained from the proceeds of a grant from the United States Housing and Urban Development Small Cities Block Grant Program.

### ARTICLE III

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

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 2001 A Bonds, funding a reserve account for the Series 2001 A 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 2001 A Bonds of the Issuer. The Series 2001 A Bonds shall be issued as a single bond, designated "Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program)", 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 2001 A Bonds remaining after funding of the Series 2001 A Bonds Reserve Account (if funded from Bond proceeds) and capitalizing interest on the Series 2001 A Bonds, if any, shall be deposited in or credited to the Bond Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Terms of Bonds. The Series 2001 A Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum rate, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the Loan Agreement. The Series 2001 A 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 2001 A Bonds shall be paid by check or draft of the Paying 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 2001 A 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 2001 A Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 2001 A 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 set forth in a Supplemental Resolution.

Section 3.03. Execution of Bonds. The Series 2001 A 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 2001 A Bonds shall cease to be such officer of the Issuer before the Series 2001 A 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 2001 A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 2001 A Bonds shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 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 2001 A 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 2001 A 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 2001 A 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 such Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 2001 A Bonds remain outstanding, the Issuer, through the Bond Registrar as its agent, shall keep and maintain books for the registration and transfer of the Bonds.

The registered Series 2001 A 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 2001 A Bonds or transferring the registered Series 2001 A Bonds are exercised, all Series 2001 A Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 2001 A Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of Series 2001 A 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 2001 A Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 2001 A Bonds or, in the case of any proposed redemption of Series 2001 A Bonds, next preceding the date of the selection of Series 2001 A 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 2001 A 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 canceled 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 2001 A Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Gross Revenues derived from the operation of the System as herein provided. No holder or holders of the Series 2001 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2001 A Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Gross Revenues. The payment of the debt service of the Series 2001 A Bonds shall be secured forthwith by a first lien on the Gross Revenues derived from the operations of the System. Such Gross Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 2001 A Bonds 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 they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2001 A Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2001 A Bonds to the original purchasers upon receipt of the documents set forth below:

- A. If other than the Authority, a list of the names in which the Series 2001 A 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 2001 A Bonds to the original purchasers;
- C. An executed and certified copy of the Bond Legislation;
- D. An executed copy of the Loan Agreement; and
- E. The unqualified approving opinion of bond counsel on the Series 2001 A Bonds.

Section 3.10. Form of Series 2001 A Bonds. The text of the Series 2001 A 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 DELBARTON  
WATER REVENUE BOND,  
SERIES 2001 A  
(WEST VIRGINIA DWTRF PROGRAM)

No. AR-\_\_\_\_\_

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

KNOW ALL MEN BY THESE PRESENTS: That the TOWN OF DELBARTON a municipal corporation and political subdivision of the State of West Virginia in Mingo 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 \_\_\_\_\_ (\$ \_\_\_\_\_), 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\_, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The Administrative Fee (as defined in the hereinafter described Bond Legislation) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 20\_\_\_\_, as set forth on EXHIBIT B attached hereto.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH") and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated \_\_\_\_\_, 2001.

This Bond is issued (i) to pay the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public waterworks

system of the Issuer (the "Project"); (ii) to fund a reserve account for the Bonds of this Series (the "Bonds"); and (iii) to pay certain costs of issuance hereof and related costs. The existing public waterworks system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on \_\_\_\_\_, 2001, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 2001 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System and from moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2001 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay all operating expenses of the System and the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an 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 Gross Revenues, the moneys in the Series 2001 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds; provided however, that so long as there exists in the Series 2001 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to 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 moneys, until so applied, in favor of the registered owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and 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 Gross Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Bond Legislation, ordinances 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 DELBARTON 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 \_\_\_\_\_, 2001.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2001 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: \_\_\_\_\_, 2001.

BRANCH BANKING AND TRUST COMPANY,  
as Registrar

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



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: \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreement. The Series 2001 A Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous ordinance or resolution, the Mayor is specifically authorized and directed to execute the Loan 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 Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed. The Loan Agreement, including all schedules and exhibits attached thereto, is hereby approved and incorporated into this Bond Legislation.

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

ARTICLE IV

[RESERVED]

## ARTICLE V

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

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created with 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 2001 A 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 2001 A Bonds Sinking Fund; and
- (2) Within the Series 2001 A Bonds Sinking Fund, the Series 2001 A Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System and all parts thereof shall be deposited upon receipt 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 and order of priority:

- (1) The Issuer shall first, on the first day of each month, transfer from the Revenue Fund and remit to the Commission, commencing 3 months prior to the first date of payment of principal of the Series 2001 A Bonds, for deposit in the Series 2001 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and come due on the Series 2001 A Bonds on the next ensuing quarterly principal payment; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2001 A Bond Sinking

Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission, commencing 3 months prior to the first date of payment of principal of the Series 2001 A Bonds, if not fully funded upon issuance of the Series 2001 A Bonds, for deposit in the Series 2001 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2001 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2001 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2001 A Bonds Reserve Requirement.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund to 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.

(4) The Issuer shall next, each month, pay from the Revenue Fund all Operating Expenses of the System.

Moneys in the Series 2001 A Bonds Sinking Fund shall be used only for the purpose of paying principal of the Series 2001 A Bonds as the same shall become due. Moneys in the Series 2001 A Bonds Reserve Account shall be used only for the purpose of paying principal of the Series 2001 A Bonds as the same shall come due, when other moneys in the Series 2001 A Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 2001 A Bonds Sinking Fund and the Series 2001 A 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 2001 A Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full to the next ensuing principal payment due thereon.

Any withdrawals from the Series 2001 A Bonds Reserve Account which result in a reduction in the balance of the Series 2001 A Bonds Reserve Account to below the Series 2001 A Bonds Reserve Requirement shall be subsequently restored from the first Gross Revenues available after all required payments have been made in full in the priority set forth above.

As and when additional Bonds ranking on a parity with the Series 2001 A Bonds are issued, provision shall be made for additional payments into the respective sinking funds 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 accounts in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the Series 2001 A Bonds Sinking Fund or the Series 2001 A Bonds Reserve Account therein when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2001 A Bonds issued pursuant to this Bond Legislation then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2001 A Bonds Sinking Fund and the Series 2001 A Bonds Reserve Account created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited. If required by either the Authority at anytime, the Issuer shall make the necessary arrangements whereby required payments into the Series 2001 A Bonds Sinking Fund and the Series 2001 A Bonds Reserve Account shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Moneys in the Series 2001 A Bonds Sinking Fund and the Series 2001 A Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2001 A Bonds Sinking Fund and the Series 2001 A Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2001 A Bonds under the conditions and restrictions set forth herein.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month), deposit with the Commission the required principal and reserve account payments with respect to the Series 2001 A Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. The Issuer shall also on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the Administrative Fee as set forth in the Schedule Y attached to the Loan Agreement.

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

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 law, 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 at anytime, make the necessary arrangements whereby such required payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required.

F. The moneys 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 Gross Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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

## ARTICLE VI

### BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of the Series 2001 A Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2001 A Bonds, there shall first be deposited with the Commission in the Series 2001 A Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 2001 A Bonds for the period commencing on the date of issuance of the Series 2001 A Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 2001 A Bonds, there shall be deposited with the Commission in the Series 2001 A Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 2001 A Bonds Reserve Account.

C. As the Issuer receives advances of the remaining moneys derived from the sale of the Series 2001 A Bonds, such moneys shall be deposited with the Depository Bank in the Series 2001 A Bonds Construction Trust Fund and applied solely to payment of costs of the Project in the manner set forth in Section 6.02 and until so expended, are hereby pledged as additional security for the Series 2001 A 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 2001 A Bonds shall be applied as directed by the BPH.

E. The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Series 2001 A Bonds Construction Trust Fund and shall comply with all requirements with respect to the disposition of the moneys therein set forth in the Bond Legislation. Moneys in the Series 2001 A Bonds Construction Trust Fund shall be used solely to pay Costs of the Project and until so transferred or expended, are hereby pledged as additional security for the Series 2001 A Bonds.

Section 6.02. Disbursements From the Bond Construction Trust Fund.

On or before the Closing Date, the Issuer shall have delivered to the Authority and the BPH a report listing the specific purposes for which the proceeds of the Series 2001 A Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for the costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Series 2001 A Bonds Construction Trust Fund shall be made only after submission to the Authority and the BPH of the following:

(1) a completed and signed "Payment Requisition Form," a form of which is attached to the Loan Agreement, in compliance with the construction schedule, and

(2) a certificate, signed by an Authorized Officer and the Consulting Engineers, stating that:

(A) None of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;

(B) Each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;

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

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

Pending such application, moneys in the Series 2001 A Bonds Construction Trust Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

## ARTICLE VII

### ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2001 A 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 2001 A 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 2001 A Bonds or the interest thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2001 A Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any Series 2001 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2001 A Bonds or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Gross Revenues. The payment of the debt service of the Series 2001 A Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Gross Revenues derived from the operation of the System. The Gross Revenues derived from the System, in an amount sufficient to pay the principal of the Series 2001 A Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. Such rates and charges shall be sufficient to comply with the requirements of the Loan Agreement. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the water rate ordinance of the Issuer enacted on April 24, 2000, which rates are incorporated herein by reference as a part hereof.

So long as the Series 2001 A Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth

in the Bond Legislation and in compliance with the Loan Agreement. In the event the schedule of rates and charges initially established for the System in connection with the Series 2001 A Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement.

Section 7.05. Sale of the System. So long as the Series 2001 A Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority, and the BPH, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2001 A Bonds, immediately be remitted to the Commission for deposit in the Series 2001 A Bonds Sinking Fund, and, with the written permission of the Authority and the BPH, 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 the Series 2001 A Bonds. Any balance remaining after the payment of the Series 2001 A Bonds 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, in writing, 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 the Governing Body 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 derived from any such sale, lease or other disposition of such property shall be deposited in the Renewal and Replacement Fund.

Payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amount required to be paid into said fund 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 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 2001 A Bonds. All obligations issued by the Issuer after the issuance of the Series 2001 A 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, pledge and source of and security for payment from such revenues and in all other respects, to the Series 2001 A 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 2001 A Bonds, upon any or all of the income and revenues of the System pledged for payment of the Series 2001 A Bonds in this Bond Legislation, or upon the System or any part thereof.

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

Section 7.07. Parity Bonds. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2001 A Bonds pursuant to this Bond Legislation, without the prior written consent of the Authority, and the BPH and without complying with the conditions and requirements herein provided. All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2001 A Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of design, acquisition or construction of extensions, additions, betterments or improvements to the System or refunding the Series 2001 A Bonds issued pursuant hereto, or both such purposes.

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

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

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from the improvements to be financed by such Parity Bonds and any increase in rates enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12 consecutive month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received on account of increased rates, rentals, fees and charges for the System enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to issuance of such Parity Bonds.

All 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 revenues of the System and their source of and security for payment from

said 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 liens of the Series 2001 A Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from revenues of the System, or any part thereof, which rank prior to or, 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 2001 A Bonds.

No Parity Bonds shall be issued any time, however, unless all 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 shall 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 BPH, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Authority and the BPH such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

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

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

times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the Public Service Commission of West Virginia. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the 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 BPH, the Authority, or any other original purchaser of the Series 2001 A Bonds, and shall mail in each year to any Holder or Holders of the Series 2001 A 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 payable from the revenues of the system 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 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 2001 A Bonds, and shall submit said report to the BPH and the Authority, or any other original purchaser of the Series 2001 A Bonds. Such audit report submitted to the BPH and the Authority shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the Loan Agreement and this Bond Legislation and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the Loan Agreement and the Act, the Issuer has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in

accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

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

The Issuer shall provide the BPH with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in Exhibit D of the Loan Agreement for the Series 2001 A Bonds or as promulgated from time to time.

Section 7.09. Rates. Prior to the issuance of the Series 2001 A Bonds, equitable rates or charges for the use of and service rendered by the System shall be established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2001 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2001 A Bonds; provided that, in the event amounts equal to or in excess of the reserve requirements are on deposit respectively in the Series 2001 A Bonds Reserve Account and any reserve accounts for obligations on a parity with the Series 2001 A Bonds are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2001 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2001 A Bonds. In any event, the Issuer shall not reduce the rates or charges for services described in Section 7.04.

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

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

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

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the Authority and the BPH covering the supervision and inspection of the development and construction of the Project, and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting

Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority, the BPH and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

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

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the DWTRF Regulations, to the BPH when the Project is 90% completed. The Issuer shall at all times provide operation and maintenance of the System in compliance with all State and federal standards.

The Issuer shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator to operate the System during the entire term of the Loan Agreement. The Issuer shall notify the BPH in writing of the certified operator employed at the 50% completion stage.

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

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

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

charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law.

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

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 2001 A 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 Loan Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the 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 not less than 100% of the amount of any construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of any additions, extensions, or improvements for the System in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

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

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

(6) **FIDELITY BONDS** will be provided as to every officer, member and employee of the 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 BPH and the Issuer shall verify such insurance prior to commencement of construction. In the event the Loan 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. Connections. To the extent permitted by the laws of the State and rules and regulations of the Public Service Commission of West Virginia, the Issuer shall

require every owner, tenant or occupant of any house, dwelling or building intended to be served by the System to connect thereto.

Section 7.17. Completion, Operation and Maintenance of Project; Permits and Orders. The Issuer shall complete the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all federal and state requirements and standards. The Issuer shall take all steps to properly operate and maintain the System and make the necessary replacements due to normal wear and tear so long as the Series 2001 A Bonds are outstanding.

The Issuer has obtained all permits required by State and federal laws for the acquisition and construction of the Project, all orders and approvals from the Public Service Commission of West Virginia and the West Virginia Infrastructure and Jobs Development Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals for issuance of the Series 2001 A Bonds required by State law, with all requisite appeal periods having expired without successful appeal.

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

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

Section 7.19. [Reserved]

Section 7.20. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2001 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon delivery of the Series 2001 A Bonds.

Section 7.21. Securities Laws Compliance. The Issuer shall 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 7.22. Contracts; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2001 A Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the BPH for written approval. The Issuer shall obtain the written approval of the BPH before expending any proceeds of the Series 2001 A Bonds held in "contingency" as set forth in the schedule attached to the Certificate of Consulting Engineer. The Issuer shall also obtain the written approval of the BPH before expending any proceeds of the Series 2001 A Bonds made available due to bid or construction or project underruns.

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

## ARTICLE VIII

### INVESTMENT OF FUNDS

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

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

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year (or more often if reasonably requested by the Issuer), a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2001 A Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest, if any, on the Series 2001 A Bonds from gross income for federal income tax purposes.

Section 8.02. Certificate and 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 2001 A Bonds as a condition to issuance of the Series 2001 A 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 2001 A Bonds as may be necessary in order to maintain the status of the Series 2001 A 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 2001 A Bonds which would cause any bonds, the interest, if any, on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority, the Council or the BPH, as the case may be, from which the proceeds of the Series 2001 A 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, the Council or the BPH, to ensure compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Bond Legislation.

The Issuer shall annually furnish to the Authority information with respect to the Issuer's use of the proceeds of the Series 2001 A 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 2001 A Bonds :

(1) If default occurs in the due and punctual payment of the principal of or interest, if any, on the Series 2001 A 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 2001 A Bonds set forth in this Bond Legislation, any Supplemental Resolution or in the Series 2001 A 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, Registrar 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 Series 2001 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 Series 2001 A 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 Series 2001 A Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Series 2001 A Bonds, or the rights of such Registered Owners.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Series 2001 A Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates

and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to the Series 2001 A Bonds, any Registered Owner of a Series 2001 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 Series 2001 A 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 Series 2001 A Bonds 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 Series 2001 A 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 the 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 2001 A Bonds, the principal due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Gross Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2001 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

## ARTICLE XI

### MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2001 A Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2001 A 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 2001 A Bonds, shall be made without the consent in writing of the Registered Owners of the Series 2001 A Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of the Series 2001 A 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 Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 2001 A Bonds required for consent to the above-permitted amendments or modifications.

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 2001 A 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 2001 A Bonds.

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

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

ISSUER:

Town of Delbarton  
P. O. Box 730  
Delbarton, West Virginia 25670  
Attention: Mayor

AUTHORITY:

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

BPH:

West Virginia Bureau for Public Health  
815 Quarrier Street, Suite 418  
Charleston, West Virginia 25301-2616  
Attention: Environmental Engineering

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

Section 11.06. Conflicting Provisions Repealed. All orders, resolutions and ordinances, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 11.07. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, 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 11.08. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in the Williamson Daily News, a newspaper of general circulation in the Town of Delbarton, there being no newspaper published therein, together

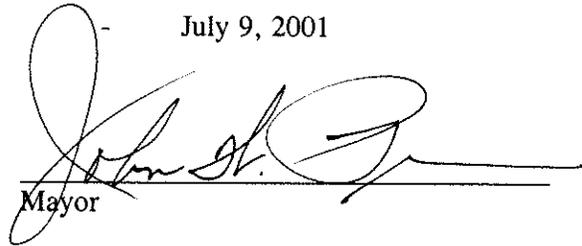
with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Series 2001 A Bonds, and that any person interested may appear before the Governing Body upon a date certain, not less than ten days subsequent to the date of the first publication of such 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.

Section 11.09.      Effective Date.      This Ordinance shall take effect immediately upon adoption.

Passed on First Reading:      -      May 14, 2001

Passed on Second Reading:      -      June 11, 2001

Passed on Final Reading  
Following Public  
Hearing:      -      July 9, 2001

  
\_\_\_\_\_  
Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the TOWN OF DELBARTON on the 9th of July, 2001.

Dated: July 18, 2001.

[SEAL]

Billiofo Endicott  
Recorder

07/09/01  
225970/98002



TOWN OF DELBARTON

Water Revenue Bonds, Series 2001 A  
(West Virginia DWTRF Program)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISIONS, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE WATER REVENUE BONDS, SERIES 2001 A (WEST VIRGINIA DWTRF PROGRAM), OF THE TOWN OF DELBARTON; APPROVING AND RATIFYING THE LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the town council (the "Governing Body") of the Town of Delbarton (the "Issuer") has duly and officially adopted and enacted a bond ordinance, effective July 9, 2001 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE TOWN OF DELBARTON AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$300,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2001 A (WEST VIRGINIA DWTRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED

OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Bond Ordinance provides for the issuance of Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), of the Issuer (the "Series 2001 A Bonds"), in the aggregate principal amount not to exceed \$300,000, and has authorized the execution and delivery of a loan agreement relating to the Series 2001 A Bonds, including all schedules and exhibits attached thereto (collectively, the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH") (the "Loan Agreement"), all in accordance with Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Bond Ordinance it is provided that the form of the Loan Agreement and the exact principal amount, date, maturity date, redemption provisions, interest rate, interest and principal payment dates, sale price and other terms of the Series 2001 A Bonds should be established by a supplemental resolution pertaining to the Series 2001 A Bonds; and that other matters relating to the Series 2001 A Bonds be herein provided for;

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

WHEREAS, the Series 2001 A Bonds are proposed to be purchased by the Authority pursuant to the Loan Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the Loan Agreement be approved and ratified by the Issuer, that the exact principal amount, the date, the maturity date, the redemption provisions, the interest rate, the interest and principal payment dates, the sale price and other terms of the Series 2001 A Bonds be fixed hereby in

the manner stated herein, and that other matters relating to the Series 2001 A Bonds be herein provided for;

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

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 Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), of the Issuer, originally represented by a single Bond, numbered AR-1, in the principal amount of \$258,000. The Series 2001 A Bonds shall be dated the date of delivery thereof, shall finally mature June 1, 2032, and shall bear no interest. The principal of the Series 2001 A Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2002, and maturing June 1, 2032, and in the amounts as set forth in the "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Series 2001 A Bonds. The Series 2001 A Bonds shall be subject to redemption upon the written consent of the Authority and the BPH, and upon payment of the redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Series 2001 A Bonds. The Issuer does hereby approve and shall pay the Administrative Fee equal to 1% of the principal amount of the Series 2001 A Bonds set forth in the "Schedule Y" attached to the Loan Agreement.

Section 2. All other provisions relating to the Series 2001 A Bonds and the text of the Series 2001 A Bonds shall be in substantially the form provided in the Bond Ordinance.

Section 3. The Issuer does hereby authorize, approve, ratify and accept the Loan Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the Loan Agreement and in the application to the BPH and the Authority. The price of the Series 2001 A Bonds shall be 100% of par value, there being no interest accrued thereon, provided that, the proceeds of the Series 2001 A Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 4. The Issuer does hereby appoint and designate Branch Banking and Trust Company, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Series 2001 A Bonds under the Bond Ordinance and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Series 2001 A 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 Series 2001 A Bonds under the Bond Ordinance.

Section 6. The Issuer does hereby appoint and designate Branch Banking and Trust Company, Delbarton, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 7. Series 2001 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2001 A Bonds Sinking Fund, as capitalized interest.

Section 8. Series 2001 A Bonds proceeds in the amount of \$8,600 shall be deposited in the Series 2001 A Bonds Reserve Account.

Section 9. The balance of the proceeds of the Series 2001 A Bonds shall be deposited in or credited to the Series 2001 A Bonds Construction Trust Fund for payment of the costs of the Project, including, without limitation, costs of issuance of the Series 2001 A Bonds and related costs.

Section 10. The Mayor and the Recorder are hereby authorized and directed to execute and deliver such other documents, agreements and certificates required or desirable in connection with the Series 2001 A Bonds to be issued hereby and by the Bond Ordinance approved and provided for, to the end that the Series 2001 A Bonds may be delivered on or about July 18, 2001, to the Authority pursuant to the Loan Agreement.

Section 11. The acquisition and construction of the Project and the financing thereof with proceeds of the Series 2001 A 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 hereby ratifies, approves and accepts all contracts relating to the financing, acquisition and construction of the Project.

Section 13. The Issuer hereby determines that it is in the best interest of the Issuer to invest all moneys in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such repurchase agreements or time accounts, until further directed in writing by the Issuer. Moneys in the Series 2001 A Sinking Fund, including the 2001 A Reserve

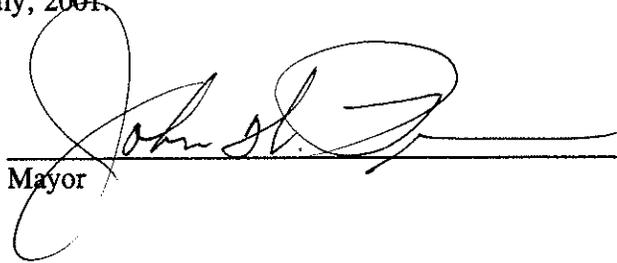
Account therein, shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 14. The Issuer hereby approves payment of all invoices and bills for the Project which have been received to date from the proceeds of the Series 2001 A Bonds.

Section 15. Section 1.02B of the Ordinance is hereby amended and modified to state "consisting of replacing existing water mains".

Section 16. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 9th day of July, 2001.



Handwritten signature of John H. [unclear] over a horizontal line.

Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the Town of Delbarton on the 9th day of July, 2001.

Dated: July 18, 2001.

[SEAL]

Billio Jo Endicott  
Recorder

06/26/01  
225970.98002

DWTRF  
(4/7/00)

## LOAN AGREEMENT

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

TOWN OF DELBARTON  
(Local Entity)

### WITNESSETH:

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

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

WHEREAS, under the Act the BPH is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency ("EPA") to accept capitalization grant awards (U.S. General Services Administration; Catalog of Federal Domestic Assistance, 32nd Edition §66.458 (1998)) and BPH has been awarded capitalization grants to partially fund the Program;

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

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

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

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

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

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

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

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

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

## ARTICLE I

### Definitions

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

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

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

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

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

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

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

1.8 "Program" means the drinking water facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Safe Drinking Water Act and administered by BPH.

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

1.10 "DWTRF Regulations" means the regulations set forth in the West Virginia Code of State Regulations.

1.11 "System" means the drinking water system owned by the Local Entity, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

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

## ARTICLE II

### The Project and the System

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

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

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

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

2.5 The Local Entity shall keep complete and accurate records of the cost of acquiring the Project site and the costs of constructing, acquiring and installing the Project. The Local Entity shall permit the Authority and BPH, acting by and through their directors or duly authorized agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at any and all reasonable times for the purpose of audit and examination, and the Local Entity shall submit to the Authority and BPH such documents and information as it may reasonably require in connection with the construction, acquisition and installation of the Project, the operation and maintenance of the System and the administration of the Loan or of any State and federal grants or other sources of financing for the Project.

2.6 The Local Entity agrees that it will permit the Authority and BPH and their respective agents to have access to the records of the Local Entity pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the

Project and commencement of operation thereof or if the Project is an improvement to an existing system at any reasonable time following commencement of construction.

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

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

2.9 The Local Entity shall provide and maintain competent and adequate engineering services satisfactory to the Authority and BPH covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority, BPH and the Local Entity at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Local Entity shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the DWTRF Regulations, to it within 60 days of the completion of the Project. The Local Entity shall notify BPH in writing of such receipt.

2.10 The Local Entity shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the DWTRF Regulations, to BPH when the Project is 90% completed. The Local Entity shall at all times provide operation and maintenance of the System in compliance with any and all State and federal standards. The Local Entity shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator(s) to operate the System during the entire term of

this Loan Agreement. The Local Entity shall notify BPH in writing of the certified operator employed at the 50% completion stage.

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

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

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

### ARTICLE III

#### Conditions to Loan;

#### Issuance of Local Bonds

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

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

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

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

(d) The Local Entity shall either have received bids or entered into contracts for the construction of the Project, which are in an amount and otherwise compatible with the plan of financing described in the Application; provided, that, if the Loan will refund an interim construction financing, the Local Entity must either be constructing or have constructed its Project for a cost and as otherwise compatible with the plan of financing described in the Application; and,

in either case, the Authority and BPH shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit C;

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

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

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

(h) The Local Entity shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project), with all requisite appeal periods having expired without successful appeal, and the Authority and BPH shall have received an opinion of counsel to the Local Entity, which may be local counsel to the Local Entity, bond counsel or special PSC counsel but must be satisfactory to the Authority and BPH, to such effect;

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

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

3.2 Subject to the terms and provisions of this Loan Agreement, the rules and regulations promulgated by the BPH, including the DWTRF Regulations, or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government, it is hereby agreed that the Authority shall make the Loan to the Local Entity and the Local Entity shall accept the Loan from the Authority, and in furtherance thereof it is agreed that the Local Entity shall sell to the Authority and the Authority shall make the Loan by purchasing the Local Bonds in the principal amount and at the price set forth in Schedule X hereto. The Local Bonds shall have such further terms and provisions as described in Article IV hereof.

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

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

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

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

#### ARTICLE IV

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

4.1 The Local Entity shall, as one of the conditions of the Authority and BPH to make the Loan, authorize the issuance of and issue the Local Bonds pursuant to an official action of

the Local Entity in accordance with the Local Statute, which shall, as adopted or enacted, contain provisions and covenants in substantially the form as follows:

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

(i) to pay Operating Expenses of the System;

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

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

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

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

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by a pledge of either the gross or net revenues, as applicable, of the System as provided in the Local Act;

(ii) That the schedule of rates or charges for the services of the System shall be sufficient to provide funds which, along with other revenues of the System, will pay all Operating Expenses and leave a balance each year equal to at least one hundred fifteen percent

(115%) of the maximum amount required in any year for debt service on the Local Bonds and all other obligations secured by a lien on or payable from the revenues of the System prior to or on a parity with the Local Bonds or, if the Reserve Account is funded (whether by Local Bond proceeds, monthly deposits or otherwise) at an amount equal to the Reserve Requirement and any reserve account for any such prior or parity obligations is funded at least at the requirement therefor, equal to at least one hundred ten percent (110%) of the maximum amount required in any year for debt service on the Local Bonds and any such prior or parity obligations;

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

(iv) That, except as otherwise required by State law or the DWTRF Regulations, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized from such sale, mortgage, lease or other disposition shall be sufficient to fully pay all of the Local Bonds outstanding and further provided that portions of the System when no longer required for the ongoing operation of the System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

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

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

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

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

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

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

(xi) That the Local Entity shall annually, within six months of the end of the fiscal year, cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and BPH. If the Local Entity receives \$300,000 or more (in federal funds) in a fiscal year, the audit shall be obtained in accordance with the Single Audit Act (as amended from time to time) and the applicable OMB Circular (or any successor thereto). Financial statement audits are required once all funds have been received by the Local Entity. The audit shall include a statement that the Local Entity is in compliance with the terms and provisions of the Local Act and this Loan Agreement and that the Local Entity's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements;

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

(xiii) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, prospective users of the System shall be required to connect thereto;

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

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

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

(xvii) That the Local Entity shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required interest, principal and reserve account payment. The Local Entity shall complete the Monthly Payment Form, attached hereto as Exhibit E and incorporated herein by reference, and submit a copy of said form along with a copy of the check or electronic transfer to the Authority by the 5th day of such calendar month;

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

(xix) That the Local Entity shall have obtained the certificate of the Consulting Engineers to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority and BPH, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and BPH is sufficient to pay the costs of acquisition and construction of the Project and all permits required by federal and State laws for construction of the Project have been obtained;

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

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

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

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

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

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

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

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

## ARTICLE V

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

5.1 The Local Entity hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Local Entity hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority

to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System and will take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and in compliance with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the required sums set forth in the Local Act and this Loan Agreement, the Local Entity hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges (or where applicable, immediately file with the PSC for a rate increase) and take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and this Loan Agreement.

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

5.4 The Local Entity hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Local Entity, the Authority may exercise any or all of the rights and powers granted under Section 5 of the Act, including, without limitation, the right to impose, enforce and collect charges of the System.

## ARTICLE VI

### Other Agreements of the Local Entity

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

6.2 The Local Entity hereby warrants and represents that all information provided to the Authority and BPH in this Loan Agreement, in the Application or in any other application or documentation with respect to financing the Project was at the time, and now is, true, correct and complete, and such information does not omit any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. Prior to the Authority's making the Loan and receiving the Local Bonds, the Authority and BPH shall have the right to cancel all or any of their obligations under this Loan Agreement if (a) any representation

made to the Authority and BPH by the Local Entity in connection with the Loan shall be incorrect or incomplete in any material respect or (b) the Local Entity has violated any commitment made by it in its Application or in any supporting documentation or has violated any of the terms of the Act, the DWTRF Regulations or this Loan Agreement.

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

6.4 The Local Entity hereby covenants that it will rebate any amounts required by Section 148 of the Internal Revenue Code of 1986, as amended, and will take all steps necessary to make any such rebates. In the event the Local Entity fails to make any such rebates as required, then the Local Entity shall pay any and all penalties, obtain a waiver from the Internal Revenue Service and take any other actions necessary or desirable to preserve the exclusion from gross income for federal income tax purposes of interest on the Local Bonds.

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

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

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

## ARTICLE VII

### Miscellaneous

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

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

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

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

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

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

7.7 This Loan Agreement shall terminate upon the earlier of:

(i) written notice of termination to the Local Entity from either the Authority or BPH;

(ii) the end of ninety (90) days after the date of execution hereof by the Authority if the Local Entity has failed to deliver the Local Bonds to the Authority;

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

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

In the event funds are not available to make all of the Loan, the responsibility of the Authority and BPH to make all the Loan is terminated; provided further that the obligation of the Local Entity to repay the outstanding amount of the Loan made by the Authority and BPH is not terminated due to such non-funding on any balance of the Loan. The BPH agrees to use its best efforts to have the amount contemplated under this Loan Agreement included in its budget. Non-funding of the Loan shall not be considered an event of default under this Loan Agreement.

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

TOWN OF DELBARTON

[Name of Local Entity]

(SEAL)

By: John St. Perea

Its: Mayor

Attest:

Date: July 18, 2001

Billio Jo Endicott

Its Recorder

WEST VIRGINIA WATER  
DEVELOPMENT AUTHORITY

(SEAL)

By: Daniel B. Lyons

Its: Director

Attest:

Date: July 18, 2001

Barbara B. Meadows

Secretary-Treasurer

**EXHIBIT A**

[Form of Monthly Financial Report]

[Name of Local Entity]

[Name of Bond Issue]

Fiscal Year - \_\_\_\_\_

Report Month: \_\_\_\_\_

	<u>ITEM</u>	<u>CURRENT MONTH</u>	<u>TOTAL YEAR TO DATE</u>	<u>BUDGET YEAR TO DATE</u>	<u>BUDGET YEAR MINUS YEAR TO DATE</u>
1.	Gross Revenues Collected				
2.	Operating Expenses				
3.	Other Bond Debt Payments (including Reserve Account Deposits)				
4.	DWTRF Bond Payments (include Reserve Account Deposits)				
5.	Renewal and Replacement Fund Deposit				

*Handwritten signature*

Witnesseth my signature this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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

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

## Instructions for Completing Monthly Financial Report

1. You will need a copy of the current fiscal year budget adopted by the Local Entity to complete Items 1 and 2. In Item 1, provide the amount of actual gross revenues for the current month and the total amount year to date in the respective columns. Divide the budgeted annual gross revenues by 12. For example, if gross revenues of \$1,200 are anticipated to be received for the year, each month the base would be increased by \$100 ( $1200/12$ ). This is the incremental amount for the Budget Year to Date column.
2. In Item 2, provide the amount of actual operating expenses for the current month and the total amount year to date in the respective columns. The SRF administrative fee should be included in the operating expenses. Divide the budgeted annual operating expenses by 12. For example, if operating expenses of \$900 are anticipated to be incurred for the year, each month the base would be increased by \$75 ( $900/12$ ). This is the incremental amount for the Budget Year to Date column.
3. In Item 3, provide the principal, interest and reserve account payments for all the outstanding bonds of the Local Entity other than this Loan.
4. In Item 4, provide the principal, interest and reserve account payments for this Loan. You need to call the Municipal Bond Commission for the exact amount of these payments and when they begin.
5. In Item 5, provide the amount deposited into the Renewal and Replacement Fund each month. This amount is equal to 2.5% of gross revenues minus the total reserve account payments included in Items 3 and 4. If gross revenues are \$12,000, the Renewal and Replacement Fund should have an amount of \$300 (2.5% of \$12,000), LESS the amount of all reserve account payments in Items 3 & 4. The money in the Renewal and Replacement Fund should be kept separate and apart from all other funds of the Local Entity.
6. The Local Entity must complete the Monthly Financial Report and forward it to the BPH by the 10<sup>th</sup> day of each month, commencing on the date contracts are executed for the construction of the Project and for 2 years following the completion of the Project. BPH will notify the Local Entity when the Monthly Financial Report no longer needs to be filed.

**EXHIBIT B**

**PAYMENT REQUISITION FORM**

EXHIBIT C

FORM OF CERTIFICATE OF CONSULTING ENGINEER

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

\_\_\_\_\_  
(Name of Bonds)

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

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

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

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

<sup>1</sup>If another responsible party, such as the Issuer's attorney, reviews the insurance and payment bonds, then insert the following: [and in reliance upon the opinion of \_\_\_\_\_, Esq.] and delete "my firm has ascertained that".

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

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

[SEAL]

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

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

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

## **EXHIBIT D**

### **Special Conditions**

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

**EXHIBIT E**

[Monthly Payment Form]

West Virginia Water Development Authority  
180 Association Drive  
Charleston, WV 25311-1511

Re: [Name of bond issue]

Ladies and Gentlemen:

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

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

Sinking Fund:

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

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

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

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

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

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

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

Enclosure: wire transfer form

**EXHIBIT F**

[Opinion of Bond Counsel for Local Entity]

[To Be Dated as of Date of Loan Closing]

West Virginia Water Development Authority  
180 Association Drive  
Charleston, WV 25311-1511

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

Ladies and Gentlemen:

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

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

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

We have also examined the applicable provisions of \_\_\_\_\_ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond \_\_\_\_\_ duly adopted or enacted by the Local Entity on \_\_\_\_\_, as supplemented by the supplemental resolution duly adopted by the Local Entity on \_\_\_\_\_ (collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

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

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

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

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

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

6. The Local Bonds are, by statute, exempt \_\_\_\_\_, and under existing statutes and court decisions of the United States of America, as presently written and applied, the interest on the Local Bonds is excludable from the gross income of the recipients thereof for federal income tax purposes.

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

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

Very truly yours,

## SCHEDULE X

### DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds	\$ <u>258.000</u>
Purchase Price of Local Bonds	\$ <u>258.000</u>

The Local Bonds shall bear no interest. Commencing September 1, 2002, principal of the Local Bonds is payable quarterly, with an administrative fee of 1%. Quarterly payments will be made on March 1, June 1, September 1 and December 1 of each year as set forth on the Schedule Y attached hereto and incorporated herein by reference.

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

The Local Bonds are fully registered in the name of the Authority as to principal and interest, if any, and the Local Bonds shall grant the Authority a first lien on the gross or net revenues of the Local Entity's system as provided in the Local Act.

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

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

None.

SCHEDULE Y

**Town of Delbarton (West Virginia)**

*Loan of \$258,000*

*0% Interest Rate, 1% Administrative Fee, 30 Years*

*Closing Date: July 18, 2001*

**DEBT SERVICE SCHEDULE**

Date	Principal	Coupon	Total P+I
9/01/2001	-	-	-
12/01/2001	-	-	-
3/01/2002	-	-	-
6/01/2002	-	-	-
9/01/2002	2,150.00	-	2,150.00
12/01/2002	2,150.00	-	2,150.00
3/01/2003	2,150.00	-	2,150.00
6/01/2003	2,150.00	-	2,150.00
9/01/2003	2,150.00	-	2,150.00
12/01/2003	2,150.00	-	2,150.00
3/01/2004	2,150.00	-	2,150.00
6/01/2004	2,150.00	-	2,150.00
9/01/2004	2,150.00	-	2,150.00
12/01/2004	2,150.00	-	2,150.00
3/01/2005	2,150.00	-	2,150.00
6/01/2005	2,150.00	-	2,150.00
9/01/2005	2,150.00	-	2,150.00
12/01/2005	2,150.00	-	2,150.00
3/01/2006	2,150.00	-	2,150.00
6/01/2006	2,150.00	-	2,150.00
9/01/2006	2,150.00	-	2,150.00
12/01/2006	2,150.00	-	2,150.00
3/01/2007	2,150.00	-	2,150.00
6/01/2007	2,150.00	-	2,150.00
9/01/2007	2,150.00	-	2,150.00
12/01/2007	2,150.00	-	2,150.00
3/01/2008	2,150.00	-	2,150.00
6/01/2008	2,150.00	-	2,150.00
9/01/2008	2,150.00	-	2,150.00
12/01/2008	2,150.00	-	2,150.00
3/01/2009	2,150.00	-	2,150.00
6/01/2009	2,150.00	-	2,150.00
9/01/2009	2,150.00	-	2,150.00
12/01/2009	2,150.00	-	2,150.00
3/01/2010	2,150.00	-	2,150.00
6/01/2010	2,150.00	-	2,150.00
9/01/2010	2,150.00	-	2,150.00
12/01/2010	2,150.00	-	2,150.00
3/01/2011	2,150.00	-	2,150.00
6/01/2011	2,150.00	-	2,150.00
9/01/2011	2,150.00	-	2,150.00
12/01/2011	2,150.00	-	2,150.00
3/01/2012	2,150.00	-	2,150.00
6/01/2012	2,150.00	-	2,150.00
9/01/2012	2,150.00	-	2,150.00
12/01/2012	2,150.00	-	2,150.00
3/01/2013	2,150.00	-	2,150.00
6/01/2013	2,150.00	-	2,150.00

## Town of Delbarton (West Virginia)

*Loan of \$258,000*

*0% Interest Rate, 1% Administrative Fee, 30 Years*

*Closing Date: July 18, 2001*

### DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
9/01/2013	2,150.00	-	2,150.00
12/01/2013	2,150.00	-	2,150.00
3/01/2014	2,150.00	-	2,150.00
6/01/2014	2,150.00	-	2,150.00
9/01/2014	2,150.00	-	2,150.00
12/01/2014	2,150.00	-	2,150.00
3/01/2015	2,150.00	-	2,150.00
6/01/2015	2,150.00	-	2,150.00
9/01/2015	2,150.00	-	2,150.00
12/01/2015	2,150.00	-	2,150.00
3/01/2016	2,150.00	-	2,150.00
6/01/2016	2,150.00	-	2,150.00
9/01/2016	2,150.00	-	2,150.00
12/01/2016	2,150.00	-	2,150.00
3/01/2017	2,150.00	-	2,150.00
6/01/2017	2,150.00	-	2,150.00
9/01/2017	2,150.00	-	2,150.00
12/01/2017	2,150.00	-	2,150.00
3/01/2018	2,150.00	-	2,150.00
6/01/2018	2,150.00	-	2,150.00
9/01/2018	2,150.00	-	2,150.00
12/01/2018	2,150.00	-	2,150.00
3/01/2019	2,150.00	-	2,150.00
6/01/2019	2,150.00	-	2,150.00
9/01/2019	2,150.00	-	2,150.00
12/01/2019	2,150.00	-	2,150.00
3/01/2020	2,150.00	-	2,150.00
6/01/2020	2,150.00	-	2,150.00
9/01/2020	2,150.00	-	2,150.00
12/01/2020	2,150.00	-	2,150.00
3/01/2021	2,150.00	-	2,150.00
6/01/2021	2,150.00	-	2,150.00
9/01/2021	2,150.00	-	2,150.00
12/01/2021	2,150.00	-	2,150.00
3/01/2022	2,150.00	-	2,150.00
6/01/2022	2,150.00	-	2,150.00
9/01/2022	2,150.00	-	2,150.00
12/01/2022	2,150.00	-	2,150.00
3/01/2023	2,150.00	-	2,150.00
6/01/2023	2,150.00	-	2,150.00
9/01/2023	2,150.00	-	2,150.00
12/01/2023	2,150.00	-	2,150.00
3/01/2024	2,150.00	-	2,150.00
6/01/2024	2,150.00	-	2,150.00
9/01/2024	2,150.00	-	2,150.00
12/01/2024	2,150.00	-	2,150.00
3/01/2025	2,150.00	-	2,150.00
6/01/2025	2,150.00	-	2,150.00

**Town of Delbarton (West Virginia)**

*Loan of \$258,000*

*0% Interest Rate, 1% Administrative Fee, 30 Years*

*Closing Date: July 18, 2001*

**DEBT SERVICE SCHEDULE**

Date	Principal	Coupon	Total P+I
9/01/2025	2,150.00	-	2,150.00
12/01/2025	2,150.00	-	2,150.00
3/01/2026	2,150.00	-	2,150.00
6/01/2026	2,150.00	-	2,150.00
9/01/2026	2,150.00	-	2,150.00
12/01/2026	2,150.00	-	2,150.00
3/01/2027	2,150.00	-	2,150.00
6/01/2027	2,150.00	-	2,150.00
9/01/2027	2,150.00	-	2,150.00
12/01/2027	2,150.00	-	2,150.00
3/01/2028	2,150.00	-	2,150.00
6/01/2028	2,150.00	-	2,150.00
9/01/2028	2,150.00	-	2,150.00
12/01/2028	2,150.00	-	2,150.00
3/01/2029	2,150.00	-	2,150.00
6/01/2029	2,150.00	-	2,150.00
9/01/2029	2,150.00	-	2,150.00
12/01/2029	2,150.00	-	2,150.00
3/01/2030	2,150.00	-	2,150.00
6/01/2030	2,150.00	-	2,150.00
9/01/2030	2,150.00	-	2,150.00
12/01/2030	2,150.00	-	2,150.00
3/01/2031	2,150.00	-	2,150.00
6/01/2031	2,150.00	-	2,150.00
9/01/2031	2,150.00	-	2,150.00
12/01/2031	2,150.00	-	2,150.00
3/01/2032	2,150.00	-	2,150.00
6/01/2032	2,150.00	-	2,150.00
<b>Total</b>	<b>258,000.00</b>	<b>-</b>	<b>258,000.00 *</b>

**YIELD STATISTICS**

Bond Year Dollars.....	\$4,126.57
Average Life.....	15.994 Years
Average Coupon.....	-
Net Interest Cost (NIC).....	-
True Interest Cost (TIC).....	1.11E-12
Bond Yield for Arbitrage Purposes.....	1.11E-12
All Inclusive Cost (AIC).....	0.9415898%

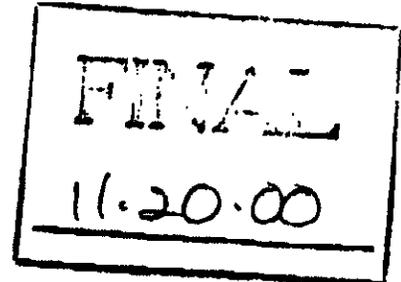
**IRS FORM 8038**

Net Interest Cost.....	-
Weighted Average Maturity.....	15.994 Years

\*Plus \$325.19 one-percent administrative fee paid quarterly. Total fee paid over the life of the loan is \$39,022.80.

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

Entered: October 31, 2000



CASE NO. 00-0367-W-CN

DELBARTON WATER DEPARTMENT,  
a municipal corporation.

Application for a certificate of convenience and necessity to construct certain improvements to the Town of Delbarton's existing water distribution system to provide water service to certain residents of the Town of Delbarton who are currently receiving service and to permit the Town to abandon in place its existing water treatment plant which is in need of an upgrade in order to meet current regulatory requirements in the County of Mingo.

RECOMMENDED DECISION

On March 8, 2000, the Delbarton Water Department (Applicant or Town), a municipal utility, filed an application for a certificate of convenience and necessity to replace portions of existing water mains, clean and paint a water storage tank, abandon the Applicant's existing water treatment plant and connect to the Mingo County Public Service District's water distribution system. The project will result in the extension of service to 178 new customers, and will cost approximately \$1,508,000. The project will be financed by a West Virginia Drinking Water State Revolving Fund loan in the amount of \$258,000, at 0% interest, with a 1% annual administrative fee for a term of thirty (30) years, and a United States Housing Urban Development Small Cities Block grant in the amount of \$1,250,000. A household using the national average of 4,500 gallons per month will pay \$25.29 per month for water service and the minimum bill will be \$11.24 per month.

On March 8, 2000, the Commission entered a formal notice of filing in this matter, setting out the projected rates and requiring the Applicant to give public legal notice of this application by publishing a copy of the Notice of Filing, once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in Mingo County, and to make due return to the Commission of proper certification of said publication immediately after publication. The Notice made provision for the filing of protest to the project within thirty (30) days after publication, and, in the absence of protest, for the waiver of further formal proceedings and the issuance of a decision in this matter

based on the evidence submitted with the application and the Commission's review thereof.

On April 7, 2000, the Applicant filed copies of a binding commitment letter from the West Virginia Drinking Water State Revolving Fund for the project.

By Order dated April 18, 2000, this matter was referred to the Division of Administrative Law Judges for a decision to be rendered on or before October 4, 2000.

On May 24, 2000, Staff issued a set of Data Requests to the Applicant, with the responses due by June 5, 2000.

By letter filed June 2, 2000, the Applicant requested an extension until July 7, 2000, in which to respond to Staff's Data Requests.

On June 2, 2000, the Applicant filed a Class I Legal Advertisement for the Notice of Filing. The Notice of Filing was published on May 31, 2000. The protest period has expired without the filing of any protests.

On September 26, 2000, the Applicant filed a motion requesting an extension of the Administrative Law Judge's decision due date.

By Order dated September 26, 2000, the Commission extended the Administrative Law Judge's decision due date to November 3, 2000.

On October 10, 2000, the Applicant filed a copy of a permit from the West Virginia Office of Environmental Health Services for this project.

On October 13, 2000, Staff Attorney James V. Kelsh filed the Final Joint Staff Memorandum, to which was attached the Final Internal Memorandum prepared by Mr. Robert M. Hubbard, Senior Utilities Analyst, Water and Wastewater Division, and Ms. Audra L. Blackwell, Engineer-In-Training II, Engineering Division. Staff recommended that the Commission grant a certificate of convenience and necessity to the Town for the project, approve the funding related thereto, and approve the intergovernmental agreement between the Town and the Mingo County Public Service District. Staff also recommended that, should the engineering or financing for the project change, the Applicant must obtain Commission approval for such changes.

Staff explained that the proposed project consists of extending water service to those residents within the Town of Delbarton's boundaries that do not currently have water service and connection to the Mingo County Public Service District. The Town system will be supplied via a tie-in to the middle Region Creek extension of the Mingo County Public Service District. This extension is currently under construction and, once completed, the existing water treatment plant will be disconnected and decommissioned by the Town.

On January 18, 2000, the Town of Delbarton received Permit No. 14,333, from the Office of Environmental Health Services. After the project's revised plans were submitted to the West Virginia Bureau of Health, the Applicant was issued Permit No. 14,644 on September 26, 2000.

This permit granted approval to install 2,340 linear feet (LF) of 10-inch, 13,900 LF of 8-inch, 1,320 LF of 6-inch, and 3,000 LF of 2-inch water lines; one master meter station; and all necessary valves, piping controls and appurtenances, with water to be provided by the Mingo County Public Service District from the Naugatuck Regional Water System. Permit No. 14,333 was voided.

There are currently 72 customers and an additional 178 customers are proposed. The cost per customer is \$6,032, which is slightly high for the provision of water service. Staff opined that the customer density for the proposed project is 52 customers per mile, which is a feasible density.

The Town's rates, as shown on the Proforma Bill Analysis in the Town's Rule 42 Exhibit, were adopted by the Town Council on April 24, 2000, and are to become effective upon the issuance of a Certificate of Substantial Completion by the Town's consulting engineer for the proposed improvements to the water system. The Town's current rates were also adopted by the Town Council on April 24, 2000, and were effective June 8, 2000. The proforma rates produce sufficient revenue to absorb the additional operating and maintenance expenses and the additional debt service requirements associated with the proposed project.

The Town filed an intergovernmental agreement, dated July 10, 2000, between the Town and the Mingo County Public Service District (District), wherein the District has permitted the Town to provide water service to certain residents located within the service territory of the District, for approval of the Commission. Staff recommended approval of the intergovernmental agreement.

#### FINDINGS OF FACT

1. On March 8, 2000, the Delbarton Water Department filed an application for a certificate of convenience and necessity for a project to replace portions of existing water mains, clean and paint a water storage tank, abandon the Town's existing water treatment plant and connect to the Mingo County Public Service District's water distribution system. (See, petition).

2. Pursuant to a Notice of Filing entered by the Public Service Commission on March 8, 2000, the Applicant filed a certificate of publication on June 2, 2000, demonstrating publication of the Notice of Filing on May 31, 2000. The Notice of Filing contained a schedule of rates proposed by the Applicant and made provision for the filing of protests or objection to the application within thirty (30) days of the date of publication. No protests were received within the thirty-day protest period, or as of the date of this Order. (See, Notice of Filing for public legal notice on March 8, 2000; affidavit of publication filed June 2, 2000; case file generally).

3. On October 13, 2000, Staff Attorney James V. Kelsh filed the Final Joint Staff Memorandum, recommending approval of the certificate of convenience and necessity, approval of the funding related thereto, consisting of a United States Housing and Urban Development Small Cities

Block grant of \$1,250,000, and a West Virginia Drinking Water Treatment Revolving Fund loan of \$258,000, for a total project cost of \$1,508,000, and the intergovernmental agreement between the Town and the Mingo County Public Service District. (See, Final Joint Staff Memorandum filed October 13, 2000).

#### CONCLUSIONS OF LAW

1. Under the facts and circumstances of this case and the recommendation of Commission Staff, it is reasonable to approve the application filed on March 8, 2000, and to grant the Delbarton Water Department a certificate of convenience and necessity to undertake the project to construct certain improvements to provide water service to residents of the Town of Delbarton and to permit the Delbarton Water Department to abandon in place its existing water treatment plant and connect to the Mingo County Public Service District's water distribution system and to approve the intergovernmental agreement between the Town and the Mingo County Public Service District.

2. The proposed financing of this project, consisting of a Small Cities Block grant of \$1,250,000, and a West Virginia Drinking Water Treatment Revolving Fund loan not to exceed \$258,000, at an interest rate not to exceed 0% interest, for a term not to exceed 30 years, should be approved.

3. The Applicant shall notify the Public Service Commission and request subsequent review of this project, should there be any change in the plans, scope or terms of the financing of the project.

#### ORDER

IT IS, THEREFORE, ORDERED that the application filed on March 8, 2000, by the Delbarton Water Department, be approved, and that a certificate of convenience and necessity to construct and operate the project described therein shall be granted to the Applicant.

IT IS FURTHER ORDERED that the proposed financing for this project, consisting of a Small Cities Block grant in the amount of \$1,250,000, and a West Virginia Drinking Water Treatment Revolving Fund loan not to exceed \$258,000, at an interest rate not to exceed 0% interest, for a term not to exceed 30 years, be, and the same hereby is, approved.

IT IS FURTHER ORDERED that the intergovernmental agreement between the Delbarton Water Department and the Mingo County Public Service District filed herein on August 16, 2000, be, and the same hereby is, approved, without specifically approving the terms and conditions thereof.

IT IS FURTHER ORDERED that, should there be any change in the plans, scope or terms of financing of this project, the Town of Delbarton shall notify the Public Service Commission and request that this case be reopened for subsequent review and approval of such changes.

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

The Executive Secretary is hereby ordered to serve a copy of this order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

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

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

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



Robert W. Glass  
Administrative Law Judge

RWG:pst  
000367a.wpd





# West Virginia Infrastructure & Jobs Development Council

Public Members:

James D. Williams, Chairman  
St. Albans  
James L. Harrison, Sr., Vice Chairman  
Princeton  
Lloyd P. Adams, P.E.  
Wheeling  
Sheirl L. Fletcher  
Morgantown

980 One Valley Square  
Charleston, West Virginia 25301  
Telephone: (304) 558-4607  
Facsimile: (304) 558-4609

Susan J. Riggs, Esquire  
Executive Secretary

January 19, 1999

Jonathan Fowler, P. E.  
Haworth, Meyer & Boleyn, Inc.  
325 Sixth Avenue  
South Charleston, WV 25303

Re: Town of Delbarton (Resubmittal) 97W-352  
Water System Upgrade and Extension Project

Dear Mr. Fowler:

The West Virginia Infrastructure and Jobs Development Council (Council), at its January 6, 1999 meeting, reviewed the Town of Delbarton's (Town) resubmitted preliminary application regarding the above-referenced proposed project which requested that the Council's previous funding recommendation be revised.

Upon consideration of the Town's resubmitted preliminary application, the Council believes it reasonable to recommend that the Town pursue a Drinking Water Treatment Revolving Fund (DWTRF) loan of \$258,000 to assist in the financing of the project. **Please note that this letter does not constitute funding approval from the DWTRF program.**

If you have any questions regarding this matter, please contact Susan J. Riggs at the above telephone number.

Sincerely,

  
James D. Williams

JDW/tb

cc: Katy Mallory, P. E.  
Debbie Legg



# West Virginia Infrastructure & Jobs Development Council

**Public Members:**

James D. Williams, Chairman  
St. Albans  
James L. Harrison, Sr., Vice Chairman  
Princeton  
Lloyd P. Adams, P.E.  
Wheeling  
Sheirl L. Fletcher  
Morgantown

1320 One Valley Square  
Charleston, West Virginia 25301  
Telephone: (304) 558-4607  
Facsimile: (304) 558-4609

Susan J. Riggs, Esquire  
Executive Secretary

October 2, 1997

Jonathan M. Fowler, P.E.  
Haworth, Meyer & Boleyn, Inc.  
325 Sixth Avenue  
South Charleston, WV 25303

Re: Town of Delbarton  
Water System Extension Project 97W-352

Dear Mr. Fowler:

The West Virginia Infrastructure and Jobs Development Council (Council) has reviewed the Town of Delbarton's (District) preliminary application regarding the District's proposed project to extend its water system to serve approximately 178 new customers (Project). Based on the findings of the Water Technical Review Committee, the Council has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act. Enclosed for your and the Town's review are the comments of the Water Technical Review Committee. The Town may need to address certain issues raised in said comments as it proceeds with the Project.

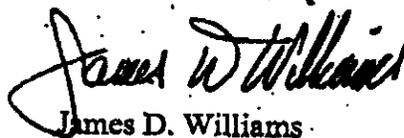
Pursuant to its review of the preliminary application, the Council recommends the Town pursue a Small Cities Block Grant (SCBG) of \$1,250,000. Please contact the Development Office at 558-4010 for specific information on the steps the Town needs to follow to apply for the SCBG. The District may also be eligible for Infrastructure Fund assistance of approximately \$258,000. The Council's final decision regarding the Project's specific funding is being deferred pending final determination of the Project's eligibility and readiness to proceed, and availability of funds in the Infrastructure Fund. Currently, no funds are available in the Infrastructure Fund. Please note that **this letter does not constitute funding approval from these funding agencies.**

Please immediately notify the Council upon the Town's receipt of either a commitment or denial of funding from the Development Office. Upon such notification, the Council will review the status of the Town's Project and the Town's need for funding from the Infrastructure Fund.

Jonathan M. Fowler, P.E.  
October 2, 1997  
Page 2

If you have any questions regarding this matter, please contact Susan J. Riggs at the above telephone number.

Sincerely,

  
James D. Williams

JDW/bh

Enclosure

cc: Debbie Legg (w/o enc)  
David Michael  
Virginia Branham



TOWN OF DELBARTON

Water Revenue Bonds, Series 2001 A  
(West Virginia DWTRF Program)

CROSS-RECEIPT FOR BOND AND BOND PROCEEDS

On the 18th day of July, 2001, 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 Delbarton (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

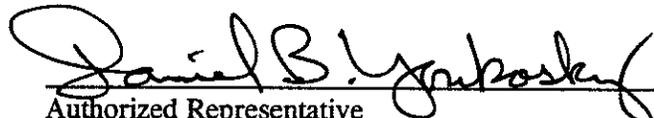
1. On the date hereof, the Authority received the Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), of the Issuer, in the principal amount of \$258,000, numbered AR-1 issued as a single, fully registered Bond, and dated July 18, 2001 (the "Series 2001 A Bonds").

2. At the time of such receipt, all the Series 2001 A 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 Series 2001 A Bonds.

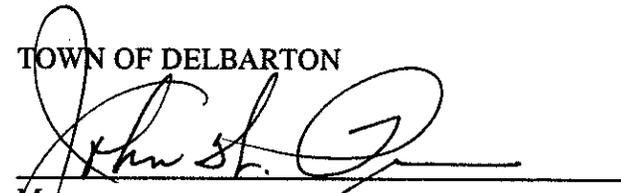
3. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Series 2001 A Bonds, of the sum of \$22,963.00, being a portion of the principal amount of the Series 2001 A Bonds. The balance of the principal amount of the Series 2001 A Bonds will be advanced by the Authority and the West Virginia Bureau for Public Health to the Issuer as acquisition and construction of the Project progresses.

Dated as of the day and year first written above.

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

  
Authorized Representative

TOWN OF DELBARTON

  
Mayor

07/09/01  
225970.98002

CH451465.1



TOWN OF DELBARTON

Water Revenue Bonds, Series 2001 A  
(West Virginia DWTRF Program)

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

Branch Banking and Trust Company  
as Bond Registrar  
Charleston, West Virginia

Ladies and Gentlemen:

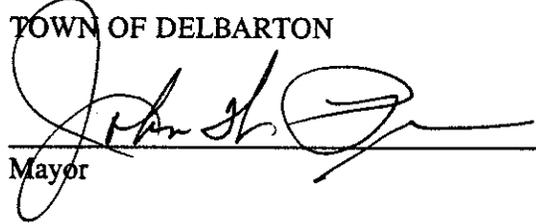
There are delivered to you herewith on this 18th day of July, 2001:

- (1) Bond No. AR-1, constituting the entire original issue of the Town of Delbarton Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), in the principal amount of \$258,000, dated July 18, 2001 (the "Series 2001 A Bonds"), executed by the Mayor and the Recorder of the Town of Delbarton (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 July 9, 2001, and a Supplemental Resolution duly adopted by the Issuer on July 9, 2001 (collectively, the "Bond Legislation");
- (2) A copy of the Bond Legislation authorizing the above-captioned Bonds, duly certified by the Recorder of the Issuer;
- (3) Executed counterparts of a loan agreement for the Series 2001 A Bonds, dated July 18, 2001, by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH") (the "Loan Agreement"); and
- (4) Executed opinion of nationally recognized bond counsel regarding the validity of the Loan Agreement and the Series 2001 A Bonds.

You are hereby requested and authorized to deliver the Series 2001 A Bonds to the Authority upon payment to the Issuer of the sum of \$22,963.00, representing a portion of the principal amount of the Series 2001 A Bonds. Prior to such delivery of the Series 2001 A Bonds, you will please cause the Series 2001 A 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 DELBARTON



Mayor

07/09/01  
225970.9002



# SPECIMEN

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
TOWN OF DELBARTON  
WATER REVENUE BOND,  
SERIES 2001 A  
(WEST VIRGINIA DWTRF PROGRAM)

No. AR-1

\$258,000

KNOW ALL MEN BY THESE PRESENTS: That the TOWN OF DELBARTON, a municipal corporation and political subdivision of the State of West Virginia in Mingo 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 AND FIFTY EIGHT THOUSAND DOLLARS (\$258,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2002, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The Administrative Fee (as defined in the hereinafter described Bond Legislation) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2002, as set forth on EXHIBIT B-attached hereto.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH") and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated July 18, 2001.

This Bond is issued (i) to pay the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); (ii) to fund a reserve account for the Bonds of this Series (the "Bonds"); and (iii) to pay certain costs of issuance hereof and related costs. The existing public waterworks system of the Issuer, the Project, and any further extensions, additions,

betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on July 9, 2001, and a Supplemental Resolution duly adopted by the Issuer on July 9, 2001 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System and from moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2001 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay all operating expenses of the System and the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an 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 Gross Revenues, the moneys in the Series 2001 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds; provided however, that so long as there exists in the Series 2001 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this

Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

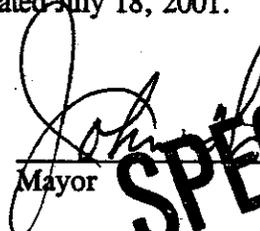
All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Bond Legislation,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

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and 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 Gross Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Bond Legislation, ordinances 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 DELBARTON 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 July 18, 2001.

[SEAL]

  
Mayor **SPECIMEN**

ATTEST:

  
Recorder **SPECIMEN**

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2001 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: July 18, 2001.

BRANCH BANKING AND TRUST COMPANY,  
as Registrar

*Charles J. [Signature]*  
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$22,963.00	07/18/01	(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**

# Town of Delbarton (West Virginia)

*Loan of \$258,000*

*0% Interest Rate, 1% Administrative Fee, 30 Years*

*Closing Date: July 18, 2001*

## DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
9/01/2001	-	-	-
12/01/2001	-	-	-
3/01/2002	-	-	-
6/01/2002	-	-	-
9/01/2002	2,150.00	-	2,150.00
12/01/2002	2,150.00	-	2,150.00
3/01/2003	2,150.00	-	2,150.00
6/01/2003	2,150.00	-	2,150.00
9/01/2003	2,150.00	-	2,150.00
12/01/2003	2,150.00	-	2,150.00
3/01/2004	2,150.00	-	2,150.00
6/01/2004	2,150.00	-	2,150.00
9/01/2004	2,150.00	-	2,150.00
12/01/2004	2,150.00	-	2,150.00
3/01/2005	2,150.00	-	2,150.00
6/01/2005	2,150.00	-	2,150.00
9/01/2005	2,150.00	-	2,150.00
12/01/2005	2,150.00	-	2,150.00
3/01/2006	2,150.00	-	2,150.00
6/01/2006	2,150.00	-	2,150.00
9/01/2006	2,150.00	-	2,150.00
12/01/2006	2,150.00	-	2,150.00
3/01/2007	2,150.00	-	2,150.00
6/01/2007	2,150.00	-	2,150.00
9/01/2007	2,150.00	-	2,150.00
12/01/2007	2,150.00	-	2,150.00
3/01/2008	2,150.00	-	2,150.00
6/01/2008	2,150.00	-	2,150.00
9/01/2008	2,150.00	-	2,150.00
12/01/2008	2,150.00	-	2,150.00
3/01/2009	2,150.00	-	2,150.00
6/01/2009	2,150.00	-	2,150.00
9/01/2009	2,150.00	-	2,150.00
12/01/2009	2,150.00	-	2,150.00
3/01/2010	2,150.00	-	2,150.00
6/01/2010	2,150.00	-	2,150.00
9/01/2010	2,150.00	-	2,150.00
12/01/2010	2,150.00	-	2,150.00
3/01/2011	2,150.00	-	2,150.00
6/01/2011	2,150.00	-	2,150.00
9/01/2011	2,150.00	-	2,150.00
12/01/2011	2,150.00	-	2,150.00
3/01/2012	2,150.00	-	2,150.00
6/01/2012	2,150.00	-	2,150.00
9/01/2012	2,150.00	-	2,150.00
12/01/2012	2,150.00	-	2,150.00
3/01/2013	2,150.00	-	2,150.00
6/01/2013	2,150.00	-	2,150.00

# Town of Delbarton (West Virginia)

Loan of \$258,000

0% Interest Rate, 1% Administrative Fee, 30 Years

Closing Date: July 18, 2001

## DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
9/01/2013	2,150.00	-	2,150.00
12/01/2013	2,150.00	-	2,150.00
3/01/2014	2,150.00	-	2,150.00
6/01/2014	2,150.00	-	2,150.00
9/01/2014	2,150.00	-	2,150.00
12/01/2014	2,150.00	-	2,150.00
3/01/2015	2,150.00	-	2,150.00
6/01/2015	2,150.00	-	2,150.00
9/01/2015	2,150.00	-	2,150.00
12/01/2015	2,150.00	-	2,150.00
3/01/2016	2,150.00	-	2,150.00
6/01/2016	2,150.00	-	2,150.00
9/01/2016	2,150.00	-	2,150.00
12/01/2016	2,150.00	-	2,150.00
3/01/2017	2,150.00	-	2,150.00
6/01/2017	2,150.00	-	2,150.00
9/01/2017	2,150.00	-	2,150.00
12/01/2017	2,150.00	-	2,150.00
3/01/2018	2,150.00	-	2,150.00
6/01/2018	2,150.00	-	2,150.00
9/01/2018	2,150.00	-	2,150.00
12/01/2018	2,150.00	-	2,150.00
3/01/2019	2,150.00	-	2,150.00
6/01/2019	2,150.00	-	2,150.00
9/01/2019	2,150.00	-	2,150.00
12/01/2019	2,150.00	-	2,150.00
3/01/2020	2,150.00	-	2,150.00
6/01/2020	2,150.00	-	2,150.00
9/01/2020	2,150.00	-	2,150.00
12/01/2020	2,150.00	-	2,150.00
3/01/2021	2,150.00	-	2,150.00
6/01/2021	2,150.00	-	2,150.00
9/01/2021	2,150.00	-	2,150.00
12/01/2021	2,150.00	-	2,150.00
3/01/2022	2,150.00	-	2,150.00
6/01/2022	2,150.00	-	2,150.00
9/01/2022	2,150.00	-	2,150.00
12/01/2022	2,150.00	-	2,150.00
3/01/2023	2,150.00	-	2,150.00
6/01/2023	2,150.00	-	2,150.00
9/01/2023	2,150.00	-	2,150.00
12/01/2023	2,150.00	-	2,150.00
3/01/2024	2,150.00	-	2,150.00
6/01/2024	2,150.00	-	2,150.00
9/01/2024	2,150.00	-	2,150.00
12/01/2024	2,150.00	-	2,150.00
3/01/2025	2,150.00	-	2,150.00
6/01/2025	2,150.00	-	2,150.00

## Town of Delbarton (West Virginia)

*Loan of \$258,000*

*0% Interest Rate, 1% Administrative Fee, 30 Years*

*Closing Date: July 18, 2001*

### DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
9/01/2025	2,150.00	-	2,150.00
12/01/2025	2,150.00	-	2,150.00
3/01/2026	2,150.00	-	2,150.00
6/01/2026	2,150.00	-	2,150.00
9/01/2026	2,150.00	-	2,150.00
12/01/2026	2,150.00	-	2,150.00
3/01/2027	2,150.00	-	2,150.00
6/01/2027	2,150.00	-	2,150.00
9/01/2027	2,150.00	-	2,150.00
12/01/2027	2,150.00	-	2,150.00
3/01/2028	2,150.00	-	2,150.00
6/01/2028	2,150.00	-	2,150.00
9/01/2028	2,150.00	-	2,150.00
12/01/2028	2,150.00	-	2,150.00
3/01/2029	2,150.00	-	2,150.00
6/01/2029	2,150.00	-	2,150.00
9/01/2029	2,150.00	-	2,150.00
12/01/2029	2,150.00	-	2,150.00
3/01/2030	2,150.00	-	2,150.00
6/01/2030	2,150.00	-	2,150.00
9/01/2030	2,150.00	-	2,150.00
12/01/2030	2,150.00	-	2,150.00
3/01/2031	2,150.00	-	2,150.00
6/01/2031	2,150.00	-	2,150.00
9/01/2031	2,150.00	-	2,150.00
12/01/2031	2,150.00	-	2,150.00
3/01/2032	2,150.00	-	2,150.00
6/01/2032	2,150.00	-	2,150.00
<b>Total</b>	<b>258,000.00</b>	<b>-</b>	<b>258,000.00 *</b>

#### YIELD STATISTICS

Bond Year Dollars.....	\$4,126.57
Average Life.....	15.994 Years
Average Coupon.....	-
Net Interest Cost (NIC).....	-
True Interest Cost (TIC).....	1.11E-12
Bond Yield for Arbitrage Purposes.....	1.11E-12
All Inclusive Cost (AIC).....	0.9415898%

#### IRS FORM 8038

Net Interest Cost.....	-
Weighted Average Maturity.....	15.994 Years

\*Plus \$325.19 one-percent administrative fee paid quarterly. Total fee paid over the life of the loan is \$39,022.80.

ASSIGNMENT

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

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

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

July 18, 2001

Town of Delbarton  
Water Revenue Bonds, Series 2001 A  
(West Virginia DWTRF Program)

Town of Delbarton  
Delbarton, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the Town of Delbarton (the "Issuer"), a municipal corporation and political subdivision organized and existing under the laws of the State of West Virginia, of its \$258,000 Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a loan agreement, dated July 18, 2001, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal only to the Authority, bearing no interest, and with principal installments payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2002, and maturing June 1, 2032, all as set forth in the "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); (ii) funding a reserve account for the Bonds; and (iii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act, the Bond Ordinance duly enacted by the Issuer on July 9, 2001, as supplemented by a Supplemental Resolution duly adopted by the Issuer on July 9, 2001 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the Loan Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the Loan Agreement.

All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the Loan Agreement when used herein.

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

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

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

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

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Gross Revenues of the System and secured by a first lien on and pledge of the Gross Revenues of the System in accordance with the terms of the Bonds and the Bond Legislation.

5. The Bonds have not been issued on the basis that the interest, if any, thereon is or will be excluded from 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.

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

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

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

Very truly yours,

  
STEPTOE & JOHNSON PLLC

July 18, 2001

Town of Delbarton  
Water Revenue Bonds, Series 2001 A  
(West Virginia DWTRF Program)

Town of Delbarton  
Delbarton, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the Town of Delbarton (the "Issuer"), a municipal corporation and political subdivision organized and existing under the laws of the State of West Virginia, of its \$258,000 Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a loan agreement, dated July 18, 2001, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal only to the Authority, bearing no interest, and with principal installments payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2002, and maturing June 1, 2032, all as set forth in the "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); (ii) funding a reserve account for the Bonds; and (iii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act, the Bond Ordinance duly enacted by the Issuer on July 9, 2001, as supplemented by a Supplemental Resolution duly adopted by the Issuer on July 9, 2001 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the Loan Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the Loan Agreement.

All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the Loan Agreement when used herein.

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

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

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

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

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Gross Revenues of the System and secured by a first lien on and pledge of the Gross Revenues of the System in accordance with the terms of the Bonds and the Bond Legislation.

5. The Bonds have not been issued on the basis that the interest, if any, thereon is or will be excluded from 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.

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

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

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

Very truly yours,



STEPTOE & JOHNSON PLLC

July 18, 2001

Town of Delbarton  
Water Revenue Bonds, Series 2001 A  
(West Virginia DWTRF Program)

Town of Delbarton  
Delbarton, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the Town of Delbarton (the "Issuer"), a municipal corporation and political subdivision organized and existing under the laws of the State of West Virginia, of its \$258,000 Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), dated the date hereof (the "Bonds").

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All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the Loan Agreement when used herein.

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

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

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

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

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Gross Revenues of the System and secured by a first lien on and pledge of the Gross Revenues of the System in accordance with the terms of the Bonds and the Bond Legislation.

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

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

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

Very truly yours,

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

STEPTOE & JOHNSON PLLC



**H. Wyatt Hanna, III**  
ATTORNEY AT LAW

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512 D STREET • P.O. BOX 8070 • SOUTH CHARLESTON, WEST VIRGINIA 25303  
(304) 744-3150 • FAX (304) 744-3157

July 18, 2001

Town of Delbarton  
Delbarton, WV

WV Water Development Authority  
Charleston, WV

WV Bureau for Public Health  
Charleston, WV

Steptoe & Johnson PLLC  
Charleston, WV

Ladies and Gentlemen:

I am Counsel to the Town of Delbarton in Mingo County, West Virginia ( the "Issuer"). As such Counsel, I have examined copies of the approving opinion of Steptoe & Johnson PLLC, as Bond Counsel, a loan agreement for the Series 2001 A Bonds, dated July 18, 2001, including all schedules and exhibits attached thereto, by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH") (the "Loan Agreement"), a Bond Ordinance duly enacted by the Issuer on July 9, 2001, as supplemented by a Supplemental Resolution duly adopted by the Issuer on July 9, 2001 (collectively, the "Bond Legislation"), and other documents, papers, agreements, instruments and certificates 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 Loan Agreement when used herein.

I am of the opinion that:

1. The Issuer has been duly created and is validly existing as a municipal corporation and political subdivision of the State of West Virginia, 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 Loan Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the other parties thereto, constitutes a valid and binding agreement 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 and the Loan Agreement and the consummation of the transactions contemplated by the Bonds, the Loan Agreement and the Bond Legislation and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under any ordinance, order, resolution, agreement or other instrument to which the Issuer is a party or 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, the operation of the System and the imposition of rates and charges for use of the System, including, without limitation, the receipt of all requisite orders and approvals from the West Virginia Infrastructure and Jobs Development Council, the BPH and the Public Service Commission of West Virginia, and has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance prescribing such rates and charges. The Issuer has received the Final Order of the Public Service Commission of West Virginia entered on November 20, 2000, in Case No. 00-0367-W-CN, granting the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of such order has expired prior to the date hereof without any appeal.

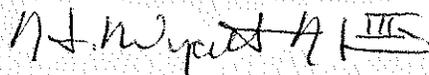
6. To the best of my knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Loan Agreement,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

Title Opinion  
Page 3  
July 18, 2001

7. All successful bidders have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy. A review of the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project will be made to insure 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 Loan 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.

Sincerely,



H. Wyatt Hanna, III

HWHIII/rb



**H. Wyatt Hanna, III**  
ATTORNEY AT LAW

---

512 D STREET • P.O. BOX 8070 • SOUTH CHARLESTON, WEST VIRGINIA 25303  
(304) 744-3150 • FAX (304) 744-3157

July 18, 2001

Town of Delbarton  
Delbarton, WV

WV Water Development Authority  
Charleston, WV

WV Bureau for Public Health  
Charleston, WV

Re: Town of Delbarton  
Project No. 97W-352  
99DWTRF005

**FINAL TITLE OPINION**

Ladies and Gentlemen:

This firm represents the Town of Delbarton ("Delbarton" or "Loan Recipient") with regard to the above referenced matter. This Final Title Opinion is being provided to you to satisfy certain requirements with regard to the loan through the Drinking Water Treatment Revolving Fund. As such, please be advised of the following:

1. That I have investigated and ascertained the location of, and am familiar with the legal description of the necessary sites, including easements and/or rights-of-way for the project as described in Plans and Specifications prepared by Haworth, Meyer & Boleyn, Inc., South Charleston, West Virginia, and approved by the Public Service Commission of West Virginia in Case No. 00-0367-W-CN.

2. That I have examined the necessary records on file in the Office of the Clerk of the County Commission of Mingo County, West Virginia, the county in which this project is to be located, and, in my opinion, the Designated Loan Recipient, Town of Delbarton, has acquired legal title or such other estate or interest in the necessary site components for the above referenced project, including easements and/or rights-of-way, 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, subject to the following exception:

Final Title Opinion

Page 2

July 18, 2001

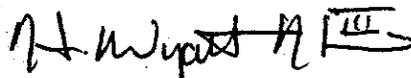
a. The Designated Loan Recipient, Town of Delbarton, has not obtained an Easement from Freemont Coal Company as of the date of this title opinion. The Designated Loan Recipient, Town of Delbarton, has requested an Easement from said coal company and has received a letter from that entity stating that the easement request has been recommended for approval and is under review by its legal staff. If the Designated Loan Recipient, Town of Delbarton, does not receive the Easement by August 1, 2001, the Designated Loan Recipient, Town of Delbarton, will, as soon thereafter as possible, file a condemnation action in the Circuit Court of Mingo County, West Virginia, against Freemont Coal Company, or such other entity as may be necessary, to obtain said Easement. The Designated Loan Recipient, Town of Delbarton, will exercise its best efforts to obtain a right of entry in any condemnation proceeding no later than September 1, 2001. The Designated Loan Recipient, Town of Delbarton, has the legal right and ability to condemn the above mentioned easement and can obtain a right of entry by September 1, 2001, subject to the docket of the Circuit Court of Mingo County, West Virginia.

3. That any deeds, easement, or other documents which have been acquired to date by the Designated Loan Recipient, Town of Delbarton, have been recorded in the aforesaid Clerk's Office in order to protect the title of the owner and interest of the Designated Loan Recipient.

4. That I have been advised by Haworth, Meyer & Boleyn, Inc., the consulting engineer for the Designated Loan Recipient, Town of Delbarton, that all of the necessary permits as may be required by governing authorities have been acquired for the construction of this project.

If you should have any questions regarding this matter or any of the information contained in this letter, please do not hesitate to contact me.

Sincerely,



H. Wyatt Hanna, III

HWHIII/rb



TOWN OF DELBARTON

Water Revenue Bonds, Series 2001 A  
(West Virginia DWTRF Program)

GENERAL CERTIFICATE OF ISSUER AND ATTORNEY ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. CERTIFICATION OF COPIES OF DOCUMENTS
6. INCUMBENCY AND OFFICIAL NAME
7. LAND AND RIGHTS-OF-WAY
8. MEETINGS, ETC.
9. CONTRACTORS' INSURANCE, ETC.
10. LOAN AGREEMENT
11. RATES
12. SIGNATURES AND DELIVERY
13. BOND PROCEEDS
14. PUBLICATION AND PUBLIC HEARING ON BOND  
ORDINANCE
15. PUBLIC SERVICE COMMISSION ORDER
16. SPECIMEN BOND
17. CONFLICT OF INTEREST
18. EXECUTION OF COUNTERPARTS

We, the undersigned MAYOR and RECORDER of the TOWN OF DELBARTON in Mingo County, West Virginia (the "Issuer"), and the undersigned COUNSEL TO ISSUER, hereby certify in connection with the Issuer's Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), dated the date hereof (the "Series 2001 A Bonds" or the "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 July 9, 2001, and the Supplemental Resolution duly adopted July 9, 2001 (collectively, the "Bond Legislation").

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

3. **GOVERNMENTAL APPROVALS AND BIDDING:** All applicable and necessary approvals, permits, exemptions, consents, authorizations, registrations and certificates required by law for the acquisition and construction of the Project, the operation of the System, the imposition of rates and charges, and the issuance of the Bonds have been duly and timely obtained and remain in full force and effect. Competitive bids for the acquisition and construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1 of the West Virginia Code of 1931, as amended, which bids remain in full force and effect.

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

There are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

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

Bond Ordinance

Supplemental Resolution

Loan Agreement

Public Service Commission Order

Infrastructure and Jobs Development Council Approval

Charter

Oaths of Office of Officers and Councilmembers

Water Rate Ordinance

Minutes on Adoption and Enactment of Rate Ordinance

Affidavits of Publication of Rate Ordinance and Notice of Public Hearing

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

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

Office of Environmental Health Services Permit

Agreement with Mingo County Public Service District

6. **INCUMBENCY AND OFFICIAL NAME:** The proper corporate title of the Issuer is "Town of Delbarton." The Issuer is a municipal corporation in Mingo 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, Recorder 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:

<u>Name</u>			<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
John Preece	-	Mayor	07/01/99	06/30/03
Billie Jo Endicott	-	Recorder	02/13/01	06/30/03
Joe Crum	-	Councilmember	07/01/99	06/30/03
Mark Sizemore	-	Councilmember	07/01/99	06/30/03
John C. Davis	-	Councilmember	07/01/99	06/30/03
Mark Hunt	-	Councilmember	07/01/99	06/30/03
Britt Moore	-	Councilmember	01/01/01	06/30/03

The duly appointed and acting Counsel to the Issuer is H. Wyatt Hanna, Esquire, South Charleston, West Virginia.

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.

The Issuer has not obtained an easement from Freemont Coal Company (the "Coal Company") as of the date of this Certificate. The Issuer has requested an easement from the Coal Company and has received a letter from the Coal Company stating that the easement request has been recommended for approval and is under review by their legal staff. The Issuer hereby covenants and certifies that, if such easement is not received by the Issuer by August 1, 2001, the Issuer shall, as soon thereafter as possible, file a condemnation action against the Coal Company for such easement. The Issuer further certifies that it shall exercise its best efforts to obtain a right of entry in such condemnation proceeding by no later than September 1, 2001.

8. **MEETINGS, ETC.:** All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds and the acquisition, construction, operation and financing of the Project and 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 will be required to maintain Worker's Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Bond Legislation. All insurance for the System required by the Bond Legislation and Loan Agreement is in full force and effect.

10. **LOAN AGREEMENT:** As of the date hereof, (i) the representations of the Issuer contained in the Loan Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreement does not contain any untrue statement

of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best knowledge of the undersigned, no event affecting the Issuer has occurred since the date of the Loan Agreement which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information in the Loan Agreement not misleading; and (iv) the Issuer is in compliance with all covenants, terms and representations in the Loan Agreement.

11. RATES: The Issuer duly enacted a water rate ordinance on April 24, 2000, setting the rates and charges for the services of the System. The time for appeal of such rate ordinance has expired prior to the date hereof without any appeal and such rates will become effective upon substantial completion of the Project.

12. 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, numbered AR-1, 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 Loan Agreement. Said official seal is also impressed above the signatures appearing on this certificate.

13. BOND PROCEEDS: On the date hereof, the Issuer received \$23,963.00, from the Authority and the BPH, being a portion of the principal amount of the Series 2001 A Bonds. The balance of the principal amount of the Series 2001 A Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

14. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE: Upon adoption of the Bond Ordinance, an abstract thereof, determined by the Governing Body to contain sufficient information as to give notice of the contents thereof, was published once each week for 2 successive weeks, with not less than 6 full days between each publication, the first such publication occurring not less than 10 days before the date stated below for the public hearing, in the *Williamson Daily News*, a qualified newspaper of general circulation in the Town of Delbarton, there being no newspaper published therein, together with a notice to all persons concerned, stating that the Bond Ordinance had been adopted and that the Issuer contemplated the issuance of the Bonds described in such Bond Ordinance, stating that any person interested may appear before the Council at the public hearing held at a public meeting of Council on the 9th day of July, 2001, at 7:00 p.m., at the place of meeting for the Council 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.

15. **PUBLIC SERVICE COMMISSION ORDER:** The Issuer has received the Final Order of the Public Service Commission of West Virginia entered on November 20, 2000 (the "Final Order"), in Case No. 00-0367-W-CN, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of such Final Order has expired prior to the date hereof without any appeal.

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

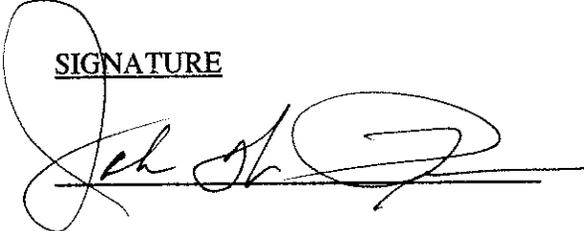
17. **CONFLICT OF INTEREST:** No member, officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Bonds, the Bond Legislation and/or the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

18. **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.

WITNESS our signatures and the official seal of the TOWN OF DELBARTON on this 18th day of July, 2001.

[CORPORATE SEAL]

SIGNATURE

  
Billie J. Endicott  
H. Wyatt A. III

OFFICIAL TITLE

Mayor

Recorder

Counsel to Issuer

07/09/01  
225970/98002

July 18, 2001

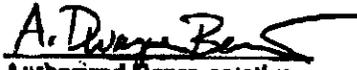
Town of Delbarton  
P.O. Box 730  
Delbarton, West Virginia 25670

Haworth, Meyer & Boleyn, Inc.  
323 Sixth Avenue  
South Charleston, West Virginia 25303

Dear Ladies and Gentlemen:

The purpose of this letter is to confirm that E & D Mountain View Construction, Inc. agrees that we will not, as part of the Town of Delbarton Water Project, commence construction along Pigeon Roost Road prior to September 1, 2001, and that E & D Mountain View Construction, Inc. waives any claim against the Town of Delbarton, the West Virginia Bureau for Public Health and Haworth, Meyer & Boleyn, Inc. for any delay incurred in construction as a result of not commencing construction along Pigeon Roost Road prior to September 1, 2001.

E & D MOUNTAIN VIEW  
CONSTRUCTION, INC.

  
Authorized Representative



TOWN OF DELBARTON

Water Revenue Bonds, Series 2001 A  
(West Virginia DWTRF Program)

CERTIFICATE OF ENGINEER

I, Jefferson E. Brady, Registered Professional Engineer, West Virginia License No. 14819, of Hayworth, Meyer & Boleyn, Inc., South Charleston, West Virginia, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain extensions, additions, betterments and improvements (the "Project") to the existing public waterworks system (the "System") of the Town of Delbarton (the "Issuer") to be constructed primarily in Mingo County, West Virginia, which acquisition and construction are being permanently financed in part by the proceeds of the above-captioned bonds (the "Bonds") of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Bond Ordinance enacted by the Issuer on July 9, 2001, as supplemented, and the Loan Agreement, by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), dated July 18, 2001 (the "Loan Agreement").

2. The Bonds are being issued for the purposes of (i) paying the costs of acquisition and construction of the Project; (ii) funding a reserve account for the Bonds; and (iii) paying certain costs of issuance of the Bonds and related costs.

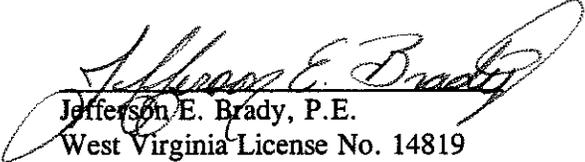
3. To the best of our knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the BPH and any change orders approved by the Issuer, the BPH and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least thirty-five (35) 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 the Issuer's counsel, H. Wyatt Hanna, Esquire, has ascertained that all successful bidders have made required provisions for all insurance and payment and performance bonds and that such and

that such insurance or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the BPH and the bid forms provided to the bidders contain the critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all applicable permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and the operation of the System; (ix) in reliance upon the certificate of Issuer's certified public accountant, Ralph Laton, CPA, as of the effective date thereof, the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the Loan Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the BPH; and (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.

WITNESS my signature and seal on this 18th day of July, 2001.

HAWORTH, MEYER & BOLEYN, INC.

(SEAL)

  
Jefferson E. Brady, P.E.  
West Virginia License No. 14819

07/02/1  
225970.98002

WEST VIRGINIA OFFICE OF ENVIRONMENTAL HEALTH SCIENCES  
**Drinking Water Treatment Revolving Fund Program**

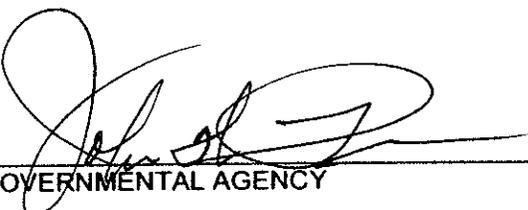
**SCHEDULE B**

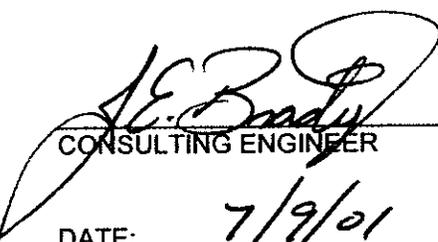
**Town of Delbarton Water System Improvements Project**

Project consists of approximately 25,600 LF of 10" C-900, 8" C-900 CI 150, 6" C-900 CL 150 and 2" SDR 17 CL 250 water mains, 208 new meters, replacement of 115 existing meters, replacement/reconnection of existing service lines to existing and new water mains, master meter vault, and all other appurtenances necessary to complete project.

**FINAL TOTAL COST OF PROJECT, SOURCES OF FUNDS AND COST OF FINANCING**

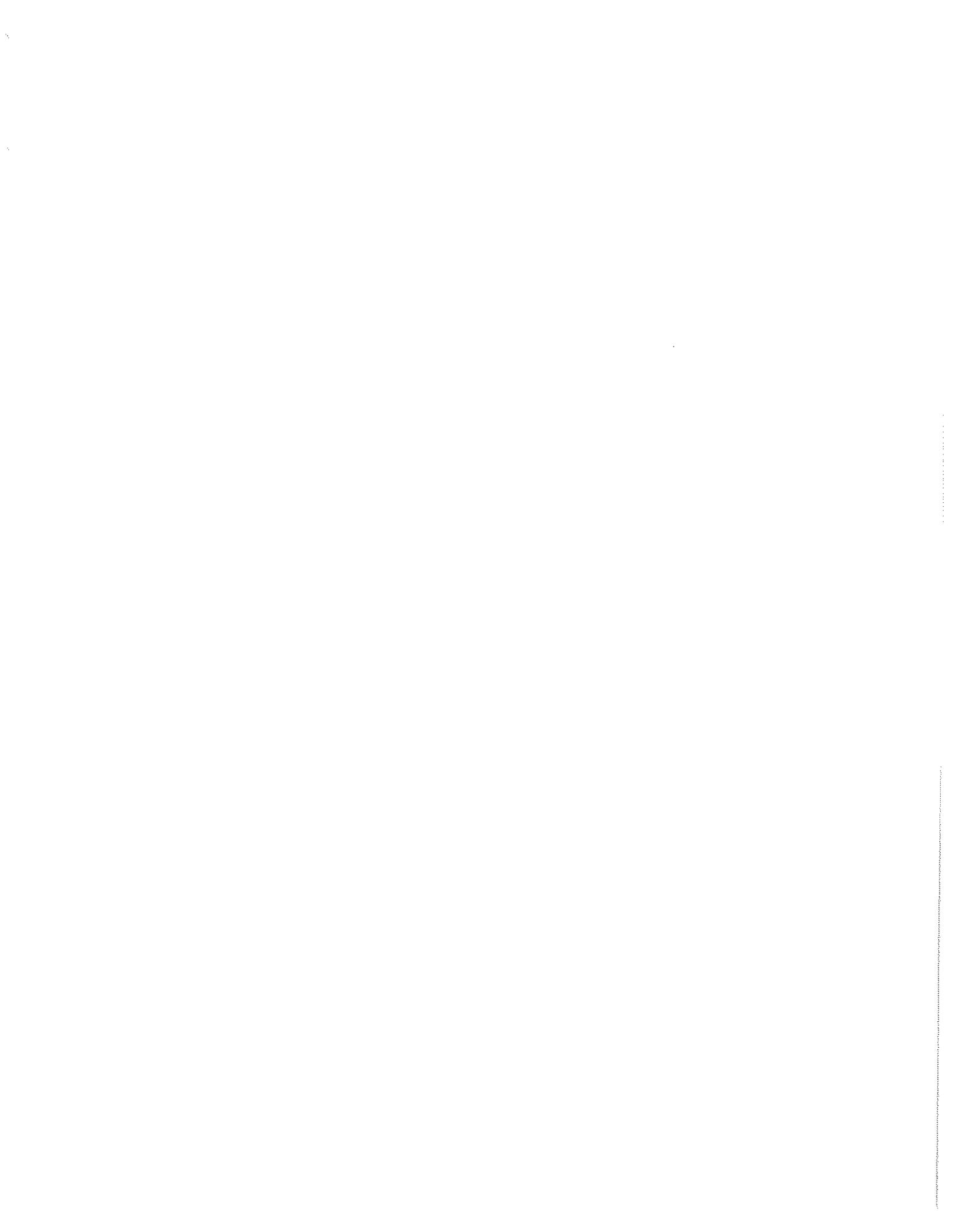
<b>A. Cost of Project</b>	<b>Total</b>	<b>DWTRF</b>	<b>SCBG</b>
<b>1. Construction</b>			
a. E & D Mountain View	1,190,274	183,774	1,006,500
b.			
c.			
d.			
<b>2. Engineering Fees</b>	190,000		190,000
<b>3. Legal</b>	10,000	5,000	5,000
<b>4. Administration</b>	35,000		35,000
<b>5. Sites and Other Lands</b>	6,000		6,000
<b>6. Contingency</b>	50,376	50,376	
<b>7. Total of Lines 1 through 6</b>	1,481,650	239,150	1,242,500
<b>B. Sources of Funds</b>			
<b>8. Local</b>	1,250,000		1,250,000
<b>9. Net Proceeds Required from Bond Issue (Line 7 minus Line 8)</b>	231,650		
<b>C. Cost of Financing</b>			
<b>10. Other Costs</b>			
a. Bond Counsel	9,000	9,000	
b. Accountant	8,500	1,000	7,500
c. Registrar	250	250	
d. Reserve Account	8,600	8,600	
<b>11. Total Cost of Financing (Lines 10a and 10b)</b>	26,350	18,850	7,500
<b>12. Size of Bond Issue (Line 9 plus Line 11)</b>	258,000	258,000	

  
 \_\_\_\_\_  
 GOVERNMENTAL AGENCY

  
 \_\_\_\_\_  
 CONSULTING ENGINEER

DATE: July 16, 2001

DATE: 7/9/01



**Ralph W. Laton**  
**Certified Public Accountant**

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Post Office Box 340 ~ Hurricane, West Virginia 25526 ~ 304/562-0137

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July 18, 2001

Town of Delbarton  
Water Revenue Bonds, Series 2001 A  
(West Virginia DWTRF Program)

Town of Delbarton  
Delbarton, West Virginia

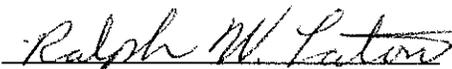
West Virginia Water Development  
Authority  
Charleston, West Virginia

West Virginia Bureau  
for Public Health  
Charleston, West Virginia

Ladies and Gentlemen:

Based upon the rates and charges set forth in the water rate ordinance of the Town of Delbarton (the "Issuer"), enacted April 24, 2000, and projected operation and maintenance expenses and anticipated customer usage as furnished to me by Haworth, Meyer & Boleyn, Inc., the consulting engineer, it is my opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the water works system of the Issuer (the "System"), will pay all repair, operation and maintenance expenses of the System and leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on the Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program) (the "Bonds"), to be issued to the West Virginia Water Development Authority on the date hereof.

Very truly yours,

  
RALPH W. LATON, CPA



TOWN OF DELBARTON

Water Revenue Bonds, Series 2001 A  
(West Virginia DWTRF Program)

CERTIFICATE AS TO USE OF PROCEEDS

The undersigned Mayor of the Town of Delbarton in Mingo County, West Virginia (the "Issuer"), being the official of the Issuer duly charged with the responsibility for the issuance of \$258,000 Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), of the Issuer, dated July 18, 2001 (the "Bonds" or the "Series 2001 A Bonds"), 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 July 9, 2001, as supplemented (the "Bond Ordinance"), authorizing the Bonds.
2. This certificate may be relied upon as the certificate of the Issuer.
3. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on July 18, 2001, the date on which the Bonds are being physically delivered in exchange for an initial advance of \$22,963.00, being a portion of the principal amount of the Series 2001 A Bonds, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.
4. In the Bond Ordinance pursuant to which the Bonds are issued, the Issuer has covenanted that it shall not take, or permit or suffer to be taken, any action with respect to Issuer's use of the proceeds of the Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Internal Revenue Code of 1986, as amended, and the temporary and permanent regulations promulgated thereunder or under any predecessor thereto (collectively, the "Code"), issued by the West Virginia Water Development Authority (the "Authority") or the West Virginia Bureau for Public Health (the "BPH") as the case may be, from which the proceeds of the Bonds are derived, to lose their status as tax-exempt bonds. The Issuer hereby covenants to take all actions necessary to comply with such covenant.

5. The Series 2001 A Bonds were sold on July 18, 2001, to the Authority, pursuant to a Loan Agreement dated July 18, 2001, by and between the Issuer and the Authority, on behalf of the BPH, for an aggregate purchase price of \$258,000 (100% of par), at which time, the Issuer received \$22,963.00 from the Authority and the BPH, being the first advance of the principal amount of the Series 2001 A Bonds. No accrued interest has been or will be paid on the Series 2001 A Bonds. The balance of the principal amount of the Series 2001 A Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

6. The Series 2001 A 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 extensions, additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); (ii) funding a reserve account for the Bonds; and (iii) 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 for costs of the Project shall commence immediately and shall proceed with due diligence to completion, and with the exception of proceeds deposited in the Series 2001 A 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 July 1, 2002. The acquisition and construction of the Project is expected to be completed by April 1, 2002.

8. The total cost of the Project financed from the proceeds of the Bonds (including all costs of issuance of the Bonds) is estimated at \$258,000. Sources and uses of funds for the Project are as follows:

SOURCES

Proceeds of the Series 2001 A Bonds	\$ 258,000
Small Cities Block Grant	<u>1,250,000</u>
Total Sources	<u>\$ 1,508,000</u>

USES

Costs of Acquisition and	
Construction of the Project	\$ 1,489,150
Fund Series 2001 A Bonds Reserve Account	\$ 8,600
Costs of Issuance	<u>\$ 10,250</u>
Total Uses	<u>\$ 1,508,000</u>

9. Pursuant to Article V of the Bond Ordinance, the following special funds or accounts have been created or continued relative to the Series 2001 A Bonds:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Series 2001 A Bonds Construction Trust Fund;
- (4) Series 2001 A Bonds Sinking Fund; and
- (5) Within the Series 2001 A Bonds Sinking Fund, the Series 2001 A Bonds Reserve Account.

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

- (1) Series 2001 A Bonds proceeds in the amount of \$8,600 be deposited in the Series 2001 A Bonds Reserve Account.
- (2) The balance of the proceeds of the Series 2001 A Bonds will be deposited in the Series 2001 A 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 2001 A Bonds and related costs.

11. Moneys held in the Series 2001 A Bonds Sinking Fund will be used solely to pay principal of the Series 2001 A Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on moneys in the Series 2001 A Bonds Sinking Fund and Series 2001 A Bonds Reserve Account, if any, will be withdrawn therefrom and deposited into the Series 2001 A 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 Ordinance.

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 nine (9) 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 2001 A Bonds Reserve Account, if any, all of the proceeds of the Bonds will be expended on the Project within twelve (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 Ordinance authorizing the issuance of the Bonds if such amendment is necessary to assure that the Bonds remain governmental bonds.

23. The Issuer has either (a) funded the Series 2001 A Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year with the proceeds of the Bonds, or (b) created the Series 2001 A Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2001 A Bonds Reserve Account hold an amount equal to the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year. Moneys in the Series 2001 A Bonds Reserve Account and the Series 2001 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

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 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.

WITNESS my signature on this 18th day of July, 2001.

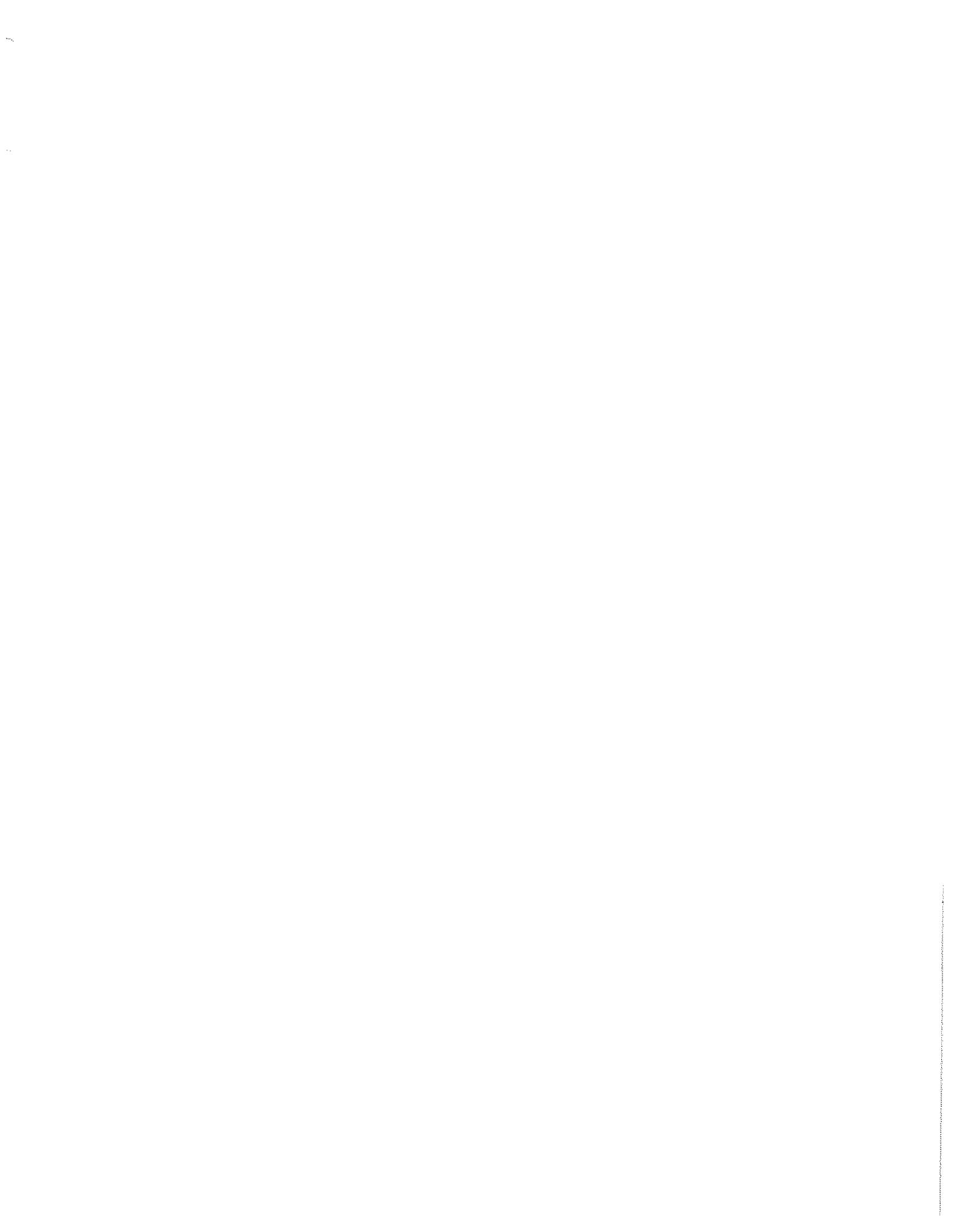
TOWN OF DELBARTON



\_\_\_\_\_

Mayor

07/09/01  
225970.98002



IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

UPON APPLICATION BY PETITION FOR A CERTIFICATE OF INCORPORATION OF THE  
TOWN OF DELBARTON

This the 6th day of September, 1946, at a Special Term of said Court, came Dr. J. R. Farley, and others, petitioners for a certificate of incorporation of the Town of Delbarton, in Lee District, Mingo County, West Virginia, in person, and by their attorney, O. C. VanCamp; the said petition and exhibits therein referred to having been filed in the office of the Clerk of this Court five ( 5 ) days previous to this hearing; and the petition praying that, since an election had been held, as set up therein, on the question of incorporating the Town of Delbarton, in said District and County as a municipal corporation, and that a majority of the votes cast at the said election having been voted in favor of said incorporation; and it being set forth therein that the provisions of statute, providing for incorporation of such municipalities had been complied with; and evidence having been taken in support of the allegations set forth in said petition; and it appearing from the evidence that those interested in incorporating the said Town of Delbarton had caused a map and survey to be made by a practical surveyor and professional engineer, namely, L. C. Linkous, and the said survey and map being exhibited and captioned "Map Showing Incorporation of the City of Delbarton, West Virginia" and dated June 15, 1946, and filed at petitioners' "Exhibit No. 1", which map and survey were verified, as required by statute; and it further appearing that the petitioners had caused a census to be taken of the population comprehended within said map and survey as of a date not more than sixty (60) days before the application by the petition for incorporation; and that the said census was verified; and the said map, survey, and census were left in the office of Dr. J. R. Farley, a resident within the territory comprehended

by the said map and survey, for inspection and examination, at any reasonable hour, in accordance with statute provided, and four (4) weeks before the posting of the first notice of the application by petition to this court for a certificate of incorporation; and it appearing further that the notices required by statute, for three (3) successive weeks, when said application by petition would be made, when an election would be held, and the place within the territory it would be held when the qualified voters would meet thereon to vote upon the question of incorporation of the said Town, to-wit at the school house on the 20th day of August, 1946, within the territory comprehended by said map and survey, and satisfactory evidence having been adduced to indicate that the notices had been posted at least three (3) most public places and kept posted, as required by statute; and it further appearing that an election had been held, the supervisors of which had been elected by the majority of the voters present on the ground; that the said election officers held the said election in accordance with statute providing for such cases; and it further appearing that the results of said election were two hundred fifty-seven (257) for incorporation and forty-eight (48) against incorporation, and from the results, as certified to this court by the said supervisors of election, the majority of the votes cast being in favor of the said incorporation, the question carried by an overwhelming majority in favor of incorporation of the said Town of Delbarton; the allegations in the petition having been supported by evidence and by exhibits of map, courses and distances, notices, verification of census, and the certificate of the results of the election by the election officers; and it further appearing that the requirements of law for the incorporation of the Town of Delbarton, as a municipal corporation, having been substantially complied with the court is of the opinion that the prayer of the said petition should be answered in the affirmative with certain alterations in boundary lines deleting and leaving out certain portions comprehended within said map and survey.

There further developed in the proceeding, after said petition was presented, certain petitioners, represented by William Baisden and John B. Adair, informally petitioned the Court that the Town of Delbarton be incorporated by boundary lines and courses and distances as represented by said map and survey, indicated by petitioners' "Exhibit Nos. 1 and 2", which matter was disposed of as hereinafter set forth.

There was a further informal petition on the part of Armilda Ramey, who appeared in person and by her attorney, J. Brooks Lawson, Esq., and praying the court to delete and take out from the territory comprehended within said map and survey a portion of a village within said territory known as Rameytown or the property she owned therein, and evidence having been taken for and against this proposal, the Court was of the opinion that the petition of the said Armilda Ramey should be denied.

But it further appearing to the Court that the Norfolk & Western Railway Company and United Thacker Coal Company, by their attorney, Lant R. Slaven, Esq., were asserting that too much of their property had been incorporated within the territory comprehended by said map and survey, and that some of the territory thus comprehended was disproportionate to the population thereof; and it further appearing that agreements had been reached between the petitioners and the said Norfolk & Western Railway Company and the United Thacker Coal Company, corporations, and that these agreements had also been assented to by the said William Baisden and John B. Adair, who originally prayed that there be no changes in the boundary lines comprehended by said map and survey; that the agreements represented by the parties, as hereinbefore indicated, and indicated by modifications, which are shown on the said map by orange lines drawn on a second copy of said map and now tendered and hereby filed and marked "Map as Modified", eliminating certain portions originally comprehended within said map and survey, and that the description of the courses and distances as indicated by said orange lines are as follows:

REVISED DESCRIPTION OF BOUNDARY TO BE INCORPORATED  
FOR THE CITY OF DELBARTON, WEST VIRGINIA

Beginning at the mouth of Pigeon Creek of Pigeon Creek, Mingo County, West Virginia, thence running up Pigeon Roost Creek S 49 deg. 20' W 538.2 feet crossing the State Road to a stake, S 26 deg. 05' W 248.5 feet to a stake at the mouth of a small drain and at the upper end of Hervert Browning property, thence leaving said Pigeon Roost Creek and running S 13 deg. 00' E 5400 feet to a high knob between Orchard Branch and the Right Fork of Stonecoal Branch, thence S 45 deg. 43' W 4130 feet to a stake on the ridge between the left fork of Stonecoal Branch and Buffalo Creek, thence S 48 deg. 41' E 2730 feet across Stonecoal Branch to a stake, N 72 deg. 10' E 1105.0 feet to a stake on a high knob corner to Boyd Adkins and with his line S 75 deg. 30' E 2458.0 feet crossing Pigeon Creek and U. S. Highway No. 52 to a twin sycamore, corner to Boyd Adkins, and with his line N 48 deg. 25' E 1001.0 feet to a stake on a point, thence N 25 deg. 29' E 2780 feet to a stake on a knob between Pigeon Creek and Rockhouse Fork, thence N 9 deg. 10' W 1903.0 feet to a stake on the point, thence leaving the point and with John Maynard's upper line N 48 deg. 35' E 1275.0 feet crossing the State Road to a stake on the west bank of Rockhouse Fork of Pigeon Creek, thence down Rockhouse Fork of Pigeon Creek and crossing same and the N & W Railway N 9 deg. 50' W 3455.0 feet to a stake on a high knob between Rockhouse Fork and Millstone Branch, thence start down the dividing ridge between same S 80 deg. 10' W 941.0 feet to a stake on a knob, thence S 58 deg. 40' W 1845.0 feet down the point to a double beech, a common corner with the United Thacker Coal Company - Celia Farley 59.7 acre tract, thence with the line of the said Celia Farley tract S 82 deg. 24' W 442.0 feet to a double beech in a field, thence S 40 deg. 04' W 255 feet to a stake in the center line of Pigeon Creek, thence down said creek with the meanders N 69 deg. 40' W 330.0 feet to a stake, thence with said creek N 35 deg. 53' W 210.0 feet to a stake,

thence with said creek N 9 deg. 00' E 780.0 feet to a stake, thence with said creek N 5 deg. 48' W 860.0 feet to a stake, thence with said creek N 47 deg. 45' W 480.0 feet to a stake, thence with said creek N 53 deg. 17' W 485.0 feet to a stake, thence with said creek N 63 deg. 36' W 545.0 feet to a stake thence N 64 deg. 22' W 535.0 feet to the place of beginning, containing 1109.50 acres or 1.73 square miles.

The Court is of the opinion, therefore, that the agreements effected between the petitioners and said corporations are fair and equitable; that it leaves out certain portions of the properties of said corporations, which, if retained, would appear to be so retained for the sole purpose of obtaining revenue for the said municipal corporation, since the population on said properties deleted by said agreements is scarcely none, and would render the territory, as shown on said original map disproportionate to the number of residents thereof.

IT IS, THEREFORE, THE JUDGMENT OF THIS COURT that the prayer of the said petition should be granted as modified by said agreements between the petitioners and the said Norfolk & Western Railway Company and the United Thacker Coal Company and as shown by orange lines on the said "Map as Modified", and the Clerk of this Court is hereby directed to issue a certificate of incorporation of the Town of Deibarton, Lee District, Mingo County, West Virginia.

The form of the said certificate of incorporation shall be as follows:

"A certificate, under oath, of Beulah Adair, Joe Kirk and Joe Varney is filed in this Court and made an exhibit this the sixth (6th) day of September Nineteen Hundred Forty-Six (1946), showing that a majority of all the qualified voters, residing in the following boundary, to-wit:

have voted, in due form of law, in favor of the incorporation of the Town of Delbarton, in Lee District, Mingo County, and bounded as herein set forth, and as it appears to the satisfaction of the Court that all of the provisions of Chapter Eight (8) of the Code of West Virginia have been complied with by the applicants for said incorporation, said Town of Delbarton is a body corporate, duly authorized within the corporate limits afore said, or as otherwise provided, to exercise all of the corporate powers conferred by the said Chapter from and after the date of this certificate."

It is further ordered that John Butcher, Beulah Adair and Joe Kirk, legal Voters and residents residing in said municipal corporation, be and are hereby appointed as commissioners of election to hold the first election to be held in said municipal corporation, and the said election must be held within sixty days from the date hereof and they shall appoint a time and place to hold said election by giving competent notice, as provided by statute, of the time and place of holding said election, and they shall appoint a time and place to hold said election by giving competent notice, as provided by statute, of the time and place of holding said election, and they shall canvass the results and issue certificates of election as results thereof may indicate to the officers elected, and shall perform all duties imposed upon them by statute in, about and concerning said election, and the Clerk of this Court is hereby directed to notify said appointees of their appointment as commissioners of said election.

REVISED DESCRIPTION OF BOUNDARY TO BE INCORPORATED  
FOR THE CITY OF DELBARTON, WEST VIRGINIA

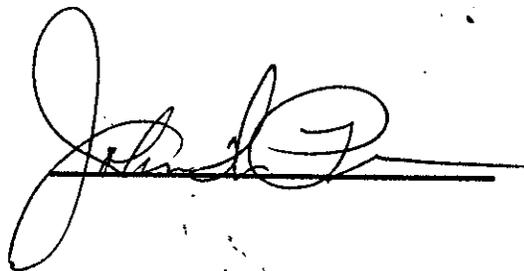
Beginning at the mouth of Pigeon Roost Creek of Pigeon Creek, Mingo County, West Virginia, thence running up Pigeon Roost Creek S 49 deg. 20' W 538.2 feet crossing the State Road to a stake, S 26 deg. 05' W 248.5 feet to a stake at the mouth of a small drain and at the upper end of Herbert Browning property, thence leaving said Pigeon Roost Creek and running S 13 deg. 00' E 5400 feet to a high knob between Orchard Branch and the Right Fbrk of Stonecoal Branch, thence S 45 deg. 43' W 4130 feet to a stake on the ridge between the left fork of Stonecoal Branch and Buffalo Creek, thence S 48 deg. 41' E 2730 feet across Stonecoal Branch to a stake, N 72 deg. 10' E 1105.0 feet to a stake on a high knob corner to Boyd Adkins and with his line S 75 deg. 30' E 2458.0 feet crossing Pigeon Creek and U. S. Highway No. 52 to a twin sycamore, corner to Boyd Adkins, and with his line N 48 deg. 25' E 1001.0 feet to a stake on a point, thence N 25 deg. 29' E 2780 feet to a stake on a knob between Pigeon Creek and Rockhouse Fork, thence N 9 deg. 10' W 1093.0 feet to a stake on the point, thence leaving the point and with John Maynard's upper line N 48 deg. 35' E 1275.0 feet crossing the State Road to a stake on the west bank of Rockhouse Fork of Pigeon Creek, thence down Rockhouse Fork of Pigeon Creek and crossing same and the N & W Railway N 9 deg. 50' W 3455.0 feet to a stake on a high knob between Rockhouse Fork and Millstone Branch, thence down the dividing ridge between same S 80 deg. 10' W 941.0 feet to a stake on a knob, thence S 58 deg. 40' W 1845.0 feet down the point to a double beech, a common corner with the United Thacker Coal Company-Celia Farley, 59.7-acre tract thence with the line of the said Celia Farley tract S 82 deg. 04' W 255 feet to a stake in the center line of Pigeon Creek, thence down said creek with the meanders N 69 deg. 40' W 330.0 feet to a stake, thence with said creek N 35 deg. 53' W 210.0 feet to a stake, thence with said creek N 9 deg. 00' E 780.0

feet to a stake, thence with said creek N 5 deg. 48' W 860.0 feet to a stake, thence with said creek N 47 deg. 45' W 480.0 feet to a stake, thence with said creek N 53 deg. 17' W 485.0 feet to a stake, thence with said creek N 63 deg. 36' W 545.0 feet to a stake, thence N 64 deg. 22' W 535.0 feet to the place of beginning, containing 1109.50 acres or 1.73 square miles.

OATH OF OFFICE

STATE OF WEST VIRGINIA  
COUNTY OF MINGO  
TOWN OF DELBARTON, TO WIT:

I, JOHN W FEECE do solemnly swear  
that I will support the constitution of the United States  
and the constitution of the state of West Virginia, and  
that I will faithfully discharge the duties of the office  
of Mayor to the best of my skill and  
judgment, so help me God.



Subscribed and sworn to before me, in said Mingo  
County, Delbarton, West Virginia on this the 01 day of  
July, 1999



Notary Public,  
Mayor, or Recorder

MY COMMISSION/OFFICE EXPIRES June 30 2003

OATH OF OFFICE

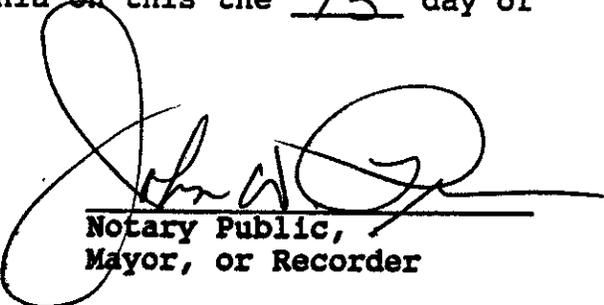
STATE OF WEST VIRGINIA  
COUNTY OF MINGO  
TOWN OF DELBARTON, TO WIT:

I, BILLIE JO ENDICOTT do solemnly swear  
that I will support the constitution of the United States  
and the constitution of the state of West Virginia, and  
that I will faithfully discharge the duties of the office  
of Recorder to the best of my skill and  
judgment, so help me God.

Billie Jo Endicott

Subscribed and sworn to before me, in said Mingo  
County, Delbarton, West Virginia on this the 13 day of

FEBRUARY, 19 2001

  
Notary Public,  
Mayor, or Recorder

MY COMMISSION/OFFICE EXPIRES 6/30/2003

OATH OF OFFICE

STATE OF WEST VIRGINIA  
COUNTY OF MINGO  
TOWN OF DELBARTON, TO WIT:

I, BRITT KEANE MOORE do solemnly swear  
that I will support the constitution of the United States  
and the constitution of the state of West Virginia, and  
that I will faithfully discharge the duties of the office  
of COUNCIL MEMBER to the best of my skill and  
judgment, so help me God.

Britt Moore

Subscribed and sworn to before me, in said Mingo  
County, Delbarton, West Virginia on this the 1 day of  
JANUARY, 19 2001

John H. Owen  
Notary Public,  
Mayor, or Recorder

MY COMMISSION/OFFICE EXPIRES 6/30/2003

OATH OF OFFICE

STATE OF WEST VIRGINIA  
COUNTY OF MINGO  
TOWN OF DELBARTON, TO WIT:

I, JOHN C. DAVIS do solemnly swear  
that I will support the constitution of the United States  
and the constitution of the state of West Virginia, and  
that I will faithfully discharge the duties of the office  
of Council member to the best of my skill and  
judgment, so help me God.

John C. Davis

Subscribed and sworn to before me, in said Mingo  
County, Delbarton, West Virginia on this the 01 day of  
July, 1999

Patricia K. Deaton  
Notary Public,  
Mayor, or Recorder

MY COMMISSION/OFFICE EXPIRES June 30 2003

OATH OF OFFICE

STATE OF WEST VIRGINIA  
COUNTY OF MINGO  
TOWN OF DELBARTON, TO WIT:

I, ROBERT HUNT, JR. do solemnly swear  
that I will support the constitution of the United States  
and the constitution of the state of West Virginia, and  
that I will faithfully discharge the duties of the office  
of Council Member to the best of my skill and  
judgment, so help me God.

Robert Hunt, Jr.

Subscribed and sworn to before me, in said Mingo  
County, Delbarton, West Virginia on this the 01 day of  
July, 1999

Melissa S. Sutton  
Notary Public,  
Mayor, or Recorder

MY COMMISSION/OFFICE EXPIRES

June 30 2003

OATH OF OFFICE

STATE OF WEST VIRGINIA  
COUNTY OF MINGO  
TOWN OF DELBARTON, TO WIT:

I, MARK SIZEMORE do solemnly swear  
that I will support the constitution of the United States  
and the constitution of the state of West Virginia, and  
that I will faithfully discharge the duties of the office  
of Council Member to the best of my skill and  
judgment, so help me God.

Mark Sizemore

Subscribed and sworn to before me, in said Mingo  
County, Delbarton, West Virginia on this the 01 day of  
July, 1999

John H. G.  
Notary Public,  
Mayor, or Recorder

MY COMMISSION/OFFICE EXPIRES November 01, 1999

OATH OF OFFICE

STATE OF WEST VIRGINIA  
COUNTY OF MINGO  
TOWN OF DELBARTON, TO WIT:

I, Joe Crum do solemnly swear  
that I will support the constitution of the United States  
and the constitution of the state of West Virginia, and  
that I will faithfully discharge the duties of the office  
of Council member to the best of my skill and  
judgment, so help me God.

Joe Crum

Subscribed and sworn to before me, in said Mingo  
County, Delbarton, West Virginia on this the 01 day of  
July, 1999

[Signature]  
Notary Public,  
Mayor, or Recorder

MY COMMISSION/OFFICE EXPIRES November 01, 1999



ORDINANCE INCREASING THE RATE SCHEDULE  
FOR WATER SERVICES RENDERED TO CUSTOMERS  
OF THE MUNICIPAL WATER SYSTEM OPERATED  
BY THE DELBARTON UTILITY BOARD.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF  
DELBARTON, WEST VIRGINIA:

This Ordinance is enacted pursuant to the provisions of Chapter 24, Article  
2, Section 4-B of the West Virginia Code and other applicable provisions of law.

It is hereby FOUND, DETERMINED AND DECLARED that an increase  
in rates presently charged for water services under the ordinance adopted by this council  
on August 31, 1987, is necessary to fund the proposed Town of Delbarton water system  
improvements project.

Therefore, the Town Council of the Town of Delbarton, West Virginia  
desires to amend the aforesaid ordinance of the August 31, 1987, to reflect an increase in  
rates for users of the water system.

Upon review of the financial data submitted to this Council by the  
Delbarton Utility Board, it is DETERMINED that the schedule of rates and charges for  
services of the system shall be amended as follows:

SCHEDULE NO. 1  
WATER DEPARTMENT

(A) This Rate Schedule is to be effective June 08, 2000.

**APPLICABILITY OF SERVICE**

Applicable to all areas served by the Town of Delbarton.

**AVAILABILITY OF SERVICE**

Available for metered general, domestic, commercial and industrial service.

RATE (Based upon the metered amount of water supplied)		
First	5,000 gallons used per month	\$4.06 per 1,000 gallons
Next	5,000 gallons used per month	\$4.10 per 1,000 gallons
Next	5,000 gallons used per month	\$3.61 per 1,000 gallons
Next	5,000 gallons used per month	\$3.41 per 1,000 gallons
Over	20,000 gallons used per month	\$2.74 per 1,000 gallons

**MINIMUM CHARGE**

No bill will be rendered for less than the following amounts according to the size of the  
meter installed, to-wit:

5/8 inch meter	\$10.62 per month
3/4 inch meter	\$15.93 per month
1 inch meter	\$26.55 per month

1 1/4 inch meter	\$38.76 per month
1 1/2 inch meter	\$53.10 per month
2 inch meter	\$84.96 per month
3 inch meter	\$159.30 per month
4 inch meter	\$265.50 per month
6 inch meter	\$531.00 per month
8 inch meter	\$849.60 per month

**METER DEPOSIT**

There shall be a meter deposit of \$50.00.

**DELAYED PAYMENT PENALTY**

The above tariff is net. On all current usage billings not paid in full within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment is not interest and is to be collected only once for each bill where it is appropriate.

**INCREMENTAL COST OF WATER PURCHASED AND PRODUCED**

\$.98 M Gal. To be used to bill water for customer leaks beyond historical average usage.

**RECONNECTION FEES**

Service shall not be restored until all amounts in arrears, including penalties, plus the reconnection fee of Twenty-five Dollars (\$25) have been paid.

**RETURNED CHECKS FOR INSUFFICIENT FUNDS**

If a check received is returned by the bank for any reason, the bank's charge to the Town of Delbarton shall be the charge to the customer for such a bad check, but such charge to the customer shall not exceed \$15.00.

**SERVICE CONNECTION CHARGE (Tap Fees)**

\$250.00. It shall be the responsibility of the customer to provide connection of their private service line to the meter setting.

**SCHEDULE NO. 2  
WATER DEPARTMENT**

(A) This Rate Schedule is to be effective upon the issuance of a Certificate of Substantial Completion by the Town's consulting engineer for the purposed improvements to the water system.

**APPLICABILITY OF SERVICE**

Applicable to all areas served by the Town of Delbarton.

**AVAILABILITY OF SERVICE**

Available for metered general, domestic, commercial and industrial service.

RATE		(Based upon the metered amount of water supplied)
First	5,000 gallons used per month	\$5.62 per 1,000 gallons
Next	5,000 gallons used per month	5.34 per 1,000 gallons
Next	5,000 gallons used per month	5.07 per 1,000 gallons
Next	5,000 gallons used per month	4.82 per 1,000 gallons
Over	20,000 gallons used per month	4.58 per 1,000 gallons

**MINIMUM CHARGE**

No bill will be rendered for less than the following amounts according to the size of the meter installed, to-wit:

5/8 inch meter	\$11.24 per month
3/4 inch meter	\$16.86 per month
1 inch meter	\$28.10 per month
1 1/4 inch meter	\$41.03 per month
1 1/2 inch meter	\$56.20 per month
2 inch meter	\$89.92 per month

3 inch meter	\$168.60 per month
4 inch meter	\$281.00 per month
6 inch meter	\$562.00 per month
8 inch meter	\$899.20 per month

**METER DEPOSIT**

There shall be a meter deposit of \$50.00.

**DELAYED PAYMENT PENALTY**

The above tariff is net. On all current usage billings not paid in full within twenty (20) days ten percent (10%) will be added to the net current amount unpaid. This delayed payment is not interest and is to be collected only once for each bill where it is appropriate.

**INCREMENTAL COST OF WATER PURCHASED AND PRODUCED**

\$3.31 M Gal. To be used to bill water for customer leaks beyond historical average usage.

**RECONNECTION FEES**

Service shall not be restored until all amounts in arrears, including penalties, plus the reconnection fee of Twenty-five Dollars (\$25) have been paid.

**RETURNED CHECKS FOR INSUFFICIENT FUNDS**

If a check received is returned by the bank for any reason, the bank's charge to the Town of Delbarton shall be the charge to the customer for such a bad check, but such charge to the customer shall not exceed \$15.00.

**SERVICE CONNECTION CHARGE (Tap Fees)**

\$250.00. It shall be the responsibility of the customer to provide connection of their private service line to the meter setting.

This Ordinance shall take effect following the public hearing hereon and the passage on third and final reading by City Council, and shall take effect forty-five (45) days from the date of said adoption, said forty-five days being June 08, 2000.

PASSED ON FIRST READING: 3/13/2000

PASSED ON SECOND READING: 1/10/2002

THIRD AND FINAL READING: 4/27/2000

EFFECTIVE ( \_\_\_\_\_ )

John W. Preece /ms  
John W. Preece, Mayor

Melissa K. Stratton  
Melissa Stratton, Recorder

Joe Crum  
Joe Crum, Council Member

Bill Endicott  
Bill Endicott, Council Member

Mark Sizemore  
Mark Sizemore, Council Member

Robert Hunt  
Robert Hunt, Council Member

John C. Davis  
John C. Davis, Council Member



**TOWN OF DELBARTON  
REGULAR COUNCIL MEETING  
MARCH 13, 2000**

**PRESENT MAYOR JOHN PREECE AND RECORDER MELISSA STRATTON**

**COUNCIL PRESENT JOE CRUM, BILL ENDICOTT, CLIFFORD DAVIS, ROBERT HUNT AND MARK SIZEMORE**

**GUEST PRESENT: ROGER MAYNARD, CHARLES JUSTICE, CAROLYN DILLON AND WILLIE SPENCE (DUB), PHILLIP DAVIS, JOHN RAMEY, PHILLIS PARKS (WDN) AND CHIEF JUSTICE**

**ROGER MAYNARD APPROACHED COUNCIL ABOUT THEIR INTEREST IN APPOINTING HIM AS BUILDING INSPECTOR. HE DISCUSSED THE RULES AND REGULATION CONCERNING THE BUILDING INSPECTOR'S DUTIES. HE ALSO OFFERED TO WORK OUT A PAYMENT ARRANGEMENT WITH THE TOWN UNTIL THE COMMITTEE COULD BE ESTABLISHED. THE COMMITTEE WOULD CONSIST OF FIVE (5) BOARD MEMBERS APPOINTED BY THE MAYOR.**

**CHARLES JUSTICE TALKED ABOUT THE NEW METER INSTALLED FOR CHOLIE HALL. HE ALSO DISCUSSED THAT CUT OFF NOTICES HAD BEEN SENT TO CUSTOMERS AND THAT CUSTOMERS WERE STARTING TO PAY. THE PEOPLE HOOKED UP THAT WERE NOT ON THE BOOKS WERE COMING IN AND SIGNING UP FOR SEWER. ANDY AND RYAN PROVIDED A PARTIAL LIST OF THE DYE TESTING. COUNCIL THANKED CHARLES FOR HIS PARTICIPATION ON THE UTILITY BOARD.**

**JOHN RAMEY OF THE URBAN RENEWAL AND REDEVELOPMENT AUTHORITY DISCUSSED THAT THE CHECKS THEY HAD RECEIVED FROM THE WV HOUSING DEVELOPMENT FUND HAD BEEN SENT TO VARNEY LAW OFFICES AND TO THE PROPER PEOPLE. HE ALSO INFORMED COUNCIL THAT CONTRACTS HAD BEEN SENT TO THE RENTERS AND THAT RENT WAS COMING IN. HE ALSO INFORMED COUNCIL THAT LARRY MOORE WANTED HIS RENT CUT IN HALF AND BE EXEMPT FROM GARBAGE SERVICE. JOHN RAMEY ASK FOR THE MAYOR TO MAKE A MOTION ON THIS MATTER AND THE MOTION DIED. MARILYN FERRELL ACCEPTED THE**

POSITION OF SECRETARY/TREASURER WITH THE DURRA. ON A MOTION MADE BY BILL ENDICOTT SECONDED BY JOE CRUM THE COUNCIL VOTED TO STAND BEHIND THE DURRA'S DECISIONS.

ON A MOTION MADE BY BILL ENDICOTT SECONDED BY JOE CRUM THE COUNCIL APPROVED THE MINUTES OF FEBRUARY 28, 2000 WITH UNANIMOUS VOTE.

MOTION WAS MADE BY ROBERT HUNT SECONDED BY CLIFFORD DAVIS TO ALLOW THE DELBARTON URBAN RENEWAL AND REDEVELOPMENT AUTHORITY TO UTILIZE THE TOWN'S FEIN # ON A TEMPORARY BASIS. MOTION CARRIED.

ON A MOTION MADE BY CLIFFORD DAVIS SECONDED BY ROBERT HUNT TO ACCEPT BUDGET AMENDMENT #1 AS PRESENTED BY THE RECORDER AS OF 12/31/99. VOTE UNANIMOUS.

ON A MOTION MADE BY BILL ENDICOTT SECONDED BY JOE CRUM TO ACCEPT BUDGET AMENDMENT #2 AS PRESENTED BY THE RECORDER AS OF 12/31/99. VOTE UNANIMOUS.

MOTION WAS MADE BY BILL ENDICOTT SECONDED BY JOE CRUM TO APPROVE THE CHECK TO BE SENT TO THE DIVISION OF HIGHWAYS IN THE AMOUNT OF \$30,900 REGARDING THE ELK CREEK BRIDGE PROJECT. VOTE UNANIMOUS.

ON A MOTION MADE BY JOE CRUM SECONDED BY ROBERT HUNT TO APPROVE THE FIRST READING OF THE NEW WATER ORDINANCE. VOTE UNANIMOUS.

ON A MOTION MADE BY BILL ENDICOTT SECONDED BY CLIFFORD DAVIS COUNCIL VOTED TO IMPLEMENT SCHEDULE #1 TO UPON START OF CONSTRUCTION. VOTE UNANIMOUS.

ON A MOTION MADE BY BILL ENDICOTT SECONDED BY ROBERT HUNT TO APPROVE DRAW DOWN REQUEST #8 WITH THE EXCEPTION OF HMB. VOTE UNANIMOUS. HMB'S DRAW DOWN REQUEST FOR INVOICE #9 WAS TABLED UNTIL THE NEXT REGULAR SCHEDULED MEETING. THE AMOUNT APPROVED FOR HANNA & BONHAM WAS \$1,450.00.

COUNCIL HAD RECESS AT 8:50 PM AND RESUMED AT 9:07 PM.

COUNCILMAN BILL ENDICOTT DISCUSSED THE SPLITTING OF THE POWER SITUATION AT THE FORMER BURCH MIDDLE SCHOOL. HE INFORMED COUNCIL THAT THE POWER COULD BE SPLIT TWO WAYS FOR A MINIMAL

COST TO THE TOWN. MOTION WAS MADE BY MARK SIZEMORE SECONDED BY CLIFFORD DAVIS TO HAVE COUNCILMAN ENDICOTT OVER SEE THE SITUATION. VOTE UNANIMOUS.

THE YOUNG MARINES ASKED THAT COUNCIL CONSIDER THEM TO REPAIR THE ROOF AT THE FORMER BURCH MIDDLE SCHOOL IN LIEU OF RENT. ON A MOTION MADE BY JOE CRUM SECONDED BY BILL ENDICOTT COUNCIL APPROVED THIS PROVIDING IT'S NOT DONE WITH A GRANT AND THAT THEY PROVIDE PROPER INVOICES FOR THE WORK DONE. COUNCILMAN CRUM ASK THAT COUNCILMEN HUNT AND ENDICOTT AND CHIEF JUSTICE TO MONITOR THE PROJECT.

ON A MOTION MADE BY JOE CRUM SECONDED BY ROBERT HUNT TO GO INTO EXECUTIVE SESSION. MOTION CARRIED.

ON A MOTION MADE BY JOE CRUM SECONDED BY BILL ENDICOTT TO GO INTO REGULAR SESSION. MOTION CARRIED.

MOTION MADE BY BILL ENDICOTT SECONDED BY MARK SIZEMORE TO PARTICIPATE IN THE GOVERNOR'S SUMMER YOUTH PROGRAM. VOTE UNANIMOUS.

MOTION MADE BY JOE CRUM SECONDED BY ROBERT HUNT TO ALLOW CECIL FARLEY TO HAUL OFF SALVAGE MATERIALS FROM THE HOUSES BEING TORN DOWN. MOTION CARRIED.

DISCUSSION WAS HELD ON THE COST OF EMPLOYEES INSURANCE. AFTER MUCH DISCUSSION COUNCIL DECIDED TO REVIEW INSURANCE AND FINANCES FOR THE NEXT 30 DAYS.

ON A MOTION MADE BY JOE CRUM SECONDED BY MARK SIZEMORE TO MOVE EMPLOYEE ANDY MCCOY FROM SANITATION TO WATER. VOTE UNANIMOUS.

ON A MOTION MADE BY BILL ENDICOTT SECONDED BY JOE CRUM TO APPROVE THE 2000-2001 BUDGET AS PRESENTED BY THE RECORDER TO BE SUBMITTED TO THE CHIEF INSPECTOR'S OFFICE. VOTE UNANIMOUS.

ON A MOTION MADE BY JOE CRUM SECONDED BY CLIFFORD DAVIS TO ACCEPT SCENARIO #1 FROM VINCENT KING ON THE JIMMY SPENCE CASE, WHICH STATED: First, we could agree to accept Tim Koontz' latest proposal that we enter an agreed judgment in the amount of \$70,000 in exchange for which he would provide a covenant not to execute on said judgment against the Town's assests (i.e., would attempt to collect the same only from insurance). Under this scenario, approximately \$20,000 of the \$70,000 judgment would be attorney fees and expenses for

services performed by Jeff Phillips, Glen Murphy and myself. If collected, Tim Koontz would pay those. If Tim Koontz were not successful in his action against the carrier, the Town would still be protected from execution on the judgment by Mr. Koontz or his client. The Town would technically remain liable to the attorneys for fees but, speaking for myself, I would then waive them. Jeff Phillips likewise indicated he did not want attorney fees to concern you. I do not have any authority to address Glen Murphy's. VOTE UNANIMOUS. MAYOR PREECE ASKED FOR A VERBAL VOTE FROM EACH COUNCIL MEMBER. THE VOTES GO AS FOLLOWS: BILL ENDICOTT (YES), JOE CRUM (YES), ROBERT HUNT (YES), CLIFFORD DAVIS (YES) AND MARK SIZEMORE (YES).

JOE CRUM MADE A MOTION TO ACCEPT APRIL 5TH AS VFW DAY, MOTION SECONDED BY ROBERT HUNT WITH UNANIMOUS VOTE FROM COUNCIL.

BILL ENDICOTT MADE A MOTION TO SET THE SPRING FLING FOR THE WEEKEND OF APRIL 29TH, SECONDED BY JOE CRUM WITH UNANIMOUS VOTE FROM COUNCIL.

COUNCILMAN MARK SIZEMORE ASKED THAT IT BE NOTED THAT THE BUDGET FIGURES WERE PRESENTED BY THE RECORDER/CLERK ON THE MEETINGS OF JANUARY 24, 2000 AND FEBRUARY 14, 2000.

MOTION TO PAY BILLS MADE BY JOE CRUM AND SECONDED BY CLIFFORD DAVIS WITH UNANIMOUS VOTE FROM COUNCIL.

MOTION TO ADJOURN MADE BY BILL ENDICOTT, SECONDED BY CLIFFORD DAVIS. VOTE UNANIMOUS.

**Town of Delbarton  
Regular Council Meeting  
April 10, 2000**

**I. OPEN MEETING:** In absence of mayor, Missy Stratton called meeting to order at 7:08pm. The Rev. Britt Moore opened with prayer.

**Council present:** Bill Endicott, Joe Crum, Mark Sizemore, Clifford Davis, Robert Hunt, Jr. (and keeping minutes, Britt Moore).

**Guest present:** Phillip Davis, Charlie Justice, Alfred Curry, Louise Curry, and Phylis Sparks.

**II. GUEST PRESENTATIONS:** Charlie Justice said that the utility board did not meet due to lack of quorum.

Phillip Davis said that He had received a letter from an attorney representing Delbarton informing Him that He a certain period of time to remove a fence that He was responsible for putting up. Phillip asked the council its intentions for the property. The council had informed Phillip, via letter, that the property in question belongs to the Town of Delbarton and suggested to Phillip that He contact the town's attorney for a greater understanding of the situation.

Louise Curry ask the council for guidance to form a committee to help organize the Pow Wow which is schedule to be in our area soon. A meeting on April 18, 6:00 p.m. at City Hall was set to form such committee.

**III. OLD BUSINESS:**

**A. Melissa Stratton** did the second reading of water ordinance, which informs the public of rate schedule, at 7:45 p.m. **Bill E.** made a motion for the reading second by **Joe C.** motion passed.

**B. Fuel tax bill** had been sent in

- C. Motion was made by Clifford D. to approve minutes of regular council session on March 23, 2000 second by Bill E. Motion was made by Bill E. to approve minutes of special meeting on April 3, 2000 second by Robert Hunt Jr. Motion passed.**
- D. Missy said that she had talked to the Bank of Mingo concerning the purchasing of a backhoe for the Town of Delbarton. She said that the Bank of Mingo had all the information that was required excepted for what was done tonight. The terms of the agreement is \$1000.00 down and \$424.66 a month for 24 months. Bill E. made a motion to accept agreement Clifford D. second motions passed.**

#### **IV. NEW BUSINESS:**

- A. Need to have 3<sup>rd</sup> and final reading of ordinance increasing the rate schedule for water services on April 24, 2000.**
- B. Melissa S presented the financial report on Sanitation, water and general accounts. She said that \$2.500 had been received from the Board of Ed. And that Tommy Diamond of the Young Marines owes \$500.00.**
- C. Joe C. asked about fuel consumption of city vehicles, Missy stated that she thought that it was more that average. Joe Crum said that He would check about the possibility of excessive use of Towns vehicles. Bill E. made a motion to approve payment of bills except gas. Joe C. second. Motion passed. JOE CRUM RECOMMENDED RECESSING AT 8:23p.m. MEETING RECOVERED AT 8:48p.m.**
- D. Motion was made by Robert Hunt Jr. to go into executive session, second by Clifford Davis. Motion carried. Motion to return to regular session was made by Bill Endicott at 9:21p.m.**
- E. Bill E. made a motion that the following days would be designate as official holidays for city employees. NEW YEARS DAY, MEMORIAL DAY, JULY 4<sup>TH</sup>, LABOR DAY, VETERANS DAY, THANKSGIVING DAY, AND CHRISTMAS DAY, Robert Hunt Jr. second motion passed. Bill E. made a motion to schedule a meeting with the employees of the sanitation dept to discuss personnel, management, etc. Joe**

**C. second motion passed. Mark S. asked about putting a license fee on video poker machines. Missy said she would check on info concerning request. Joe asked about what direction the Council should take concerning blocked street. Mark S. suggested contacting the Towns attorney for guidance. MOTION FOR ADJOURNMENT BY COUNCILMAN SIZEMORE ON CONDITION THAT A PRAYER OF THANKSGIVING BE OFFERED TO THE LORD REGARDING THE SAFE AND SUCCESSFUL SURGERY OF OUR MAYOR JOHN W. PREECE AT 10:10p.m.**

**TOWN OF DELBARTON  
REGULAR COUNCIL MEETING  
APRIL 24, 2000**

**I. OPEN MEETING: PRO-TEM MAYOR MELISSA STRATTON CALLED COUNCIL TO ORDER AT 7:02 P.M. THEN ASKED THE REVEREND BRITT MOORE TO HAVE THE INVOCATION.**

**COUNCIL PRESENT: BILL ENDICOTT, MARK SIZEMORE, JOE CRUM, KEEPING MINUTES BRITT MOORE, PRO-TEM MAYOR MELISSA STRATTON, CLIFFORD DAVIS, AND ARRIVING AT 7:23 P.M. ROBERT HUNT JR.**

**GUEST PRESENT: CHARLES JUSTICE, PHILLIP DAVIS, CAROLYN DILLON AND WILLIS D. SPENCE.**

**II. GUEST PRESENTATIONS: WILLIS D. SPENCE OF THE UTILITY BOARD PRESENTED TO COUNCIL ADJUSTMENTS OF TWO ACCOUNTS, GREG BAILEY'S AND BILL BAISDEN. JOE CRUM MADE A MOTION TO APPROVE ADJUSTMENTS CLIFFORD DAVIS SECOND, MOTION PASSED.**

**III. OLD BUSINESS:**

**A. MOTION WAS MADE BY CLIFFORD DAVIS TO READ AND ACCEPT THIRD AND FINAL READING ON THE NEW WATER RATE ORDINANCE, MARK SIZEMORE SECOND. MOTION PASSED.**

**B. MOTION TO APPROVE MINUTES OF 3-13-2000 AS CORRECTED BY BILL ENDICOTT SECOND BY MARK SIZEMORE. MOTION PASSED.**

**MARK SIZEMORE MADE A MOTION TO APPROVE THE MINUTES OF 4-10-2000 AS CORRECTED SECOND BY JOE CRUM. MOTION PASSED.**

**MOTION TO APPROVE MINUTES OF SPECIAL MEETING OF 4-18-2000 BY BILL ENDICOTT, JOE CRUM SECOND, MOTION PASSED.**

**C. NEEDED TO TAKE MINUTES OF APRIL 10, 2000 TO THE BANK OF MINGO TO FINALIZE THE AGREEMENT TO PURCHASE THE BACKHOE.**

00

**D. MISC: MARK SIZEMORE WANTED TO KNOW ABSOLUTELY IF COUNCIL COULD DESIGNATE DATES PREVIOUSLY VOTED ON AS HOLIDAYS SINCE TONYA WALLACE HAD MENTIONED ABOUT STATE STATUTES.**

**CLIFFORD DAVIS MADE A MOTION THAT THE POLICE DEPT. GIVE A WRITTEN MONTHLY REPORT TO COUNCIL, MARK SIZEMORE SECOND, MOTION PASSED.**

**MARK S. ASKED IF ROOF ON THE LIBRARY AT THE OLD MIDDLE SCHOOL HAD BEEN REPAIRED WHICH WAS SUPPOSED TO HAVE BEEN DONE BY THE YOUNG MARINES (SEE MINUTES OF 3-13-2000 PG 3 2ND PARAGRAPH) MARK S. ALSO ASKED ABOUT IF A METER HAD BEEN INSTALLED TO OLD LIBRARY. MELISSA S. SAID THAT SHE WOULD CONTACT TOMMY DIAMOND OF THE YOUNG MARINES CONCERNING METER AND OVERDUE RENT VIA LETTER.**

**MARK SIZEMORE MADE A MOTION THAT IF THE YOUNG MARINES HAVE NOT PAID RENT IN FUEL AND INSTALLED METER FOR BUILDING THAT THEY ARE PRESENTLY OCCUPYING BY MAY THE 15<sup>TH</sup> THEN THEY WILL HAVE TO VACATE THE BUILDING, BILL ENDICOTT SECOND, MOTION PASSED.**

#### **IV. NEW BUSINESS:**

**A. MARK SIZEMORE MADE A MOTION TO APPROVE INVOICE #10 W/ HMB JOE CRUM SECOND, MOTION PASSED.**

**B. BILL ENDICOTT MADE A MOTION TO ALLOW CLIFFORD DAVIS TO PURSUE LEGAL AND NECESSARY MEANS TO SUBMIT FOR HUD SMALL CITIES BLOCK GRANT FUNDS. CLIFFORD DAVIS SECOND, MOTION PASSED.**

**C. MELISSA S. SAID THAT THE BB&T RATES AND CHARGES ON VARIOUS SERVICES MIGHT BE MORE THAT WHAT THE COUNCIL WANTS TO PAY. BILL ENDICOTT MADE A MOTION TO MOVE CITY ACCOUNT TO THE BANK OF MINGO, WITH THE STIPULATION OF TALKING WITH MAYOR PREECE FIRST, CLIFFORD DAVIS SECOND, MOTION CARRIED.**

**D. JOE CRUM MADE A MOTION TO APPROVE BILLS AS PRESENTED, CLIFFORD D. SECOND, MOTION PASSED.**

**E. COUNCIL SIZEMORE ASKED WHAT WOULD BE PUT ON LAND WHERE HOUSES WERE REMOVED AND COUNCILMAN DAVIS STATED PROBABLY ONE HOME.**

COUNCILMAN SIZEMORE ASK CITY COUNCIL ON BEHALF  
OF TONYA WALLACE IF ANYONE KNOWS ABOUT  
STREETLIGHT BETWEEN JAMIE COOK AND DIANA  
MAYNARD'S HOMES THAT HAS BEEN REMOVED. MRS.  
MAYNARD ASKS IF STREETLIGHT CAN BE PUT BACK.  
F. MOTION FOR ADJOURNMENT BY CLIFFORD DAVIS AT  
8:07 SECOND BY ROBERT HUNT JR.



# LEGAL ADVERTISE

**NOTICE TO RESIDENTS OF THE TOWN OF DELBARTON  
MINGO COUNTY, WEST VIRGINIA  
AND OTHER PERSONS INTERESTED**

nia, Mingo County, to-wit:

I, Sandra P. Cuddle Publisher of the WILLIAMSON  
a paper published in the County aforesaid, do  
give notice  
hereto  
in said paper for 2 successive weeks,  
hereof being on the 14th day of  
February, and subsequent publication on the 21st  
2000, the \_\_\_\_\_ day of \_\_\_\_\_ 2000,  
of \_\_\_\_\_ 2000, the \_\_\_\_\_ day of \_\_\_\_\_  
2000, the \_\_\_\_\_ day of \_\_\_\_\_ 2000.

*Sandra P. Cuddle*

nia, Mingo County, to-wit:

\_\_\_\_\_ being duly sworn, says that she  
has annexed \_\_\_\_\_ at the  
\_\_\_\_\_ house of said County, on the \_\_\_\_\_ day  
of \_\_\_\_\_ 2000.

I (sworn) to before me, this 21st  
2000 Printer's Fee \$ 345.35  
*Sandra P. Cuddle*

Notary Public

es Feb. 13, 2002

At two regular meetings of the Council of the Town of Delbarton March 13, 2000 and April 10, 2000, the Council passed on first and second AN ORDINANCE OF THE TOWN OF DELBARTON AMENDING AND REE THE ESTABLISHMENT AND FIXING OF RATES, CHARGES, FE RETURNED CHECKS, AND DELAYED PENALTY CHARGES FOR WATER FOR CUSTOMERS OF THE WATER SYSTEM OF THE TOWN OF DEL MINGO COUNTY, WEST VIRGINIA.

A certified copy of the Rate Ordinance is available for examination interested person at the office of the Municipal Building of the TOWN OF DEL located at Helena Avenue, Delbarton, West Virginia, during regular business hours. The water rate increase, after completion of the proposed project will produce approximately \$56,315.00 in additional revenues, an increase from current rates of 419.4%.

The average monthly bill for the various class of water customers charged as follows:

WATER INCREASE	WATER		POST PROJECT \$	PE
	CURRENT	PROPOSED		
REVENUES	\$13,426	\$69,741	\$56,315	
<b>RATES</b>				
RESIDENTIAL				
0 MGAL	\$10.00	\$11.24	\$1.24	
1 MGAL	\$10.00	\$11.24	\$1.24	
2 MGAL	\$10.00	\$11.24	\$1.24	
3 MGAL	\$10.00	\$16.86	\$6.86	
4 MGAL	\$10.00	\$22.48	\$12.48	
AVERAGE	4.9 MGAL	\$12.25	\$27.54	\$15.29
COMMERCIAL	0 MGAL	\$10.00	\$11.24	\$1.24
5 MGAL	\$12.50	\$28.10	\$15.60	
COMM. AVERAGE	5.7 MGAL	\$14.50	\$31.84	\$17.34
10 MGAL	\$26.75	\$54.80	\$28.05	

A public hearing and third reading will be held before the Council in the Council Chambers located on Helena Avenue, in the TOWN OF DELBARTON, West Virginia, on April 24, 2000, beginning at 6:30 o'clock p.m., and any persons interested may appear before the council and be heard as to whether or not the Ordinance should be put into effect. All suggestions and objections will be heard by the Council.

**WATER SCHEDULE NO. 1**

(A) This Rate Schedule is to be effective June 8, 2000

To be Effective June 8, 2000:

**APPLICABILITY OF SERVICE**

Applicable to all areas served by the Town of Delbarton.

**AVAILABILITY OF SERVICE**

Available for metered general, domestic, commercial and industrial service

**RATE (Based upon the metered amount of water supplied)**

First 5,000 gallons used per month	\$4.06 per 1,000 gallons
Next 5,000 gallons used per month	\$4.10 per 1,000 gallons
Next 5,000 gallons used per month	\$3.61 per 1,000 gallons
Next 5,000 gallons used per month	\$3.41 per 1,000 gallons
Over 20,000 gallons used per month	\$2.74 per 1,000 gallons

**MINIMUM CHARGE**

No bill will be rendered for less than the following amounts according to the size of meter installed, to-wit:

5/8 inch meter	\$ 10.62 per month
3/4 inch meter	\$ 15.93 per month
1 inch meter	\$ 26.55 per month
1 1/4 inch meter	\$ 38.76 per month
1 1/2 inch meter	\$ 53.10 per month
2 inch meter	\$ 84.96 per month
3 inch meter	\$159.30 per month
4 inch meter	\$265.50 per month
6 inch meter	\$531.00 per month
8 inch meter	\$849.60 per month

**METER DEPOSIT**

There shall be a meter deposit of \$30.00.

**DELAYED PAYMENT PENALTY**

The above tariff is net. On all current usage billings not paid in full within twenty days, ten percent (10%) will be added to the net current amount unpaid. This delinquent payment is not interest and is to be collected only once for each bill where it is a first delinquency.

**INCREMENTAL COST OF WATER PURCHASED AND PRODUCED**

\$ .98 M Gal. To be used to fill water for customer leaks beyond historical average usage.

**RECONNECTION FEES**

Service shall not be restored until all amounts in arrears, including penalties, plus reconnection fee of twenty-five dollars (\$25) have been paid.

**RETURNED CHECKS FOR INSUFFICIENT FUNDS**

If a check received is returned by the bank for any reason, the bank's charge to the Town of Delbarton shall be the charge to the customer for such a bad check, but the charge to the customer shall not exceed \$15.00.

**SERVICE CONNECTION CHARGE (Tap Fees)**

\$250.00. It shall be the responsibility of the customer to provide connection of private service line to the meter setting.

(A) This Rate Schedule is to be effective upon the issuance of Substantial Completion by the Town's consulting engineer for the purp ments to the water system.

**APPLICABILITY OF SERVICE**

Applicable to all areas served by the Town of Debarton.

**AVAILABILITY OF SERVICE**

Available for metered general, domestic, commercial and industrial service

**RATE (Based upon the metered amount of water supplied)**

First 5,000 gallons used per month	\$5.62 per 1,000 gallons
Next 5,000 gallons used per month	\$5.34 per 1,000 gallons
Next 5,000 gallons used per month	\$5.07 per 1,000 gallons
Next 5,000 gallons used per month	\$4.82 per 1,000 gallons
Over 20,000 gallons used per month	\$4.58 per 1,000 gallons

**MINIMUM CHARGE**

No bill will be rendered for less than the following amounts according to the s meter installed, to-wit:

5/8 inch meter	\$ 11.24 per month
3/4 inch meter	\$ 16.86 per month
1 inch meter	\$ 28.10 per month
1 1/4 inch meter	\$ 41.03 per month
1 1/2 inch meter	\$ 56.20 per month
2 inch meter	\$ 89.92 per month
3 inch meter	\$188.80 per month
4 inch meter	\$281.00 per month
6 inch meter	\$562.00 per month
8 inch meter	\$899.20 per month

**METER DEPOSIT**

There shall be a meter deposit of \$30.00

**DELAYED PAYMENT PENALTY**

The above tariff is net. On all current usage billings not paid in full within two days, ten percent (10%) will be added to the net current amount unpaid. This payment is not interest and is to be collected only once for each bill where it is priate.

**INCREMENTAL COST OF WATER PURCHASED AND PRODUCED**

\$3.31 M Gal. To be used to bill water for customer leaks beyond historical : usage.

**RECONNECTION FEES**

Service shall not be restored until all amounts in arrears, including penalties, i reconnection fee of twenty-five dollars (\$25) have been paid.

**RETURNED CHECKS FOR INSUFFICIENT FUNDS**

If a check received is returned by the bank for any reason, the bank's charg Town of Debarton shall be the charge to the customer for such a bad check, b charge to the customer shall not exceed \$15.00

**SERVICE CONNECTION CHARGE (Tap Fees)**

\$250.00. It shall be the responsibility of the customer to provide connection pri site service line to the meter setting.

Dated this 12th day of April, 2000.

**KATHY HAY**  
City



AFFIDAVIT

I, Tonya Wallace, after first being duly sworn, do hereby state as follows:

1. That I am the Water Clerk for the Town of Delbarton, Mingo County, West Virginia. As such, I am familiar with the procedures which were followed concerning the adoption of a new water rate ordinance by the Town Council of the Town of Delbarton, Mingo County, West Virginia, on April 24, 2000.

2. That I posted a copy of the Notice required by the Public Service Commission of West Virginia's Procedural Rule 2.1(c)(4) in several conspicuous places, including but not limited to, the Town of Delbarton's primary business location, at least five (5) days prior to the Town Council meeting of April 24, 2000, wherein the Town Council adopted a new Rate Ordinance for providing water service to its customers.

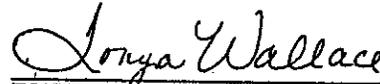
3. That the Notice required by the Public Service Commission of West Virginia's Procedural Rule 2.1(c)(4) will remain posted throughout the thirty (30) day appeal period set forth in West Virginia Code 24-2-4(b).

4. That Municipal Rate Change Form No. 1 setting forth notice to the public of the change in rates by the Town of Delbarton, Mingo County, West Virginia, has been published within five (5) days after adoption of the aforesaid Rate Ordinance in the Williamson Daily News, a newspaper of general circulation in Mingo County, West Virginia. A copy of the Affidavit of Publication from the Williamson Daily News concerning this notice will be filed with the Executive Secretary of the Public Service Commission once the same has been received.

5. That on April 27, 2000, the Town of Delbarton's attorney, H. Wyatt Hanna, III, issued a Press Release to the Williamson Daily News which was in a form similar to Municipal Rate Change Form No. 1, advising the public of the adoption of the Rate Ordinance and the procedure for filing protests to the same. A copy of the Press Release has been filed with the Public Service Commission's Executive Secretary's office.

6. That upon information and belief, it is believed that all of the Public Service Commission's Rules and Regulations concerning the adoption of the water Rate Ordinance by the Town of Delbarton on April 24, 2000, have been duly satisfied.

Further the Affiant saith naught.

  
TONYA WALLACE

STATE OF WEST VIRGINIA,

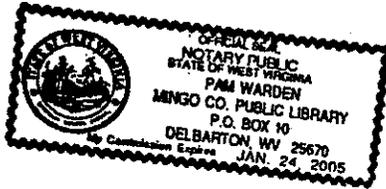
COUNTY OF MINGO, To-Wit:

I, Pam Warden, a Notary Public in  
and for the County and State aforesaid, do hereby certify that  
TONYA WALLACE, whose name is signed to the foregoing writing, has  
this day acknowledged the same before me in my said County.

Given under my hand this 30 day of MAY, 2000.

My commission expires Jan 24, 2005.

Pam Warden  
Notary Public



**PUBLIC NOTICE OF CHANGE IN RATES BY MUNICIPALITIES**  
 NOTICE is hereby given that the Town Council of the Town of Debarton, at meeting held on April 24, 2000, adopts an Ordinance approving increased rate tolls and charges for furnishing water service to customers at or near Debarton Mingo County, West Virginia. The increased water rates and charge are to be paid in two separate phases, the initial phase to become effective on June 8, 2000 and the second phase is to become effective upon completion of a Certificate of Substantial Completion by the town's consulting engineer for the proposed improvement to the town's water system, unless otherwise ordered by the Public Service Commission of West Virginia. The final water rate increase, after completion of a proposed project will produce an increase of \$58,915.00 in additional revenues, an increase from current revenues of \$19,400.00. The average monthly bill for the various class of water customers will be charged as follows:  
 Residential - Increase \$15.29, increase 124.8%  
 Commercial - Increase \$17.34, increase 119.6%  
 The increase shown are based on average bill last month by the indicate calls. Individual customers may receive increases that are greater or less the average. If in the future the request rates and charges are subject to change (increases or decreases) by the Public Service Commission in its review of the filing. The Commission shall review, as approved in 1997, the increase rates for upon filing of a petition with thirty (30) days of the adoption of the ordinance changing said rates or charges by:  
 1. Any customer or group of customers who present a petition signed by or less than twenty percent of the customers served by a municipally operated public utility.  
 2. Any customer who is served by municipally operated public utility and who resides outside the corporate limit and who is affected by the change in rates or charges and who presents to the Commission a petition alleging discrimination between customers within a municipal boundary. Said petition shall be accompanied by evidence of discrimination of customers.  
 3. Any customer or group of customers who are affected by said change in rates and who present a petition to the Commission alleging discrimination between said customer or group of customers and other customers of a municipal utility. Said petition shall be accompanied by evidence of discrimination.  
 All petitions should be addressed to: Executive Secretary, Public Service Commission of West Virginia, 201 Brooks Street, P.O. Box 12, Charleston, WV Virginia 25320.  
 A complete copy of the rates as well as representative of the town who may provide any information concerning the Ordinance is available to all customers prospective customers or their agents in the office of the town of Debarton during regular business hours.  
 Tonya Wallace, Water Clerk  
 Helena Avenue  
 P.O. Box 730  
 Debarton, WV 25870  
 (304) 475-3359  
 A copy of the new rates is also available for public inspection at the office of Executive Secretary of the Public Service Commission, 201 Brooks Street, P.O. Box 12, Charleston, West Virginia. Dated this 25th day of April, 2000.  
 KATHY HATFIELD  
 Town Clerk  
 Correction: This Notice to Resident the Town of Debarton, Mingo County, West Virginia and Other Persons interested that was published in the 14, 2000 and the April 21, 2000 and at the Williamson Daily News Inc.

Fed ID 55 0464593

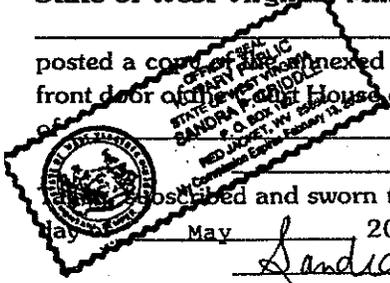
**State of West Virginia, Mingo County, to-wit:**

I, Sandra G. Hurley Publisher of the WILLIAMSON DAILY NEWS, Inc., a paper published in the County aforesaid, do swear that the \_\_\_\_\_ notice \_\_\_\_\_ hereto attached was published in said paper for 2 successive weeks, the first publication thereof being on the 27th. day of April 2000, and subsequent publication on the 4th. day of May 2000, the \_\_\_\_\_ day of \_\_\_\_\_ 2000.

*Sandra G. Hurley*

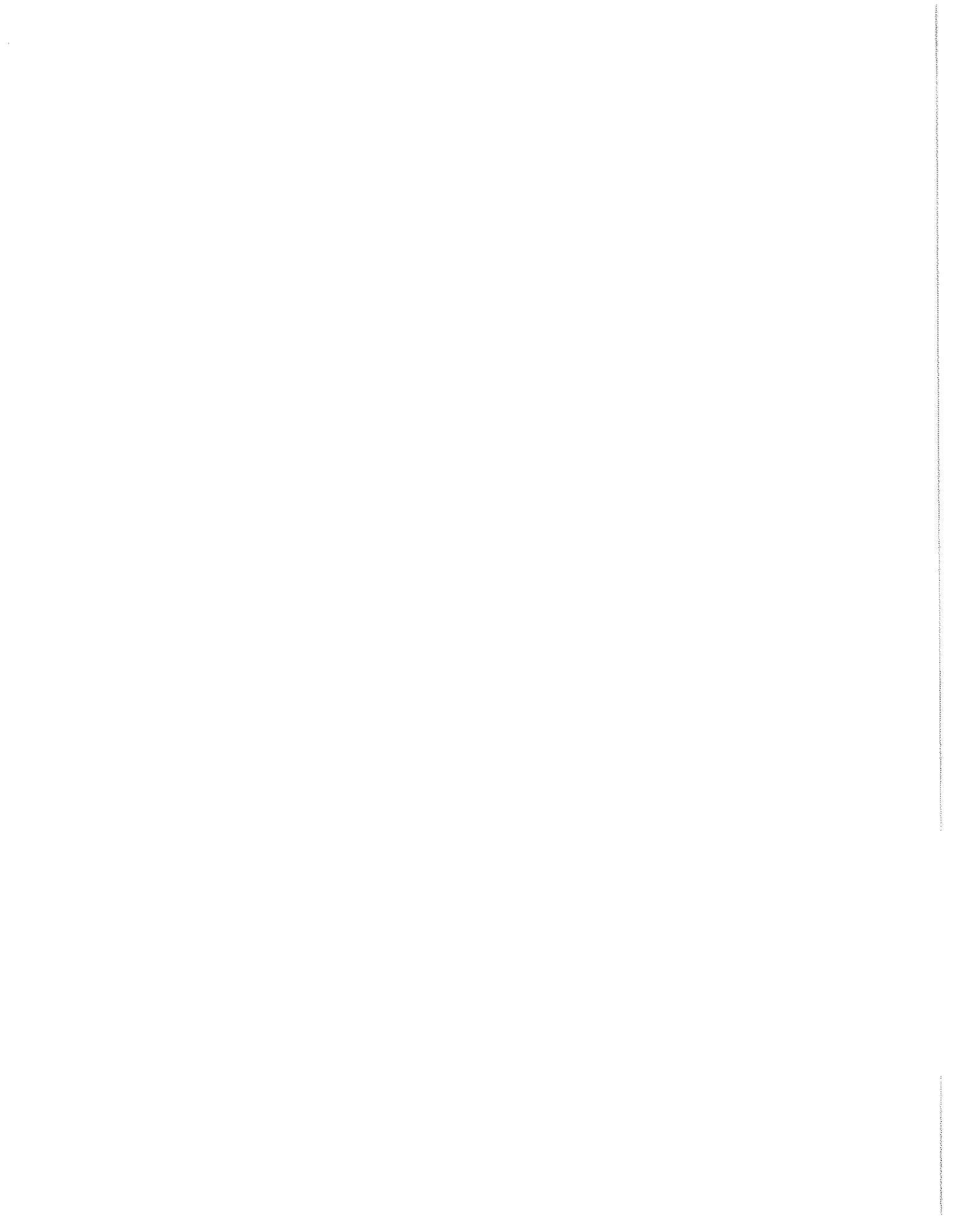
**State of West Virginia, Mingo County, to-wit:**

\_\_\_\_\_ being duly sworn, says that she posted a copy of \_\_\_\_\_ annexed \_\_\_\_\_ at the front door of \_\_\_\_\_ of said County, on the \_\_\_\_\_ day of \_\_\_\_\_ 2000.



\_\_\_\_\_ subscribed and sworn to before me, this 4th. day of May 2000, Printer's Fee \$ 111.18  
*Sandra P. Cuddle*  
 Notary Public

My commission expires Feb. 13, 2002



**TOWN OF DELBARTON**  
**Minutes of Regular Meeting**  
**Monday, May 14, 2001**  
**7:00 p.m.**

Council Members present: Joe Crum, Mark Sizemore, Britt Moore, Robert Hunt, Clifford Davis Mayor John Preece and Recorder Billie Jo Endicott.

Guests: Chief Eugene Crum, Charlie Justice, John Ramey, Mont Crum and Jim Boggs, Region II

**GUEST PRESENTATIONS:**

JIM BOGGS presented the council with a draw down request for the Small Cities Block Grant Water Project. Councilman Crum made motion to approve the draw down request. Motion was second by Councilman Sizemore. Motion passed. Council signed the draw down request.

Mayor Preece stated that our local people needed to be hired to do the jobs for the water project. Jim Boggs stated that there is a clause in the contract that states that.

Jim Boggs informed council that they needed to resubmit for funding to demolish the buildings across the street. Also need to send a copy of the engineer report with the request.

JOHN RAMEY of Rameytown presented unto council a sewage bill that he had received to 1,652.00 for sewage system usage. He had not received a bill since he had lived there he stated. Now all of a sudden he has received this bill for the total time he has lived there. He stated that he had an agreement with the utility board that stated that he did not have to pay sewage if he would let them put water lines on his property. This was all pending approval of council. Council did not remember this agreement being presented to them for approval. But said agreement could not be approved since it is not legal to give anyone free sewage usage. The PSC does not allow for anyone to receive sewage usage and not pay. John Ramey states that he does not intend to pay said bill since he was under the impression that this agreement was legal and binding since he had not received a bill until now. Council assured Mr. Ramey that they will look have their attorney look into the matter and render a legal opinion and will contact him when said opinion is available. Also Mayor Preece stated that council would try to work out an agreement that is satisfactory to all parties involved. Councilman Crum made motion for Mayor Preece to contact attorney for a legal opinion. Motion was second by Councilman Sizemore. Motion passed.

CHARLIE JUSTICE with the Utility Board gave council an update stating that the board had collected a total of \$13,801.33 in back utility bills.

Minutes  
May 14, 2001  
Page Two

**OLD BUSINESS:**

Councilman Moore made motion to approve minutes of April 23, 2001 meeting. Motion was second by Councilman Hunt. Motion passed.

Recorder Endicott presented council with a financial report.

Mayor Preece informed council that we will be given a \$25,000 grant. Delegate Kominar assured him that this would be awarded to us.

Councilman Davis stated that Angela Varney had done appraisal on the Curry property in December and had sent an invoice but was never paid. Mayor Preece said that she would need to resubmit an invoice and copy of appraisal. Councilman Crum made motion to approve payment of invoice. Motion was second by Councilman Sizemore. Motion passed.

Mayor Preece stated that due to time restraints we would amend Ordinance 8 at next meeting.

Councilman Sizemore is to contact Eli McCoy and set up a meeting on the Elk Creek Bridge project. We have not heard from him since his company was awarded the contract.

The bid on the water project was awarded to E&D of Phelps, Kentucky. Mayor Preece stated that the company will need to meet with council to get their views on the project before work begins.

Mayor Preece informed council that Tom Farley had a metal building to give to the Town. After discussion, council decided that the cost of moving the building would be too great and therefore would have to decline the offer of Mr. Farley.

Mayor Preece also informed council that he had met with John Ramey of Cotiga Development and that the trial head in Delbarton will be approved.

**NEW BUSINESS:**

Councilman Moore made motion to approve bills as presented. Motion second by Councilman Sizemore. Motion passed.

JIM FARLEY of the sanitation department stated that there is something in the creek that smells and looks like sewage up Pigeon and that it is not coming from the lines in that

area. He suggest that DEP be called to come and take samples to see exactly what and where it might be coming from. He also stated that the dump truck that they have is to large for the job they have to do. They need a smaller truck. Also on the pick up truck they have they need a tailgate and need to do maintenance work on it. Councilman Crum stated that he would have someone to look at the truck and fix what ever needs to be done. Jim said that still need the smoke machine to check for I&I. He believes that the unit costs about \$1,200. He is to give Recorder Billie Jo the phone number for the company and she is to contact them to see if we can set up a payment plan. He also says that need to be getting rid of the sludge at the plant. The Town needs to be trying to purchase a belt press. Council informed him that we would be working on this.

CHIEF CRUM gave an update on the police department. The have collected old fines on citations. He informed council that Jimmy Spence at Spence's Service Station will sell the Town gas at seven cents over his cost. This would go up and down each month as his price does. He would have the person getting the gas to sign a gas ticket. Chief would keep track of his department and Jim Farley would keep track of the Sewage Department. If someone other than a city vehicle would be getting gas, Joe or Eugene would have to approve. Councilman Crum made motion that we purchase the gas for the Town at Spence's Service Station. Motion second by Britt Moore. Motion passed.

Councilman Crum suggested that Canada's Store send us a monthly bill instead of two month.

Chief Crum stated that everything has been completed on the Cops Grant. He gave an update on the trash situation behind the house beside the Old Regular Church in Delbarton. They are in the process of cleaning it up. He gave them to May 18<sup>th</sup> to have it all gone.

Chief Crum informed council that he would start on May 15, 2001 issuing business license to the area businesses in town.

Council received a letter from GDT needing a mapping of the city. Councilman Moore to follow up and see exactly what is needed.

#### **READING OF BOND ORDINANCE:**

The ordinance is for the financing of \$258,000 in bonding to finish the water system in the Town. We have to have two readings 5/14/01 and 5/29/01 and a public hearing on 6/11/01. Mayor Preece stated that since the ordinance was so large that he suggested that council review the ordinance before next meeting. Councilman Crum made motion to suspend the actual reading on this first occasion but adopt the ordinance and review before the next meeting. Councilman Sizemore second said motion. Motion passed.

Minutes  
May 14, 2001  
Page Four

Councilman Moore made motion to formally accept the ordinance as presented on the first reading. Councilman Sizemore second said motion. Motion passed.

Council was presented with a resolution to accept the ordinance for open meetings. Councilman Moore made motion to accept said resolution and sign. Motion was second by Councilman Hunt. Motion passed.

Mayor Preece informed council that there were some problems with the Pow Wow this year and that several people were unhappy. There was a lot of garbage at the football field and that he had received a donation to have the garbage hauled off. Councilman Crum to have someone to haul off the garbage. He stated that in the future the council needs to have a meeting with the Pow Wow Committee so that no problems will arise.

Councilman Crum said that we need a policy with regards to the tents that the Town owns. We have three tents. Councilman Davis made motion that in order to use a tent the individual will need to come to city hall and sign a rental agreement and place a deposit for each tent used. Councilman Crum made motion to lend tents through city hall with each individual signing an agreement with a deposit of \$50 for the large tent and \$25 for the small tent starting June 1, 2001. Motion was second by Councilman Davis. Motion passed.

Councilman Crum informed council that he had ordered two gates, at no cost to the Town, to be placed at the Senior Citizens Center. He will have the gates installed.

Councilman Sizemore inquired of council if buildings across street are to be torn down and what is to be put back in their place. Councilman Davis has talked to the Family Dollar Store and that they are interested in coming to Delbarton. He also stated that the Mayor will need to talk to the head of the company who is in Beckley. Mayor Preece stated that he would do that as soon as time is available.

Councilman Sizemore made motion to adjourn. Motion was second by Councilman Davis.

**TOWN OF DELBARTON**  
**Minutes of Regular Meeting**  
**Monday, June 11, 2001**  
**7:00 p.m.**

Council Members present: Joe Crum, Mark Sizemore, Robert Hunt, Britt Moore, Clifford Davis Mayor John Preece and Recorder Billie Jo Endicott.

Guests: Jeff Prater with HMB, John Stump and Joe Durham with Steptoe and Johnson, Scott Gormley with Youth Works, Charlie Justice and Mont Crum

**GUEST PRESENTATIONS:**

Scott Gormley, the State Director with Youth Works stated that the youth works group arrived on June 10, 2001. They would like access to the BMS gym for activities when it rained and they could not have outdoor activities. They would also like to use the senior citizens kitchen two evenings each week for cooking only. On Thursday, they will have a community cookout in town square. Everyone is welcome.

Mayor Preece stated that they would need to pay a deposit of one hundred dollars returnable when they left if gym was left in good condition. Mayor also stated that he was not in favor of letting them use the senior citizens kitchen because they have invested a great deal of money in the center. Scott stated that there would only be six people in there at any time. Only the ones that are doing the cooking would have access to it. They would carry the food up to the group on the third floor. Mayor said that he would talk to Tim Crum about getting them access to the kitchen.

**OLD BUSINESS:**

Councilman Moore made motion to approve minutes of May 14, 2001 meeting with the correction of Jim Slone instead of Jim Farley on the second page. Motion was second by councilman Sizemore. Motion passed.

Councilman Moore made motion to approve minutes of May 29, 2001 meeting. Motion was second by Councilman Davis. Motion passed.

**WATER BOND ORDINANCE:**

The first reading of the ordinance was on May 14, 2001 and second reading was suspended on May 29, 2001 due to the fact that council needed more guidance before having second reading.

John Stump with Steptoe and Johnson, our bond counsel presented council with a copy of the ordinance. This is DWTR financing. A bond issue that is secured with the revenues of the water system only. Amount of \$258,000 which is the match of the small cities

Minutes  
June 11, 2001  
Page Two

block grant in order to meet the total project costs. Will have thirty years to repay at zero interest and 1/2 % administration fee.

The bond ordinance is two readings and then a public hearing, which they propose to be done on July 9, 2001 if council approves. It must be published twice between the second reading and the public hearing.

The bid would expire on July 19, 2001. Financing would be closed on July 18, 2001. If ordinance is adopted tonight at second reading, it does not mean that all is said and done. There will still be a public hearing and can be turned down at that time if council feels it is necessary.

Mayor Preece stated that this was an ordinance that allows the town to obligate itself to repay the monies to secure the system over and above the small cities block grant. If this is true then we have more of an engineering problem than a legal problem. Need to take care of the engineering problems. Councilman Sizemore stated that there were several problems that he felt needed to be dealt with. The first was on page two, concerning the water tank. Our understanding was that there would be no water tank and that additional water lines would be put in. Steptoe and Johnson was not aware that there had been changes made to ordinance. They had used the description in the public service order that was entered. They can make modifications to the ordinance before the public hearing. There is a legal catch all in the ordinance that states any and all pertinence thereto. They will stipulate to that change. Jeff with HMB will get with Steptoe and Johnson and get the figures correct with regards to the water line and water tank. There is also a problem with the master meters. The council thought that there would be two master meters and ordinance stated only one. There should be one on each end of town. This will be corrected also.

Council stated that they needed to know how the amount of water that Ragland uses will be regulated. HMB will check on this and report to council before public hearing. How will the town know how much water that the only town itself has used. HMB will also find this out. Mayor Preece stated that he will need to report to the council as a whole and not to him only.

Jeff with HMB stated that they were still working on some easements. Mayor Preece expressed his concern that our local people needed to be hired by the contractor. He also stated that we need to meet with him before the actual work begins. Jeff with HMB will try to have him at the next council meeting.

Mayor Preece asked counsel from Steptoe and Johnson if actual reading of the ordinance could be suspended. They stated that yes it could be suspended.

Councilman Crum was concerned with how the town would know how much water the town will have used. Also a tariff would need to be in place on the water line that is coming through the town itself. Jeff with HMB will check to see if Mingo PSD will have their own master meter that they will have to maintain themselves. He thinks they will.

John with Steptoe and Johnson stated that the bid came in under projection. The town can borrow to prefund the reserve fund account. The town is required by the lender of these funds to have a reserve account for the bond issue that is equal to one year max annual debt service. The principal and interest that is due in any one year on the bond issue and that is about \$8,600. We can fund that up over ten years by making monthly payments or in the alternative can prefund it. Which means that the money would be borrowed and put it with the municipal bond commission. He suggest that since we have the money in our budget that we prefund our reserve account. That will increase our borrowing amount. The amount of money will earn interest at the market rate and the town will get a check each year for interest earned. This will not be a lot of money but will still be earning money and it didn't cost us anything to borrow.

Councilman Davis made motion to approve the prefunding of the reserve account. Motion was second by Councilman Crum. Motion passed.

John with Steptoe and Johnson asked council about user agreements. The lender does not require them and the small cities block grant does not require them. The accountant does want to see a certain amount of user agreements. There will need to be a certification by an independent certified public accountant that says that we have coverage to support the water system.

Mayor Preece stated that he does not know exactly how many user agreements that we have now. The current clerk has collected about thirty user agreements herself. We have had several clerks in the past two years. The town is not concerned about making the payment on the loan for the water system.

Councilman Crum made motion to suspend the second reading of the water bond ordinance. Motion second by Councilman Hunt. Motion passed.

Councilman Sizemore made motion to adopt the water bond ordinance on the second reading with the stipulations previous noted by bond counsel and HMB. Motion was second by Councilman Crum. Motion passed.

Steptoe and Johnson will be at the public hearing and will have everything here to be signed on that night instead of in Charleston. That will save the Mayor and the Recorder a trip to Charleston. The closing would still be in Charleston.

Minutes  
June 11, 2001  
Page Four

Jeff with HMB presented the council with an easement from Verizon for the Mayor's signature. The only issue is that they be released from their old easement.

Councilman Sizemore made motion to approve the waterline easement and sign said easement from Verizon and also to record said easement. Motion was second by Councilman Davis. Motion passed.

Jeff also presented council with an application for pipeline easement agreement for Norfolk and Southern with regards to property around Canada's Cash Store. Agreement needs to be signed and sent back to Norfolk and Southern saying that this is what is needed and they will have their legal department prepare an easement and send back to HMB.

Councilman Crum made motion to sign application for pipeline agreement for Norfolk and Southern. Motion was second by Councilman Sizemore. Motion passed.

Jeff also informed council about an easement is needed with a coal company in our area. He could not think of the name but just wanted to inform council that he was having trouble getting this easement. If not successful soon then they would start condemnation proceedings.

Councilman Crum made motion for a recess. Motion was second by Councilman Moore. Motion passed.

Council meeting recovered and Mayor Preece called meeting to order.

Albert Totten representing the Home Coming Committee requested financial assistance of \$500.00. This was the amount that the town gave last year and would hope that they could do again this year. He also had a concern with the alley behind his house at William Am Camp. There are a lot of cars that are speeding up and down that alley and it is a small alley and also children play there. He is requesting that council put speed bumps in the alley to slow down the traffic.

Councilman Crum stated that all streets have been designated to the State. He doesn't think that the town could put speed bumps in the alley but he will check to see if possible.

Mayor Preece stated that he had spoken to Terry Ooten and paving for the town was still on the schedule.

Mayor Preece also stated that he had spoken to the Town's attorney about the John Ramey matter. The attorney will research and give us an opinion in writing.

Minutes  
June 11, 2001  
Page Five

Mont Crum informed council that he had spoken to a surveyor with the NRCS about surveying the property that the town needs surveyed. The surveyor stated that the only way that he could help is if the area was going to be designated for a park. If that is so then they can draw up plans for the park free of charge and also will help look for grant money available. This will all be upon the approval that they can do. Mayor Preece will contact them on Tuesday.

Councilman Sizemore stated that he had spoke to Dana Burns regarding Potesta. He informed Mark that the figures that WVU has submitted to do the restoration on the bridge are to high and that they are revising those and that as soon as they have that settled then they will schedule as meeting with the council.

Councilman Crum stated that the policy with regards to the tents that the Town owns is not working. Councilman Sizemore made motion to have a no loan policy except for town events, activities committee events and Kiwanis events. Motion was second by Councilman Davis. Motion passed. This motion will void the motion passed at the previous meeting regarding the tents.

Chief Crum informed council that the police department has starting getting gas at Spence's station as of May 21, 2001. This will be at a lower rate.

#### **NEW BUSINESS:**

Financial report was given by the recorder. The Town still owes approximately \$7,000 to Wellman's Heating and Cooling for the heating unit at the BMS gym.

Mayor Preece gave update on the \$25,000 grant. This money is still about two months away at the very least. He states that we could get a bank loan from the Bank of Mingo for ninety days. Councilman Crum made motion to get a bank loan of \$7,000 to deposit in the general fund and pay Wellman's Heating and Cooling. Motion was second by Councilman Moore. Motion passed. Mayor Preece will go to the bank on Tuesday and take care of the loan.

The Young Marines are not up to date on their rent. Recorder to check on and see how much and when they have paid.

Councilman Crum stated that there was some concern regarding the property at Millstone, where the hill climb is held. The lease is to run out this year and that there are some concerns regarding ownership and control. Council agreed that something needs to be done in regards to getting a long term lease or getting said property donated and that this needs to be done soon.

Minutes

June 11, 2001

Page Six

Councilman Sizemore made motion to approve payment of bills as presented. Motion was second by Councilman Hunt. Motion was passed.

Mont Crum informed council that Massey Coal had sponsored the Bluegrass singing that was held last weekend. They want to write the check to the Town and let the Town write a check to the Bluegrass Music Company. The reason is that the Town is already a vendor and this will speed up the check. Councilman Hunt made motion to approve Massey writing check to Town and the Town in turn write a check to the Bluegrass Music Company. Motion was second by Councilman Davis. Motion passed.

Councilman Sizemore made motion to adjourn. Motion was second by Councilman Moore.

TOWN OF DELBARTON

Water Revenue Bonds, Series 2001 A  
(West Virginia DWTRF Program)

MINUTES ON ADOPTION AND ENACTMENT OF BOND ORDINANCE  
(THIRD READING FOLLOWING PUBLIC HEARING)  
AND ADOPTION OF SUPPLEMENTAL RESOLUTION

I, Billie Jo Endicott, Recorder of the Town of Delbarton (the "Town"), hereby certify that the following is a true and correct excerpt of the minutes of a regular meeting of the Council of the Town:

\* \* \*

\* \* \*

\* \* \*

The Council of the Town met in regular session, pursuant to notice duly given, on the 9th day of July, 2001, in Delbarton, West Virginia, at the hour of 7:00 p.m.

PRESENT: John W. Preece - Mayor  
Billie Jo Endicott - Town Recorder  
Joe Crum - Councilmember  
Mark Sizemore - Councilmember  
John C. Davis - Councilmember  
Mark Hunt - Councilmember  
Britt Moore - Councilmember

The Mayor announced that a quorum of members was present and that the meeting was open for any business properly before it. He stated that the proposed Bond Ordinance heretofore passed on first and second readings would be subject to protests and suggestions from any interested person at this time in accordance with the publication of an abstract of said Bond Ordinance and a Notice of Hearing, which publication has been duly made, and the Mayor called for protests and suggestions as to said Bond Ordinance and all persons desiring to protest the said Bond Ordinance or to make any suggestions with reference thereto were heard.

There being no protests or suggestions made as to said Bond Ordinance, the Mayor thereupon stated that it would be in order to consider the said Bond Ordinance for final enactment and the Mayor caused the said Bond Ordinance to be read as follows:

**ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE TOWN OF DELBARTON AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$300,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2001 A (WEST VIRGINIA DWTRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.**

and caused the same to be read and there was discussion. Thereupon, on motion duly made and seconded, it was unanimously ordered that the said Bond Ordinance be finally enacted and put in full force and effect on and from the date hereof.

Next, the Mayor presented a proposed Supplemental Resolution in writing entitled:

**SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISIONS, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE WATER REVENUE BONDS, SERIES 2001 A (WEST VIRGINIA DWTRF PROGRAM), OF THE TOWN OF DELBARTON; APPROVING AND RATIFYING THE LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.**

and caused the same to be read and there was discussion. Thereupon, on motion duly made and seconded, it was unanimously ordered that the said Supplemental Resolution be adopted and put in full force and effect on and from the date hereof.

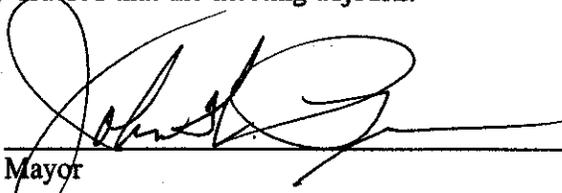
Whereupon, Jim Boggs from Region II Planning and Development Council presented a resolution authorizing the first draw from the proceeds of the Bonds. Following discussion of said resolution, and upon motion duly made and seconded, it was unanimously ordered that the said Supplemental Resolution be adopted and put in full force and effect on and from the date hereof.

\* \* \*

\* \* \*

\* \* \*

There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.



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Mayor

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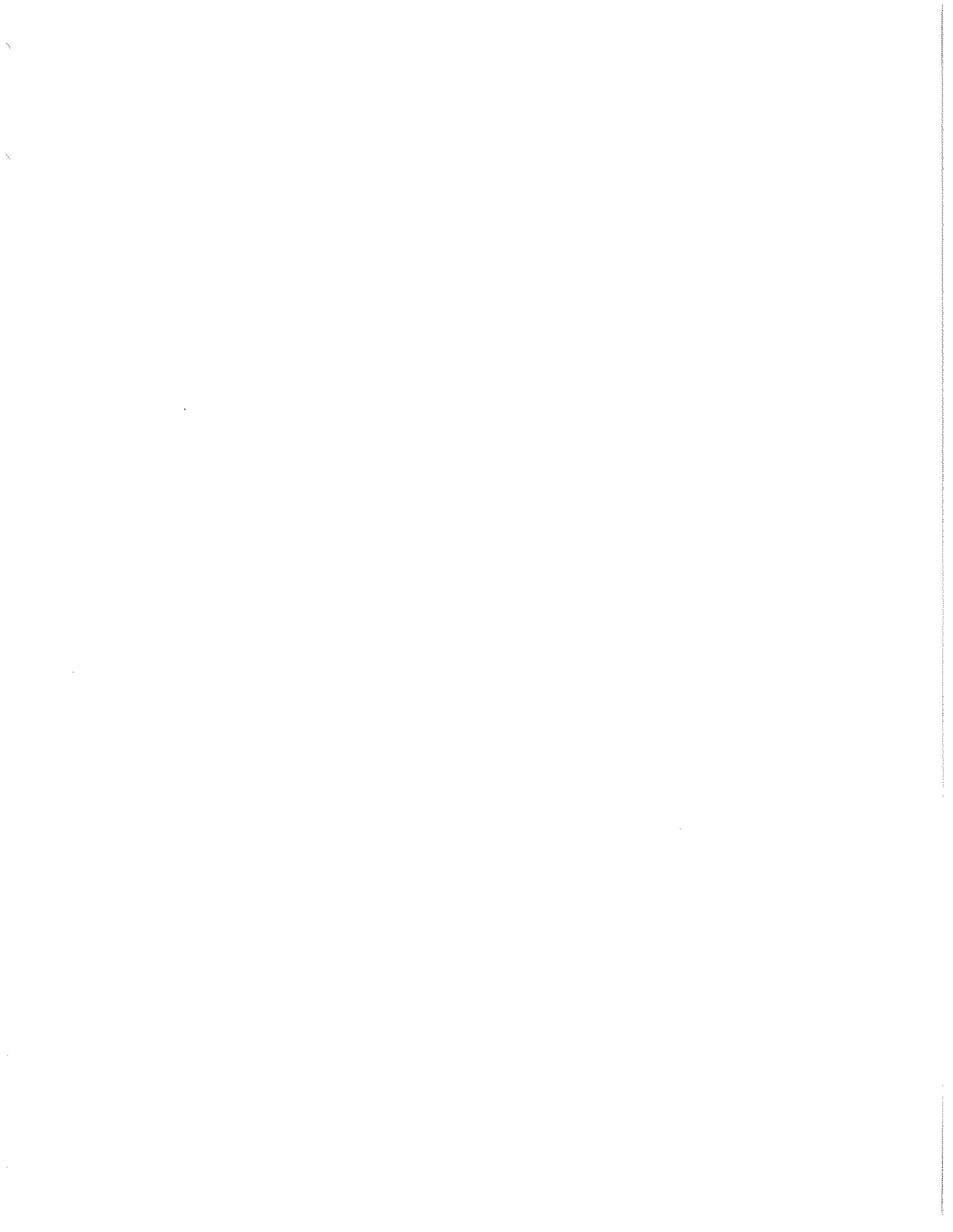
I further hereby certify that the foregoing action of the Council remains in full force and effect and has not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 18th of July, 2001.

Billie Jo Endicott  
Town Recorder

07/09/01  
225970/98002

CH432669.1



State of West Virginia, Mingo County, to-wit:

I, Sandra G. Hurley Publisher of the WILLIAMSON DAILY NEWS, Inc., a paper published in the County aforesaid, do Swear that the \_\_\_\_\_

notice hereto attached was published in said paper for 2 successive weeks, the first publication thereof being on the 18th day of June 2001, and subsequent publication on the 25th day of June 2001, the \_\_\_\_\_ day of \_\_\_\_\_ 2001.

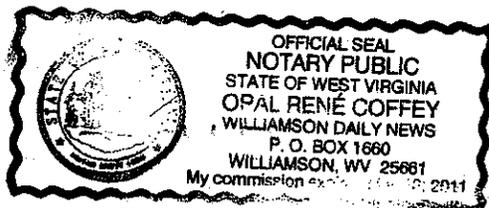
State of West Virginia, Mingo County, to-wit:

\_\_\_\_\_ being duly sworn, says that she posted a copy of the annexed \_\_\_\_\_ at the front door of the Court House of said County, on the \_\_\_\_\_ day of \_\_\_\_\_ 2001. Taken subscribed and sworn to before me, this 18th day of June 2001.

Printer's Fee \$ 65.85.

Opal Rene Coffey  
Notary Public

My Commission expires: May 30th 2011.



TOWN OF DELEBARTON  
NOTICE OF PUBLIC HEARING  
ON BOND ORDINANCE  
A public hearing will be held on the

following-entitled Ordinance at a regular meeting of the Council of the Town of Delebarton (the "Town") to be held on July 9, 2001, at 7:00 p.m., in Council chambers at the Delebarton Town Hall, Delebarton, 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 the Ordinance entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE TOWN OF DELEBARTON AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$300,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2001 A (WEST VIRGINIA) DWTRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

The above-entitled Ordinance was adopted by the Council of the Town on June 11, 2001.

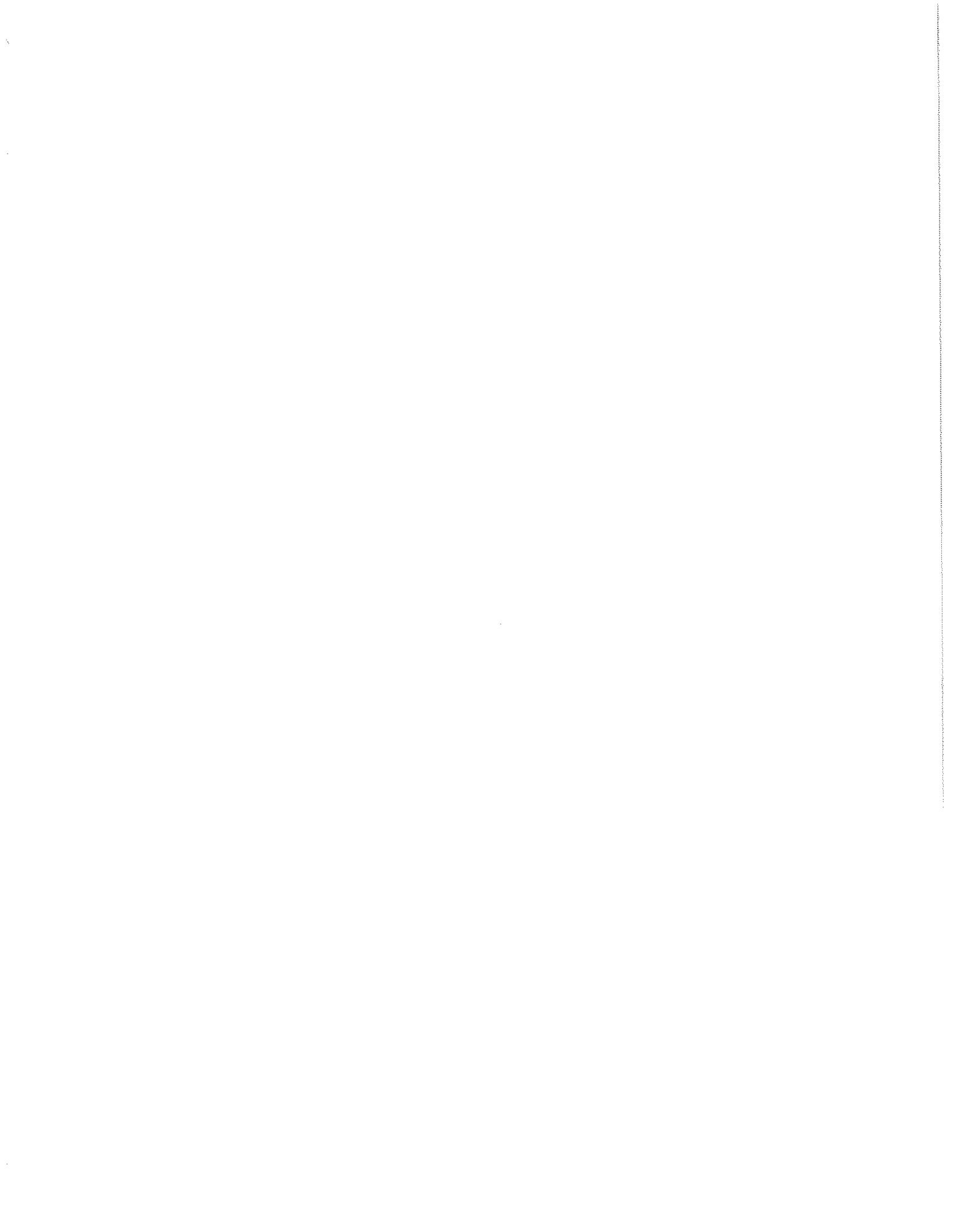
The above-quoted title of the Ordinance describes generally the contents thereof and the purposes of the Bonds contemplated thereby. The Town contemplates the issuance of the Bonds described in said Ordinance. The proceeds of the Bonds will be used to provide permanent financing for the costs of acquisition and construction of additions, betterments and improvements to the existing public waterworks system of the Town. The Bonds are payable solely from revenues to be derived from the ownership and operation of the waterworks system for 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 Recorder for review by interested parties during regular office hours.

Following said public hearing, the Council intends to enact said Ordinance upon final hearing.

Dated: June 14, 2001.

6:18.25

My i



Date of Report: July 18, 2001

ISSUE: Town of Delbarton Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program)

ADDRESS: P. O. Box 730, Delbarton, WV COUNTY: Mingo

PURPOSE OF ISSUE: New Money: X  
Refunding: N/A REFUNDS ISSUE(S) DATED: N/A

ISSUE DATE: July 18, 2001 CLOSING DATE: July 18, 2001

ISSUE AMOUNT: \$ 258,000 RATE: 0%; Administrative Fee: 1%

1ST DEBT SERVICE DUE: September 1, 2002 1ST PRINCIPAL DUE: September 1, 2002

1ST DEBT SERVICE AMOUNT: \$2,150 PAYING AGENT: Municipal Bond Commission

**BOND**

COUNSEL: Stephoe & Johnson PLLC  
Contact Person: Vincent A. Collins, Esq.  
Phone: (304) 624-8161

**UNDERWRITERS**

COUNSEL: Jackson & Kelly PLLC  
Contact Person: Samme L. Gee, Esq.  
Phone: (304) 340-1318

CLOSING BANK: Branch Banking and Trust Company  
Contact Person: Terrie J. Johnson  
Phone: (304) 475-2474

ESCROW TRUSTEE: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Phone: \_\_\_\_\_

**KNOWLEDGEABLE ISSUER CONTACT**

Contact Person: Honorable John W. Preece  
Position: Mayor  
Phone: (304) 475-3359 (Town)  
(304) 475-4040 (Work)

**OTHER: West Virginia Bureau for Public Health**

Contact Person: Walt Ivey, P.E.  
Function: Manager - Infrastructure Program  
Phone: (304) 558-2981

DEPOSITS TO MBC AT CLOSE: \_\_\_\_\_  
By: \_\_\_\_\_ Wire \_\_\_\_\_  
X Check X Accrued Interest: \$ \_\_\_\_\_  
Capitalized Interest: \$ \_\_\_\_\_  
Reserve Account: \$ 8,600  
Other: \$ \_\_\_\_\_

**REFUNDS & TRANSFERS BY MBC AT CLOSE**

By: \_\_\_\_\_ Wire \_\_\_\_\_  
Check \_\_\_\_\_  
IGT \_\_\_\_\_  
To Escrow Trustee: \$ \_\_\_\_\_  
To Issuer: \$ \_\_\_\_\_  
To Cons. Invest. Fund: \$ \_\_\_\_\_  
To Other: \$ \_\_\_\_\_

NOTES: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**FOR MUNICIPAL BOND COMMISSION USE ONLY:**

DOCUMENTS REQUIRED: \_\_\_\_\_  
TRANSFERS REQUIRED: \_\_\_\_\_  
\_\_\_\_\_

The purpose of the NEW ISSUE REPORT FORM is to provide the WV Municipal Bond Commission with an early warning of three basic facts no later than the day of closing on any issue for which the Commission is to act as fiscal agent. These are:

1. Formal notification that a new issue is outstanding.
2. Date of first action or debt service.
3. Contact people should we lack documents, information, or funds needed to administer the issue by the date of the first action or debt service.

The commission recognizes that as bond transcripts become increasingly long and complex, it has become more difficult to assemble and submit them to the Commission within the 30 days specified by the West Virginia Code 13-3-8. This notice is not intended to provide all the information needed to administer an issue, but to alert the Commission and ensure that no debt service payments are missed due to delays in assembling bond transcripts. If, at the time of closing, documents such as the ordinance and all supplements, debt service schedules, and a specimen bond or photostat are available and submitted with this form, it will greatly aid the Commission in the performance of its duties. These documents are needed to set up the proper accounts and to advise the issuer of monthly deposit requirements as far in advance of the first debt service as possible.

It is not necessary to complete all items if they are not pertinent to your issue. Indicate the County of the issuer. With PSDs that overlap more than one county, indicate the county of their business office. Complete "Rate" only if the issue has only one rate. Please complete a separate form for each series of an issue. Other important information can be recorded under "Notes."

Again, please submit this form on each new issue on the day of closing. If fund transfers into or out of the Commission at closing are required, please submit this form before closing. If no significant facts change by closing, no resubmission at closing is required. If, however, there are changes, please submit an updated form, with changes noted, at closing.

If you should have any questions concerning this form, please call the Commission.



TOWN OF DELBARTON

Water Revenue Bonds, Series 2001 A  
(West Virginia DWTRF Program)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

Branch Banking and Trust Company, Delbarton, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Ordinance of the Town of Delbarton (the "Issuer") enacted by the Issuer on July 9, 2001, and a Supplemental Resolution adopted by the Issuer on July 9, 2001 (collectively, the "Bond Legislation"), authorizing issuance of the Issuer's Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), dated July 18, 2001, in the aggregate principal amount of \$258,000 (the "Series 2001 A Bonds"), and agrees to serve as Depository Bank in connection with the Series 2001 A Bonds, all as set forth in the Bond Legislation.

WITNESS my signature on this 18th day of July, 2001.

BRANCH BANKING AND TRUST COMPANY

  
Its: Dice President

06/29/01  
225970.98002



TOWN OF DELBARTON

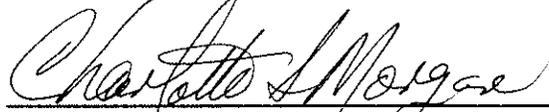
Water Revenue Bonds, Series 2001 A  
(West Virginia DWTRF Program)

ACCEPTANCE OF DUTIES AS REGISTRAR

BRANCH BANKING AND TRUST COMPANY, Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the Town of Delbarton Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), dated July 18, 2001, in the aggregate principal amount of \$258,000 (the "Series 2001 A Bonds"), and agrees to perform all duties of Registrar in connection with the Series 2001 A Bonds, all as set forth in the Bond Legislation authorizing issuance of the Series 2001 A Bonds.

WITNESS my signature on this 18th day of July, 2001.

BRANCH BANKING AND TRUST COMPANY

  
Assistant Vice President

06/12/01  
225970.98002



TOWN OF DELBARTON

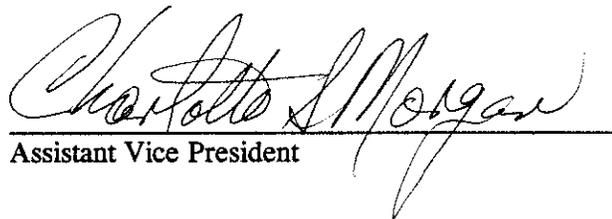
Water Revenue Bonds, Series 2001 A  
(West Virginia DWTRF Program)

CERTIFICATE OF REGISTRATION OF BONDS

BRANCH BANKING AND TRUST COMPANY, Charleston, West Virginia, as Registrar under the Bond Legislation and Registrar's Agreement providing for the above-captioned Bonds of the Town of Delbarton (the "Issuer"), hereby certifies that on the date hereof, the single, fully registered Water Revenue Bond, Series 2001 A (West Virginia DWTRF Program), of the Issuer, dated July 18, 2001, in the principal amount of \$258,000, numbered AR-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 Branch Banking and Trust Company, as Registrar.

WITNESS my signature on this 18th day of July, 2001.

BRANCH BANKING AND TRUST COMPANY

  
Assistant Vice President

06/26/01  
225970.98002

TOWN OF DELBARTON

Water Revenue Bonds, Series 2001 A  
(West Virginia DWTRF Program)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 18th day of July, 2001, by and between the TOWN OF DELBARTON, municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and BRANCH BANKING AND TRUST COMPANY, Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$258,000 principal amount of Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), in fully registered form (the "Series 2001 A Bonds"), pursuant to a Bond Ordinance of the Issuer duly enacted July 9, 2001, and a Supplemental Resolution of the Issuer duly adopted July 9, 2001 (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 Series 2001 A 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 Series 2001 A 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 Series 2001 A 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 Delbarton  
Post Office Box 730  
Delbarton, West Virginia 25670  
Attention: Mayor

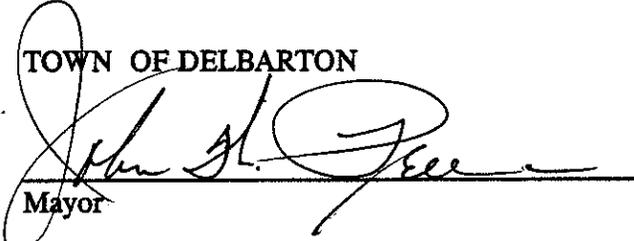
REGISTRAR: Branch Banking and Trust Company  
300 Summers Street, 6th Floor  
Post Office Box 1793  
Charleston, West Virginia 25326-1793  
Attention: Corporate Trust Department

8. The Registrar is hereby requested and authorized to authenticate and deliver the Series 2001 A Bonds in accordance with the Bond Legislation.

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.

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 DELBARTON



\_\_\_\_\_  
Mayor

BRANCH BANKING AND TRUST COMPANY



\_\_\_\_\_  
Assistant Vice President

06/12/01  
225970.98002

**EXHIBIT A**

**Bond Legislation included in bond transcript as Documents No. 1 and No. 2**

**SCHEDULE OF COMPENSATION**

**(See Attached)**

July 18, 2001

**Trust Department**

300 Summers Street  
P.O. Box 1793  
Charleston, WV 25326  
(304) 348-7081  
(800) 336-5450

Town of Delbarton  
Attention: Mayor  
Post Office Box 730  
Delbarton WV 25670

RE: Invoice

TOWN OF DELBARTON WATER REVENUE BONDS, SERIES 2001 A  
(WEST VIRGINIA DWTRF PROGRAM)

One time fee for services as Registrar and Authenticating Agent..... \$250.00

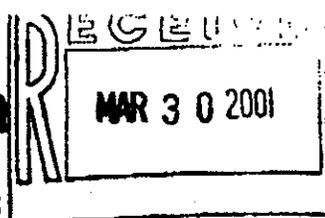
CC: Mr. Jim Boggs  
Region II Council  
P. O. Box 939  
Huntington WV 25712

Please forward remittance to:

Branch Banking and Trust Co.  
Attn: Charlotte S. Morgan  
P. O. Box 1793  
Charleston WV 25326



# State of West Virginia



## OFFICE OF ENVIRONMENTAL HEALTH SERVICES

815 QUARRIER STREET, SUITE 418

CHARLESTON, WEST VIRGINIA 25301-2616

TELEPHONE 304-558-2981

### PERMIT

PROJECT: (Water)  
Water System Improvements

PERMIT NO.: 14,809

LOCATION: Delbarton

COUNTY: Mingo

DATE: 3-23-2001

THIS IS TO CERTIFY that after reviewing plans, specifications, application forms, and other essential information that

**Town of Delbarton  
Post Office Box 730  
Delbarton, West Virginia 25670**

is hereby granted approval to: amend and modify Permit No. 14,644, issued September 26, 2000, for the Town of Delbarton water system improvements. Major modifications are the relocation of some water lines due to the Division of Highways requirements.

**NOTE:** All unchanged conditions and requirements of Permit No. 14,644 remain in effect.

The Environmental Engineering Division of the Beckley District Office (telephone 304-256-6666) is to be notified when construction begins.

Validity of this permit is contingent upon conformity with plans, specifications, application forms, and other information submitted to the West Virginia Bureau for Public Health.

FOR THE DIRECTOR

  
For William S. Herold, Jr., P.E., Assistant Manager  
Infrastructure and Capacity Development  
Environmental Engineering Division

WSH:cmh

pc: ~~Haworth, Meyer & Boleyn, Inc.~~  
James W. Ellars, P.E., PSC-Engineering Division  
Mingo County Health Department  
OEHS-EED Beckley District Office  
Patrick Taylor, P.E., OEHS  
Walter M. Ivey, P.E., OEHS

# State of West Virginia

Permits  
Rec 10/6/00

## OFFICE OF ENVIRONMENTAL HEALTH SERVICES

815 QUARRIER STREET, SUITE 418

CHARLESTON, WEST VIRGINIA 25301-2616

TELEPHONE 304-558-2981

### PERMIT

PROJECT: <sup>(Water)</sup> Water System Improvements

PERMIT NO. 14,644

LOCATION: Delbarton

COUNTY: Mingo

DATE: 9-26-2000

THIS IS TO CERTIFY that after reviewing plans, specifications, application forms, and other essential information that

Town of Delbarton  
Post Office Box 730  
Delbarton, West Virginia 25670

is hereby granted approval to: install approximately 2,340 LF of 10", 13,900 LF of 8", 6,320 LF of 6", and 3,000 LF of 2" water lines; one (1) master meter station; and all necessary valves, piping, controls and appurtenances, with water to be provided by the Mingo County Public Service District water system from the Naugatuck Regional Water System. The existing Delbarton water storage tank and the existing Delbarton water treatment plant will be disconnected from the distribution system and be decommissioned.

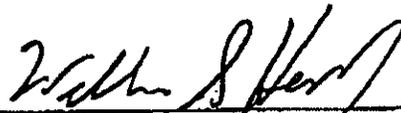
Facilities are to serve approximately 115 existing customers and a potential 208 new customers in the Town of Delbarton. By issuance of this permit, Permit No. 14,333 becomes null and void.

**NOTE:** This permit is contingent upon: 1) All new water mains and the repaired water storage tank being disinfected, flushed and bacteriologically tested, prior to use; and 2) Maintaining a minimum ten (10) feet horizontal separation between sewer and water lines and a minimum eighteen (18) inches vertical separation between crossing sewer and water lines, with the water line above the sewer line.

The Environmental Engineering Division of the Beckley District Office (telephone 304-256-6666) is to be notified when construction begins.

Validity of this permit is contingent upon conformity with plans, specifications, application forms, and other information submitted to the West Virginia Bureau for Public Health.

FOR THE DIRECTOR

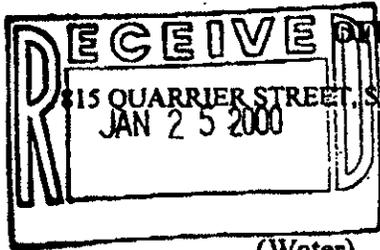


William S. Herold, Jr., P.E., Assistant Manager  
Infrastructure and Capacity Development  
Environmental Engineering Division

WSH:cmh

pc: Haworth, Meyer & Bolcyn, Inc.  
James W. Ellars, P.E., PSC-Engineering Division  
Mingo County Health Department  
OEHS-EED Beckley District Office  
Pat Taylor  
Walt Ivey

# State of West Virginia



OFFICE OF ENVIRONMENTAL HEALTH SERVICES  
115 QUARRIER STREET, SUITE 418

CHARLESTON, WEST VIRGINIA 25301-2616  
TELEPHONE 304-558-2981

## PERMIT

(Water)  
PROJECT: Water System Improvements

PERMIT NO.: 14,333

LOCATION: Delbarton

COUNTY: Mingo

DATE: 1-18-2000

THIS IS TO CERTIFY that after reviewing plans, specifications, application forms, and other essential information that

**Town of Delbarton  
P.O. Box 730  
Delbarton, West Virginia 25670**

is hereby granted approval to: install approximately 11,955 LF of 10", 5,150 LF of 8", 4,020 LF of 6", and 3,930 LF of 2" water lines; one (1) master meter station; one (1) main line flow control/pressure regulating valve; and all necessary valves, piping, controls and appurtenances, with water to be provided by the Mingo County Public Service District water system from the City of Williamson. The existing Delbarton water storage tank will be repaired and be repainted and new telemetry facilities will be installed on the tank. The existing Delbarton water treatment plant will be disconnected from the distribution system and be decommissioned.

Facilities are to serve approximately 84 existing customers and a potential 232 new customers in the Town of Delbarton.

**NOTE:** This permit is contingent upon: 1) All new water mains and the repaired water storage tank being disinfected, flushed and bacteriologically tested, prior to use; and 2) Maintaining a minimum ten (10) feet horizontal separation between sewer and water lines and a minimum eighteen (18) inches vertical separation between crossing sewer and water lines, with the water line above the sewer line.

The Environmental Engineering Division of the Beckley District Office (telephone 304-256-6666) is to be notified when construction begins.

Validity of this permit is contingent upon conformity with plans, specifications, application forms, and other information submitted to the West Virginia Bureau for Public Health.

FOR THE DIRECTOR

William S. Herold, Jr., P.E.  
Assistant Director  
Environmental Engineering Division

WSH:cmh

pc: ~~Haworth, Meyer & Boleyn, Inc.~~  
Amy Swann, Public Service Commission  
Mingo County Health Department  
OEHS-EED Beckley District Office



## MEMORANDUM OF AGREEMENT

THIS AGREEMENT, made and entered into this 10<sup>th</sup> day of July, 2000, and between the TOWN OF DELBARTON, a municipality, hereinafter referred to as "Delbarton" and the MINGO COUNTY PUBLIC SERVICE DISTRICT, a public corporation, hereinafter referred to as "Mingo".

WHEREAS, Delbarton is a municipality created and authorized to transact business in accordance with the laws of the State of West Virginia and is engaged in the provision of water utility service to unserved areas located within a defined geographical area all located within Mingo County, West Virginia; and,

WHEREAS, Mingo is a public service district providing water service in the unserved and unincorporated areas of Mingo County, West Virginia; and,

WHEREAS, Delbarton has made a Filing with the Public Service Commission of West Virginia (hereinafter "Commission") notifying the Commission that it has filed an application for a certificate of convenience and necessity to construct a waterlines within Delbarton and in the Pigeonroost Creek Road area (County Route 65/6); and,

WHEREAS, portions of the area to be served by said Project, are located within the geographical service territory of Mingo and currently have inadequate water service; and,

WHEREAS, approximately twenty nine (29) residents located along County Route 65/6 (Pigeonroost Creek Road) within the service area of Mingo in Mingo county can most readily be served by Delbarton through the facilities proposed to be constructed by Delbarton; and,

WHEREAS, Delbarton and Mingo have determined that it is in the best interests of the parties and of said residents along County Route 65/6 (Pigeonroost Creek Road) in Mingo County, West Virginia, to allow Delbarton to operate and maintain the public service facilities and to make water service available to said residents located within the boundaries of Mingo.

**WITNESSETH:** The parties, for and in consideration of the mutual covenants and conditions herein contained, hereto agree as follows:

1. Pursuant to the provisions of West Virginia Code 5516-13A-B and 18, Mingo does hereby agree to permit Delbarton to provide water service to said residents located within the public service area of Mingo, as shown on the map attached hereto and incorporated herein by reference as Exhibit No. 1.
2. Functions, duties and responsibilities to be undertaken by Delbarton with respect to this Agreement are as follows:
  - a) Delbarton shall treat said residents as its customers and provide service at rates to be established by an Order of the Commission.
  - b) Delbarton shall do any and all things necessary to provide adequate and proper service to the customers in the service area of Mingo to be served by Delbarton by means of competent and efficient operation of the water facilities.
  - c) Delbarton shall be solely and exclusively responsible for the maintenance of said facilities, including the ordinary and necessary maintenance of meters, water mains and other capital improvements presently existing or to be constructed by Delbarton pursuant to this Agreement in order to insure the proper and efficient distribution of service to the customers.
  - d) Delbarton shall operate and maintain said system in accordance with all pertinent and applicable federal, state and local governmental regulations.
3. This Agreement shall be subject to and contingent upon the approval and ratification of the Public Service Commission of West Virginia.
4. This Agreement shall be binding upon the parties hereto, their successors and assigns and shall be interpreted according to the laws of the State of West Virginia.

WITNESS the following signatures and seals:

MINGO COUNTY PUBLIC  
SERVICE DISTRICT, a public  
corporation

Attest:

J. B. Hill

By Robt Adam

Its Chairman

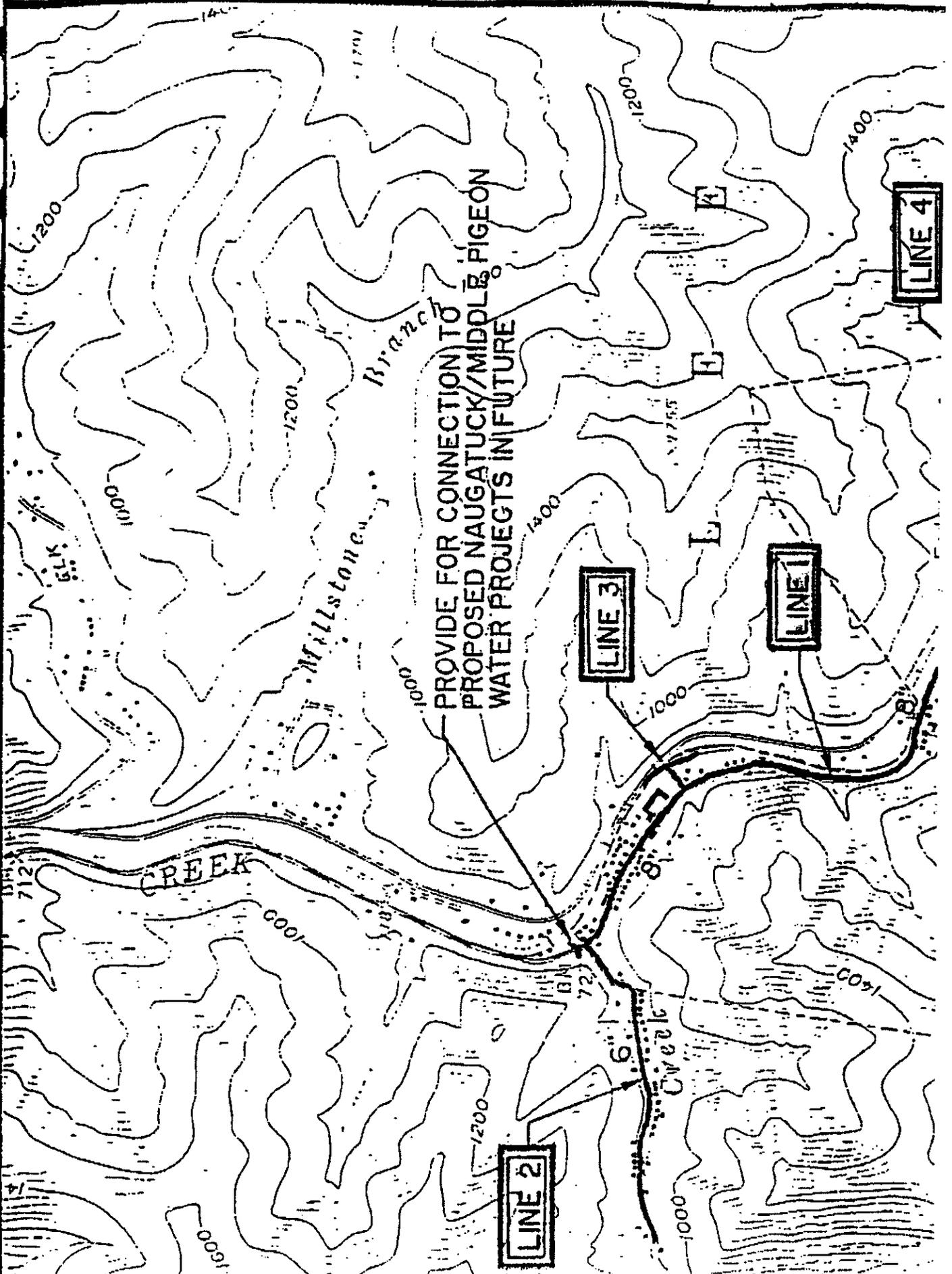
TOWN OF DELBARTON,  
a municipality

Attest:

Melissa K. Stutter

By John W. [Signature]

Its Mayor



PROVIDE FOR CONNECTION TO  
 PROPOSED NAUGATUCK/MIDDLE PIGEON  
 WATER PROJECTS IN FUTURE

LINE 3

LINE 1

LINE 4

LINE 2

CREEK

Millstone

Creek

GLK

712







STATE OF WEST VIRGINIA  
OFFICE OF THE GOVERNOR  
CHARLESTON 25305

RECEIVED  
JUN 23 2000

CECIL H. UNDERWOOD  
GOVERNOR

December 15, 1998

The Honorable John Preece  
Mayor  
Town of Delbarton  
Post Office Box 730  
Delbarton, West Virginia 25670-0730

Dear Mayor Preece:

On June 5, 1998, the town of Delbarton received a commitment of \$1,250,000 in Small Cities Block Grant funds for a water project.

The SCBG award was based upon your immediate need for funds; and, therefore, only \$500,000 was made available from the FY1997 allocation, with a commitment to evaluate your progress and provide the remaining funding from future allocations.

Based upon the town's ability to proceed with this worthwhile community development project, I am committing the remaining \$750,000 from the FY1998 Small Cities allocation. Your existing SCBG contract will be amended to include the additional funds.

It is with great pleasure that I am able to work with you to make this improvement a reality.

Very sincerely,

Cecil H. Underwood

CHU:lla

cc: Region II

Cecil H. Underwood, Governor



WEST VIRGINIA DEVELOPMENT OFFICE

1900 KANAWHA BOULEVARD, EAST  
CHARLESTON, WV 25305-0311

October 26, 1998

The Honorable John W. Preece  
Mayor  
Town of Delbarton  
Post Office Box 730  
Delbarton, West Virginia 25670-0730

Dear Mayor Preece:

RE: Small Cities Block Grant  
Town of Delbarton—Water Improvements

Enclosed is your copy of the executed grant award and state/local contract for the above-referenced project. You should retain this contract and grant award with your project files.

Sincerely,

Jeanna Bailes  
Community Development Specialist

JB:ca

Enclosures

cc: T. White

**WEST VIRGINIA DEVELOPMENT OFFICE  
GRANT AWARD**

Grant Number:	99-099
CFDA Number:	State Acct. No.:
Fiscal Year:	8746-1999-0307-096-025
1999	Program Name:
	SCBG

Grantee Name & Address:	F.E.I.N.
	550-526-532
Town of Delbarton Post Office Box 730 Delbarton, WV 25670-0730	

Grant Period:	From: June 5, 1998 To: June 5, 2001
Project Name:	Water Improvements
Grant ID:	B97DC540001
Project Number:	97SCBG0075X

**Project Description**

Shall do, perform and carry out, in a satisfactory and proper manner all duties, tasks, and functions necessary to extend water service to the unserved residents of the town of Delbarton and connect to the Mingo County Public Service District system allowing you to abandon the existing water plant.

**Change Orders**

**Number:**                      **Date:**                      **Purpose:**

TERMS AND CONDITIONS ARE ON FILE IN THE WEST VIRGINIA DEVELOPMENT OFFICE AND AVAILABLE FOR INSPECTION. A COPY OF THE ORIGINAL AGREEMENT IS ATTACHED TO TRANSMITTAL \_\_\_\_\_, PROCESSED ON OR ABOUT \_\_\_\_\_.

PAYMENT NUMBER \_\_\_\_\_

**TOTAL AMOUNT OF THIS GRANT \$ 500,000.00**

Authorized Signature: Jan D. Dai  
Title: Executive Director  
Date: Oct. 20, 1998

STATE OF WEST VIRGINIA  
OFFICE OF THE GOVERNOR  
CHARLESTON 25305

CECIL H. UNDERWOOD  
GOVERNOR

June 5, 1998

The Honorable John W. Preece  
Mayor  
Town of Delbarton  
Post Office Box 730  
Delbarton, West Virginia 25670-0730

Dear Mayor Preece:

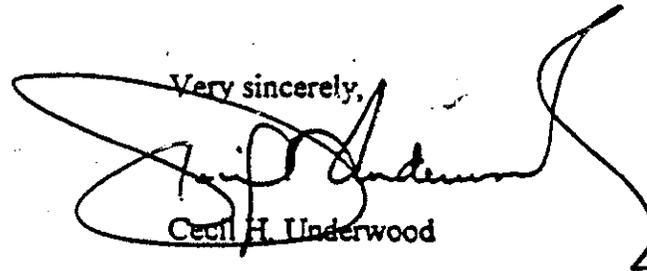
Thank you for your application to the Small Cities Block Grant Program for fiscal year 1997.

I am pleased to approve your request in the amount of \$1,250,000. These funds will enable you to extend water service to the unserved residents of the town of Delbarton and connect to the Mingo County PSD System allowing you to abandon the existing water plant.

In order to most effectively use the limited dollars available, I hereby commit \$500,000 from our fiscal year 1997 allocation which will be immediately available to you. The remaining \$750,000 necessary to complete this project will be evaluated and committed in the coming fiscal year. I encourage you to expedite this project and reach its completion as quickly as possible with this funding strategy in mind. The West Virginia Development Office, Community Development Division staff, will contact you to complete the necessary contracts in order to proceed with your project.

It is with pleasure that I am able to work with you to make this improvement a reality for the citizens of the town of Delbarton.

Very sincerely,

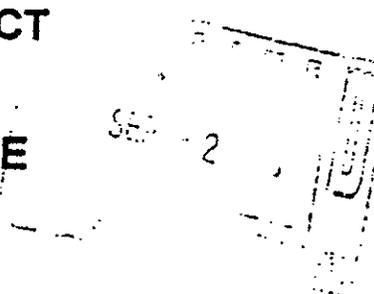


Cecil H. Underwood

CHU:jbs

cc: Region II

**SMALL CITIES BLOCK GRANT CONTRACT**  
**between the**  
**WEST VIRGINIA DEVELOPMENT OFFICE**  
**and the**  
**TOWN OF DELBARTON**



**THIS AGREEMENT**, entered into this 5th day of June, 1998, by the West Virginia Department of Finance and Administration on behalf of the West Virginia Development Office, hereinafter called the "State," and the town of Delbarton and its authorized officers, agents, and representatives, hereinafter called the "Grantee."

**WITNESS THAT:**

**WHEREAS**, the State has elected to administer the nonentitlement portion of the Community Development Block Grant Program as authorized by Title I of the Housing and Community Development Act of 1974 (Public Law 93-383), as amended, subject to the applicable regulations of the Department of Housing and Urban Development, including but not limited to 24 CFR Part 570, Sub-Part I, as amended or revised, and subject to the scope of the State of West Virginia's Grants Management Handbook and other Program Guidelines, receipt of which is hereby acknowledged by the Grantee.

**WHEREAS**, the Grantee has identified its housing and community development needs, including those of low- and moderate-income persons and the activities to be undertaken to meet such needs.

**WHEREAS**, the Grantee has prepared a written citizen's participation plan which provides opportunities for citizen participation, hearings, and access to information with respect to the proposed project statement in such a manner as to afford affected citizens an opportunity for examination and comment regarding the proposed project and on the community development performance of the Grantee, a Community Development Plan, and an Anti-displacement and Relocation Assistance Plan.

WHEREAS, the Grantee has requested assistance from the State and has offered assurances that maximum feasible priority has been given to activities which will benefit low- and moderate-income families, or aid in the prevention or elimination of slums or blight, or to meet other community needs having a particular urgency because an existing condition poses a serious and immediate threat to the health and welfare of the community where other financial resources are not available to meet such needs.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. **Assistance to Grantee.** The State shall obligate to the Grantee, from funds allocated to the State by Grant Agreement B-97-DC-54-0001, \$500,000 to perform such tasks hereafter described in the Scope of Services.
2. **Scope of Services.** The Grantee, or its designated agent, in accordance with the Grants Management Handbook and other Program Guidelines to be used in administration of the Small Cities Block Grant, and in accordance with the approved application of the Grantee which is attached hereto and made a part hereof as Attachment A, shall do, perform, and carry out, in a satisfactory and proper manner all duties, tasks, and functions necessary to extend water service to the unserved residents of the town of Delbarton and connect to the Mingo County Public Service District system allowing you to abandon the existing water plant.
3. **Changes.** The State and the Grantee, from time to time, may require changes in the Scope of the Services of the work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Grantee's compensation and work to be performed which are mutually agreed upon by and between the State and the Grantee, shall be incorporated in written amendments to this Contract. Major changes in the Scope of Services which substantially deviate from that originally approved shall require the same citizen participation process as performed for the initial submission of the grant proposal. The State reserves the right to make final determination on questions regarding changes in the Scope of Services.

4. **Time of Performance.** The Grantee will commence its duties under this Contract on June 5, 1998, and such duties shall be undertaken and completed in such sequences as to assure their expeditious completion in light of the purpose of the Contract; but, in any event, all of the services required hereunder shall be completed by June 5, 2001. Completion date of this Contract may only be extended by mutual written agreement of both parties.

5. **Performance Measures.** Performance measures establish that the Grantee should have all other funding in place and design and engineering completed within twelve months. Furthermore, construction should be started within eighteen months after the execution of this Agreement by both parties. These performance measures establish goals against which performance under this contract can be measured and evaluated during regular scheduled monitoring visits by the State.

6. **Administrative Requirements and Procedures.**

(A) *Personnel.* The Grantee represents that it has or will secure personnel with the necessary qualifications and experience required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the State, consistent with the procedures identified in the Grants Management Handbook.

(B) *Applicable Law.* The Grantee, its agents, and subrecipients shall comply with all the restrictions, conditions, policies, guidelines, and requirements of Title I of the Housing and Community Development Act of 1974 (Public Law 93-383), as amended; with all applicable State and Federal Laws and regulations including 24 CFR Part 570; 24 CFR Part 85; OMB Circulars A-87, A-110, A-122, and A-133, as applicable, in administering and distributing funds provided under this Agreement including, but not limited to, the following:

(1) P.L. 88-352: Refers to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et. seq.) which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the

benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Implementing regulations are found in 24 CFR Part I.

(2) P.L. 90-284: Refers to Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601-20 et. seq.) popularly known as the Fair Housing Act which provides for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing, or the provision of brokerage services, including otherwise making unavailable or denying a dwelling to any person, because of race, color, religion, sex, national origin, handicap, or familial status. The Grantee further certifies that it will take actions necessary to affirmatively further fair housing.

(3) Executive Order 11063, as amended by Executive Order 12259, requires that taking of all actions necessary and appropriate to prevent discrimination because of race, color, religion (creed), sex, or national origin, in the sale, leasing, rental, or other disposition of residential property and related facilities (including land to be developed for residential use), or in the use of occupancy thereof. Implementing regulations are contained in 24 CFR 107.

(4) Section 109 of P.L. 93-383 requires that no person in the United States shall, on the grounds of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds.

Section 109 of the Act further provides any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et. seq.) or with respect to an otherwise qualified handicapped person as provided in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply.

(5) Section 110 of P.L. 93-383 requires compliance with the Davis-Bacon Act, as amended (40 U.S.C. 276a - 276a-5). By reason of the foregoing requirement, the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et. seq.) also applies. In

addition, the West Virginia Act on Construction of Public Improvements, Article 5A, Chapter 21 of the West Virginia Code applies.

(6) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701U) requiring that to the greatest extent feasible opportunities for employment and training be given to lower income persons residing within the unit of local government or metropolitan area or nonmetropolitan county in which the project is located, and that Contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by, persons residing in the same area.

(7) Executive Order 11246, as amended by Executive Order 12086 shall apply and provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or Federally assisted construction contracts.

(8) Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831b) prohibits the use, and requires the elimination and/or abatement as far as practical, the hazards of lead-based paints in residential structures constructed or rehabilitated with Federal assistance to include notification of the hazards of lead-based paint. Grantees may use HUD's guidance on lead-based paint elimination that is contained at 24 CFR Part 35.

(9) The Grantee agrees to assume all of the responsibilities for environmental review, decision making, and action as specified and required in regulations issued by the Secretary of Housing and Urban Development pursuant to Section 104(g) of the Act and published in 24 CFR Part 58. In addition to assuming responsibility for National Environmental Policy Act (P.L. 91-190), the Grantee must take into account, where applicable, the criteria, standards, policies, and regulations of the following: (a) Historic Preservation Act of 1966; (b) Executive Order 11593; (c) The Reservoir Salvage Act of 1960; (d) Flood Disaster Protection Act of 1973; (e) Executive Order 11988, Floodplain Management; (f) Executive Order 11990, Protection of Wetlands, (g) Coastal Zone Management Act of 1972; (h) the Safe Drinking Water Act of 1974; (i) the Endangered

Species Act of 1973; (j) the Wild and Scenic Rivers Act of 1968; (k) the Clean Air Act ; (l) Environmental Criteria and Standards (44 FR 40860-40866, July 12, 1979); (m) 24 CFR Part 51, Subpart B, Noise Abatement and Control; (n) Subpart C - Siting of HUD Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature; (o) and Subpart D - Siting of HUD Projects in Runway Clear Zones and Accident Potential Zones at Military Airfields. Before committing any funds (other than for exempt activities), the Grantee must certify to the State that it has complied with all requirements and obligations that are set forth by 24 CFR Part 58.

(10) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601) and HUD implementing regulations at 24 CFR Part 42 apply to the acquisition of real property for an activity assisted under this part and to the displacement of any family, individual, business, nonprofit organization or farm that results from such acquisition. The West Virginia Code, Chapter 54-3 also applies.

The Grantee must certify compliance with URA. Under Section 104(d) of the Act, each Grantee must adopt, make public and certify that it is following a residential anti-displacement and relocation assistance plan providing one-for-one replacement units and relocation assistance. The plan must also indicate the steps that will be taken to minimize the displacement of persons from their homes as a result of any activities assisted under this part all in accordance with 24 CFR Part 570.488(b).

(11) The State and the Grantee will comply with the provisions of the Department of Treasury Circular 1075 and/or the State's Small Cities Grants Management Handbook, as revised, in the process of requesting and administering funds from the State's Letter of Credit.

(12) Funds provided under this agreement shall not be expended for acquisition or construction purposes in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless the community in which the area is situated is participating in the National Flood Insurance

Program; and flood insurance is obtained in accordance with Section 102(a) of the Flood Disaster Protection Act of 1973.

(C) *Accounting.* The Grantee will establish a separate account for the proper recording of project costs in accordance with generally accepted accounting principles and procedures so as to reflect all receipts and allowable expenditures, including program income in connection with the said project and the purpose thereof. If the Grantee received less than \$25,000 per state fiscal year in program income, the dollars received are not subject to provision of 24 CFR 570 and may be used at the Grantee's discretion. If program income exceeds \$25,000 in any given state fiscal year, all program income earned must be expended in accordance with 24 CFR 570.489.

(D) *Audit.* Pursuant to provisions of Chapter 6, Article 9, Section 7 of the West Virginia Code, the Community Development Division has adopted the policy of accepting annual financial audits contracted or performed by the State Tax Department. The Grantee will include these funds to be audited with its yearly organization-wide audit. Audits shall be conducted in accordance with the provisions of the Office of Management and Budget (OMB) Circular A-133, and with standards established by the Comptroller General as specified in Standards for Audit of Governmental Organizations, Programs, Activities, and Functions. Units of local government will make audit reports available for public inspection within thirty (30) days after the completion of the audit.

(E) *Record Retention.* Financial records, supporting documents, statistical records, and all other records pertinent to the grant shall be retained for a period of three years, with the following qualifications:

(1) If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

(2) Records for nonexpendable property acquired with Federal funds shall be retained for three years after its final disposition.

(3) Records for displacement shall be retained in accordance with the Grants Management Handbook.

(4) The retention period starts from the date of the submission of the final performance report.

(F) *Access to Records.* The Grantee shall, at any time during normal business hours and as often as the State or its designated representatives deem necessary, make available for examination all records, books, accounts, reports, files, and other papers, things or property of the Grantee with respect to the matters covered by this Contract. All negotiated contracts awarded by the Grantee shall include a provision that the Comptroller General or any duly authorized representative of the State or HUD shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts, and transcriptions.

(G) *Repayment.* The Grantee shall refund to the State or Federal government any expenditures determined to be made for an ineligible purpose for which Federal funds were received.

(H) *Competitive Procurement Procedures.* All procurement transactions, including professional services, regardless of whether negotiated or advertised and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition consistent with procedures identified in the Grants Management Handbook, 24 CFR Part 85, and with applicable local or State law.

The Grantee shall procure architect/engineer services in accordance with Chapter 5G of the West Virginia State Code and be in compliance with 24 CFR Part 85.

The Grantee shall procure construction contracts in accordance with Chapter 5-22-1 of the West Virginia State Code and be in compliance with federal regulations 24 CFR Part 85.

The Grantee shall solicit sealed bids for all construction-related contracts or supplies related to their project which has an estimated value of over \$25,000. Any attempts by the Grantee to segregate the project into sections in order to circumvent competitive procurement may be cause for termination of this Agreement under the provisions of Paragraph 9. These bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions of Article Three, Chapter Fifty-Nine of the Code of West Virginia. This notice shall be published by the Grantee in the newspaper with the largest circulation serving the general area within a period of fourteen consecutive days with at least an interval of six full days within such period between the date of the first publication and the date of the second publication preceding the final date of submitting bids. The Grantee shall also, where feasible, solicit sealed bids by listing the project in the F. W. Dodge Reports, sending requests by mail to prospective suppliers or contractors, sending notification to the State's Small Business Development Center Division, and by posting notice on a bulletin board in a public place. The Grantee shall have available upon request for review by the State or its designated representative, bid documents and other evidence of compliance with these procedures. The resolution of bid and contract disputes is the responsibility of the Grantee.

(l) *Bonding and Insurance.* As otherwise required by law, a grant that requires the contracting or subcontracting for construction or facility improvements under \$100,000 shall provide for the Grantee to follow local or State requirements relating to bid guarantees, performance bonds, and payment bonds provided that the Grantee's and State's interest is adequately protected and that such contracts can be executed in a timely manner; otherwise, bonding requirements shall be the same as for contracts exceeding \$100,000. If the contracts or subcontracts exceeds \$100,000, the minimum bonding and insurance requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. This bid guarantee shall consist of a firm commitment such as bid bond, certified

check, or other negotiable instrument accompanying a bid that the bidder will, upon acceptance of the bid, execute the contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. This performance bond shall be executed by the successful contractor in connection with a contract to secure fulfillment of the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. This payment bond shall be executed in connection with a contract to assure payment is required by law of all persons supplying labor or materials in the execution of the work provided for in the Contract.

(J) *Facilities Operation.* The Grantee shall operate and maintain all facilities to which the general public has right of access constructed under the auspices of this Contract in accordance with minimum standards as may be required or prescribed by the applicable Federal, State and local statute, law, ordinance, or regulation as to actual construction procedures. The Grantee shall be responsible for maintenance and operation of such facilities upon completion. The Grantee may not change the use or planned use of any such facility (including the beneficiaries of such use) from that purpose initially approved unless the Grantee provides affected citizens with reasonable notice thereof and opportunity to comment on any proposed change all in accordance with 24 CFR Part 570.489(j).

(K) *Conflict of Interest.* No officer, agent, consultant, employee, elected or appointed official of the State, the Grantee, or any public agency or subrecipient receiving Community Development Block Grant funds who exercises or has exercised any function or responsibilities with respect to activities assisted with Community Development Block Grant funds or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from such activity or have an interest in any contract, subcontract, or agreement with

respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter. The conflict of interest provision of 24 CFR 85.36; 24 CFR 570.489 (g) and (h); and OMB Circular A-110 also apply as appropriate.

7. **Recovery of Capital Costs.** The Grantee will not attempt to recover any capital costs of public improvements assisted in whole or in part with funds from this program by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements unless: (a) funds received are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from other revenue sources; or (b) for purposes of assessing any amount against properties owned and occupied by persons of low and moderate income who are not persons of very low income, the Grantee certifies to the State of West Virginia that it lacks sufficient funds received under the program to comply with the requirements of clause (a).

8. **Method of Payment.** In order to receive any and all payments under the terms of this Agreement, the Grantee shall submit the following: (a) a Letter of Transmittal containing a progress report, and (b) a Request for Payment Financial Report. Upon receipt of said documents, the State shall review the same for reasonableness, appropriateness and eligibility and, if approved, will cause a warrant to be made on that sum to the Grantee for authorized expenditures from the State's Letter of Credit with the Department of Housing and Urban Development.

9. **Termination of Contract for Cause.** If, through any cause, the Grantee shall fail to fulfill in a necessary and proper manner its obligations under this Contract or if the Grantee shall violate any of the covenants, agreements, or stipulations of this Contract, the State shall thereupon have the right to terminate this Contract by giving written notice to the Grantee to such termination and specifying the effective date thereof, at least fifteen

days before the effective date of such termination. The Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on the described project.

Notwithstanding the above, the Grantee shall not be relieved of liability to the State for damages sustained by the State by virtue of any breach of the Contract by the Grantee, and the State may withhold any payments to the Grantee for the purpose of offsetting those damages until such time as the exact amount of damages due the State from the Grantee is determined.

10. **Termination for Convenience of the State.** The State may terminate this Contract at any time by giving written notice to the Grantee of such termination and specifying the effective date of termination. If the Contract is terminated by the State as provided herein, the Grantee will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Grantee covered by this Contract, less payments of compensation previously made.

11. **Termination by the Grantee.** The Grantee may unilaterally rescind this Agreement at any time prior to the commencement of the project. After project commencement, this Agreement may be rescinded, modified, or amended only by mutual agreement. A project shall be deemed commenced when the State makes any expenditure or incurs any obligation with respect to the project.

12. **Reporting.** A Final Performance Report shall be submitted to the State with the final request for payment for project costs, excluding audit. Said Performance Report shall be made on the forms provided by the State and meet the requirements of said report as set forth in the appropriate Technical Assistance Guides of the State of West Virginia. Other reports may be requested by the State during the grant period as the State deems necessary and directs.

13. **Final Closeout.** Final Closeout shall be completed when the State: (a) is in receipt of a Final Performance Report; (b) has determined that all monitoring findings have

been formally addressed and are resolved; and (c) has received a completed, final project audit and has determined that any findings have been resolved.

14. **Resolution of Disputes.** Resolution of disputes between the State and the Grantee concerning administrative and programmatic matters during the terms of this Agreement shall be initiated through consultation and discussion at the State's Administrative Offices with final decision on questions of policy or fact being determined by the Director of the Community Development Division of the West Virginia Development Office or his/her designated representative. Nothing in this Agreement shall be construed as making the final decision on a question of law, or to limit in any manner any remedies or recourses available under applicable laws. Citizen's complaints or disputes regarding Grantee performance or actions relative to the approved project are the responsibility of the Grantee.

15. **Notice.** The parties hereto agree that notice shall be served when mailed certified U.S. Mail to the following addresses:

West Virginia Development Office  
Community Development Division  
Capitol Complex  
Building 6, Room 553  
Charleston, West Virginia 25305-0311

GRANTEE Town of Delbarton  
Post Office Box 730  
Delbarton, West Virginia 25670-0730

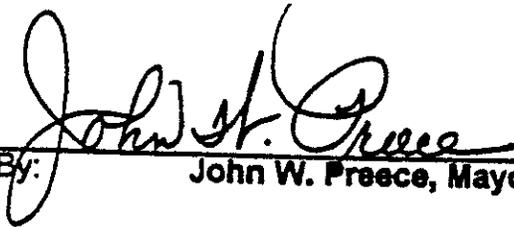
[WITNESSETH] that the parties hereto have entered their signatures hereafter with each representing to the other that the execution of this Agreement is done with full authority and that attached hereto and made a part hereof as Attachment B, is a certified copy of the resolution, motion, or similar action of the governing body of the Grantee directing and authorizing its official representative to act in connection with this Agreement.

STATE OF WEST VIRGINIA  
WEST VIRGINIA DEVELOPMENT OFFICE



Thomas C. Burns, Executive Director

TOWN OF DELBARTON



By: John W. Preece, Mayor

FEDERAL EMPLOYER IDENTIFICATION NUMBER

55-0526532

F.E.I.N.

SEP 28

MAYOR  
JOHN W PREECE  
RECORDER  
MELISSA STRATTON

COUNCIL  
GORDON MILLS  
DONALD ENDICOTT  
JOHN C DAVIS  
VILLIS C STEPP  
MARIE HAMMOND

TOWN OF DELBARTON  
REGULAR COUNCIL MEETING  
SEPTEMBER 14 1998

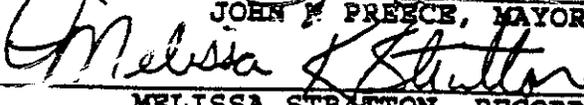
RESOLUTION

AT A REGULAR COUNCIL MEETING ON THE ABOVE DATE, THE TOWN COUNCIL UNANIMOUSLY MOVED TO ENTER INTO AGREEMENT WITH THE WV DEVELOPMENT OFFICE FOR ADMINISTRATION OF A SMALL CITY BLOCK GRANT FOR THE INSTALLATION OF A NEW MUNICIPAL WATER SYSTEM IN THE TOWN OF DELBARTON. MOTION MADE BY COUNCILMAN GORDON MILLS, SECONDED BY COUNCILMAN DONALD ENDICOTT. THE MOTION AND SECOND WAS APPROVED UNANIMOUSLY BY THE COUNCIL.

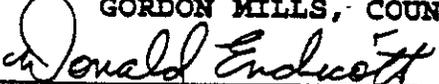
THEREFORE, THE TOWN OF DELBARTON DOES ENTER INTO AGREEMENT WITE THE WEST VIRGINIA DEVELOPMENT OFFICE FOR SAID ADMINISTRATION OF GRANT FOR WATER SYSTEM.

BY:

  
\_\_\_\_\_  
JOHN P. PREECE, MAYOR

  
\_\_\_\_\_  
MELISSA STRATTON, RECORDER

  
\_\_\_\_\_  
GORDON MILLS, COUNCILMAN

  
\_\_\_\_\_  
DONALD ENDICOTT, COUNCILMAN

  
\_\_\_\_\_  
CLIFFORD DAVIS, COUNCILMAN

  
\_\_\_\_\_  
VILLIS STEPP, COUNCILMAN

  
\_\_\_\_\_  
MARIE HAMMOND, COUNCILMEMBER

DATED: SEPTEMBER 14, 1998



# CLOSING MEMORANDUM

**To:** Financing Team  
**From:** John C. Stump, Esquire  
**Date:** July 18, 2001  
**Re:** Town of Delbarton Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program)

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## 1. DISBURSEMENTS TO TOWN OF DELBARTON

Payor: West Virginia Bureau for Public Health  
Amount: \$14,363.00  
Form: Wire Transfer  
Payee: Town of Delbarton  
Bank: Branch Banking and Trust Company, Delbarton, West Virginia  
Routing #: 051503394  
Account #: 5172012436  
Contact: Ms. Terrie J. Johnson (304-475-3361)  
Account: Series 2001 A Bonds Construction Trust Fund

## 2. DISBURSEMENTS BY WEST VIRGINIA WATER DEVELOPMENT AUTHORITY ON BEHALF OF THE TOWN OF DELBARTON

Payor: West Virginia Bureau for Public Health  
Amount: \$8,600  
Form: Wire Transfer  
Payee: West Virginia Municipal Bond Commission  
Bank: Branch Banking and Trust Company  
Routing #: 051503394  
Account #: 5270517317  
Contact: West Virginia State Treasurer for the West Virginia Municipal Bond Commission  
Memo: Fund Series 2001 A Bonds Reserve Account

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