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\$16,152,148
THE CITY OF DUNBAR, WEST VIRGINIA
SEWER SYSTEM REVENUE BONDS,
SERIES 1999

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\$16,152,148
THE CITY OF DUNBAR, WEST VIRGINIA
SEWER SYSTEM REVENUE BONDS, SERIES 1999

TRANSCRIPT

I. Organizational Documents

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16-13-10. Interest on and redemption of bonds: form: statement on face of bond: negotiability: exemption from taxation: registration: execution: sale: disposition of surplus proceeds: additional and temporary bonds.</p> <p>16-13-11. Additional bonds to extend or improve works.</p> <p>16-13-12. Additional bonds for extension, etc., of works to have equal priority with original bonds.</p> <p>16-13-13. Application of revenue from bonds: lien.</p> <p>16-13-14. Securing bonds by trust indenture.</p> <p>16-13-15. Sinking fund; transfer of balance of net revenues.</p> <p>16-13-16. Rates for service; change or readjustment; hearing; lien and recovery; discontinuance of services.</p> <p>16-13-17. Municipality subject to established rates.</p> <p>16-13-18. Supervision of works by sanitary</p> |
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PUBLIC HEALTH

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Editor's notes. — Acts 1989, 1st Ex. Sess., c. 3, redesignated the board of health and the department of health as the division of health, within the department of health and human resources. See also, Acts 1997, c. 225.

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

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

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

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

Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

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

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

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

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

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

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

Use of territory in adjoining state authorized. — By this section and § 16-13-22 the legislature intended, insofar as it could, to confer upon such municipalities as might find its exercise convenient, the right to make necessary and appropriate arrangements for the disposal of their sewage, even where that course involved the use of territory in an ad-

joining state. *Bernard v. City of Bluefield*, 117 W. Va. 556, 186 S.E. 298 (1936).

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

Cited in *City of Beckley v. Craighead*, 125 W. Va. 484, 24 S.E.2d 908 (1943); *Delardas v. Morgantown Water Comm'n*, 148 W. Va. 776, 137 S.E.2d 426 (1964).

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

The construction, acquisition, improvement, equipment, custody, operation and maintenance of any such works for the collection, treatment or disposal of sewage and the collection of revenues therefrom for the service rendered thereby, shall be under the supervision and control of a sanitary board appointed by the governing body as set forth in section eighteen [§ 16-13-18] of this article. The term "works" as used in this article shall be construed to mean and include a works for the collection and/or treatment, purification and

disposal of sewage, in its entirety or any integral part thereof. The term "municipality" as used in this article shall be construed to mean any municipal corporation, incorporated city, town, village or sanitary district in the State of West Virginia. The term "governing body" as used in this article shall be construed to mean the mayor and council or other legally constituted governing body of any municipality. The term "board" when hereinafter used in this article shall be construed to mean the sanitary board as set up in section eighteen of this article. (1933, Ex. Sess., c. 25, § 2.)

Quoted in State ex rel. City of Wheeling v. 149 F. Supp. 866 (S.D.W. Va. 1957); Delardas v. Renick. 145 W. Va. 640. 116 S.E.2d 763 (1960). Morgantown Water Comm'n. 148 W. Va. 776. Cited in United States v. City of Charleston. 137 S.E.2d 426 (1964).

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

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

ments and enter into direct purchase agreements or contracts for such expenses. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition, as nearly as practicable, if requested so to do by proper authority, out of the funds provided by this article. (1933, Ex. Sess., c. 25, § 3; 1989, c. 133.)

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

Third party. — Where a contract between a municipal sanitary board and a contractor, providing for the construction of a sanitary sewage system, provides inter alia that "existing surface, overhead or subsurface structures damaged or destroyed by reason of the contractor's

operations shall be promptly repaired or replaced in a satisfactory manner at the cost and expense of the contractor," and the contractor by job order requests enters into a contract with an existing water company to remove certain of the latter's water pipes which interfere with the construction of the sewage system, the contractor, in a notice of motion for judgment proceeding instituted by the water company, is liable for the expense so incurred. *West Virginia Water Serv. Co. v. Cunningham*, 143 W. Va. 1, 98 S.E.2d 891 (1957).

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

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

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

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

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

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

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

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

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

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

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

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

date of publication of such abstract and notice, and present protests. At such hearing all objections and suggestions shall be heard and the governing body shall take such action as it shall deem proper in the premises: Provided, however, That if at such a hearing written protest is filed by thirty percent or more of the owners of real estate situate in said municipality, then the governing body of said municipality shall not take further action unless four fifths of the qualified members of the said governing body assent thereto. (1933, Ex. Sess., c. 25, § 6; 1967, c. 105; 1981, 1st Ex. Sess., c. 2.)

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

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

§ 16-13-8. Cost of works.

The cost of the works shall be deemed to include the cost of acquisition or construction thereof, the cost of all property, rights, easements, and franchises

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

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

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

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

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

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

Applicability. — The provisions of this article become a part of the contract between the

municipality and the bondholders as effectually as if written verbatim in the bonds. The bondholders are bound by their contract in this

instance just as firmly as in any other legal contract. Consequently, the bonds do not create a corporate indebtedness of the municipality. *Brewer v. City of Point Pleasant*, 114 W. Va. 572, 172 S.E. 717 (1934); *United States v. City of Charleston*, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

Contracts between municipalities. — Under the provisions of §§ 16-13-19 and 16-13-23a, a city and a town could enter into a contract whereby the city agreed to construct a sewage disposal facility and the town agreed to contribute to the cost of the construction of the facility in return for the right to use the facility.

and the fact that the town was unable to sell revenue bonds because it was not allowed to have part ownership in the treatment plant or interceptor sewers did not relieve the town of its contractual obligation when the city offered to buy the revenue bonds issued by the town. Since the contracts were authorized by statute and were thus not ultra vires, even if the contracts were not formally approved by ordinance, the municipalities were estopped from asserting any invalidity of the contracts on such ground. *City of Morgantown v. Town of Star City*, 156 W. Va. 529, 195 S.E.2d 166 (1973).

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

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

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

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

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

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

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

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

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

applied, in favor of the holders of the bonds or the trustees hereinafter provided for. (1933, Ex. Sess., c. 25, § 13.)

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

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

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

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

At or before the issuance of any such bonds the governing body shall by said ordinance create a sinking fund, to be remitted to and administered by the West Virginia municipal bond commission, for the payment of the bonds and the interest thereon and the payment of the charges of banks or trust companies for making payment of such bonds or interest, and shall set aside and pledge a sufficient amount of the net revenues of the works, hereby defined to mean the revenues of the works remaining after the payment of the reasonable expense of operation, repair and maintenance, such amount to be paid by the board into said sinking fund at intervals to be determined by

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

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

The governing body shall have power, and it shall be its duty, by ordinance, to establish and maintain just and equitable rates or charges for the use of and the service rendered by such works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the sewerage system of the municipality, or that in any way uses or is served by such works, and may change and readjust such rates or charges from time to time. Such rates or charges shall be sufficient in each year for the payment of the proper and reasonable expense of operation, repair, replacements and maintenance of the works and for the payment of the

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

interest and penalty charges, have been paid in full. (1933, Ex. Sess., c. 25, § 16; 1933, 2nd Ex. Sess., c. 48; 1959, c. 125; 1967, c. 105.)

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

Applicability. — Although the public service commission concluded that cities providing only sewer service are not covered by this section, which applies to municipalities that provide both water and sewer service, the district court implicitly rejected the commission's interpretation. *City of Charleston v. Public Serv. Comm'n.* 57 F.3d 385 (4th Cir. 1995), cert. denied. — U.S. —. 116 S. Ct. 474. 133 L. Ed. 2d 404 (1995).

Discrimination not shown. — Charges made against the users of a city sewage system were based upon the amount of water used upon the premises as indicating the extent to which the sewers were used. The charges were subject to a deduction of the amount of water retained on the premises, such amount to be determined by a meter installed by the consumer and used to record gallonage of water that had come on the property but had not been disposed of through the sewers. It was held that the method under which the charges were as-

essed was neither capricious nor unfair although certain users had been unable to install meters used to measure their deductions. *Houchins v. City of Beckley.* 127 W. Va. 306. 32 S.E.2d 286 (1944).

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

Municipal sewer system is subject to jurisdiction of public service commission, so municipality is required to file its rates with the commission for approval in accordance with § 24-2-1 et seq. 45 Op. Att'y Gen. 642 (1954).

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

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

Cited in *Delardas v. Morgantown Water Comm'n.* 148 W. Va. 776. 137 S.E.2d 426 (1964).

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

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

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

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

The governing body shall provide by ordinance the organization of the board, and that the custody, administration, operation and maintenance of such works shall be under the supervision and control of a sanitary board, created as herein provided. Such sanitary board shall be composed of either the mayor of the municipality, or the city manager thereof, if said municipality shall have a city manager form of government, and two persons appointed by the governing body: Provided, That, in the event of an acquisition or merger of an existing sewage works, the governing body may increase the membership to a maximum of four members in addition to the mayor or city manager of the

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

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

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

Adjoining state. — Since the incorporation of its sanitary board and its domestication in the state of Virginia was the only plan by which the power intended to be granted by the legis-

lature to a city to construct a sewage disposal plant outside the State of West Virginia could be legally effectuated, the power to so incorporate its sanitary board was a necessary and incidental right to the main power granted. *Bernard v. City of Bluefield*, 117 W. Va. 556, 186 S.E. 298 (1936).

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

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

Consulting engineer. — Member of city council may not serve as consulting engineer to the sanitary board on city sewer project. 49 Op. Att'y Gen. 60 (1961).

Extension of service. — A public utility is under a duty to make reasonable extensions of its services in accordance with its franchise and

charter obligations and the needs of the inhabitants within the territory covered by its franchise; and a public service commission may, where its action is not unlawful, arbitrary, or capricious, order an extension of service for the inhabitants of such territory. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

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

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

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

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

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

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

Editor's notes. — The phrase "justice of the peace" and the word "justice," when used in a context meaning "justice of the peace," are

construed to mean "magistrate." See § 50-1-17 and W. Va. Const., art. VIII, § 15.

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

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

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

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

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

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

Any holder of any such certificates or any of the coupons attached thereto, and the trustee, if any, except to the extent the rights herein given may be restricted by said ordinance authorizing issuance of the bonds or by the trust indenture, may either at law or in equity, by suit, action, mandamus or other proceeding protect and enforce any and all rights granted hereunder or under such ordinance or trust indenture, and may enforce and compel performance of all duties required by this article or by such ordinance or trust indenture to be performed by the municipality issuing the bonds or by the board or any officer, including the making and collecting of reasonable and sufficient charges and rates for service rendered by the works. If there be any failure to pay the principal or interest of any of the bonds on the date therein named for such payment, any court having jurisdiction of the action may appoint a receiver to administer the works on behalf of the municipality and the bondholders and/or trustee, except as so restricted, with power to charge and collect rates sufficient to provide for the payment of the expenses of operation, repair and maintenance and also to pay any bonds and interest outstanding and to apply the revenues in conformity with this article and the said ordinance and/or trust indenture. (1933, Ex. Sess., c. 25, § 21.)

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

As to receivers. see Rule 66.
As to application of rules to extraordinary remedies. see Rule 81(a)(5).

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

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

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

Any municipality is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of acquisition or construction of said sewage works and the construction of betterments and improvements thereto, and for the other purposes herein authorized, from any authorized agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of bonds authorized to be issued under the provisions of this article, the revenues

of the said sewage works or grants to the municipality from any agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any agency of the state, the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument.

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

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

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

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

§ 16-13-22c. Refunding bonds.

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

§ 16-13-22d. Subordination of bonds.

Notwithstanding any other provisions to the contrary in this article, any municipality authorizing the issuance of bonds under this article in an effort to aid in the abatement or reduction of the pollution of any waters or streams may provide in the ordinance authorizing the issuance of the bonds and in any trust

indenture pertaining thereto that such bonds, or any additional bonds that may thereafter be issued to extend or improve the works, shall, to the extent and in the manner prescribed, be subordinated and be junior in standing, with respect to the payment of principal and interest and the security thereof, to such other bonds as are designated in the ordinance. (1949, c. 93.)

§ 16-13-22e. Operating contract.

Any such municipality may enter into contracts or agreements with any persons, firms or corporations for the operation and management of the facilities and properties of said sewerage system, or any part thereof, for such period of time and under such terms and conditions as shall be agreed upon between such municipality and such persons, firms or corporations. Such municipality shall have power to provide in the resolution authorizing the issuance of bonds hereunder, or in any trust indenture, securing such bonds, that such contracts or agreements shall be valid and binding upon the municipality as long as any of said bonds, or interest thereon, are outstanding and unpaid. (1955, c. 132.)

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

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

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

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

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

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

(c) The fixing, establishing and collecting of such fees, rentals or other charges for the use of the services and facilities of such sewerage system, including the parts thereof heretofore or hereafter constructed or acquired and the revision of same from time to time, as will always provide revenues at least

sufficient to provide for all expenses of operation, maintenance and repair of such sewerage system, the payment of the principal of and interest on all bonds or other obligations payable from the revenues of such sewerage system, and all reserve and other funds required by the terms of the ordinance authorizing the issuance of such bonds;

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

(e) Limitations or restrictions upon the issuance of additional bonds or other obligations payable from the revenue of such sewerage system, and the rank or priority, as to lien and source and security for payment from the revenues of such sewerage system, between bonds payable from such revenues;

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

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

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

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

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

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

This article, shall, without reference to any other statute, be deemed full authority for the construction, acquisition, improvement, equipment, maintenance, operation and repair of the works herein provided for and for the issuance and sale of the bonds by this article authorized, and shall be construed as an additional and alternative method therefor and for the financing thereof, and no petition or election or other or further proceeding in respect to the construction or acquisition of the works or to the issuance or sale of bonds under this article and no publication of any resolution, ordinance, notice or proceeding relating to such construction or acquisition or to the issuance or sale of such bonds shall be required except such as are prescribed by this article, any provisions of other statutes of the State to the contrary notwithstanding: Provided, however, That all functions, powers and duties of the state department of health shall remain unaffected by this article. (1933, Ex. Sess., c. 25, § 23.)

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

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

Notwithstanding any other provision contained in this article, and in addition thereto, the governing body of any municipal corporation which has received or which hereafter receives an order issued by the director of the division of environmental protection or the environmental quality board requiring such municipal corporation to cease the pollution of any stream or waters, is hereby authorized and empowered to fix, establish and maintain, by ordinance, just and equitable rates or charges for the use of the services and facilities of the existing sewer system of such municipal corporation, and/or for the use of the services and facilities to be rendered upon completion of any works and system necessary by virtue of said order, to be paid by the owner, tenant or occupant of each and every lot or parcel of real estate or building that is connected with and uses any part of such sewer system, or that in any way uses or is served thereby, and may change and readjust such rates or charges from time to time. Such rates or charges shall be sufficient for the payment of all the proper and reasonable costs and expenses of the acquisition and construction of plants, machinery and works for the collection and/or treatment, purification and disposal of sewage, and the repair, alteration and extension of existing sewer facilities, as may be necessary to comply with such order of the director of the division of environmental protection or the environmental quality board, and for the operation, maintenance and repair of the entire works and system; and the governing body shall create, by ordinance, a sinking fund to accumulate and hold any part or all of the

proceeds derived from rates or charges until completion of said construction, to be remitted to and administered by the municipal bond commission by expending and paying said costs and expenses of construction and operation in the manner as provided by said ordinance; and after the completion of the construction such rates or charges shall be sufficient in each year for the payment of the proper and reasonable costs and expenses of operation, maintenance, repair, replacement and extension from time to time, of the entire sewer and works. No such rates or charges shall be established until after a public hearing, at which all the potential users of the works and owners of property served or to be served thereby and others shall have had an opportunity to be heard concerning the proposed rates or charges. After introduction of the ordinance fixing such rates or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates or charges, shall be given by publication of such notice as a Class II-0 legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication is the municipality. The first publication shall be made at least ten days before the date fixed therein for the hearing. After such hearing, which may be adjourned from time to time, the ordinance establishing the rates or charges, either as originally introduced or as modified and amended, may be passed and put into effect. A copy of the schedule of such rates and charges so established shall be kept on file in the office of the sanitary board having charge of the construction and operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinbefore provided: Provided, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice is required. If any rate or charge so established is not paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the sanitary board of such municipal corporation in a civil action in the name of the municipality. Any municipal corporation exercising the powers given herein has authority to construct, acquire, improve, equip, operate, repair and maintain any plants, machinery, or works necessary to comply with such order of the director of the division of environmental protection or the environmental quality board, and the authority provided herein to establish, maintain and collect rates or charges is an additional and alternative method of financing such works and matters, and is independent of any other provision of this article insofar as such article provides for or requires the issuance of revenue bonds or the imposition of rates and charges in connection with such bonds: Provided, however, That except for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works in

compliance with an order of the director of the division of environmental protection or the environmental quality board, and the rights, powers, and duties of such municipal corporation and the respective officers and departments thereof, including the sanitary board, are governed by the provisions of this article. (1955, c. 135; 1967, c. 105; 1994, c. 61.)

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

§ 16-13-24. Article to be construed liberally.

This article being necessary for the public health, safety and welfare, it shall be liberally construed to effectuate the purpose thereof. (1933, Ex. Sess., c. 25, § 24.)

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

ARTICLE 2.
WATER POLLUTION CONTROL REVOLVING FUND
ACT.

- | | | | |
|----------|--|----------|--|
| Sec. | | Sec. | |
| 22C-2-1. | Definitions. | | ment of fund moneys; administration of the fund. |
| 22C-2-2. | Designation of division of environmental protection as state instrumentality for purposes of capitalization agreements with the United States environmental protection agency. | 22C-2-4. | Annual audit. |
| | | 22C-2-5. | Collection of money due to the fund. |
| 22C-2-3. | West Virginia water pollution control revolving fund; disbursement of fund moneys; administration of the fund. | 22C-2-6. | State construction grants program established; special fund. |
| | | 22C-2-7. | Environmental review of funded projects. |
| | | 22C-2-8. | Conflicting provisions. |

Editor's notes. — The Water Pollution Control Revolving Fund Act was formerly compiled in c. 20, art. 5I.

§ 22C-2-1. Definitions.

Unless the context in which used clearly requires a different meaning, as used in this article:

(a) "Authority" means the water development authority provided for in section four [§ 22C-1-4], article one of this chapter.

(b) "Cost" as applied to any project financed under the provisions of this article means the total of all costs incurred by a local government that are reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project including:

(1) Developmental, planning and feasibility studies, surveys, plans and specifications;

(2) Architectural, engineering, financial, legal or other special services;

(3) Acquisition of land and any buildings and improvements thereon, including the discharge of any obligations of the sellers of such land, buildings or improvements;

(4) Site preparation and development, including demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery and equipment;

(5) The reasonable costs of financing incurred by the local government in the course of the development of the project, carrying charges incurred before placing the project in service, interest on funds borrowed to finance the project to a date subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in connection with placing the project in service, and the funding of accounts and reserves which the authority may require; and

(6) Other items that the division of environmental protection determines to be reasonable and necessary.

(c) "Fund" means the state water pollution control revolving fund provided for in this article as it may be expanded or modified from time to time pursuant to the clean water act, as amended, the federal safe drinking water act, as amended or by the executive order of the governor issued to comply with federal laws relating thereto.

(d) "Instrumentality" means the division of environmental protection or the agency designated by an order of the governor as having the primary responsibility for administering the fund pursuant to the federal clean water act, as amended, and the federal safe drinking water act, as amended, or other federal laws.

(e) "Local government" means any county, city, town, municipal corporation, authority, district, public service district, commission or political subdivision in West Virginia.

(f) "Project" means any public water or wastewater treatment facility located or to be located in or outside this state by a local government and includes:

(1) Sewage and wastewater collection, treatment and disposal facilities;

(2) Public water transportation, treatment and distribution facilities;

(3) Drainage facilities and projects;

(4) Administrative, maintenance, storage and laboratory facilities related to the facilities delineated in subdivisions (1), (2) and (3) of this subsection;

§ 22C-2-2

ENVIRONMENTAL RESOURCES

- (5) Interests in land related to the facilities delineated in subdivisions (1), (2), (3) and (4) of this subsection; and
- (6) Other projects allowable under federal law. (1994, c. 61.)

§ 22C-2-2. Designation of division of environmental protection as state instrumentality for purposes of capitalization agreements with the United States environmental protection agency.

The division of environmental protection shall act as the instrumentality that is empowered to enter into capitalization agreements with the United States environmental protection agency, to accept capitalization grant awards made under the federal clean water act, as amended, the safe drinking water act, as amended, and other federal laws and to otherwise manage the fund provided for in this article in accordance with the requirements of said federal laws. (1994, c. 61.)

§ 22C-2-3. West Virginia water pollution control revolving fund; disbursement of fund moneys; administration of the fund.

(a) Under the direction of the division of environmental protection, the water development authority shall establish, administer and manage a permanent and perpetual fund, to be known as the "West Virginia Water Pollution Control Revolving Fund." The fund shall be comprised of moneys appropriated to said fund by the Legislature, moneys allocated to the state by the federal government expressly for the purposes of establishing and maintaining a state water pollution control revolving fund, all receipts from loans made from the fund to local governments, all income from the investment of moneys held in the fund, and all other sums designated for deposits to the fund from any source, public or private. Moneys in the fund shall be used solely to make loans to local governments to finance or refinance the costs of a project: Provided, That moneys in the fund shall be utilized to defray the costs incurred by the authority and the division of environmental protection in administering the provisions of this article: Provided, however, That moneys in the fund shall be used to make grants for projects to the extent allowed or authorized by federal law.

(b) The director of the division of environmental protection, in consultation with the authority, shall promulgate rules in accordance with the provisions of chapter twenty-nine-a [§ 29A-1-1 et seq.] of this code, to:

- (1) Govern the disbursement of moneys from the fund; and
- (2) Establish a state water pollution control revolving fund program to direct the distribution of grants or loans from the fund to particular local governments and establish the interest rates and repayment terms of such loans.

(c) In order to carry out the administration and management of the fund, the authority is authorized to employ officers, employees, agents, advisers and

consultants, including attorneys, financial advisers, engineers, other technical advisers and public accountants and, notwithstanding any provisions of this code to the contrary, to determine their duties and compensation without the approval of any other agency or instrumentality.

(d) The authority shall promulgate rules in accordance with the provisions of chapter twenty-nine-a of this code to govern the pledge of loans to secure bonds of the authority.

(e) All moneys belonging to the fund shall be kept in appropriate depositories and secured in conformance with this code. Disbursements from the fund shall be authorized for payment by the director of the authority or the director's designee. Any depository or officer of such depository to which moneys of the fund are paid shall act as trustee of such moneys and shall hold and apply them solely for the purposes for which said moneys are provided under this article. Moneys in the fund shall not be commingled with other money of the authority. If not needed for immediate use or disbursement, moneys in the fund may be invested or reinvested by the authority in obligations or securities which are considered lawful investments for public funds under this code. (1994, c. 61.)

§ 22C-2-4. Annual audit.

The authority shall cause an audit of its books and accounts to be made at least once each fiscal year by certified public accountants, and the cost thereof may be defrayed as a part of the cost of construction of a project or as an administrative expense under the provisions of subsection (a), section three [§ 22C-2-3(a)] of this article. (1994, c. 61.)

§ 22C-2-5. Collection of money due to the fund.

In order to ensure the timely payment of all sums due and owing to the fund under a revolving fund loan agreement between the state and a local government, and notwithstanding any provisions of this code to the contrary, the authority has and may, at its option, exercise the following rights and remedies in the event of any default by a local government under such a loan agreement:

(a) The authority may directly impose, in its own name and for its own benefit, service charges upon all users of a project funded by a loan distributed to a local government pursuant to this article, and may proceed directly to enforce and collect such service charges, together with all necessary costs of such enforcement and collection.

(b) The authority may exercise, in its own name or in the name of and as the agent for a particular local government, all of the rights, powers and remedies of the local government with respect to the project or which may be conferred upon the local government by statute, rule, regulation or judicial decision, including all rights and remedies with respect to users of the project funded by the loan distributed to that local government pursuant to this article.

(c) The authority may, by civil action, mandamus or other judicial or administrative proceeding, compel performance by a local government of all of

the terms and conditions of the loan agreement between the state and that local government including:

- (1) The adjustment of service charges as required to repay the loan or otherwise satisfy the terms of the loan agreement;
- (2) The enforcement and collection of service charges; and
- (3) The enforcement by the local government of all rights and remedies conferred by statute, rule, regulation or judicial decision.

The rights and remedies enumerated in this section are in addition to rights and remedies conferred upon the authority by law or pursuant to the loan agreement. (1994, c. 61.)

§ 22C-2-6. State construction grants program established; special fund.

(a) The director of the division of environmental protection shall promulgate rules in accordance with the provisions of chapter twenty-nine-a [§ 29A-1-1 et seq.] of this code to establish a state construction grants program that is designed to complement and supplement the state water pollution control revolving fund program established pursuant to subsection (b), section three [§ 22C-2-3(b)] of this article.

(b) The special fund designated "The West Virginia Construction Grants Fund" established in the state treasury is continued. The special fund shall be comprised of moneys appropriated to said fund by the Legislature, assessments on existing wastewater treatment facilities, and all other sums designated for deposit to the special fund from any source, public or private: Provided, That such assessments shall be made and collected in accordance with fee schedules to be established by legislative rules promulgated by the director of the division of environmental protection, in accordance with chapter twenty-nine-a of this code. Moneys in the special fund shall be used solely for the state construction grants program established under subsection (a) of this section: Provided, however, That moneys in the special fund may be utilized to defray the costs incurred by the division of environmental protection in administering the provisions of this section. (1994, c. 61.)

§ 22C-2-7. Environmental review of funded projects.

(a) The division of environmental protection shall conduct an environmental review on each project funded under this article. The director of the division of environmental protection shall promulgate rules in accordance with the provisions of chapter twenty-nine-a [§ 29A-1-1 et seq.] of this code to implement the environmental review of funded projects: Provided, That said rules shall be consistent with the rules and regulations promulgated by the United States environmental protection agency pursuant to the federal clean water act, as amended.

(b) The director of the division of environmental protection is authorized to direct a local government, or its agent, to implement all measures that, in the judgment of the director, are necessary in order to mitigate or prevent adverse

impacts to the public health, safety or welfare or to the environment that may result from a project funded under this article. The director is further authorized to require all projects to comply with all other appropriate federal laws and regulations that are required of such projects under the federal clean water act, as amended. (1994, c. 61.)

§ 22C-2-8. Conflicting provisions.

The provisions of this article shall be liberally construed to the end that its beneficial purposes may be effectuated. Insofar as the provisions of this article are inconsistent with the provisions of any other general, special or local law, the provisions of this article are controlling. (1994, c. 61.)

WATER POLLUTION CONTROL REVOLVING FUND ACT.

Sec.

22C-2-1. Definitions.

22C-2-3. West Virginia water pollution control revolving fund; disbursement of fund moneys; administration of the fund.

Sec.

22C-2-5. Collection of money due to the fund.

22C-2-7. Environmental review of funded projects.

§ 22C-2-1. Definitions.

Unless the context in which used clearly requires a different meaning, as used in this article:

(a) "Authority" means the water development authority provided for in section four [§ 22C-1-4], article one of this chapter.

(b) "Cost" as applied to any project financed under the provisions of this article means the total of all costs incurred by a local entity that are reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project including:

(1) Developmental, planning and feasibility studies, surveys, plans and specifications;

(2) Architectural, engineering, financial, legal or other special services;

(3) Acquisition of land and any buildings and improvements on the land or buildings, including the discharge of any obligations of the sellers of the land, buildings or improvements;

(4) Site preparation and development, including demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery and equipment;

(5) The reasonable costs of financing incurred by the local entity in the course of the development of the project, carrying charges incurred before placing the project in service, interest on funds borrowed to finance the project to a date subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in connection with placing the project in service, and the funding of accounts and reserves which the authority may require; and

(6) Other items that the division of environmental protection determines to be reasonable and necessary.

(c) "Fund" means the state water pollution control revolving fund provided for in this article as it may be expanded or modified from time to time pursuant to the clean water act, as amended, the federal safe drinking water act, as amended or by the executive order of the governor issued to comply with federal laws relating to the acts.

(d) "Instrumentality" means the division of environmental protection or the agency designated by an order of the governor as having the primary responsibility for administering the fund pursuant to the federal clean water act, as amended, and the federal safe drinking water act, as amended, or other federal laws.

(e) "Local entity" means any county, city, town, municipal corporation, authority, district, public service district, commission, banking institution or political subdivision in West Virginia.

(f) "Project" means any public water or wastewater treatment facility located or to be located in or outside this state by a local entity and includes:

- (1) Sewage and wastewater collection, treatment and disposal facilities;
- (2) Public water transportation, treatment and distribution facilities;
- (3) Drainage facilities and projects;
- (4) Administrative, maintenance, storage and laboratory facilities related to the facilities delineated in subdivisions (1), (2) and (3) of this subsection;
- (5) Interests in land related to the facilities delineated in subdivisions (1), (2), (3) and (4) of this subsection; and
- (6) Other projects allowable under federal law. (1994, c. 61; 1996, c. 257.)

Effect of amendment of 1996. — The amendment substituted "entity" for "government" throughout the section; in (b)(3), substituted "on the land or buildings" for "thereon"

and "the land" for "such land"; in (c), substituted "to the acts" for "thereto"; and, in (e), inserted "banking institution" following "commission."

§ 22C-2-3. West Virginia water pollution control revolving fund; disbursement of fund moneys; administration of the fund.

(a) Under the direction of the division of environmental protection, the water development authority shall establish, administer and manage a permanent and perpetual fund, to be known as the "West Virginia Water Pollution Control Revolving Fund." The fund shall be comprised of moneys appropriated to the fund by the Legislature, moneys allocated to the state by the federal government expressly for the purposes of establishing and maintaining a state water pollution control revolving fund, all receipts from loans made from the fund to local entities, all income from the investment of moneys held in the fund, and all other sums designated for deposits to the fund from any source, public or private. Moneys in the fund shall be used solely to make loans to local entities to finance or refinance the costs of a project: Provided, That moneys in the fund shall be utilized to defray the costs incurred by the authority and the division of environmental protection in administering the provisions of this

article: Provided, however, That moneys in the fund shall be used to make grants for projects to the extent allowed or authorized by federal law.

(b) The director of the division of environmental protection, in consultation with the authority, shall promulgate legislative rules in accordance with the provisions of article three [§ 29A-3-1 et seq.], chapter twenty-nine-a of this code, to:

(1) Govern the disbursement of moneys from the fund; and

(2) Establish a state water pollution control revolving fund program to direct the distribution of grants or loans from the fund to particular local entities and establish the interest rates and repayment terms of the loans.

(c) In order to carry out the administration and management of the fund, the authority is authorized to employ officers, employees, agents, advisers and consultants, including attorneys, financial advisers, engineers, other technical advisers and public accountants and, notwithstanding any provisions of this code to the contrary, to determine their duties and compensation without the approval of any other agency or instrumentality.

(d) The authority shall promulgate legislative rules in accordance with the provisions of article three [§ 29A-3-1 et seq.], chapter twenty-nine-a of this code to govern the pledge of loans to secure bonds of the authority.

(e) All moneys belonging to the fund shall be kept in appropriate depositories and secured in conformance with this code. Disbursements from the fund shall be authorized for payment by the director of the authority or the director's designee. Any depository or officer of the depository to which moneys of the fund are paid shall act as trustee of the moneys and shall hold and apply them solely for the purposes for which the moneys are provided under this article. Moneys in the fund shall not be commingled with other money of the authority. If not needed for immediate use or disbursement, moneys in the fund may be invested or reinvested by the authority in obligations or securities which are considered lawful investments for public funds under this code. (1994, c. 61; 1996, c. 257.)

Effect of amendment of 1996. — The amendment substituted "entities" for "governments" throughout the section; in (b) and (d), inserted "legislative" preceding "rules" and "article three" preceding "chapter twenty-nine-a"; and made stylistic changes.

§ 22C-2-5. Collection of money due to the fund.

In order to ensure the timely payment of all sums due and owing to the fund under a revolving fund loan agreement between the state and a local entity, and notwithstanding any provisions of this code to the contrary, the authority has and may, at its option, exercise the following rights and remedies in the event of any default by a local entity under a loan agreement:

(a) The authority may directly impose, in its own name and for its own benefit, service charges upon all users of a project funded by a loan distributed to a local entity pursuant to this article, and may proceed directly to enforce and collect the service charges, together with all necessary costs of the enforcement and collection.

(b) The authority may exercise, in its own name or in the name of and as the agent for a particular local entity, all of the rights, powers and remedies of the local entity with respect to the project or which may be conferred upon the local entity by statute, rule, regulation or judicial decision, including all rights and remedies with respect to users of the project funded by the loan distributed to that local entity pursuant to this article.

(c) The authority may, by civil action, mandamus or other judicial or administrative proceeding, compel performance by a local entity of all of the terms and conditions of the loan agreement between the state and that local entity including:

- (1) The adjustment of service charges as required to repay the loan or otherwise satisfy the terms of the loan agreement;
- (2) The enforcement and collection of service charges; and
- (3) The enforcement by the local entity of all rights and remedies conferred by statute, rule, regulation or judicial decision.

The rights and remedies enumerated in this section are in addition to rights and remedies conferred upon the authority by law or pursuant to the loan agreement. (1994, c. 61; 1996, c. 257.)

Effect of amendment of 1996. — The amendment substituted “government” for “entity” throughout; and made minor stylistic changes.

§ 22C-2-7. Environmental review of funded projects.

(a) The division of environmental protection shall conduct an environmental review on each project funded under this article. The director of the division of environmental protection shall promulgate legislative rules in accordance with the provisions of article three [§ 29A-3-1 et seq.], chapter twenty-nine-a of this code to implement the environmental review of funded projects: Provided, That the rules shall be consistent with the regulations promulgated by the United States environmental protection agency pursuant to the federal clean water act, as amended.

(b) The director of the division of environmental protection is authorized to direct a local entity, or its agent, to implement all measures that, in the judgment of the director, are necessary in order to mitigate or prevent adverse impacts to the public health, safety or welfare or to the environment that may result from a project funded under this article. The director is further authorized to require all projects to comply with all other appropriate federal laws and regulations that are required of the projects under the federal clean water act, as amended. (1994, c. 61; 1996, c. 257.)

Effect of amendment of 1996. — The amendment, in (a), inserted “legislative” preceding “rules in accordance” and “article three” preceding “chapter twenty-nine-a,” substituted “the rules” for “said rules,” and deleted “rules and” preceding “regulations promulgated”; and, in (b), substituted “entity” for “government” and “the projects” for “such projects.”

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CHARTER
OF THE CITY OF
DUNBAR, WEST VIRGINIA

SECTION 1. INCORPORATION.

The inhabitants of so much of the County of Kanawha as is within the bounds prescribed by Section Two of this Charter, and their successors, shall be and remain, and they are hereby made and constituted a body politic and corporate by the name of "The City of Dunbar," and as such shall have perpetual succession and a common seal, and by that name shall sue and be sued, plead and be impleaded, purchase, lease and hold real estate and personal property, and do all other things necessary for the purposes of said incorporation.

SECTION 2. CORPORATE LIMITS.

The corporate limits of said City shall be as follows: Beginning at a stone monument on the south side of county road at stop twelve on the Dunbar car line; thence to top of ridge 729 feet to a stake; thence west 2,200 feet to a black oak tree; thence 80 degrees, 32 minutes west to a black oak tree on the west point of ridge; thence across a hollow, north 60 degrees, 19 minutes west, 250 feet to a stake on Reservoir Hill; thence north 82 degrees 43 minutes west 376 feet to a stake 19 feet north of the northwest corner of reservoir property; thence north 42 degrees 12 minutes west, 628 feet to the northwest corner of J. A. Munday property; thence north 74 degrees, 35 minutes west, 689 feet to a stake on point of ridge; thence north 52 degrees, 04 minutes west, 170 feet to a beech tree; thence across hollow at head of Smith Street, north 51 degrees, 55 minutes west, 930 feet to a black oak tree on the edge of plateau; thence along edge of plateau, north 57 degrees, 37 minutes west, 549 feet to an iron pipe on the west point of plateau; thence north 29 degrees, 30 minutes west, 624 feet to a stake on the east side of Dutch Hollow; thence north 48 degrees, 25 minutes, west 478 feet to a sycamore tree on the east side of creek in Dutch Hollow; thence from sycamore tree in Dutch Hollow west to top of hill 450 feet to an iron pipe; thence south 373 feet to a stake on the south side of county road; thence along south side of county road north 35 degrees, 06 minutes, west 93 feet; thence north 41 degrees, 10 minutes west 211 feet; thence north 29 degrees, 05 minutes west 52 feet to east line of lower Guthrie tract; thence with the same south 34 degrees, no minutes west 3490 feet to Kanawha River; thence following the low water mark Kanawha River in an easterly direction 11,840 feet to a stake; thence, northeast 420 feet to a place of beginning. All measurements included in the above description are surface measurements.

CHAPTER 7

(House Bill No. 332—Mr. Middelburg, by request.)

AN ACT to incorporate the city of Dunbar, in Kanawha county, West Virginia, fixing its corporate limits and prescribing and defining the powers, rights and duties of said city of Dunbar, and of the officers and citizens of same.

(Passed April 19, 1921. In effect from passage. Approved by the Governor May 4, 1921.)

- | SEC. | | SEC. | |
|------|---|------|---|
| 1. | "City of Dunbar." | | itates, ballots, tally sheets and registration books to be returned to clerk; results of voting to be published, recorded, etc. |
| 2. | Corporate limits. | | |
| 3. | Voting precincts. | 12. | Council to appoint registration officers, duties of; persons not permitted to vote unless registered beforehand; notice of council meetings held for said purpose; publications; voting precincts arranged by council; general and special elections; registration books preserved by county clerk. |
| 4. | Municipal powers; of whom consists; additional officers elected and appointed; salaries; vacancies, how filled. | 13. | Officers; when to enter upon duties; extent of term; council to decide tie, etc. |
| 5. | A body corporate; powers. | 14. | Elections; regular or special. |
| 6. | Election and registrations; qualifications of voters. | 15. | Council; of whom composed; eligibility of. |
| 7. | Committee appointed, duties, regarding general elections. | | |
| 8. | Election of officers; when held, etc. | | |
| 9. | Nominations. | | |
| 10. | Elections held every two years. | | |
| 11. | Officers appointed to serve at voting precincts; ballots prepared by commission; a copy of certi- | | |

- SEC.
16. Mayor shall be presiding officer of; right to vote in case of tie; duties, act as substitute, etc.
 17. Council; right to demand all papers of city's interest, from officials.
 18. Council; provide for auditing of all books and accounts annually; public records.
 19. Removal of officials by mayor or council; conditions.
 20. Council; to make proper rules and regulations.
 21. Council meetings; time and place.
 22. Special meetings called.
 23. Contested elections; council to conduct same.
 24. Oaths of office; qualifications; duties.
 25. Bonds of officers required; council may require additional bonds; sum of approval, city clerk shall be custodian; exception of.
 26. Quorum; council to compel attendance of absent members; penalties.
 27. How vote taken.
 28. City clerk shall keep minutes of its meetings; open for inspection.
 29. No officer of the city to hold two offices at the same time.
 30. Failure of appointment by mayor, to be made by council.
 31. Vacancy; how filled.
 32. Malfeasance of members of council.
 33. Attendance of witnesses; punishing contempts, etc.
 34. Absence of officers, by whom filled; temporarily; permanently after period of sixty days.
 35. Mayor and other officers; term of; qualifications; eligibility of; mayor's salary; whom he may appoint, duty, fees, etc.
 36. City manager appointed; salary, duties.
 37. Franchises and ordinances; conditions for granting.
 38. All such ordinances shall protect the interest of city and shall contain conditions, compensations or limitations as council may prescribe.
 39. Council; to appoint committee; power and authority of.
 40. Styles of ordinances.
 41. No ordinance shall be passed; exceptions.
 42. Recordation of ordinances; code of laws of ordinances.
 43. Officers to be conservators of the peace.
 44. Police judge; duties.
 45. Same; qualifications, age; city clerk to act in his absence.
 46. Prisoners may give bond; exceptions; duty of officers to accept bond; giving bail, etc.
 47. Nuisances; city manager; authority to require removal of same.
 48. Manager to require all occupants of property to.
 49. Laying of sidewalks, etc.; procedure on refusal to do so.
 50. Taxes; total expenditures; levies, limit of taxation.

- SEC.
51. Council; authority; collect taxes; impose licenses on, etc.
 52. Direct annual tax; how collected; power of city collector.
 53. City collector; power; exceptions.
 54. All goods, etc., liable for said tax.
 55. Liens; assessments; penalties.
 56. Liens for city taxes and attendant penalties may be enforced by certifying same to clerk of county court, etc.
 57. No taxes to be collected for support of poor when city provides for same; exclusive jurisdiction of city over roads, etc.; within corporate limits; exception as to bridge over Kanawha river; and as to hard road therefor authorized through said city.
 58. Depositing city funds; treasurer; duty of.
 59. Municipal building; buying and building water works and other public utilities; paving streets, constructing sewers, etc.
 60. City; authorized to sell bonds for city improvements, etc.
 61. Council; rights to let contracts for paving, etc. to lowest bidder; city to pay for same; duty regarding assessments, etc., penalty on.
 62. Sewerage assessments; reports examined; records; liens; abatement of nuisance.
 63. Council to provide for paving, etc.; specifications, etc. open for inspection; method of paying for; assessments; publications, etc.
 64. Notice of the passage of the resolution to be served upon owners of property; manner provided for; publication; infants and insane persons.
 65. City to pay cost of paving intersection of cross streets, etc.; provisos.
 66. City to sell bonds; for cost of improvements; additional taxes; total indebtedness.
 67. Council to sit; when; ordinances; abutting property.
 68. Special assessments; invalid; sewers.
 69. Public improvements; regulations; voice of council.
 70. Proper arrangements for the payment for erection of public buildings, grounds, etc. authorized by council.
 71. Assessments made for the cost of all improvements.
 72. Damages to property owners; statement of damages, when to be filed.
 73. Proceedings liberally construed by courts; collection of assessments.
 74. Council may provide by ordinance for annual election.
 75. Hospitals; libraries, etc.
 76. Civil service board; examinations.
 77. Same; fire department.
 78. Members of fire department not to engage in elections, etc.
 79. Same; council to hear charges.
 80. Serving notice.
 81. City clerk; duties.

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| <p>SEC.
S2. Policemen: appointed and discharged by mayor; duties: to report certain conditions of city, etc.
S3. Members of council: paid for meetings attended; amount; duties; vacancy; how filled.
S4. Reports: to be made by manager to council, showing names and employes of; expenditures: purchases, etc.; same to be public record; officers also to make report.
S5. Additional method of paving: liens: assessments against owners of lots between cross street, etc.; certificate when due, how paid, etc.
S6. Constructing sewers, sidewalks, etc. duty of council: assessments: certificates, etc.; provisions regarding same.
S7. Miscellaneous provisions: council has right to reserve or reject all bids, etc.; liens: cost of permanent improvement shall be borne by owners of land abutting upon sidewalks etc.; payment: how made.
S8. County assessor: to furnish city clerk a transcript of real and personal property.
S9. Police judge, mayor and city clerk:</p> | <p>SEC.
authority over violations of city ordinances; vacancy, how filled.
90. When ordinances passed by council shall take effect; publication; requirements.
91. Health commissioner: shall be a physician: duty; regarding general health and sanitation; appointment of; salary.
92. Police matron: appointment by mayor; qualifications of; salary; requirements.
93. Council: to contract for the codifying and indexing of ordinances, same to be bound in book form; code adopted, etc.
94. City to provide cemetery: permission of city obtained before burial of bodies; penalties; lots sold, said money must be spent for improvements of same, upkeep, etc.; condemning property for.
95. Building inspector: competent for; duties: restrictions; laws enforced.
96. Council: shall have power to buy, sell or exchange any real estate found necessary or convenient in the opening and construction of public ways, etc.
97. This act to become effective from passage.
98. All inconsistent acts repealed.</p> |
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Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of so much of the county of Kanawha as is within the bounds prescribed by section two of this act, and their successors, shall be and remain, and they are hereby made and constituted a body politic and corporate by the name of "The City of Dunbar," and as such shall have perpetual succession and a common seal, and by that name shall sue and be sued, plead and be impleaded, purchase, lease and hold real estate and personal property, and do all other things necessary for the purposes of said corporation.

Corporate Limits.

Sec. 2. The corporate limits of said city shall be as follows:
Beginning at a stone monument on the south side of county road at stop twelve on the Dunbar car line; thence to top of ridge 729 feet to a stake; thence west 2,200 feet to a black oak tree; thence 80 degrees, 32 minutes west to a black oak tree on the west point of ridge; thence across a hollow, north 60 degrees, 19 minutes west, 250 feet to a stake on Reservoir Hill; thence north 82 degrees 43 minutes west 376 feet to a stake 19 feet north of the northwest corner of reservoir property; thence north 42 degrees 12 minutes west, 628 feet to the northwest corner of J. A. Munday property;

11 thence north 74 degrees, 35 minutes west, 689 feet to a stake on
12 point of ridge; thence north 52 degrees, 04 minutes west, 170 feet
13 to a beech tree; thence across hollow at head of Smith street, north
14 51 degrees, 55 minutes west, 930 feet to a black oak tree on the
15 edge of plateau; thence along edge of plateau, north 57 degrees,
16 37 minutes west, 549 feet to an iron pipe on the west point of
17 plateau, thence north 29 degrees, 30 minutes west, 624
18 feet to a stake on the east side of Dutch hollow; thence
19 north 48 degrees, 25 minutes, west 478 feet to a sycamore tree on
20 the east side of creek in Dutch hollow; thence from sycamore tree
21 in Dutch hollow west to top of hill 450 feet to an iron pipe; thence
22 south 373 feet to a stake on the south side of county road; thence
23 along south side of county road north 35 degrees, 06 minutes, west
24 93 feet; thence north 41 degrees, 10 minutes west 211 feet; thence
25 north 29 degrees, 5 minutes west 52 feet to east line of lower
26 Guthrie tract; thence with the same south 34 degrees, no min-
27 utes west 3490 feet to Kanawha river; thence following the low
28 water mark of Kanawha river in an easterly direction 11,840
29 feet to a stake; thence, northeast 420 feet to a place of beginning.
30 All measurements included in the above description are surface
31 measurements.

Voting Precincts.

Sec. 3. The said city shall be divided into such voting precincts
2 as the council thereof may by ordinance prescribe.

Municipal Authorities.

Sec. 4. The municipal authorities of the city of Dunbar shall
2 consist of a mayor, city treasurer, and six councilmen, who
3 shall be elected by the qualified voters of such city, and such officers
4 shall, for the assessment year preceding their respective elections as
5 hereinafter provided, have been assessed with and paid taxes in
6 the city of Dunbar upon a valuation of at least five hundred
7 (\$500.00) dollars worth of real estate or personal property therein,
8 and any person elected to any one of such offices who has not been
9 assessed with and paid taxes on such amount of property shall not
10 qualify or enter upon the performance of the duties thereof, but
11 such office shall thereby become vacant and shall be filled by a
12 qualified person, as provided herein for other vacancies.

13 In addition to the municipal authorities mentioned in this sec-
14 tion above, the city may have a police judge, manager, city clerk,
15 city auditor, health commissioner, building inspector, lockup
16 keeper, humane officer or officers, and such number of policemen as
17 council by ordinance or resolution may direct.

18 The officers named in this section, other than the mayor, treas-
19 urer, and councilmen, may be appointed by the mayor, with the
20 consent of council, but none of such officers shall be appointed until
21 council shall, by a majority of the full membership thereof, author-
22 ize the filling of such office. All of the officers named in this and
23 the preceding section shall be paid proper salaries, which shall be
24 fixed by the council, except as herein otherwise provided, and such
25 salaries shall be within the limits provided for by this act.

Corporate Powers.

Sec. 5. All the corporate power of said city shall be vested in
2 and exercised by council or under its authority, except as other-
3 wise provided in this act.

4 The council of said city shall have, and is hereby granted power
5 to have city surveyed, to lay out, open, vacate, straighten, broaden,
6 change grade of, grade, re-grade, curb, widen, narrow, repair,
7 pave and re-pave streets, alleys, roads, squares, plots, sidewalks
8 and gutters for public use, and to alter, improve, embellish, orna-
9 ment and light the same, and to construct and maintain public
10 sewers and laterals, and shall, in all cases, have power and author-
11 ity to assess upon and collect from the property benefited thereby
12 such part of the expense thereof as shall be fixed by ordinance,
13 except as hereinafter provided; to have control of all streets,
14 avenues, roads, alleys and grounds for public use in said city,
15 and to regulate the use thereof and driving thereon, and to have
16 the same kept free from obstructions, pollutions or litter on or
17 over them; to have the right to control all bridges within said
18 city, and the traffic thereover; to change the name of any street,
19 avenue or road within said city, and to regulate and cause the
20 numbering and re-numbering of houses on any street, avenue or
21 road therein; to regulate the naming of streets, avenues and pub-
22 lic places; to regulate and determine the width of streets, side-
23 walks, roads and alleys; to order and direct the curbing, re-curb-
24 ing, paving, repaving and repairing of sidewalks and footways for
25 public use in said city to be done and kept clean and in good order

26 by the owners of adjacent property; to prohibit and punish the
27 abuse of animals: to restrain and punish vagrants, mendicants,
28 beggars, tramps, prostitutes, drunken or disorderly persons within
29 the city, and to provide for their arrest and manner of punish-
30 ment; to prohibit and punish by fine the bringing into the city by
31 steamboat, railroad or other carriers, of paupers, dangerous or
32 objectionable characters or persons afflicted with contagious dis-
33 eases; to control and suppress disorderly houses of prostitution
34 or ill fame, houses of assignation, and gaming houses or any
35 part thereof; to punish those engaged in gaming and to sup-
36 press all gaming or gambling houses, and all places where
37 gambling or betting is in any way carried on or permitted,
38 and to punish all persons in any way connected therewith; to
39 prohibit within the city, or within one-half mile thereof, slaugh-
40 ter houses, soap or glue factories, and houses and places of like
41 kind, and any other thing or business dangerous, unwholesome,
42 unhealthy, offensive, indecent or dangerous to life, health, peace
43 or property; to provide for the entry into and the examination of
44 all dwellings, lots, enclosures, buildings and structures, cars,
45 boats and vehicles of every description, and to ascertain their con-
46 ditions for health, cleanliness or safety; to regulate the building
47 and maintenance of party walls, partition fences or lanes, fire
48 walls, fire places, chimneys, boilers, smoke stacks and stove pipes;
49 to provide for and regulate the safe construction, inspection and
50 repairs of all public and private buildings, bridges, basements,
51 culverts, sewers or other buildings or structures of any descrip-
52 tion; to take down and remove, or make safe and secure, any and
53 all buildings, walls, structures or super-structures at the expense
54 of the owners thereof, that are or may become dangerous, or to
55 require the owners or their agents to take down and remove
56 them or put them in safe and sound condition at their own ex-
57 pense; to regulate, restrain or prohibit the erection of wooden or
58 other buildings within the city; to regulate the height, construc-
59 tion and inspection of all new buildings hereafter erected, and the
60 alteration and repair of any buildings already erected or here-
61 after erected in said city, and to require permits to be obtained
62 for such buildings and structures and plans and specifications
63 thereof to be first submitted to the building inspector; and to
64 regulate the limit within which it shall be lawful to erect any
65 steps, porticos, bay windows, show windows, awnings, signs,

66 columns, piers or other projection or structural ornaments of any
67 kind for the houses or buildings fronting on any street of said
68 city; to establish fire limits and to provide the kind of buildings
69 and structures that may be erected therein, and to enforce all
70 needful rules and regulations to guard against fire and danger
71 therefrom; to require, regulate and control the construction of
72 fire escapes for any building or other structures in said city, to
73 control the opening and construction of ditches, drains, sewers,
74 cess-pools and gutters, and to deepen, widen and clear the same
75 of stagnant water or filth, and to prevent obstruction therein, and
76 to fill, close or abolish the same and to determine at whose ex-
77 pense the same shall be done; and to build and maintain fire
78 station houses, crematories, jails, lockups, and other buildings,
79 police stations and police courts, and to regulate the manage-
80 ment thereof: to acquire, establish, lay off, appropriate, regulate,
81 maintain and control public grounds, squares, parks, hospitals,
82 market houses, city buildings, libraries, and other educational
83 or charitable institutions, within the city limits; and
84 when the council determines that any real estate in
85 the city is necessary to be acquired by said city for
86 any such purpose, or for any public purpose, or is necessary in
87 the exercise of its powers herein granted, the power of eminent
88 domain is hereby conferred upon said city, and it shall have the
89 right to institute condemnation proceedings against the owner
90 thereof, in the same manner, to the same extent, and upon the
91 same conditions as such power is conferred upon public corpora-
92 tions by chapter forty-two of the code of West Vir-
93 ginia of the edition of one thousand nine hundred and
94 thirteen, and is now or may be hereafter amended; to
95 purchase, sell, lease or contract for and take care of
96 all public buildings, structures, and real estate deemed
97 proper for the use of such city; and for the protection of
98 the public to cause the removal of unsafe walls, structures or
99 buildings, and the filling of excavations; to prevent injury or
100 annoyance to the business of individuals from anything danger-
101 ous, offensive or unwholesome; to abate or cause to be abated all
102 nuisances and to that end and thereabout to summon witnesses
103 and hear testimony; to regulate or prohibit the keeping of gun-
104 powder and other combustible or dangerous articles; to regulate,
105 restrain or prohibit the use of firecrackers or other explosive

106 fireworks, and all noises or performances which may be danger-
107 ous, indecent or annoying to persons or tend to frighten horses
108 or other animals; to provide and maintain proper places for
109 the burial of the dead, in or out of the city, and to regulate
110 interments therein on such terms and conditions as to price
111 and otherwise as may be determined; to provide for shade and
111-a ornamental trees, shrubbery, grass, flowers and other
112 ornamentation, and the protection of the same; to provide for
113 the poor of the city; to make suitable and proper regulations in
114 regard to the use of the streets, public places, sidewalks, and
115 alleys by street cars, foot passengers, animals, vehicles, motors,
116 automobiles, traction engines, railroad engines and cars, and to
117 regulate the running and operation of the same so as to prevent
118 obstruction thereon, encroachment thereto, injury, inconvenience
119 or annoyance to the public; to prohibit prize fighting, cock and
120 dog fighting; to license, tax, regulate or prohibit theatres,
121 moving pictures, circuses and exhibitions of showmen and shows
122 of any kind, and the exhibition of natural or artificial curiosities,
123 carnivals, menageries and musical exhibitions and performances,
124 and other things or business on which the state does or may
125 exact a license tax; to organize and maintain fire companies and
126 departments and to provide necessary apparatus, engines and
127 implements for the same, and to regulate all matters pertaining
128 to the prevention and extinguishment of fires; to make proper
129 regulations for guarding against danger and damage from fires,
130 water and other elements; to regulate and control the kind and
131 manner of plumbing and electrical wiring, air ships, balloons,
132 wireless stations, and other appliances for the protection of the
133 health and safety of said city; to levy taxes on persons, property
134 and licenses; to license and tax dogs and other animals, and to
135 regulate, restrain and prohibit them and all other animals and
136 fowls running at large; to provide revenue for the city and ap-
137 propriate the same to its expenses to adopt rules for the trans-
138 action of business of its own regulation and government; to
139 promote the general welfare of the city, and to protect the per-
140 sons and property of citizens therein; to regulate and provide for
141 the weighing of produce and other articles sold in said city and
142 to regulate the transportation thereof and other things, through
143 the streets, alleys and public places; to have the right to grant,
144 refuse or revoke any and all licenses for the carrying on of any

145 business within said city on which the state exacts a license tax;
146 to establish and regulate markets and to prescribe the time for
147 holding the same and what shall be sold in such market, and to
148 let stalls or apartments and regulate the same; to acquire and
149 hold property for market purposes; to regulate the placing of
150 signs, bill boards, posters and advertising, on or over the streets,
151 alleys, sidewalks, and public grounds of said city; to preserve
152 and protect the peace, order and safety and health of the city
153 and its inhabitants, including the right to regulate the sale and
154 use of cocaine, morphine, opium and poisonous or dangerous
155 drugs; to appoint and fix the place of holding city elections; to
156 erect, own, lease, authorize or prohibit the erection of gas
157 works, electric light works, or water works, ferry boats, in or
158 near the city, and to operate the same, and to sell the product or
159 services thereof and to do any and all things necessary and inci-
160 dental to the conduct of such business; to provide for the purity
161 of water, milk, meats and provisions offered for sale in said city,
162 and to that end provide for a system of inspecting the same and
163 making and enforcing rules for the regulation of their sale, and
164 to prohibit the sale of any unwholesome or tainted milk, meats,
165 fish, fruit, vegetables, or the sale of milk, containing water or
166 other things not constituting a part of pure milk; to provide for
167 inspecting dairies and slaughter houses, whether in or outside
168 of the city, where the milk and meat therefrom are offered for
169 sale within said city, and to prohibit the sale of any articles
170 deemed unwholesome, and to condemn the same or destroy or
171 abate it as a nuisance; to provide for the regulation of public
172 procession so as to prevent interference with public traffic, and
173 to promote the good order of the city; to prescribe and enforce
174 ordinances and rules for the purpose of protecting the health,
175 property, lives, decency, morality, cleanliness and good order of
176 the city and its inhabitants, and to protect places of divine
177 worship in and about the premises where held, and to punish
178 violations of all ordinances, if the offense under and against the
179 same shall also constitute offense under the laws of the state of
180 West Virginia or the common law; to provide for the employment
181 and safekeeping of persons who may be committed in default of
182 the payment of fines, penalties, or costs under this act, who are
183 otherwise unable to discharge the same, by putting them to
184 work for the benefit of the city upon the streets or other places

185 in or out of the city provided by said city, and to use such
186 means to prevent their escape while at work as the council may
187 deem expedient; and the council may fix a reasonable rate per
188 day as wages to be allowed such person until the fine and costs
189 against him are thereby discharged; to compel the attendance at
190 public meetings of the members of the council; to have and
191 exercise such additional rights, privileges and powers as are
192 granted to municipalities by chapter forty-seven of the code of
193 West Virginia, as amended.

194-198 And the council shall have the right to establish, construct
199 and maintain public markets, landings, ferries, wharves and docks
200 on any ground which does or shall belong to said city, or which
201 it shall acquire, by purchase or otherwise, and to sell, lease,
202 repair, alter or remove any public markets, landings, ferries,
203 wharves, dikes, buildings or docks, which have been or shall be
204 so constructed, to levy and collect reasonable duty on vessels and
205 other craft coming to or using said landings, ferries, wharves,
206 dikes, docks, and buildings, and to preserve and protect the
207 peace and good order at the same, and regulate the manner in
208 which they shall be used; and to have the sole right, under state
209 laws and in the same manner as now control county courts; to
210 establish, construct, maintain, regulate and control all such
211 wharves, docks, ferries and landings within the corporate limits
212 of said city.

213 To carry into effect these enumerated powers and all other
214 powers conferred upon said city expressly or by implication in
215 this and other acts of the legislature, the council of said city
216 shall have the power, in the manner herein described, to adopt
217 and enforce all needful orders, rules and ordinances not contrary
218 to the laws and constitution of this state; and to prescribe, im-
219 pose and enforce reasonable fines and penalties, including im-
220 prisonment in the city lock-up, jail, or station house, and to
221 work prisoners found guilty, as the council may prescribe, and
222 market the product of such labor, and with the consent of the
223 county court of Kanawha county entered of record, shall have the
224 right to use the jail of said county for any purpose necessary to
225 the administration of its affairs.

Elections and Registration and Qualification of Voters.

1
2 Sec. 6. Every person qualified by law to vote for members of
3 the legislature of this state (and who shall have been a resident of
4 said city for sixty days preceding the day of election, and a *bona*
5 *fide* resident of the election precinct in which he offers to vote)
6 shall be entitled to vote at all elections in said city by or under
7 the authority and control thereof.

8
9 Sec. 7. For the purposes of the first election to be held under
10 this act on the seventh day of June, one thousand nine hundred
11 twenty-one, the committee heretofore appointed by the mass meet-
12 ing held in the city of Dunbar on the ninth day of December, one
13 thousand nine hundred and twenty, consisting of Chales Gebbert,
14 George M. Robinson and J. B. Lohan, which committee was ap-
15 pointed for the purpose of framing a suitable charter for said city,
16 shall exercise all the functions relating to said first election and
17 the conventions preliminary thereto, which are vested by the pro-
18 visions of this act in the council of said city for the conduct of
19 city election generally; and the clerk of said committee shall dis-
20 charge for the purposes of said first election the functions therein
21 assigned to the city clerk.

22
23 Sec. 8. On the first Tuesday in June, one thousand nine hun-
24 dred twenty-one and every two years thereafter, there shall be
25 elected by the qualified voters of the said city a mayor, a treasurer
26 and six (6) councilmen; all of whose terms of office shall be for
27 the period of two years, beginning on the first day of July next
28 after their election, and until their successors shall be elected and
29 shall have qualified.

30
31 Sec. 9. All nominations for office and all elections shall be
32 made and held according to the laws of West Virginia relating to
33 such subjects at the time when so done, except where it is herein
34 otherwise ordered.

35
36 Sec. 10. The first election under this act shall be held on the
37 first Tuesday in June, in the year one thousand nine hundred
38 twenty-one, and on the same day every two years thereafter.
39 Such election and all subsequent elections shall be held in such
40 manner as is or shall be prescribed by law.

41
42 Sec. 11. The council shall on the first Monday in May, fix
43 the places within said town where said election shall be held;
44 shall appoint three commissioners and two clerks for each voting
45 precinct at which said election is to be held, and shall appoint

5 one member of said council to act with the city clerk as ballot com-
6 missioner, which commission shall have the ballots prepared and
7 ready to deliver to the election officers on the day before said
8 election, and said election commissioners and clerks so appointed
9 by council shall hold and conduct said election in such manner
10 as is or may be prescribed by law; they shall open the polls at
11 sunrise and close the same at sunset, shall tabulate the vote at
12 each voting precinct and certify to council the result of the vote of
13 the precincts, respectively, at which they are serving as such elec-
14 tion officers, and shall return to the city clerk a copy of such
15 certificate, together with the ballots, tally sheets, and registration
16 books, all of which shall be sealed in one envelope or other con-
17 tainer.

18 Said council shall meet on the first Monday following said elec-
19 tion and canvass the vote and shall ascertain, publish and declare
20 the result thereof; it shall keep a record of its proceedings at such
21 meeting, and shall take down, record and receive any evidence,
22 motion or objection and any paper filed or offered by any candi-
23 date, which record shall be open to the public, and shall be kept
24 in the custody of the city clerk.

Sec. 12. The council shall, on the first Monday in May, one
2 thousand nine hundred twenty-one, and every two years thereafter,
3 appoint such registration officers as it deems necessary to register
4 all the legal voters within the corporate limits of said city, and
5 shall furnish to the election officers hereinbefore provided for a
6 list of all the said voters entitled and qualified to vote at said city
7 election, and said election officers shall not permit any person to
8 vote at said election unless his name appears upon the registration
9 book, or list of qualified voters made by such registrars.

10 The council may, at a meeting to be held for that purpose prior
11 to the date of said election, register any legal voter or voters whose
12 names have been omitted by said registrars, and said council shall
13 give at least five days' notice of said meeting, by publication in
14 some newspaper of general circulation in said city, which notice
15 shall state the time and place of said meetings, and its intention to
16 correct the registration of voters of said city, and the said registrars
17 so appointed by the council in correcting said registration at
18 said meeting.

19 *Provided*, that if the county court of the county of Kanawha
20 shall adopt the voting precincts which shall be fixed by the council

21 of said city, as herein provided for, as voting places for state and
22 county officers before another city election is held, then the regis-
23 tration of voters shall be the registration of voters for all city
24 general elections, with such additions as hereinbefore provided for;
25 *provided, further*, that it shall not be necessary to have a special
26 registration of voters for any special election, but the preceding
27 registration of voters for the regular municipal election, with such
28 additions as are hereinbefore provided for, shall be the proper
29 registration for such special election.

30 In case the registrations made under the general law are used
31 as aforesaid, it shall be the duty of the city clerk to make or have
32 made copies of the registration books on file in the office of the
33 clerk of the county court of Kanawha county at least sixty (60)
34 days before any regular city election, and such copies, with such
35 additions and changes as may be made by the city registrars, shall
36 be used for all special elections that may be held between said regu-
37 lar elections as well as for the regular elections. And the county
38 clerk of Kanawha county shall carefully preserve in his office the
39 registration books of each general election for all the precincts of
40 the city of Dunbar, and shall permit copies to be made of such reg-
41 istration books by any proper officer of the city of Dunbar.

Sec. 13. The first officers elected under the provisions of this act
2 shall enter upon their official duties on the first day of July, one
3 thousand nine hundred twenty-one, and shall serve for a term of
4 two (2) years and until their successors are elected and qualified,
5 unless sooner disqualified, impeached or dismissed.

6 Whenever two or more persons receive the same number of votes
7 for mayor, treasurer, or councilmen, such ties shall be decided by
8 the council in existence at the time the election shall be held;
9 *provided*, that the council in office at the time of the holding of
10 such election shall remain in office for the purpose of passing upon
11 and deciding such tie, and for such purpose only; and nothing
12 herein contained shall be so construed as to interfere with the
13 duties, power and authority of the new or incoming council.

Sec. 14. All city elections, regular or special, shall conform as
2 nearly as possible to the election laws contained in chapter three
3 of the code of West Virginia.

Council and Mayor.

1 Sec. 15. The city of Dunbar shall have a council which shall
2 be known and styled as the "Council of the City of Dunbar" and
3 shall be composed of six (6) members, all of whom shall be nomi-
4 nated, voted for and elected in the manner herein provided.

5 Only citizens entitled to vote and having property qualifications
6 hereinbefore provided shall be eligible to be elected to the office
7 of councilman, and each councilman so elected shall continue to
8 be a resident of the city of Dunbar, during his entire term of
9 office.

10 Sec. 16. The mayor shall be the presiding officer of the council
11 and be a member thereof, with the right to vote in case of tie, the
12 same as any other member of said council, and the city clerk shall
13 be *ex-officio* clerk of the council, and also perform the duties of
14 clerk of the police court; and the mayor and the clerk shall each
15 perform such other duties as the council may require of them. The
16 council shall, at its first meeting after each election, select one
17 of its body as president *pro tempore*, who shall, in the absence of
18 the mayor, preside as chairman of the meeting of the council, and
19 in the absence of both mayor and president *pro tempore* at any
20 meeting of the council, some member of the council shall be
21 elected to preside over such meeting.

22 Sec. 17. The council shall exercise all of the legislative functions
23 of the city government, and shall have the right to demand of
24 any city official, or employee, information, explanations, facts, de-
25 tails, correspondence, or other papers affecting the city's interests;
26 and it shall be deemed misfeasance and neglect of duty for any
27 such official or employee to fail or refuse to comply with such
28 demands.

29 Sec. 18. The council shall by proper ordinance provide for
30 the auditing of all the books and accounts of the city at least
31 once in each year, and shall employ a reputable certified account-
32 ant for such purpose, and such audit shall show the complete
33 financial condition of the city at the time thereof, and the re-
34 ceipts and disbursements of all the moneys during such year. The
35 council shall also provide by ordinance for the publication of
36 the report of the accountant on the financial condition of the
37 city at least once in each year, and such report of the accountant
38 shall be spread upon the records of the council and be a public
39 record for all purposes.

Sec. 19. Any member of the council and any city official,
2 either elected or appointed, may be removed from his office by
3 the council for any of the following causes: Official misconduct,
4 incompetence, habitual drunkenness, neglect of duty, or gross im-
5 morality. Such removal shall not be made except upon charges
6 regularly filed and acted upon as follows: The charges against
7 any such officer shall be reduced to writing and entered of record
8 by the council, and a summons shall thereupon be issued by the
9 city clerk containing a copy of the charges and requiring the
10 officer named therein to appear and answer the same on a day to
11 be named therein, which summons may be served in the same man-
12 ner as a summons commencing an action may be served, and the
13 service must be made at least five days before the return day
14 thereof, and it shall require the affirmative vote of two-thirds of
15 all the members elected to council to remove any such official.
16 The circuit court of Kanawha county shall have concurrent juris-
17 diction with the council for any of the causes herein mentioned.
18 The mayor, or any other city official having the power of
19 appointment, shall have the right to remove any of his appointees
20 and appoint another qualified person in his place, but such re-
21 moval shall be made by means of a writing served upon such
22 official so removed; and all the rights and powers of such official
23 shall cease and end from the time of such service, *provided* that
24 the person so removed shall have the right of appeal to council,
25 which may over-rule the action of the mayor, or other official.

Sec. 20. The council shall make proper rules and regulations
2 for its own government and the conduct of its business, which
3 rules shall not be contrary to, or inconsistent with, any of the
4 provisions of this act, and such rules shall be duly entered of
5 record and shall be published by the council in any municipal
6 code or other publication made by the council of this act and the
7 ordinances of said city. The council shall cause a record of its
8 meetings to be kept and recorded by the city clerk in a well bound
9 book provided by the council for that purpose, which book shall
10 remain in the custody and at the office of the city clerk, and all
11 such books and all city records shall at reasonable hours and in
12 a reasonable manner be open to the inspection of the public.

Sec. 21. The council shall hold regular meetings on the first
2 and third Mondays of each month, and the hour and place of
3 such meetings shall be fixed by the council in the rules adopted
4 by it.

1
2 Sec. 22. Special meetings of the council shall be held when
3 called by the mayor or four (4) members thereof. In either
4 case, the call therefor shall be in writing and signed by the
5 mayor or members issuing it, and shall state the time and place
6 of meeting and business to be considered thereat; and a copy
7 thereof shall be served upon each member of the council then in
8 the city. No business other than that stated in such call, shall
9 be considered at such meeting.

Contested Elections.

10
11 Sec. 23. All contested elections shall be heard and determined
12 by the council and such contests shall be made and conducted in
13 the same manner as provided for in the case of contests for
14 county and district officers; and the council shall conduct its
15 proceedings in such cases as nearly as practicable in conformity
16 with the proceedings of the county court in such cases, and there
17 shall be the same right of appeal, in the same way, to the cir-
18 cuit court of Kanawha county.

Oaths of Officers.

19
20 Sec. 24. All officers elected and appointed under this act shall
21 before taking their seats or performing any of the duties of their
22 respective offices to which they shall have been elected or ap-
23 pointed, take and subscribe an oath or affirmation that they pos-
24 sess, respectively, the qualifications prescribed by this act to hold
25 such office and are not subject to any of the disqualifications
26 prescribed herein; that they will support the constitution of the
27 United States and the constitution of this state, and honestly dis-
28 charge the duties of the offices to which they are elected or ap-
29 pointed, respectively, to the best of their skill and judgment.

30
31 When the officer shall have made such oath in writing and filed
32 the same with the city clerk, and shall have given the bond re-
33 quired of him, he shall be considered as having qualified for the
34 office to which he was elected or appointed; *provided*, that if
35 any person so elected or appointed shall not qualify for said
36 office as herein prescribed, within twenty days after he shall have
37 been officially declared elected or appointed thereto, said office
38 shall *ipso facto* become vacant, and said vacancy shall be filled
39 in the same manner as other vacancies therein are provided for
40 in this act.

Bonds of Officers.

2 Sec. 25. The mayor, manager, city clerk, treasurer, city solici-
3 tor, city collector, police judge, health commissioner, chief of police,
4 and chief of fire department, each, shall, before entering upon the
5 discharge of their respective duties, give an official bond, con-
6 ditioned for the faithful performance of such duties as are pre-
7 scribed in this act or any ordinances now or hereafter passed, in
8 the amounts of five hundred (\$500.00) dollars, each.

9 The council may require additional bond from any of said
10 officers, and may likewise require bond in whatever sum they
11 may fix, of any other officer or employee. All bonds of officers or
12 employees shall, before their acceptance, be approved by the coun-
13 cil. The minutes of the meeting of council shall show all mat-
14 ters touching the consideration or approval of all bonds, and when
15 said bonds are approved and accepted, they shall be recorded by
16 the city clerk in a well bound book kept by him at his office for
17 that purpose, which book shall be open to public inspection; and
18 the recordation of such bonds as aforesaid shall be *prima facie*
19 proof of their correctness, and they, as so recorded, as well as
20 copies thereof duly attested by the city clerk under the seal of
21 the city, shall be admitted as evidence in all courts of this state.
22 The city clerk shall be the custodian of all bonds, except that
23 given by him, and as to it, the city treasurer shall be custodian.
24 All bonds, obligations or other writings taken in pursuance of
25 any provisions of this act, shall be made payable to "The City
26 of Dunbar" and the respective persons, and their heirs, executors,
27 administrators and assigns bound thereby shall be subject to the
28 same proceedings on said bonds, obligations and other writings,
29 for the purpose of enforcing the conditions of the terms thereof,
30 by motion or otherwise, before any court of record held in and
31 for the county of Kanawha, that collectors of county levies and
32 their sureties are or shall be subject to on their bonds for enfor-
cing the payment of the county levies.

Quorum.

2 Sec. 26. A majority of the whole number of members elected
3 to the council shall be necessary for the transaction of business,
4 but a smaller number may adjourn from time to time and may
5 compel the attendance of absent members, in such manner and
under such penalties as it may by rules provide.

How Vote Taken.

Sec. 27. Unless otherwise herein provided, the vote upon any
2 question or motion before the council may be *viva voce* when
3 unanimous: but if the question or motion does not receive the unan-
4 imous vote of the members present, the vote shall be taken by
5 roll call of the members and made a part of the minutes of the
6 meeting, and when the vote is unanimous the minutes shall so
7 state.

Minutes of the Meetings.

Sec. 28. The city clerk shall be *ex-officio* clerk of the council
2 and shall keep detailed minutes of its meetings and proceedings
3 in a well bound book for that purpose, which shall remain in the
4 custody of the city clerk at his office and open to public inspec-
5 tion. The minutes of every meeting after being corrected, shall
6 be signed by the mayor and city clerk; and, if thus recorded and
7 signed, they shall be admitted as evidence in any court of record
8 in this state.

Sec. 29. No officer of the city shall hold two offices with the
2 city at the same time, or be employed by the city in any other
3 capacity, without first having the consent of the council, except
4 as herein otherwise provided. All officers, except those under
5 civil service, shall hold their respective offices for a term of
6 two years.

Sec. 30. Whenever the mayor or other officer shall fail to make
2 any and all appointments under him, or required to be made by
3 him, for a period of thirty days from the time such appointment
4 should have been made after having been requested by the council
5 by resolution so to do, such appointment may be made by council.

Sec. 31, Whenever a vacancy for any cause whatever shall
2 occur in the office of mayor or treasurer, the council shall elect
3 some qualified person to fill said vacancy until the next city
4 election, and until his successor shall have been elected and quali-
5 fied; and when such vacancy shall occur in the office of any ap-
6 pointive officer, his successor shall be appointed by the person
7 making the original appointment, or his successor in office, as
8 hereinbefore provided; and all elective and appointive officers of
9 said city shall hold their respective offices until their successors
10 are elected, or appointed, and qualified, unless sooner removed.

Sec. 32. Any members of council or any officer of, or con-

2 connected with, the city government pursuant to any law of this
3 state or ordinance of the city now or hereafter passed, who shall,
4 in his official capacity or under color of his office, knowingly or
5 wilfully, or corruptly vote for, assent to or report in favor of,
6 or allow, or certify for allowance, any claim or demand against
7 the city, which claim or demand shall be on account or under
8 color of any contract or agreement not authorized by or in pur-
9 suance of the provisions of this act, or the ordinances of the city,
10 or any claim or demand against the city and which claim or de-
11 mand or any part thereof shall be for work not performed for and
12 by authority of said city or for supplies or materials not actually
13 furnished thereto pursuant to law or ordinances, and every such
14 member or officer as aforesaid, who shall knowingly vote for,
15 assent to, assist or otherwise permit, or aid in the disbursement
16 or disposition of any money or property belonging to the city
17 to any other than the specific use or purpose for which such money
18 or property shall be or shall have been received or appropriated
19 or collected or authorized by law to be received, appropriated or
20 collected, shall, upon conviction thereof, be punished by imprison-
21 ment in the county jail for a period of not less than sixty (60)
22 days nor more than one year, or by a fine of not less than sixty
23 (\$60.00) dollars, or more than two thousand (\$2,000) dollars, or
24 by both.

Attendance of Witnesses—Punishing Contempts, etc.

Sec. 33. The council in the exercise of its powers and the
2 performance of its duties, as prescribed by this act, and by the
3 laws of the state, shall have the power to enforce the attendance of
4 witnesses, the production of books and papers, and the power to
5 administer oaths in the same manner and with like effect, and
6 under the same penalties, as notaries public, justices of the peace,
7 and other officers of the state authorized to administer oaths under
8 state laws; and said council shall have the same power to punish
9 for contempt as is conferred on county courts by section thirteen
10 of chapter thirty-nine of the code. All process necessary to en-
11 force the powers conferred by this act on the council shall be
12 signed by the mayor, (or acting mayor), and may be executed by
13 any member of the police force.

Absence of Officers.

2 Sec. 34. Whenever for any reason the mayor shall be absent
3 from the city, or unable to attend to the duties of his office tem-
4 porarily, the president *pro tem* of the council shall perform them
5 during such absence or inability; and in the absence or inability
6 of the manager to attend to the duties of his office temporarily,
7 the mayor shall designate some one to perform such duties, pro-
8 vided that such temporary absence or inability shall not exceed
9 thirty (30) days; but, if such absence or inability shall exceed
10 thirty (30) days, then such appointment or designation shall be
11 submitted to the council, for confirmation or rejection. In the
12 absence or inability of any other appointive city officials to per-
13 form the duties of his office, the person or body making the or-
14 iginal appointment, or his successor in office, shall designate some
15 one to fill such office temporarily; or, if such absence or inability
16 extends over a period of sixty (60) days, he may appoint some
one to fill such office permanently.

Mayor and Other Officers.

2 Sec. 35. There shall be a mayor, six (6) members of council,
3 and a treasurer elected, for the term of two years, and their suc-
4 cessors shall be elected every two years thereafter, and their terms
5 of office shall begin on the first day of July of the year in which
6 they shall be elected.

7 Only citizens possessing the qualifications hereinbefore pre-
8 scribed for councilmen, shall be eligible to be elected to the office
9 of mayor or treasurer, and the mayor and treasurer, respective-
10 ly, when elected, shall continue to be residents of the city of
11 Dunbar during their entire terms of office.

12 The mayor's salary shall not be less than one thousand (\$1,000)
13 dollars, nor more than one thousand five hundred (\$1,500.00)
14 dollars per anum, and shall be fixed by council.

15 The mayor may appoint the police judge, city solicitor, the
16 chief of police and all policemen, humane officer or officers, build-
17 ing inspector, collector, city auditor, engineer, health commis-
18 sioner, lockup keeper, and the chief of the fire department; and
19 these appointments shall require confirmation by the council. The
20 mayor shall have the full and complete power of the removal
21 thereof, subject to appeal to council. The mayor shall appoint
the manager, by and with the advice and consent of the council.

22 The mayor shall appoint or employ such persons as the or-
23 dinances of the city may require or the council may authorize
24 by proper resolution. All such officers shall be appointed for the
25 term of two years and until their successors are appointed and
26 qualified, unless they are removed in the way and manner in this
27 act provided.

28 It shall be the duty of the mayor to attend all meetings of
29 the council and preside over that body.

30 It shall be the duty of the mayor to see that all of the laws
31 and ordinances of the city are enforced and he shall have a gen-
32 eral oversight of the peace, health and good order of the city.
33 He shall discharge the functions assigned by this act to the po-
34 lice judge and city manager until these officers are appointed.

35 The duties of the city solicitor shall be to attend the sessions
36 of council, and to prosecute all suits in behalf of the city and de-
37 fend all suits against the city, to advise the council and all of
38 the departments of the city, and generally to look after the in-
39 terests of the city when it shall need legal advice, for which he
40 shall receive a salary to be fixed by council.

41 All fees of every kind collected by any officer or employe, in-
42 cluding the police judge, when acting as a justice, shall be paid
43 to the city treasurer.

Sec. 36. The manager may be appointed in the way and man-
2 ner hereinbefore provided and shall receive such salary as council
3 may by ordinance prescribe; and he shall have the right to em-
4 ploy such other help as he may require and as council may from
5 time to time allow.

6 The manager, when appointed, shall devote his entire time and
7 attention to the duties of his office, unless otherwise provided
8 by council, and shall have supervision and control of the execu-
9 tive work and management of the heads of all departments under
10 his control as directed by the mayor. He shall make all con-
11 tracts for labor and supplies, and generally perform all of the
12 administrative work of the city, and such other duties as council
13 may require of him, and shall possess such other powers and
14 perform such other duties as council shall prescribe.

15 Council shall fix the salaries of all officers and employes not
16 otherwise herein provided for.

Franchises and Ordinances.

1 Sec. 37. All franchises granting the right of occupancy of
2 any portion of the streets or alleys for works of public utility or
3 service, or granting any right or privilege which the city has the
4 power to grant to individuals, firms, or corporations, in order
5 that the latter may serve the public, may be made, but only upon
6 the following restrictions and conditions: All such franchises,
7 rights and privileges shall be granted by ordinance duly passed
8 by the council.

9 No grant of any such franchise shall be made without, at the
10 time of making it, providing that the grantee shall indemnify
11 the city against all damages caused by construction, maintenance
12 or operation of such works. Additional provisions and condi-
13 tions shall be made for the protection of the public against dam-
14 age or inconvenience by reason of the construction, maintenance
15 or operation thereof.

16 No grant of a franchise for the extension of or addition to any
17 line or work of public service through, over or under any addi-
18 tional street or territory of the city, shall be made for a period
19 extending beyond the time limited for the expiration of franchise
20 of the principal work of which it is an extension and if the
21 franchise of the principal work is one granted before this act
22 goes into effect and not limited as to time, any franchise granted
23 for an extension or addition thereto shall, nevertheless, be made
24 subject to the conditions thereof, including a time limit for a
25 period not exceeding fifty years.

26 No franchise shall be granted without the affirmative vote of
27 two-thirds of all the members elected to said council.

 Sec. 38. When any franchise granting the right to use the
2 streets, alleys, or public grounds, shall be applied for, notice of
3 the application or petition shall be advertised in some newspaper
4 of general circulation in said city once a week for four successive
5 weeks before the same shall be heard and determined by the coun-
6 cil.

7 All such ordinances shall protect the interests of the city and
8 shall contain conditions, compensations or limitations, as council
9 may prescribe.

 Sec. 39. Council shall have the right to appoint such com-
2 mittees of its own body as it may deem proper, and may give
3 such committees power and authority to perform any duties and

4 make any reports to council concerning the duties of council,
5 and council may adjourn its meetings from time to time, pend-
6 ing the consideration of any matter, franchise, or ordinance, and
7 may postpone the announcement of any vote to an adjourned
8 meeting or to a future meeting.

Sec. 40. The style of all ordinances enacted by the council
2 shall be "Be it ordained by the council of the city of Dunbar."

Sec. 41. No ordinance shall be passed, except by bill, and no
3 bill shall be so amended in its passage as to change its original
4 purpose. All bills must be in writing or printed and presented
5 and read in full by the city clerk. No bill shall be considered
6 for final passage at the meeting at which it was introduced, but
7 at any subsequent meeting of the council such bills may be taken
8 up for consideration and final action. No bill except general
9 appropriation bills which may embrace the various subjects and
10 accounts for and on account of which moneys are appropriated,
11 shall contain more than one subject, which shall be clearly ex-
12 pressed in its title. No bill shall become an ordinance unless
13 its final passage a majority of the council vote in its favor, the
14 vote to be taken by the yeas and nays and the names of the mem-
15 bers voting for and against the same, to be entered of record in
16 the minutes of the proceedings of the council. No ordinance shall
17 be revised or re-enacted by mere reference to the title thereof, but
18 the same shall be set forth at length as if it were an original ordi-
19 nance, nor shall any ordinance be amended by providing that des-
20 ignated words thereof be stricken out and others inserted in lieu
21 thereof, but the ordinance or sections amended shall be set forth
in full as amended.

Sec. 42. All ordinances passed, shall be spread in *extenso* upon
2 the records of the council when adopted. The council shall pro-
3 vide a well-bound book in which shall be copied by the city clerk
4 all ordinances in the order in which they are passed, which ordin-
5 ances, when so copied shall be compared with the originals by
6 the mayor, and shall be signed by him when found correct. Such
7 books shall be indexed so as to show in brief form the substance of
8 the ordinance, and shall be received by all courts and justices in
9 this state as evidence, but the council may adopt by ordinance
10 properly designating and describing it, a code of laws and ordin-
11 ances, which when adopted shall be printed in book form, or said
12 council may designate any committee, or attorney or the city

13 solicitor, to prepare a code ordinances for the government of the
14 city of Dunbar, and said council may by ordinance adopt the
15 code so prepared as a whole and when said ordinance adopting
16 said code shall have been passed by the council, the said code
17 shall be and become the law and ordinances of said city and may
18 be printed by order of the council, and the same shall be so received
19 as evidence of what is printed therein, until errors or omissions
20 be affirmatively shown therein.

Sec. 43. All persons elected or appointed to the offices named
2 in this act shall be conservators of the peace within said city, and
3 they, and any other officer provided for under this act, may be
4 given authority of police officer by the council.

Sec. 44. The police judge shall be *ex-officio* a justice and a con-
2 servator of the peace, with authority to issue process for all offenses
3 committed within the police jurisdiction of the city of Dunbar, of
4 which a justice of the peace has jurisdiction under the state
5 statutes, and for all violations of any city ordinances, and shall
6 have charge of and preside over the police court of such city;
7 and may commit persons charged with felony or misdemeanor
8 to jail or take bond for their appearance before the grand jury of
9 the circuit, intermediate or criminal courts of Kanawha county;
10 he shall keep an accurate record of all his judicial proceedings in
11 said court, showing the style of each case, which record shall be
12 indexed and numbered. It shall be his duty to hold a session of
13 his said court, at least, twice each week. Before trying any
14 person charged with any violation of any ordinance he shall issue
15 his warrant, specifying the offense or violation charged; he shall
16 render judgment in any case as the law of the state or the ordin-
17 ance of the city applying thereto may require; he shall also
18 have the power to issue executions for all fines, penalties and costs
19 imposed by him and he may require immediate payment thereof,
20 and in default of such payment, may commit the person in default
21 to the jail of the county of Kanawha or some place of imprison-
21-a ment in said city, if there be one, until the fine and penalty and
22 costs shall be paid or satisfied, to be employed during the term of
23 imprisonment, as hereafter provided, but the term of imprison-
24 ment in any such case shall not exceed thirty (30) days,
25 and in all cases where a person is sentenced to imprisonment
26 or to the payment of a fine of ten dollars (\$10.00) or more, such
27 person shall be allowed an appeal from such decision to the

28 intermediate court of said Kanawha county upon the execution
29 of an appeal bond, with surety deemed sufficient by the said
30 police judge in a penalty double the amount of the fine and costs
31 imposed by him, conditioned that the person proposing to appeal
32 will appear before the intermediate court of Kanawha county
33 on the first day of the next term thereof to answer for the offense
34 wherewith he is charged and not depart thence without leave of
35 the court and satisfy all costs and fines imposed against him;
36 and in no case shall judgment for a fine of less than ten (\$10.00)
37 dollars be given by the police judge, if the defendant, his agent
38 or attorney, object thereto. If such appeal is taken, the warrant
39 of arrest, the transcript of the judgment, the appeal bond and
40 other papers of the case shall be forthwith delivered by the said
41 police judge to the clerk of the said intermediate court, and the
42 court shall proceed to try the case as upon indictment or pre-
43 sentment and render such judgment, including that of cost, as
44 the law and the evidence may require.

45 The expense of maintaining such persons committed to the jail
46 of the county by such police judge shall be paid by the city. The
47 police judge shall account for and pay over the amount of all
48 fines collected by him weekly to the treasurer of the city and
49 shall make monthly reports thereof, and all other matters per-
50 taining to his office to the council of said city.

Sec. 45. The police judge, when appointed, shall have attained
2 the age of thirty (30) years and shall have been a resident of this
3 state for a period of five years and of the city of Dunbar previous
4 to the beginning of his term of service for the period of one
5 year. After the appointment of the police judge and in his
6 absence or inability to perform his duties, the city clerk shall act
7 as police judge in his stead, and in the event that neither the
8 police judge nor the city clerk can for any cause perform such
9 duties, then the mayor shall act as police judge.

Sec. 46. In all cases of arrest by the police of the city, except
2 in cases for a felony, the person arrested shall have the absolute
3 right to give a reasonable and proper bond for his appearance
4 at police court for a trial of his case, and the police judge, city
5 clerk, mayor, chief of police, and the desk sergeant or person in
6 charge of police headquarters shall have the power, and it shall be
7 their duty, to accept such bond from such persons so arrested, and
8 upon the giving of such bond he shall be released; and it shall

9 be their further duty to permit such person arrested to communi-
10 cate in any reasonable way with any person or persons with whom
11 he may desire to have communication in reference to his giving
12 bail in order to obtain his release, and each of said officers and
13 all policemen shall render reasonable aid in assisting such per-
14 sons arrested to communicate with any person that he may desire
15 for the purpose of securing such bail.

Nuisances.

Sec. 47. The manager of said city shall have authority to
2 abate and remove all nuisances in said city. He may compel the
3 owners, agents, assignees, occupants or tenants of any lot, premises,
4 property, building or structure, upon or in which any nuisance
5 may be, to abate and remove the same by orders therefor, and the
6 council shall by ordinance provide a penalty for the violation of
7 such orders. Council may by ordinance regulate the location,
8 construction, repair, use, emptying and cleaning of all water
9 closets, privies, cesspools, sinks, plumbing drains, yards, lots,
10 areaways, pens, stables and other places, where offensive, unsightly,
11 unwholesome, objectionable or dangerous substances or liquids are,
12 or may accumulate, and provide suitable penalties for the viola-
13 tion of such regulations, which may be enforced against the owner,
14 agents, assignees, occupants or tenants of any premises or struc-
15 ture where such violation may occur. It shall be the duty of all
16 police officers to report to the manager the facts as to the exist-
17 ence of any nuisance known to them.
18 If the owner, agent, tenant, assignee or occupant of any such
19 premises, lot, property, building, or structure, as is mentioned
20 herein, shall fail or refuse to abate or remove any such nuisance,
21 as mentioned herein, or comply with the provisions of any such
22 ordinance and the regulations herein contained, the manager
23 may have said nuisance abated or the provisions of said ordinance
24 or ordinances carried out, after reasonable notice to said owner,
25 occupant, tenant, agent or assignee of his intention so to do, and
26 collect the expenses thereof, with one per centum per month
27 interest added from the date of said notice, from the said owner,
28 occupant, tenant, agent or assignee by distress or sale, in the same
29 manner in which taxes levied upon real estate for the benefit of said
30 city are herein authorized to be collected, and the expense shall
31 remain a lien upon said lot, or part of lot, the same as taxes levied

32 upon real estate in said city; which lien may be enforced by a suit
33 in equity before any court having jurisdiction, as other liens
34 against real estate are enforced. In case of non-resident owners
35 of real estate notice may be served upon any tenant, occupant,
36 assignee, or rental agent, or by publication thereof once a week for
37 not less than two consecutive weeks in a newspaper of general
38 circulation in said city.

39 And in all cases where any tenant, occupant, or agent is required
40 to abate and remove any nuisance under the provisions of this
41 section or comply with the provisions of any such ordinance as
42 is mentioned therein, the expense thereof may be deducted out of
43 the accruing or accrued rent of said property or amount due said
44 owner from said agent, and such tenant, occupant, or agent may
45 recover the amount so paid from the owner, unless otherwise
46 specifically agreed upon.

47 Any expense incurred by the manager as herein provided in the
48 manner aforesaid, may be collected in the manner herein pro-
49 vided notwithstanding the imposition of any other penalties upon
50 any of the persons named herein, under any of the provisions of
51 this act. The abatement or removal of any such nuisance by the
52 city at the expense of said city, as herein provided, shall be *prima*
53 *facie* proof that the said notice to the owner, occupant, agent or
54 assignee was given as herein prescribed.

Sec. 48. The manager may require all owners, tenants or
2 occupants of improved property which may be located upon or
3 near any street or alley along which may be extended any sewer
4 or system of sewerage, all privies, ponds, water closets, cesspools,
5 drains or sinks, located upon their respective properties or prem-
6 ises, so that their contents may be made to empty into such sewer
7 or system of drainage.

Sidewalks.

Sec. 49. The council shall have the right and authority to
2 establish the width of any sidewalk on any street, alley or public
3 square, or any portion thereof in said city, to cause to be put down
4 a suitable curb of brick, stone or other material for the footways
5 and sidewalks of the streets, alleys or public squares or portion
6 thereof, and to order the construction, re-laying, and repair of
7 sidewalks and gutters of such material and width, and in such
8 manner as the council may reasonably prescribe by the owners

9 or occupiers of the lots or parts of lots facing upon said streets,
10 alleys and public squares; and in case of a failure or refusal of
11 any such owner or occupier of the lots or parts of lots to construct,
12 re-lay, or repair such sidewalks and gutters, when required, it
13 shall be lawful for the council to have such sidewalks and gutters
14 constructed, relaid, or repaired and levy and collect the expense
15 thereof, with one per centum per month interest added after a
16 demand of thirty (30) days has been made by the treasurer of
17 the city from the said owner, owners, occupier, occupiers, or any
18 of them; and in all cases of such assessment, whether for the
19 construction, re-laying or repairing of sidewalks or gutters, pay-
20 ment thereof shall be made to the treasurer within thirty (30)
21 days after the completion of the work and demand made, and if
22 not so paid the city is hereby authorized to collect or cause to
23 be collected the expense thereof, with one per centum per month
24 interest added after the work has been completed and a demand
25 of thirty (30) days, and they shall have the power to collect,
26 or cause to be collected, the same from said owner, owners, oc-
27 cupier or occupiers or any of them by distress and sale, in the
28 same manner in which taxes levied upon real estate for the ben-
29 efit of the said city are herein authorized to be collected, and in
30 addition there shall be a lien upon the real estate against which
31 such assessment has been levied for the construction, re-laying
32 and repairing of sidewalks and gutters as herein provided, which
33 lien may be enforced by a suit in equity before any court having
34 jurisdiction, as other liens against real estate are enforced, and
35 it shall be the duty of the city clerk to cause to be certified to
36 the clerk of the county court of Kanawha county the order lay-
37 ing an assessment authorized by this section. The clerk of
38 the county court of Kanawha county is hereby required
39 to record and index such assessments in the proper
40 trust deed book in the name of persons against whose property
41 assessments appear therein. *Provided, however,* that a reasonable
42 notice shall first be given to said owners or occupiers or their
43 agents, that they are required to construct, re-lay, or repair such
44 sidewalks or gutters. In case of non-residents who have no known
45 agents in said city, such notice may be given by publication
46 for a period of not less than once a week for two consecutive
47 weeks in any newspaper printed in said city; and in all cases
48 where a tenant shall be required to construct, re-lay or repair

49 sidewalks or gutters in front of the property of his or her oc-
50 cupancy, the expense of such construction or re-laying or re-
51 pairing may be deducted out of the accruing rent of said prop-
52 erty, and he may recover the amount so paid from the owner,
53 unless otherwise specially agreed upon. The laying or construc-
54 tion of any such sidewalks by said city shall be *prima facie* proof
55 that the said notice to the owner (resident or non-resident) or
56 occupier, or their agent, was given as herein required.

Taxes.

Sec. 50. The council shall ascertain the total expense of the city
2 to be provided for by levy for the fiscal year in which said levy is
3 made, and it shall make a detailed itemized estimate of the sum
4 of money necessary to pay interest accruing on the bonded in-
5 debtedness of said city, the amount required for the several sink-
6 ing funds for the reduction of the principal thereof, the amounts
7 necessary for the support of the various departments of the city
8 and for the improvements of its streets, alleys, avenues, and pub-
9 lic grounds, real and personal property, contingent expenses and
10 other expenses, together with an itemized statement of the es-
11 timated receipts other than that to be derived by the annual levy;
12 and after receiving such estimates, and before making the levy,
13 it shall apportion the rate thereof, including the estimated re-
14 ceipts, from licenses and all other sources among the several funds
15 so ascertained and provided for, which apportionment shall be
16 spread upon the records of this city, and in making said estimate,
17 providing for the revenue for the fiscal years, etc., it shall be the
18 duty of the council to strictly observe all the provisions of chap-
19 ter nine of the acts of the legislature, one thousand nine hundred
20 and eight, entitled "An act to regulate the rate and manner of
21 laying levies for taxation in counties, magisterial and school
22 and independent school districts, and municipal corporations,
23 and to provide penalties for the illegal expenditure of public
24 moneys, incurring of illegal obligations and the laying of
25 illegal levies by any tax levying body, and for the distribution
26 of a portion of the school fund," and all amendments thereto,
27 except where last named act shall be inconsistent with this act
28 as to limit of taxation.

Sec. 51 The council shall have authority to levy and collect
2 an annual tax on real estate and personal property in said city,

3 and to impose a license and assess a tax thereon on wheeled ve-
4 hicles for public hire and for all dogs kept within said city and
5 to impose a tax upon all other subjects of taxation under the
6 several laws of the state which shall be uniform with respect to
7 persons and property within the jurisdiction of said city, and
8 shall only be levied on such property, real, personal and mixed,
9 on which the state imposes a tax; *provided*, that no greater levy
10 shall be laid by said council on the taxable property of said city
11 than fifty cents upon each one hundred dollars of the assessed
12 valuation of the property of the municipality, unless such greater
13 levy shall be authorized by a vote of the people at an election
14 held pursuant to said chapter nine of the acts of the legislature
15 of the year one thousand nine hundred eight; and, *provided*,
16 *further*, that the council shall, in making such levy, be subject
17 to all the provisions of chapter nine of the acts of the legislature
18 of one thousand nine hundred eight and any and all amendments
19 thereto, except as herein provided. There shall be a tax of two
20 dollars (\$2.00) annually assessed on each and every inhabitant
21 of said city over the age of twenty-one (21) years, who is sub-
22 ject to a capitation tax under the laws of the state of West
23 Virginia. The same shall be set out and included in the per-
24 sonal property book against every such inhabitant, and shall be
25 collected under the authority of the city at the time of collect-
26 ing other levies and taxes.

Sec. 52. The city taxes levied annually by the council shall
2 be collected as follows: Immediately after the annual levy for
3 city taxes is laid the council shall direct the proper officer of
4 the city to extend the same on the property books made out by
5 him, including therein the proper capitation tax; he shall make
6 out therefrom proper tax tickets in the following manner: That
7 is to say, instead of a single ticket for the whole amount charged
8 to any person, firm or corporation, there shall be two tickets each
9 for one-half of said amount; these half tickets shall be severally
10 numbered or designated "first" and "second" and the same, after
11 being examined and compared by the council and found to be
12 correct, shall be turned over to the treasurer of the city in the
13 first day of October following the levy and the treasurer's re-
14 ceipt for the gross amount thereof shall be returned, entered up-
15 on its record and the treasurer charged therewith. The treasurer
16 shall give notice by publication for twenty (20) days in some

17 newspaper of general circulation in said city, that said tax tickets
18 are in his hands for collection, stating the penalty for non-pay-
19 ment thereof and the time and place where the same may be paid;
20 *provided, however*, that the tax payers shall have the right to an-
21 ticipate the payment of the whole or any part of the taxes as-
22 sessed against him.

23 The one-half ticket designated "first" may be paid to the treas-
24 urer of the city any time before the first day of November next
25 succeeding said levy; the one-half ticket designated "second" may
26 be paid to the treasurer of the city at any time before the first
27 day of May next succeeding said levy. To all the half tickets
28 designated "first" remaining unpaid in the treasurer's hands on
29 the said first day of November succeeding said levy, a penalty of
30 ten per cent shall be added and collected from the tax payers.
31 To all half tickets designated "second" remaining unpaid in
32 the treasurer's hands on the first day of May succeeding said levy
33 a penalty of ten per cent shall be added and shall be collected
34 from the tax payers. On said first day of November succeeding
35 said levy, all such half tickets designated "first", and on said
36 first day of May succeeding said levy all such half tickets desig-
37 nated "second" remaining unpaid in the treasurer's hands shall
38 be taken up by the council and settlement had with said treas-
39 urer on said days, respectively, or on the next succeeding days,
40 respectively, if said days shall fall upon Sunday, and thereupon
41 the council shall place said tickets in the hands of the city col-
42 lector for collection and shall take his receipt therefor; *pro-*
43 *vided, however*, that the council shall have the power any year,
44 by resolution, to extend the time within which the tickets may
45 remain in the treasurer's hands and be paid to him without adding
46 the penalty, for a period named therein not exceeding, however,
47 a total of fifteen days.

48 The city collector shall have the power to collect said tickets
49 so placed in his hands, together with the penalties thereon here-
50 inafter provided, to be added thereto, and the compensation of
51 such city collector for making such collection of the taxes afore-
52 said shall be fixed by the council.

53 The city collector shall be charged with the gross amount of
54 said tax tickets so delivered to him for collection, including the
55 penalties allowed, unless on or before the first day of August of
56 each year he makes out and returns to the council a delinquent

57 list of taxes uncollected for such year, with his oath attached
58 thereto, stating that such list is correct and just and that he has
59 received no part of the taxes mentioned therein, and that he
60 has used due diligence to find property liable to distress for taxes,
61 has found none, and that he could not collect the same.
62 Neither the treasurer nor the city collector shall take or col-
63 lect anything but money for payment of taxes.

Sec. 53. The city collector shall have the power to collect the
2 city taxes except as otherwise provided in this act, and he shall
3 also have power to collect the city claims which may be placed
4 in his hands by the council for collection, except that fines im-
5 posed by the police judge shall not be collected by him.

Sec. 54. All goods and chattels belonging to a person, firm,
2 corporation or estate, assessed with any taxes, whether the same
3 be a capitation tax or a tax upon real estate or personal prop-
4 erty, or an assessment on personal property, or an assessment for
5 paving or other improvements, shall be liable for said tax, and
6 may be distrained therefor in whosoever's possession they may be
7 found and the city collector shall have the same power to collect
8 said tax or assessment from any person owing a debt to or having
9 in his possession any estate belonging to a person assessed with
10 any tax or assessment of any kind that the sheriff has to collect
11 state taxes in such cases. The city collector may distrain and sell
12 for all city taxes and assessments and in all respects have the
13 same power to enforce the collection thereof as the sheriff has
14 to enforce the collection of state taxes.

Sec. 55. There shall be a lien upon all real estate within said
2 city for the city taxes assessed thereon, including such penalties
3 added thereto for non-payment thereof as are prescribed by this
4 act, from the first day of April of the year in which said taxes
5 are assessed. Said liens may be enforced by appropriate suit in
6 any court of record in Kanawha county; *provided*, such suit be
7 instituted within five years from the time the said liens attached
8 as herein provided, and such suit may either be instituted by and
9 in the name of the city of Dunbar as plaintiff, or said city may
10 intervene by petition in any suit pending to sell or enforce liens
11 against any real estate which is subject to such lien for said taxes.
12 The liens herein created shall have priority over all other liens,
13 except those for taxes due this state.

Sec. 56. Said liens for city taxes and attendant penalties may
2 also be enforced by certifying the same to the clerk of the county
3 court of Kanawha county for certification to the state auditor,
4 and the same may be certified down by said auditor, and sold
5 for taxes, interest, penalties and commissions thereon, in the same
6 manner, at the same time, and by the same officer as real estate
7 is sold for taxes, interest, damages, cost and commissions due
8 the state thereon, which officer shall account therefor on settle-
9 ment with the city and pay over the same to the treasurer of the
10 city.

Sec. 57. No taxes or levies shall be assessed upon or collected
2 from the taxable persons or property within the corporate limits
3 of said city, for the construction, improvement or keeping in re-
4 pair of roads, for the support of the poor of Kanawha county,
5 outside of corporate limits, for any year in which it shall appear
6 that said city shall at its own expense provide for its own poor
7 and keep its own roads, streets and bridges in good order. And
8 neither the county court of Kanawha county nor the authorities
9 of the district in which said city is situated, shall have or
10 exercise jurisdiction within the corporate limits with relation
11 to the roads, streets, alleys, bridges, wharves, docks or ferries,
12 but the same shall be and remain under the exclusive jurisdiction
13 and control of the municipal authorities of said city; and said
14 city shall be liable only for the construction, improvement, re-
15 pair and good order of the roads, streets, alleys, wharves and
16 bridges in its corporate limits, except that the county of Kanawha
17 may become the joint owner and controller with the city of
18 Dunbar in a bridge or bridges across Kanawha river; *provided*,
19 that nothing in this act contained shall be so construed as to inter-
20 fere with the construction by the county court through said city
21 of the hard road for the construction of which and other roads,
22 an issue of bonds in the amount of one hundred and sixty thou-
23 sand (\$160,000.00) dollars has heretofore been authorized by
24 the voters of Union district; and the said county court shall
25 construct the said hard road along the route originally laid out
26 through said city, in all respects as if the said city were not yet
27 incorporated; and all the property within said city shall continue
28 to be liable for its proportionate part of the levies laid by the
29 county court from year to year for the purpose of paying the
30 said bonds and the interest thereon, as well as any other district
31 bonds now outstanding against the said district of Union.

Depositing City Funds.

1 Sec. 55. It shall be the duty of the city treasurer to keep all
2 funds of the city in some bank or banks, within said city, which
3 shall pay interest on such deposits and which shall pay interest
4 on the average daily balance of such funds in all accounts of
5 the per cent equal to that paid by state depositories on all funds
6 of the state of West Virginia and in the same manner and at the
7 same time. If no bank within the city is willing at any time to re-
8 ceive deposits of the treasurer and to pay such interest thereon,
9 the treasurer shall report this fact to the council, who shall
10 thereupon designate a bank or banks in which he shall deposit
11 said funds for the time being and until some bank in said city
12 will receive such deposits on such terms. Before receiving such
13 deposits such bank or banks shall give bond in such penalty as
14 the council shall prescribe, and with sureties to be approved by
15 said council, conditioned for the prompt payment, whenever law-
16 fully required, of all the city moneys or parts thereof which may
17 be deposited with them, which bond shall be renewed at such
18 time as the council may require.

*Municipal Buildings, Buying and Building Water Works and Other
Public Utilities, Paving Streets, Constructing Sewers, Etc.*

1 Sec. 59. The city of Dunbar is hereby authorized to issue and
2 sell bonds of said city for the purpose of buying and building
3 electric light plants, water works, gas lines and fields and other
4 public utilities, and for buying and building municipal buildings,
5 jails, and fire stations; and such bonds shall be sold for not less
6 than par, and be payable within a period not to exceed thirty-four
7 years, and shall bear interest, not to exceed six per centum per
8 annum; and in the issuance and sale of said bonds the city shall
9 be governed by all the restrictions of the constitution of this state
10 and the statutes of this state, with respect to the issuance and sale
11 of other bonds, *provided*, that said city shall not, by the sale or
12 issue of bonds for the purposes above mentioned, cause the aggre-
13 gate of its indebtedness, of every kind whatever, to exceed five per
14 centum of the value of the taxable property therein, but may for
15 the above purpose issue bonds to the maximum limit of said five
16 per cent; nor shall said city make such issue and sale of bonds
17 without, at the same time, providing for the collection of a direct

18 annual tax sufficient to pay annually the interest on the same,
19 and to create a sinking fund to pay the principal within the time
20 for which said bonds shall be issued.

Sec. 60. The city of Dunbar is hereby authorized to issue and
2 sell the bonds of the said city for the purpose of providing for
3 grading, paving and otherwise improving the streets and alleys
4 of said city, of constructing sewers for the proper draining of
5 same in anticipation of special assessments to be made upon the
6-7 property abutting upon the streets and alleys so improved, or
8 property so sewerred or drained, and such bonds may be in such an
9 amount as shall be sufficient to pay the entire estimated cost and
10 expense of said improvements for which such special assessments
11 are levied; *provided*, that the price for which said bonds are sold
12 shall not be below par value thereof; said bonds may be payable
13 in groups of one-fifth of the whole issue payable in two, four, six,
14 eight, and ten years, respectively, and all payable in not to exceed
15 ten years from the date of issue thereof, and shall bear interest at
16 a rate not exceeding six per centum per annum, payable annually;
17 and in the issuance and sale of said bonds, the city shall be gov-
18 erned by all the restrictions and limitations of the constitution of
19 this state with respect to the issuance and sale of other bonds;
20 and the assessments as paid and provided for in this act shall be
21 applied to the liquidation of said bonds and the interest thereon;
22 and if by reason of the penalties collected with the delinquent
23 assessments, there be any balance after the payment of said bonds
24 and all accrued interest and costs, the said balance shall be turned
25 into the city treasury to the credit of the interest and sinking fund
26 of the city.

27 *Provided*, that the city shall not by the sale or issue of such
28 bonds cause the aggregate of its debt of every kind whatsoever to
29 exceed five per centum of the value of the taxable property therein;
30 and *provided, further*, that nothing contained shall be con-
31 strued as authorizing said city to become indebted in any other
32 manner or for any other purpose, to an amount including the ex-
33 isting indebtedness in the aggregate exceeding two and one-half
34 per centum on the value of the taxable property therein (as pro-
35 vided in chapter fifty-one of the acts of one thousand nine hundred
36 and five) except for the purpose of grading, paving, sewerred and
37 otherwise improving the streets and alleys of said city and as
38 provided for in this act, and except for the purpose of buying or

39 building electric light plants, water works, gas lines and fields,
40 and other public utilities and municipal buildings, nor shall they
41 make such issue and sale of bonds for grading, paving, sewerage
42 and improving the streets and alleys of said city without, at
43 the same time, providing for the collection of a direct annual tax
44 sufficient to pay annually the interest on such debt and principal
45 thereof within a period not exceeding ten years.

46 All assessments, interest and penalties thereon, collected from
47 the abutting property owners, on account of grading, paving,
48 sewerage or otherwise improving the streets and alleys of such city
49 under the provisions of this act, shall annually be applied to the
50 annual tax required to pay the interest on such debt and such
51 principal within and not exceeding said period of ten years; and
52 in the event that the assessments, interest and penalties so col-
53 lected do not amount to a sum sufficient to pay annually the
54 interest on such debt and the principal thereof within and not
55 exceeding ten years, said city shall collect so much of said levy as
56 will pay annually the interest on such debt, and the principal
57 thereof within and not exceeding ten years.

Sec. 61. Whenever the council of said city shall deem it ex-
2 pedient to cause any street or alley in said city or portion thereof
3 to be paved, curbed, or macadamized, or otherwise improved in a
4 permanent manner, it shall order the work done in the following
5 manner and upon the following terms: The contract for such
6 paving or other improvements shall, after due advertisement in
7 which the council shall reserve the right to reject any and all bids,
8 be let to the lowest responsible bidder. The contractor shall
9 look only to the city for the payment of the work, and in no
10 sense to the abutting land owners, except as hereinafter provided.
11 The total cost of grading and paving or otherwise improving any
12 such street or alley (with the exception that where a street is
13 occupied by the street car tracks or other railways, such cost of
14 opening or otherwise improving the distance between the rails and
15 two additional feet outside of each rail, shall be borne and paid
16 entirely by the street car or other railway company operating such
17 street or other railway, unless otherwise provided by the franchise
18 of such street car or other railway company granted previously to
19 the passage of this act), shall be borne by the owners of the land
20 abutting upon said street, alley or portion thereof, according to
21 the following plan, that is to say: Payment is to be made by all

22 land owners on either side of such portion of a street or block so
23 paved or improved in such proportion of the total cost, less the
24 portion, if any, chargeable to such street or other railway company,
25 as the frontage in feet on his land so abutting bears to the total
26 frontage of all lands so abutting on such street, alley or portion
27 thereof so paved or improved as aforesaid. The cost of such paving
28 or improvement chargeable to the abutting owners under this
29 section is not to include any portion of the amount paid for paving
30 of squares at intersection of streets, which shall be borne and paid
31 by the city, except as otherwise herein provided.

32 When the paving of any street, alley or portion thereof shall
33 have been let to contract and the work done as hereinbefore pro-
34 vided, it shall be the duty of the engineer of said city to cause the
35 several frontages abutting thereon to be measured, and to calculate
36 the assessment upon each and every land owner so abutting and to
37 certify the same to the council showing the proper amount to be
38 determined, as provided in the foregoing plan. It shall be the
39 duty of the council to examine and compare such assessment,
40 amounts and names so certified to it, and thereupon give notice by
41 publication once a week for two consecutive weeks in some news-
42 paper of general circulation in said city, that an assessment under
43 this act is about to be laid against the abutting property for paving
44 or improvements done on said streets or alleys, describing the loca-
45 tion of such paving or improvements, and any owner or owners
46 thereof shall have the right to appear before said council, within
47 two weeks from the first publication thereof, and move to correct
48 an apportionment or assessment excessive or improverly made as
49 charged, which correction said council shall have the power to
50 make according to the intent of this act, and if found to be correct
51 or when corrected by the council as aforesaid, it shall enter the
52 same, together with a description of the lots of land as to location,
53 frontage, depth and ownership so far as the same may be ascer-
54 tained, upon its records and shall enter in its records that such
55 owners and lots be assessed and chargeable with the amount so
56 ascertained to be borne by them respectively; and when so ap-
57 proved, certified and entered on record the same shall be and con-
58 stitute an assessment against said owners and lots for such re-
59 spective amounts. And it shall be the duty of the council to imme-
60 diately certify such assessment to the treasurer for collection as
61 herein provided, and a copy of said order shall be certified by the

62 city clerk to the clerk of the county court of Kanawha county,
63 who shall record and index the same in the proper trust deed book
64 in the name of each person against whose property assessments ap-
65 pear therein. The amount so assessed against said abutting land
66 owners shall be paid in ten payments, as follows: That is to say,
67 one-tenth of said amount, together with interest on the whole
68 assessment, shall be paid into the city treasury, before the first day
69 May next after said work is completed, and said assessments have
70 been certified to the county clerk. And a like one-tenth, together
71 with interest for one year upon the whole amount remaining un-
72 paid on or before the first day of May in each succeeding year
73 thereafter until all has been paid, and each of said installments of
74 one-tenth beginning with the first shall bear interest on the amount
75 of said installments at six per centum per annum from the date of
76 record of same in the county clerk's office until paid: *provided,*
77 *however,* that any abutting property owner so liable for any
78 portion of the cost of such paving shall have the right at any time
79 after the same is certified as aforesaid to the treasurer for collection
80 to anticipate the payment of any or all of said assessments and
81 shall be allowed to pay the face of said assessment with interest at
82 six per cent per annum only from the time of recordation to the
83 time of payment. To each of such installments of assessments
84 remaining unpaid in the treasurer's hands on the day herein speci-
85 fied for the payment thereof, a penalty of ten per centum on the
86 principal sum shall be added and any assessment so remaining
87 unpaid in the treasurer's hands on such date, shall be taken up on
88 such settlements had with the treasurer on such dates, and there-
89 upon such assessments shall be placed with the penalty added
90 thereto, in the hands of the city collector to be treated and con-
91 sidered, and payment thereof enforced in all respects as herein-
92 before provided for the collection of taxes due the city, and they
93 shall be a lien upon the property liable therefor the same as taxes,
94 which lien may be enforced in the same manner as provided for
95 taxes. The lien hereinafter provided for shall have priority over all
96 other liens except those for taxes due the state and shall be on a
97 parity with taxes and assessments due the city. Whenever all such
98 assessments for paving, sewerage, macadamizing or other improve-
99 ments shall be paid in full to the treasurer, he shall deliver to the
100 party paying the same a release of the lien therefor, which may be
101 recorded in the office of the clerk of the county court of Kan-

102 awha county as other releases of liens, and whenever any such
103 assessment shall not be in the hands of the treasurer for collection,
104 but the same shall be shown to the satisfaction of the city auditor
105 or other official performing the duties of auditor, to have been
106 paid in full to any officer entitled to receive the same, such auditor
107 or the mayor may in like manner execute such release.

Sec. 62. Whenever the council shall order the construction of
2 any public sewer in said city, the owners of the property abutting
3 upon any street in which such sewer shall be constructed, shall
4 be charged with and liable for sewerage assessments as follows:
5 When said sewer is completed the engineer of said city shall report
6 to the council in writing, the total cost of such sewer, and a des-
7 cription of the lots and lands as to the location, frontage, depth
8 and ownership liable for such sewer assessment, so far as the
9 same may be ascertained, together with the amount chargeable
10 against each lot and owner, calculated on the basis of the cost
11 thereof, and any lot fronting on two streets, one in the front and
12 another in the rear of said lot, shall be assessed on both of said
13 streets, if a sewer is constructed on both streets, or if fronting on a
14 street and running back to an alley, shall be assessed on both the
15 street and alley, if a sewer shall be constructed in both street and
16 alley; and thereupon said council shall give like notice by publica-
17 tion as is required in case of street paving assessments, and the
18 same rights shall exist as to the persons and property affected
19 and the same duty as to corrections by said council as are pre-
20 scribed with reference to paving, which report shall in like man-
21 ner be examined by the council; and, if found to be correct or cor-
22 rected, as aforesaid, and such estimated assessments to be a fair
23 and equitable apportionment of the cost of such sewer upon the
24 basis hereinbefore described, it shall enter an order upon its
25 records, setting forth such location, ownership and said amount
26 of such sewer assessments, against each, respectively, calculated as
27 aforesaid, and the entry of such order shall constitute and be an
28 assessment for such proportion and amount so fixed therein
29 against such respective owners and lots, and, if after such adver-
30 tisement, notice and hearing, said council shall find that such
31 apportionment at such rate is unjust or inequitable, and con-
32 trary to the intent of this act, it shall ascertain, fix and assess the
33 costs, thereof among and upon the abutting property owners
34 respectively, justly and equitably and according to the intent

25 hereof, and in like manner, assess and enter the amount so fixed
26 respectively upon its records; and the council shall, in either
27 event, thereupon certify the same to the treasurer for the col-
28 lection, and certify a copy of such order to the clerk of the county
29 court of Kanawha county, who shall record the same in the proper
30 trust deed book, and index the same in the name of each owner
31 of any such lot so charged with such assessment, and such assess-
32 ment made, shall constitute and be a lien upon said lots, respect-
33 ively, which shall have priority over all other liens, except those for
34 taxes due the state, and shall be on a parity with other taxes and
35 assessments due the city. Said amounts so assessed against the said
36 several land owners shall be paid by the parties liable therefor
37 to the said treasurer at all times in the manner and with the atten-
38 dant penalties for the failure to pay promptly at the time pre-
39 scribed in all respects as hereinbefore provided in the case of
40 assessments for paving streets and alleys in a permanent manner,
41 and the parties liable therefor shall, in the same manner, and to
42 the same extent, have the right and be entitled to anticipate any
43 or all of such installments thereon as in such case provided. The
44 owners of, or the tenants, occupants or agents of any lot abutting
45 on or near or adjacent to any street or alley in said city, on which
46 a public sewer is or may hereafter be laid and constructed, upon
47 which lot any business or residence building is or may hereafter be
48 erected, or upon which any water stands not connected with a
49 public sewer, may be required and compelled to connect any such
50 building or lot with such sewer. Notices to connect may be given
51 to the owner, lessee, or occupant of such building. Each day's
52 failure to comply with such notice and connect with such sewer
53 by such owner or owners, ten days after such notice is given shall
54 be a misdemeanor and a separate and new offense under this sec-
55 tion, and every such offense shall be punishable by fine of not less
56 than five nor more than twenty-five (\$25.000) dollars. The ex-
57 pense incurred by any tenant, occupant or agent in complying with
58 the order of said council to make such sewer connection may be
59 deducted out of the accruing rents as provided for in section 47
60 relating to the abatement of nuisance. Jurisdiction to hear, try,
61 determine and sentence for violation of this section is vested in
62 the police court of such city.

63 The liens herein and hereinbefore provided for street paving,
64 macadamizing and sewerage assessments and assessments for other

74 improvements shall constitute liens upon the real estate upon
75 which they are assessed, as against creditors of the owners thereof,
76 or purchasers for value, and without actual notice of such liens.
77 only from and after the time that the statement thereof certified
78 as aforesaid shall be filed for record in the office of the clerk of
79 the county court of Kanawha county; *provided*, that in case any
80 lot of land so assessed in the name of a particular owner shall
81 have been conveyed by him before the lien thereon shall have been
82 certified and fixed with the clerk of the county court, as aforesaid,
83 the said lien shall nevertheless attach to the land in the hands of
84 the subsequent owner, and the same in all respects as if the assess-
85 ment were made in his name.

Sec. 63. Whenever it is deemed expedient by the council of
2 said city to provide for the grading, paving, sewerage or macad-
3 amizing, or otherwise improving any street or alley therein to be
4 paid for in whole or in part by special assessment, said council
5 shall declare by resolution, by aye and no vote, the necessity of
6 such improvement. At the time of passage of said resolution the
7 said council shall have on file in the office of the city clerk plans,
8 specifications, estimates and profiles of the proposed improvements
9 showing the proposed grade of the street and improvements, after
10 completion, with reference to the property abutting thereon, which
11 plans, specifications, estimates and profiles shall be open for the
12 inspection of all persons interested. Said resolution shall deter-
13 mine the general nature of the improvements, what shall be the
14 grades of the street, alley or other public place to be improved,
15 as well as the grade or elevation of the curb, and said council
16 shall approve the plans, specifications, estimates and profiles for
17 the proposed improvement. The council shall also determine in
18 said resolution the method of paying for the work contemplated
19 in said plans and specifications, whether by an appropriation
20 from the funds in the treasury unappropriated, or whether bonds
21 shall be issued in anticipation of the collection of special assess-
22 ments, to be made against the abutting property owners, as pro-
23 vided for in section sixty of this act. Said resolution shall further
24 show the approximate estimated cost of said proposed improve-
25 ment per front foot, and shall fix a date at some meeting of the
26 council, on which the owners of property to be assessed for such
27 improvement may appear and protest against the same or be other-
28 wise heard in reference thereto. Assessments shall be payable

29 in ten installments as provided for in said sixty and sixty-first
30 sections. The resolution herein provided for declaring the neces-
31 sity for said improvement shall be published at least once a week,
32 for two successive weeks after its adoption, in some newspaper
33 of general circulation in the city and an affidavit of the publisher
34 showing publication for such time together with a copy of said
35 notice attached, shall be filed with the city clerk of the said city
36 and spread upon the record of the minutes of the next meeting of
37 the council, said resolution shall be in effect from and after the
38 first publication thereof as herein provided for.

Sec. 64. A notice of the passage of the resolution required in
2 the last preceding section, embodying a copy of said resolution,
3 shall be served upon the owner of each piece of property to be
4 assessed, said service to be made in manner provided by this act
5 for serving notices herein required; *provided*, that if it appears
6 by the return, in any case, that the owner can not be found, then a
7 notice of the passage of said resolution shall be published in some
8 newspaper of general circulation in said city once a week for two
9 consecutive weeks, and such notice, whether by services or publica-
10 tion, shall be completed at least three days before said improve-
11 ment is begun or the assessment is levied, and the return of the
12 officer serving such notice or a certified copy of said return, or
13 when published, the certificate of the publisher of said newspa-
14 per shall be *prima facie* evidence of the service of the notice as
15 herein required. Notice upon infants may be served on their
16 guardian, and upon insane persons, by their committee.

Sec. 65. The city of Dunbar shall pay the cost of paving inter-
2 sections of all cross streets, except as herein otherwise provided,
3 but not including the places where private alleys or private cross-
4 ings, cross sidewalks, which shall be paved by the owner or
5 owners of said private alleys or crossings at his or their expense.

Sec. 66. It shall be lawful for said city of Dunbar to issue and
2 sell its bonds as provided in this act for the sale of other bonds.
3 to pay the city's part of the cost of said improvements as required
4 by this act, and it may levy taxes in addition to all other taxes
5 authorized by law, to pay such bonds and interest thereon, *pro-*
6 *vided*, that the total indebtedness of the city for all purposes shall
7 not exceed five per centum of the total value of all taxable prop-
8 erty therein.

Sec. 67. At the expiration of not less than three days from
2 the time of the giving and publication of the notices as provided
3 for in section sixty-four the council shall sit at the time and place
4 fixed for the purpose of hearing all property owners to be affected
5 with reference to the proposed improvements and shall hear and
6 consider any objections thereto; and council shall thereupon
7 determine whether it will proceed with the proposed improvements
8 or not; and, if it decides to proceed therewith, an ordinance for
9 the purpose shall be passed; said ordinance shall set forth the
10 streets and alleys upon which the abutting property is to be assessed
11 for the improvements and shall contain a statement of the general
12 nature of the improvements, and the character of the materials
13 which may be bid upon therefor, of the mode of payments therefor;
14 a reference to the resolution therefor passed for said improve-
15 ment, giving the date of its passage and a statement of the inten-
16 tion of the council to proceed therewith in accordance with said
17 resolution and in accordance with the plans, specifications, esti-
18 mates and profiles provided for said improvement. In setting
19 forth the lots and lands abutting upon the improvement it shall
20 be sufficient to describe them as the lots and lands bounding and
21 abutting upon said improvements between and including the
22 termini of said improvements, or by the description by which
23 they are described on the land books of the county of Kanawha,
24 and this rule of description shall apply in all proceedings in which
25 lots or lands are to be charged with a special assessment.

Sec. 68. In any case in which special assessments have been
2 made, or shall hereafter be made, upon property for the construc-
3 tion of any improvement authorized by this act or previous statutes
4 and several kinds of material have been named in the ordinance
5 or ordinances providing for the same, and bids have been received
6 for the construction of said improvements with any, either or all of
7 said material, said assessments shall be valid and binding assess-
8 ments, on the property so assessed. In the case of the con-
9 struction of sewers required under the provisions of this act, notice
10 of the passage of said resolution therefor, as provided for in sec-
11 tion sixty-four of this act, shall be given in the manner provided
12 for in said section of this act.

Sec. 69. No public improvement, the cost or part of the cost of
2 which is to be especially assessed on the owners of property, shall
3 be made without the concurrence of three-fourths of all the mem-

4 bers of council, unless the owners of a majority of the front foot-
5 age to be assessed petition in writing therefor, in which event the
6 said council shall be authorized by the affirmative vote of a ma-
7 jority thereof to proceed with the improvement in the manner
8 herein provided for.

Sec. 70. When the whole or any portion of the improvement
2 authorized by this act passes through or by a public wharf, market
3 space, park, cemetery, structure for the fire department, water
4 works, school building, infirmary, market house, work house, hos-
5 pital, house of refuge, bridge, gas works, public prison, court
6 house, church or any other public structure or public grounds
7 within said corporation and belonging to said corporation or to
8 the county, state or any church, association, or eleemosynary in-
9 stitution, the council may authorize the proper proportion of the
10 estimated cost and expense of the improvement to be certified to
11 the clerk of the county court of Kanawha county, and it shall be
12 the duty of these persons having charge of the fiscal affairs of any
13 such property or institution to make proper arrangements for the
14 payment of such assessments when due and payable.

Sec. 71. The cost of any improvements contemplated in this
2 act and for which assessments may be made, shall include the cost
3 and expense of the preliminary and other surveys, and of printing
4 and publishing of all notices required to be published, and serv-
5 ing the notices upon the property owners and the cost of construct-
6 ing and inspection.

Sec. 72. No person shall bring any action whatever in any
2 court in this state for damage arising out of improvements or
3 change of grade unless he shall have filed with the council at some
4 time after the publication of the notice provided for in section
5 sixty-four and before the time of the introduction of the ordinance
6 providing for said improvement a statement of the damage which,
7 in his opinion, he will sustain by reason of said improvement or the
8 change of grade therefor, which statement shall be duly sworn to
9 and be spread upon the minutes of said council.

Sec. 73. Proceedings with respect to improvements shall be
2 liberally construed by the courts to secure speedy completion of the
3 work at reasonable cost, and a speedy collection of the assess-
4 ments after the time has elapsed for their payment, and merely
5 formal objection in such cases shall be disregarded.

2 Sec. 74. It is especially provided that no bonds shall be issued
3 under the provisions of this act unless and until the question of
4 issuing said bonds shall have first been submitted to a vote of the
5 people of the city and shall have received three-fourths of all votes
6 cast at said election for or against the same.

7 The council may provide by ordinance for an election every year,
8 at which the question shall be submitted to the people, as to whether
9 the city shall be authorized to issue bonds for the purpose and un-
10 der the provisions of this act, to an amount not to exceed in the
11 ensuing year the amount recommended by said ordinance for said
12 ensuing year; but the ordinance providing for said election need
13 not specify in detail the location of the improvements contemplated
14 to be paid for during the ensuing year out of said aggregate issue
15 authorized for said year; but before issuing any bonds the council
16 shall pass separate ordinances for such street or alley to be im-
17 proved, dealing with all the requirements set forth in section
18 sixty-seven of this act, and notwithstanding the provisions of sec-
19 tions two, three and six of chapter forty-seven of the code, it shall
20 be sufficient description of the purpose for which said election is
21 held if the ordinance providing for said election shall recite that
22 it is to authorize the council of said city to issue bonds for the
23 purpose of grading, paving, sewerage or otherwise improving the
24 streets and alleys of said city, at such times as the council shall
25 deem fit during the ensuing year ending on the day of
26 , 19...., to an amount not exceeding in the
27 aggregate during the year the sum ofdollars;
28 and when the council shall have been once authorized by a vote of
29 the people to issue bonds for the purpose and in a sum not to
30 exceed the amount set forth in the ordinance providing for the is-
31 suing of bonds during said ensuing year up to the amount stipu-
32 lated in said ordinance providing for said election; but the coun-
33 cil shall from time to time during said ensuing year, by ordinance,
34 authorize the issue of said bonds, in such sums and for the im-
35 provement of such streets or alleys as to it may seem best, pro-
36 viding the requirements of this act are complied with. The ag-
37 gregate amount of bonds authorized by said annual election shall
38 not be exceeded during said ensuing year, unless and except the
39 same be authorized by special election held at a subsequent time
40 in said year and duly called as provided for the calling of the
41 annual bond election.

42 The provisions of chapter forty-seven of the code concerning
43 bond elections, shall, so far as they are not in conflict with the
44 provisions of this act, apply to the annual bond elections and
45 special bond elections herein provided for.

Hospitals, Libraries, Etc.

Sec. 75. The council shall have the authority to erect, buy, sell
2 and lease all buildings necessary for the use of the city govern-
3 ment and to provide for and regulate the same, and to establish
4 and maintain public hospitals, libraries, and reading rooms, and to
5 purchase books, papers and manuscripts therefor, and to receive
6 donations, gifts, or bequests for same in trust or otherwise.

Civil Service Board.

Sec. 76. For the purpose of making examinations of persons
2 applying for offices or positions in the fire department, and pre-
3 scribing rules for their conduct, the council may appoint three
4 discreet persons, who need not be members of council, who shall
5 act and be known as a civil service board, and the city clerk shall
6 shall be *ex-officio* clerk of said board.

7 The civil service board, when appointed, shall adopt rules for its
8 own government and cause the minutes of its members to be
9 recorded in a book especially provided for that purpose, which
10 shall be kept by the city clerk at his office, and open to public in-
11 spection. The civil service board, at least every six month in
12 each year and oftener if it deems it necessary, after ten days'
13 notice published in some newspaper of general circulation in the
14 city and giving the time and place of meeting, shall hold examina-
15 tions for the purpose of determining the fitness and qualifications
16 of applicants for offices and positions in the fire department,
17 which examinations shall be practical and shall fairly test the
18 fitness of the person examined to discharge the duties of the posi-
19 tion to which he seeks appointment and such examinations shall
20 be made with the aim to secure and maintain an honest and effi-
21 cient fire department. Said board shall at once, after each of said
22 examinations, place on record in the journal of the civil service
23 board the results of said examination, giving the names of appli-
24 cants and the positions sought by them and their respective per-
25 centages. In making such examination, size, weight, intelligence,
26 health, physical appearance, habits and moral standing and sur-
27 roundings shall be taken into consideration.

28 All persons examined by said civil service board and receiving a
29 general average of seventy per centum shall be placed upon an
30 eligible list, and thereafter all appointments, whether original or to
31 fill vacancies therein from time to time, shall be filled by the ap-
32 pointment of the applicant who has the highest standing on the
33 eligible list, *provided* that at the time any appointment is to be
34 made from the eligible list, the civil service board, in its discretion,
35 may make another examination of such person before his appoint-
36 ment and may for good cause on such examination change the
37 grade of such applicant.

Sec. 77. All persons appointed to positions in the fire depart-
2 ment except the chief thereof, after the creation of such service
3 board, shall be appointed in the manner provided in section seven-
4 ty-six.

Sec. 78. No member of the fire department or police depart-
2 ment shall actively engage in any primary election, convention
3 or election in which any officer in the city, county or state is to be
4 nominated or elected, nor shall such member, directly or indirectly,
5 give or offer to give, contribute or offer to contribute, any money
6 or thing of value or profit to any political committee or party
7 organization to be expended in behalf of any political party, nor
8 to any candidate or candidates for nomination for or election to
9 any office in the city, county or state. The violation of any of the
10 provisions of this section by any member of the fire department or
11 police department shall be deemed misconduct in office. Any
12 member of the fire department or police department guilty of
13 misconduct shall be dismissed from the service of the city by the
14 head of his department or by council, upon charges preferred and
15 proven by any citizen of said city.

Sec. 79. The council shall hear and determine all charges
2 against any officers of or persons holding a position in the fire de-
3 partment, after ten days' written notice to the accused of the
4 charges preferred against him and of the time and place of hear-
5 ing of said charges and an opportunity shall be given to the ac-
6 cused to be heard. After hearing said charges the council may,
7 by a majority vote of its members sustain the same, and by like
8 vote may reprimand, fine or suspend, dismiss or reinstate said
9 accused person. Upon the making of such charges, and pending
10 trial thereon, the chief of the fire department, when the provoca-
11 tion is great, may suspend the accused officer, and if he be there-

12 after found guilty on the charges preferred, and by reason thereof
13 dismissed, or suspended, he shall draw no salary during the period
14 of his suspension.

Serving Notice.

15 Sec. 80. When any notice is required to be given, or any sum-
16 mons, warrant or other process is required to be served or other-
17 wise executed, under the provisions of this act it shall be sufficient
18 if such notice, summons, warrant, or other process be executed by
19 an officer of the police department of said city in the same way or
20 manner in which the laws of the state prescribe for executing sum-
21 monses and subpoenas by state officers, unless otherwise provided
22 by this act.

23 Sec. 81. The city clerk, acting under state laws insofar as they
24 are not in conflict with this act, shall perform such duties relating
25 to all municipal elections held under the municipal authorities of
26 said city as the clerks of the county and circuit courts of Kanawha
27 county perform under state laws in relation to state, county and
28 district elections in said county; and he shall likewise be the custo-
29 dian of all ballots, tally sheets, etc., pertaining to all municipal
30 elections.

Policemen.

31 Sec. 82. The mayor shall appoint such number of policemen as
32 may be prescribed by the council by ordinance, and the mayor shall
33 have, at his discretion, the absolute right and power to dismiss any
34 policeman and appoint another in his stead. The policeman shall
35 be under the command of the mayor and the chief of police, and
36 shall perform any and all the duties incident to the office of police-
37 men and in addition to the usual and customary duties prescribed
38 by the laws of this state and under the provisions of this act re-
39 quired of them, it shall specially be the duty of each police to re-
40 port to the chief of police, or some one designated by him to re-
41 ceive such report, as often as occasion demands, the condition of
42 all streets, sidewalks, alleys, basements, backyards, buildings,
43 unimproved lots, and all other things within the limits of said
44 city that may come under the notice of such policemen which may
45 relate to the health of the citizens thereof. It shall be the duty
46 of each police officer to perform all duties of humane officer, and
47 to exercise all the functions, power and authority relating thereto
48 which are or may be prescribed by any law of this state or ordin-
49 ance of said city.

Members of Council.

Sec. 83. Each member of the city council shall be paid during
2 his term of office the sum of two dollars and fifty cents (\$2.50)
3 for each meeting of the council that he shall attend, *provided*,
4 that the aggregate amount to be paid to each member shall not
5 exceed the sum of one hundred (\$100.00) dollars per annum.

6 It shall be the duty of all councilmen to attend all the meet-
7 ings of the council, and if any member of council shall be absent
8 from its meetings as shown by its record for three consecutive
9 meetings, then his office shall become *ipso facto* vacant, unless
10 the council shall authorize or excuse such absence. If the office
11 of any councilman shall become vacant under the provisions of
12 this section, then the council shall proceed to fill the same as
13 it is herein authorized to do in case of vacancies generally.

Reports.

Sec. 84. It shall be the duty of the manager, not later than
2 the tenth day of any month after his appointment, to make a
3 detailed report to the council for the preceding month. Such
4 report shall show under distinct heads, first, the names and sal-
5 aries of all employes under the control and supervision of the
6 manager; second, all expenditures or disbursements in the sev-
7 eral departments under the supervision of the manager; third,
8 an itemized statement of all purchases, together with the cost
9 thereof, for each and every department; fourth, all such other
10 matters and things as the council may by proper ordinance or
11 resolution require of said manager. Such report shall be entered
12 of record in the minutes of the council and be a public record,
13 open to the inspection of all persons. All officers or employes
14 in any departments under the supervision of the manager shall,
15 whenever required by said manager, make full and complete re-
16 ports of all things done by them as such officers or employes, in
17 connection with the business of the city.

Additional Method of Paving.

Sec. 85. In addition to the method provided for paving streets,
2 by section sixty-one of the charter of the city of Dunbar, the
3 council may order any block, street, avenue, or alley, or portion
4 thereof, to be paved or otherwise permanently improved, and
5 the council may order the mayor and city clerk to issue to the

6 contractor doing the paving, or other permanent improvement, a
7 certificate for each installment of the amount of the assessment
8 to be paid by the owner of any lot or fractional part thereof front-
9 ing on such street, avenue or alley, and the amount specified in
10 said assessment certificate shall be a lien as aforesaid in the
11 hands of the holder thereof upon the lot or part of a lot fronting
12 on such street, avenue or alley and such certificate shall draw
13 interest from the date of said assessment and the payment may
14 be enforced in the name of the holder of said such certificate by
15 proper suit in equity in any court having proper jurisdiction
16 to enforce such lien, and the council shall fix the amount of
17 such assessment, advertise for bids and do all things in con-
18 nection therewith as is provided for paving or permanently im-
19 proving any street or alley or portion thereof in section sixty-
20 one except that in fixing the amount of such assessments the cost
21 of paving the street intersections shall be included and the propor-
22 tionate part thereof shall be assessed against each lot owner;
23 *provided*, that the cost of not more than one intersection shall
24 be assessed against the lots situated between any two cross streets;
25 and such certificates shall be issued in the same number of in-
26 stallments and payable at the same time as other paving or per-
27 manent improvements are provided to be paid for and shall be
28 a lien in the hands of the holder thereof upon the particular
29 lot against which they are assessed in the same way and manner
30 as provided for assessments made under section sixty-one of said
31 charter; and nothing contained in this act or in any general law
32 shall be construed as imposing a time limit upon the enforcement
33 by appropriate suit of any lien for public improvements made
34 hereunder; and, *provided, further*, that no error in the pub-
35 lication of any notice required hereunder shall in any way affect
36 the validity of the certificates herein provided for.

37. Such certificates as may be issued pursuant to the foregoing
38 section shall contain a provision to the effect that in the event
39 of default in the payment of any one of said certificates, when
40 due and such default shall continue for a period of sixty days,
41 then all unpaid certificates shall become due and payable and
42 the holder of said certificates may proceed to collect all of such
43 unpaid certificates in the manner hereinbefore provided.

44 *Provided*, that no street, avenue or alley shall be paved or
45 otherwise permanently improved pursuant to this section except

46 and unless two-thirds of all the members elected to council shall
47 concur therein.

Sec. 86. In case of the construction of any pavement, sewer,
2 sidewalk or other permanent improvement under the provisions
3 of this act, when an assessment shall be void or voidable by
4 reason of errors, irregularities or defects in the proceedings un-
5 der which such improvements shall have been made, or in case
6 such assessment shall have been made against the wrong person,
7 it shall be the duty of the council, within two years after any
8 court shall have declared such assessment invalid, to cause
9 notice to be given to any person against whom the cost of such
10 improvement might properly have been assessed under this act.
11 of its intention to lay such assessment against him, and fixing a
12 time and place at which he may appear and show cause, if
13 any, why such assessment should not be laid. Said notice shall
14 be served as provided in this act for the giving of notices in
15 assessment proceedings, or in any other manner provided by
16 law, including by publication, if the person is a non-resident of
17 the city or can not be found.

18 At the time and place fixed for a hearing under the notice
19 aforesaid, the council shall proceed to lay and levy an assess-
20 ment for the cost of such permanent improvement in such man-
21 ner as would have been lawful under proper proceedings at the
22 time said improvement was made, unless the person so notified
23 shall show good cause why the same should not be laid, and no
24 further notice of such assessment shall be necessary. The as-
25 sessment so laid shall be a lien upon the property liable therefor.
26 as of the date of the original void, or voidable, assessment, and
27 shall be recorded in the same manner as is hereinafter provided.
28 This section shall apply to assessments made and certificates is-
29 sued under section eighty-five of this act, as well as to other
30 assessments and liens for public improvements.

Miscellaneous Provisions.

Sec. 87. In addition to the method of securing the laying of
2 sidewalks set out in section forty-nine of this chapter, the council
3 of said city may cause any sidewalk to be constructed, laid, re-laid,
4 or otherwise permanently improved in the city of Dunbar in the
5 following manner and upon the following terms: Notice shall first
6 be given the abutting property owners by publication in some

7 newspaper of general circulation in the city, giving location, esti-
8 mated frontage and depth, but no error in said publication shall
9 in any way effect the validity of the certificates hereinafter pro-
10 vided for, or any of them. The contract for same shall, after due
11 advertisement in which council shall reserve the right to reject
12 any and all bids, be let to the lowest responsible bidder and upon
13 completion and acceptance of the work, council shall order the
14 mayor and city clerk to issue to the contractor doing the work a
15 certificate for the amount of the assessment to be paid by the owner
16 of any lot or fractional part thereof fronting on such sidewalk,
17 and the amount specified in said assessment certificate shall be a
18 lien in the hands of the holder thereof upon the lot or part of a lot
19 fronting on such sidewalks and such certificate shall draw inter-
20 est from the date of said assessment, and the payment may be en-
21 forced in the name of the holder of such certificate by a proper
22 suit in equity in any court having proper jurisdiction to enforce
23 such liens, and council shall fix the amount of such assessments
24 and do all things in connection therewith necessary to make them
25 valid and do all other things in connection therewith as is provided
26 for paving or improving streets and alleys and such certificates
27 shall be issued for each abutting lot or portion thereof payable six
28 months from the date of the completion and acceptance of the
29 work and shall be a lien in the hands of the holder thereof upon
30 the particular lot against which they are assessed in the same way
31 and manner as assessments for street paving liens under the other
32 provisions of this act; *provided, however,* that council shall not
33 order any but concrete sidewalks; and *provided, further,* that coun-
34 cil shall not advertise for bids for any one letting of less than five
35 thousand (5,000) square feet; and *further provided,* that council
36 shall not receive any bids or let any sidewalk contract between the
37 first day of October and the first day of March of any years. Noth-
38 ing in this section shall be so construed as to prevent any abutting
39 lot owner from having his own sidewalk put in if done before the
40 advertising hereinbefore mentioned, and provided same is done ac-
41 cording to the lines, grades and specifications of the city engineer,
42 for which no charge shall be made. The total cost of construction,
43 laying, re-laying or otherwise permanently improving any sidewalk
44 or walks shall be borne by the owners of the land abutting upon
45 said sidewalk or sidewalks according to the following plan, that is
46 to say, payment is to be made according to the proportion which

47 the number of square feet in front of any lot or portion thereof
48 bears to the whole letting. The contract for sidewalks referred to
49 in this section need not be for one continuous sidewalk, but the five
50 thousand square feet required for a letting, as aforesaid, may be
51 made up of or composed of any number of sidewalks in any part
52 of the city.

Sec. 88. The county assessor shall furnish to the city clerk a
2 transcript of real and personal property in the city of Dunbar on
3 or about the tenth day of September of each year, and his fee for
4 same shall be not less than one hundred (\$100.00) dollars nor
5 more than four hundred (\$400.00) dollars for such work.

Sec. 89. The police judge, mayor and city clerk shall each have
2 authority to issue process for all offenses committed within the
3 police jurisdiction of the city of Dunbar for all violations of any
4 city ordinances. Any vacancy in the office of police judge shall be
5 filled by appointment by the mayor.

Sec. 90. No ordinance passed by the city council shall take
2 effect until ten days after its final passage and one publication of
3 the caption of title thereof, only, shall be made at some time during
4 said ten days in some newspaper circulated in said city, except an
5 ordinance necessary for the immediate preservation of the public
6 health or public safety. Such caption or title shall distinctly state
7 the full purport of the ordinance so passed and printed.

Sec. 91. The health commissioner shall be a physician of good
2 standing in his profession. It shall be his duty to administer to
3 all charity cases that he may, in his discretion, deem deserving.
4 He shall, in conjunction with the city manager, have charge of the
5 general health and sanitation of the city, and it shall be his duty to
6 carefully investigate all complaints and make a careful detailed
7 duties as the mayor, manager, or council may direct.
8 manager and council, at least once every month. He shall be ap-
9 pointed in the way and manner provided by this act and shall re-
10 ceive such salary as council may by ordinance prescribe. Nothing
11 herein, however, shall be construed as in any way affecting
12 the police officers of the city relative to their powers and duties in
13 regard to city sanitation contained and set forth elsewhere in this
14 act.

Sec. 92. . The mayor may appoint a reputable woman who shall
2 be known as police matron; and such police matron shall have all
3 the qualifications and be subject to all the provisions of chapter

4 18, of the acts of the legislature of one thousand nine hundred
5 eleven. The council of the city of Dunbar may provide a reason-
6 able salary not to exceed twelve hundred (\$1,200.00) dollars there-
7 for, and such matron shall do all of the things required by the
8 council under the provisions of said chapter eighteen, of the acts
9 of the legislature of one thousand nine hundred and eleven, and
10 any amendments thereto.

Sec. 93. The city council may make any contract for the codi-
2 fying and indexing of all the ordinances of the city, and such or-
3 dinances shall include all in force and effect up to the last day pos-
4 sible. Before such work is accepted by the council, it shall be
5 completed in every respect and the council shall then cause it to
6 be properly printed and securely bound in a permanent book. The
7 council may by ordinance adopt the code to be prepared as a whole
8 and when said ordinance adopting said code shall have been passed
9 by the council the said code shall be and become the law and or-
10 dinances of said city up to such time, according to the tenor and
11 effect thereof, and when printed in a book, the same shall be re-
12 ceived as evidence as the ordinances of said city, unless errors or
13 omissions be affirmatively shown therein, and no other publication
14 thereof shall be made or required under the charter, and the coun-
15 cil shall cause all the ordinances of said city, by printing a supple-
16 ment thereof, or otherwise, to be brought up to date within a rea-
17 sonable time after the printing of such ordinances, and in any
18 event such supplement shall be printed, or, if necessary, a new
19 copy of the ordinances shall be printed, at least once every four
20 years; and the council shall cause such number of said books of
21 the ordinances to be printed and sell such number thereof at such
22 prices as may be reasonable, and the number of books printed shall
23 be fixed by the council.

Sec. 94. It shall be the duty of the city of Dunbar to provide
2 suitable and proper places for the burial of the dead, which
3 places may be in or out of the corporate limits of the city. The
4 city shall cause such places to be laid off into cemetery lots in a
5 reasonable and proper way and shall sell said lots for a reasonable
6 price; but it may take into consideration the location of each of
7 said lots in fixing the prices therefor. The city council shall have
8 all the powers and rights of condemnation of any real estate that
9 it may wish for such purpose in the manner provided by law, and
10 it may acquire by means of condemnation any real estate which

11 has already been laid out as a cemetery by any person association
12 or corporation.

13 No burials of the bodies of deceased persons shall hereafter be
14 permitted within the incorporated limits of the city of Dunbar or
15 in any cemetery owned by said city within the space
16 of one mile of such incorporated limits, unless the
17 permission of said city shall be first had and obtained, and the
18 city of Dunbar, through its proper authorities, shall have power
19 to pass all proper ordinances providing suitable penalties to carry
20 out the powers here given said city.

21 No moneys received from the sale of lots in any cemetery so
22 owned, or hereafter owned, by said city shall be used for any other
23 purpose than the proper care and preparation of the ground, up-
24 keep and expenses of said cemetery, the roads and ways to and
25 through the same and for the purchase of additional property
26 for cemetery purposes. *Provided, however,* that nothing herein
27 contained shall in any wise affect any person, firm or corporation
28 now lawfully engaged in the sale of cemetery lots, unless such
29 property be acquired by the city through purchase or condem-
30 nation.

Sec. 95. The building inspector shall be a competent person
2 for the duties of his office. He shall not, during his term of office
3 be engaged in or interested in the building business in any way or
4 manner. The council shall by ordinance fix a proper salary for
5 him. He shall see that the ordinances of the city and laws of the
6 state concerning building are enforced, and perform such other
7 duties as the mayor, manager, or council may direct.

Sec. 96. The council shall have power to buy, sell, or exchange
2 any real estate found necessary or convenient in the opening, con-
3 struction, straightening, widening, or otherwise altering of any
4 street, alley, or public way within the city; and by resolution and
5 proper deed to convey to any person, firm, or corporation any land
6 used or heretofore or hereafter used, for street or other public
7 purpose, when, in the judgment of the council such land shall be
8 no longer needed for such public use.

Sec. 97. This act shall become effective from the passage
2 hereof.

Sec. 98. All acts, or parts of acts, inconsistent with the provis-
2 ions of this act are hereby repealed.

ORDINANCE NO. 134

AN ORDINANCE CREATING A SANITARY BOARD, VESTING IN SAID BOARD THE CUSTODY, ADMINISTRATION, OPERATION AND MAINTENANCE OF THE SEWERAGE WORKS OF THE CITY OF DUNBAR, PROVIDING THE METHOD OF APPOINTMENT, TERM OF OFFICE AND COMPENSATION OF MEMBERS OF SAID BOARD, PROVIDING OFFICERS OF SAID BOARD AND THE COMPENSATION AND BOND FOR CERTAIN OF SAID OFFICERS.

BE IT ENACTED BY THE COUNCIL OF THE CITY OF DUNBAR, HANCOCK COUNTY, WEST VIRGINIA:

Section 1. There is hereby created a Sanitary Board for the City of Dunbar, in which is hereby vested the custody, administration, operation and maintenance of the sewerage works of said City. Said Board shall possess all the rights, powers and duties granted to such boards by Chapter 23, Acts of the Legislature of West Virginia, First Extraordinary Session, 1935, as amended and reenacted by Chapter 69, Acts of the Legislature of West Virginia, Second Extraordinary Session, 1933, and by Chapter 26, 1931 Acts of the Legislature of West Virginia, and such rights, powers and duties as may hereafter be granted to such boards by any amendments to said Acts of the Legislature or by any further acts passed by the Legislature of the State of West Virginia.

Section 2. Said Board shall be composed of the Mayor of said City and two persons appointed to membership thereon by the Council of said City, at least one of whom, during the construction period, shall be a registered professional engineer and may or may not be a resident of said City. No officer or employee of said City, whether holding a paid or unpaid office, shall be eligible to appointment upon said Board until at least one year after the expiration of the term of his public office.

Section 3. Said Appointees shall originally be appointed for terms of two and three years respectively, and upon expiration of each such term, and each succeeding term, an appointment of a successor shall be

made in like manner for a term of three years. Vacancies shall be filled for an unexpired term in the same manner as the original appointment.

Section 4. The Mayor of said City shall act as Chairman of said Sanitary Board. Said Board shall select a Vice Chairman from its members and designate a Secretary and Treasurer (but the Secretary and Treasurer may be one and the same person), who need not be a member or members of said Board. The Vice Chairman, Secretary and Treasurer shall hold office as such at the will of said Board.

Section 5. The members of said Sanitary Board shall receive as compensation for their services the sum of Twenty-five Dollars per month, each and they shall be entitled to payment of their reasonable expenses incurred in the performance of their duties. The Secretary and Treasurer, whether two persons or the office is vested in one person, shall be paid a salary in an amount fixed by said Sanitary Board by and with the consent and approval of the Council of said City. The Treasurer shall give bond in manner, form and amount satisfactory to and approved by the Council of said City. All compensation and expenses provided in this section shall be payable solely from the funds received from the sewerage works controlled by said Sanitary Board.

Section 6. The Sanitary Board shall have power to establish by-laws, rules and regulations for its own government.

Section 7. This ordinance shall become effective from passage.

C. F. Stewart
Clerk

H. Salisbury
Mayor

Introduced: January 10, 1948; V.S.No.3, Page 231
Passed: April 5, 1948; V.S.No.3, Page 143-4
Caption Published: April 16, 1948, V.S.No.10, Page _____

5 APR 1948

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA,
CITY OF DUNBAR:

I, C. F. STEWART, City Clerk of the City of Dunbar, do hereby certify that I am the duly elected and serving Clerk of said City, and as such an custodian of the official Minute Books of the Council of the City of Dunbar; and, I do further certify that the following is a correct and accurate extract from the Minutes of a Regular Meeting of the Council of the City of Dunbar, held on the 7th day of June, 1948, as the same appears in Minute Book No. 9 of the Council of the City of Dunbar, on page number 352 thereof, as follows:

"Thereupon, the Mayor speaks of the appointment of personnel of the Dunbar Sanitary Board, as provided in the Sanitary Ordinance No. 134, which was passed on the 5th day of April, 1948, and tendered to the Council for its approval; his appointments of the following as members of the Sanitary Board of the City of Dunbar, and to serve the terms specified in said Ordinance:

A. G. Rice, Member;
Eugene Epley, Jr., Member

"Thereupon Councilman E. L. Hickman moved that said appointments of the Mayor be approved, and for terms which is provided in said Sanitary Ordinance No. 134, as follows:

A. G. Rice, Member;
Eugene Epley, Jr. Member

"Thereupon Councilman Ira J. Walker seconded said motion.

"Thereupon, upon a vote being taken, the Council voted unanimously in favor of said motion; and the Mayor declared said motion duly passed and adopted, and so ordered."

Given under my hand and the official seal of the City of Dunbar,
this 8th day of June, 1948.

C. F. Stewart
City Clerk
City of Dunbar, West Virginia

2
C.F.S.?

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA,
CITY OF DUNBAR:

I, C. F. STEWART, City Clerk of the City of Dunbar, do hereby certify that I am the duly elected and serving Clerk of said City, and as such an custodian of the official Minute Books of the Council of the City of Dunbar; and I do further certify that the following and attached Ordinance No. 134 is a complete, correct and accurate copy of said Ordinance No. 134 as the same was duly introduced January 19, 1948, as is shown in the Minute Book No. 9 of the Council of the City of Dunbar, at page number 231; and is the same Ordinance No. 134 which was duly passed by the Council of the City of Dunbar on April 5, 1948, as shown in the records of said Council in Minute Book No. 9, at page 243 and 244; and that the caption of said Ordinance was duly published as required by the City Charter, in the Times-Advance, a newspaper published in and of general circulation in the City of Dunbar, on April 16, 1948; and that the Publisher's Affidavit of such publication was duly made part of the Council records on the 7th day of March, 1948, as recorded in Minute Book No. 10, at page ___; that said Ordinance No. 134, relating to the creation of a Sanitary Board, etc., was duly recorded in Ordinance Book No. 2 of the City of Dunbar, at pages 29 and 30, as required by the City Charter.

Given under my hand and the official seal of the City of Dunbar, this 11th day of March, 1949:



C. F. Stewart
City Clerk
City of Dunbar, West Virginia





OATH OF OFFICE

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
CITY OF DUNBAR, to-wit:

I, C. B. RIGNEY, having been elected to the
Office of MAYOR of the City of Dunbar,
Kanawha County, West Virginia, as shown by the Minutes of Council Meeting
of JUNE 16, 1997, having been duly sworn by the
undersigned authority, says that he is duly qualified to hold said office,
as prescribed by the Charter of the City of Dunbar, and is not subject to
any of the disqualifications prescribed therein; that he will support the
Constitution of the United States and the Constitution of the State of
West Virginia, and that he will honestly discharge the duties of the Office
of MAYOR to the best of his skill and
judgment.

C B Rigney

Taken, subscribed and sworn to before me by _____
this 13th day of July, 1997.

Charles E. King
Notary Public in and for Kanawha County
West Virginia
Ch. E. King

My Commission Expires _____

OATH OF OFFICE

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
CITY OF DUNBAR, to-wit:

I, RON ROWLEY, having been elected to the
Office of CLERK-TREASURER of the City of Dunbar,
Kanawha County, West Virginia, as shown by the Minutes of Council Meeting
of JUNE 16, 1997, having been duly sworn by the
undersigned authority, says that he is duly qualified to hold said office,
as prescribed by the Charter of the City of Dunbar, and is not subject to
any of the disqualifications prescribed therein; that he will support the
Constitution of the United States and the Constitution of the State of
West Virginia, and that he will honestly discharge the duties of the Office
of CLERK-TREASURER to the best of his skill and
judgment.

Ron Rowley

Taken, subscribed and sworn to before me by Ron Rowley
this 15th day of July, 1997.

Charles E. King
Notary Public in and for Kanawha County
West Virginia
Ch. Judge

My Commission Expires _____.

OATH OF OFFICE

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
CITY OF DUNBAR, to-wit:

I, DANA HAYES, having been elected to the
Office of COUNCILMAN - WARD I of the City of Dunbar,
Kanawha County, West Virginia, as shown by the Minutes of Council Meeting
of JUNE 16, 1997, having been duly sworn by the
undersigned authority, says that he is duly qualified to hold said office,
as prescribed by the Charter of the City of Dunbar, and is not subject to
any of the disqualifications prescribed therein; that he will support the
Constitution of the United States and the Constitution of the State of
West Virginia, and that he will honestly discharge the duties of the Office
of COUNCILMAN - WARD I to the best of his skill and
judgment.

Dana Hayes

Taken, subscribed and sworn to before me by *Dana Hayes*
this 1st day of July, 1997.

Charles E. King
Notary Public in and for Kanawha County
West Virginia
Ch. Judge

My Commission Expires _____

OATH OF OFFICE

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
CITY OF DUNBAR, to-wit:

I, MICHAEL SCIPIO, having been elected to the
Office of COUNCILMAN - WARD I of the City of Dunbar,
Kanawha County, West Virginia, as shown by the Minutes of Council Meeting
of JUNE 16, 1997, having been duly sworn by the
undersigned authority, says that he is duly qualified to hold said office,
as prescribed by the Charter of the City of Dunbar, and is not subject to
any of the disqualifications prescribed therein; that he will support the
Constitution of the United States and the Constitution of the State of
West Virginia, and that he will honestly discharge the duties of the Office
of COUNCILMAN - WARD I to the best of his skill and
judgment.

Michael Scipio

Taken, subscribed and sworn to before me by Michael Scipio
this 1st day of July, 1997.

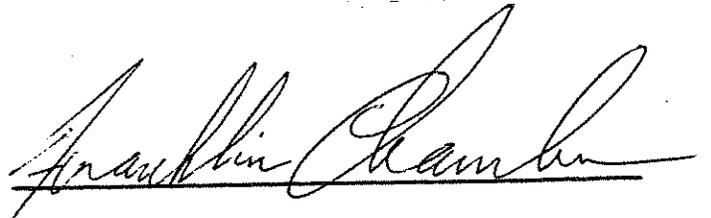
Charles E. Kraft
Notary Public in and for Kanawha County
West Virginia
Car. Judge

My Commission Expires _____.

OATH OF OFFICE

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
CITY OF DUNBAR, to-wit:

I, FRANKLIN CHAMBERS, having been elected to the
Office of COUNCILMAN - WARD II of the City of Dunbar,
Kanawha County, West Virginia, as shown by the Minutes of Council Meeting
of JUNE 16, 1997, having been duly sworn by the
undersigned authority, says that he is duly qualified to hold said office,
as prescribed by the Charter of the City of Dunbar, and is not subject to
any of the disqualifications prescribed therein; that he will support the
Constitution of the United States and the Constitution of the State of
West Virginia, and that he will honestly discharge the duties of the Office
of COUNCILMAN - WARD II to the best of his skill and
judgment.



Taken, subscribed and sworn to before me by _____
this 1ST day of July, 1997.



Notary Public in and for Kanawha County
West Virginia
Ch. Judge

My Commission Expires _____.

OATH OF OFFICE

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
CITY OF DUNBAR, to-wit:

I, DALLAS GARRETT, having been elected to the
Office of COUNCILMAN - WARD II of the City of Dunbar,
Kanawha County, West Virginia, as shown by the Minutes of Council Meeting
of JUNE 16, 1997, having been duly sworn by the
undersigned authority, says that he is duly qualified to hold said office,
as prescribed by the Charter of the City of Dunbar, and is not subject to
any of the disqualifications prescribed therein; that he will support the
Constitution of the United States and the Constitution of the State of
West Virginia, and that he will honestly discharge the duties of the Office
of COUNCILMAN - WARD II to the best of his skill and
judgment.

Dallas L. Garrett

Taken, subscribed and sworn to before me by Dallas L. Garrett
this 15th day of July, 19 97.

Charles E. King
Notary Public in and for Kanawha County
West Virginia
Ch. E. King

My Commission Expires _____.

OATH OF OFFICE

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
CITY OF DUNBAR, to-wit:

I, JOHN COLEMAN, having been elected to the
Office of COUNCILMAN - WARD III of the City of Dunbar,
Kanawha County, West Virginia, as shown by the Minutes of Council Meeting
of JUNE 16, 1997, having been duly sworn by the
undersigned authority, says that he is duly qualified to hold said office,
as prescribed by the Charter of the City of Dunbar, and is not subject to
any of the disqualifications prescribed therein; that he will support the
Constitution of the United States and the Constitution of the State of
West Virginia, and that he will honestly discharge the duties of the Office
of COUNCILMAN - WARD III to the best of his skill and
judgment.

John C. Coleman

Taken, subscribed and sworn to before me by John C. Coleman
this 1st day of July, 1997.

Charles E. King
Notary Public in and for Kanawha County,
West Virginia

My Commission Expires _____.

OATH OF OFFICE

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
CITY OF DUNBAR, to-wit:

I, RONALD EILKNIER, having been elected to the
Office of COUNCILMAN - WARD III of the City of Dunbar,
Kanawha County, West Virginia, as shown by the Minutes of Council Meeting
of JUNE 16, 1997, having been duly sworn by the
undersigned authority, says that he is duly qualified to hold said office,
as prescribed by the Charter of the City of Dunbar, and is not subject to
any of the disqualifications prescribed therein; that he will support the
Constitution of the United States and the Constitution of the State of
West Virginia, and that he will honestly discharge the duties of the Office
of COUNCILMAN - WARD III to the best of his skill and
judgment.

Ronald E. Eilknier

Taken, subscribed and sworn to before me by _____
this 1st day of July, 1997.

Charles E. King
Notary Public in and for Kanawha County
West Virginia
Ch. Judge

My Commission Expires _____

OATH OF OFFICE

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
CITY OF DUNBAR, to-wit:

I, DAVID FLOWERS, having been elected to the
Office of COUNCILMAN - WARD IV of the City of Dunbar,
Kanawha County, West Virginia, as shown by the Minutes of Council Meeting
of JUNE 16, 1997, having been duly sworn by the
undersigned authority, says that he is duly qualified to hold said office,
as prescribed by the Charter of the City of Dunbar, and is not subject to
any of the disqualifications prescribed therein; that he will support the
Constitution of the United States and the Constitution of the State of
West Virginia, and that he will honestly discharge the duties of the Office
of COUNCILMAN - WARD IV to the best of his skill and
judgment.

David Flowers

Taken, subscribed and sworn to before me by David Flowers
this 1st day of July, 1997.

Charles E. King
Notary Public in and for Kanawha County
West Virginia
Ch. Judge

My Commission Expires _____

OATH OF OFFICE

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
CITY OF DUNBAR, to-wit:

I, FERN JOBE, having been elected to the
Office of COUNCILMAN - WARD IV of the City of Dunbar,
Kanawha County, West Virginia, as shown by the Minutes of Council Meeting
of JUNE 16, 1997, having been duly sworn by the
undersigned authority, says that she is duly qualified to hold said office,
as prescribed by the Charter of the City of Dunbar, and is not subject to
any of the disqualifications prescribed therein; that she will support the
Constitution of the United States and the Constitution of the State of
West Virginia, and that she will honestly discharge the duties of the Office
of COUNCILMAN - WARD IV to the best of her skill and
judgment.

Fern Jobe

Taken, subscribed and sworn to before me by _____
this 1st day of July, 1997.

Charles E. King
Notary Public in and for Kanawha County
West Virginia
Ch. King

My Commission Expires _____.

OATH OF OFFICE

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA,
CITY OF DUNBAR, To-Wit:

I, RICHARD BERTOLOTTI, do hereby certify that I have been duly appointed SECRETARY of the SANITARY Department of the City of Dunbar, West Virginia, by C B RIGNEY, Mayor, this the 1ST day of JULY, 1997, and, as such, I do solemnly swear that I will support the Constitution of the United States of America and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the Office of SECRETARY of the SANITARY Department of the City of Dunbar, and will obey all orders of the Chief of the SANITARY Department of the City of Dunbar or his representatives, to the best of my ability, so help me God.

Richard D. Bertolotti

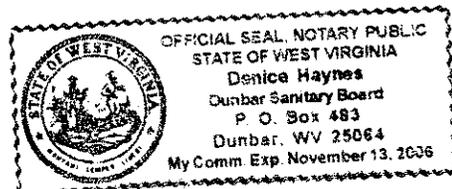
Taken, subscribed and sworn to before me, this the 1ST day of JULY, 1997.

Denice Haynes
Notary Public

My commission expires NOVEMBER 13, 2006.

APPROVED:

C B Rigney
Mayor



**AGENDA
REGULAR COUNCIL MEETING
MONDAY, JANUARY 4, 1999
7:00 P.M.**

- 1. CALL TO ORDER: MAYOR**
- 2. INVOCATION: DANA HAYES**
- 3. ROLL CALL: RON ROWLEY**
- 4. APPROVAL OF MINUTES OF PREVIOUS MEETING: FERN JOBE**
- 5. INVOICES SUBMITTED FOR PAYMENT: JOHN COLEMAN**
- 6. PRESENTATIONS & RECOGNITIONS:**
- 7. ORDINANCES & RESOLUTIONS:**
- 8. REPORTS FROM OFFICERS & COMMITTEES:**
 - A. Police Department-Cam Thompson**
 - B. Fire Department-George Bossie**
 - C. Public Works Director-Bill Lanham**
 - D. Sanitary Department-Bill Coles**
 - E. Recreation Department-Cheryl Gaynor**
- 9. APPOINTMENTS & RESIGNATIONS**
- 10. UNFINISHED BUSINESS:**
- 11. NEW BUSINESS:**
- 12. COMMUNICATIONS & PETITIONS:**
- 13. ADJOURNMENT**
- 14. COMMENTS**

**MINUTES OF A REGULAR MEETING OF
THE COUNCIL OF THE CITY OF DUNBAR, WEST VIRGINIA
Monday, January 4, 1999**

The meeting was called to order in Council Chambers by Mayor C. B. Rigney. The invocation was given by Councilman Dana Hayes. Mayor Rigney led the pledge to the American Flag .

The roll was called by Clerk Ron Rowley with the following members present: Mike Scipio, Dana Hayes, Frank Chambers, Dallas Garrett, John Coleman, Ron Fulknier, David Flowers, and Fern Jobe. Attorney Steve Swisher was also present and the Recording Secretary was Donna Legg.

Thereupon, Mayor Rigney advised that a quorum was present, as is required by law, and declared the meeting open for its regular business.

Thereupon, Councilwoman Jobe moved and Councilman Garrett seconded to approve the minutes of the regular meeting held on December 21, 1998. The motion carried.

Thereupon, Councilman Coleman moved and Councilman Scipio seconded to approve the invoices in the amount of \$6,013.22.

Councilman Hayes asked if the invoice from Appalachian Tire was for the backhoe tires which had been approved by council. This was confirmed.

Councilman Hayes questioned the invoice from Dunbar Auto Parts. Clerk Rowley stated this invoice was for a 2-3 week period. There was discussion concerning some of the vehicle numbers not coinciding with the correct vehicle. Councilman Chambers suggested checking with Public Works Director Lanham to resolve this issue.

Councilman Fulknier raised the issue of an invoice from Lowe's for salt when the city has an ample supply of salt to be used in inclement weather.

Councilman Coleman stated the Finance Committee would meet next Tuesday and would review the issues raised and discuss procedures.

The motion carried.

Thereupon, Bill Coles of the Sanitary Board gave a quarterly report as follows:

- ◆ 38 catch basins were repaired
- ◆ 2 new catch basins were installed on Honeysuckle Lane
- ◆ 2 broken sewer mains in the 1300 block of Grosscup Avenue and 1 in the 200 block of 17th Street were repaired
- ◆ Approximately 30,710 ft. of sewer lines were cleaned
- ◆ Approximately 157 catch basins were cleaned during 1998,
- ◆ 52 street excavations repairing sewer lines and taps were done

Thereupon, Councilman Garrett moved that an item be added to the agenda. Due to lack of a second the motion failed.

Thereupon, Councilman Coleman moved and Councilman Fulknier seconded to adjourn. The motion carried.

C B Ruzney
MAYOR

Ron Rowley
CLERK

DUNBAR SANITARY BOARD
MEETING

JANUARY 6, 1999

PRESENT: C B RIGNEY
JOE PITTMAN
RICHARD BERTOLOTTI
WILLIAM CUNNINGHAM
WILLIAM COLES
RONALD BYRNSIDE

CHAIRMAN
TREASURER
SECRETARY
GHOSH ENGINEERS INC
MANAGER
CHIEF OPERATOR

1. MR PITTMAN MADE THE MOTION TO APPROVE THE MINUTES OF THE PREVIOUS MEETING. MR BERTOLOTTI SECONDED. MOTION CARRIED.
2. MR PITTMAN MADE THE MOTION TO ADOPT A POLICY ON DOING ADJUSTMENTS. MR BERTOLOTTI SECONDED. MOTION CARRIED.
3. IF ALL GOES AS EXPECTED WE SHOULD BE ABLE TO ADVERTISE FOR BIDS BY TH END OF JANUARY OR THE FIRST OF FEBRUARY.
4. THE PURCHASE OF A NEW TRUCK WAS DISCUSSED , THE POSSIBILITY OF A STATE CONTRACT WAS PRESENTED. A DISCISION WILL BE MADE AT A LATER DATE.
5. MR BERTOLOTTI MADE THE MOTION TO ADVERTISE FOR BIDS ON AN OPERATION AND MAINTENANCE SOFTWARE PROGRAM FOR THE PLANT. MR PITTMAN SECONDED THE MOTION. MOTION CARRIED.
6. THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD MR PITTMAN MADE THE MOTION TO ADJOURN. MR BERTOLOTTI SECONDED. MOTION CARRIED.

RESPECTFULLY SUBMITTED,



DENICE HAYNES, OFFICE MANAGER

THE NEXT MEETING WILL BE JANUARY 20, 1999 AT 10:00AM IN THE COUNCIL CHAMBERS. PLEASE CONTACT THIS OFFICE IF YOU ARE UNABLE TO ATTEND.

**AGENDA
REGULAR COUNCIL MEETING
TUESDAY, JANUARY 19, 1999
7:00 P.M.**

- 1. CALL TO ORDER: MAYOR**
- 2. INVOCATION: REV. TOM STEVENS-FIRST BAPTIST CHURCH OF DUNBAR**
- 3. ROLL CALL: RON ROWLEY**
- 4. APPROVAL OF MINUTES OF PREVIOUS MEETING: FERN JOBE**
- 5. INVOICES SUBMITTED FOR PAYMENT: JOHN COLEMAN**
- 6. PRESENTATIONS & RECOGNITIONS:**
- 7. ORDINANCES & RESOLUTIONS:**
 - A. Updating Zoning Ordinances - Frank Chambers**
- 8. REPORTS FROM OFFICERS & COMMITTEES:**

<ol style="list-style-type: none">A. Police Department-Terry ColemanB. Fire Department-George BossieC. Public Works Director-Bill Lanham	<ol style="list-style-type: none">D. Sanitary Department-Bill ColesE. Recreation Department-Cheryl Gaynor
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- 9. APPOINTMENTS & RESIGNATIONS**
- 10. UNFINISHED BUSINESS:**
 - A. Fire Department - Dallas Garrett**
- 11. NEW BUSINESS:**
- 12. COMMUNICATIONS & PETITIONS:**
- 13. ADJOURNMENT**
- 14. COMMENTS**

**MINUTES OF A REGULAR MEETING OF
THE COUNCIL OF THE CITY OF DUNBAR, WEST VIRGINIA
Monday, January 19, 1999**

The meeting was called to order in Council Chambers by Mayor C. B. Rigney. The invocation was given by Rev. Tom Stevens, Pastor of the First Baptist Church. Mayor Rigney led the pledge to the American Flag .

The roll was called by Clerk Ron Rowley with the following members present: Mike Scipio, Dana Hayes, Frank Chambers, Dallas Garrett, John Coleman, Ron Fulknier, David Flowers, and Fern Jobe. Attorney Steve Swisher was also present and the Recording Secretary was Donna Legg.

Thereupon, Mayor Rigney advised that a quorum was present, as is required by law, and declared the meeting open for its regular business.

Thereupon, Mayor Rigney announced that WQBE Radio will host its 7th annual Country Cares for St. Jude's Kids on Feb.2 & 3 by broadcasting live from Kroger in Dunbar 6am - 10 pm.

Thereupon, Councilman Flowers moved and Councilman Garrett seconded to approve the minutes of the regular meeting held on January 4, 1999. The motion carried.

Thereupon, Councilman Coleman moved and Councilman Scipio seconded to approve the invoices in the amount of \$21,152.14. The motion carried.

Thereupon, Councilman Chambers moved and Councilman Scipio seconded to authorize the Mayor to appoint a committee to review and make recommendations for updating the Zoning Ordinances. The motion carried.

Thereupon, Police Chief Terry Coleman requested a meeting with the Safety Committee for the purpose of developing a contingency plan in preparation for the year 2000.

Thereupon, Public Works Director Bill Lanham reported as follows:

- ◆ Christmas trees are still being collected on a call-in basis
- ◆ An additional 80 tons of salt has been ordered. The new one ton dump and new spreader have been a real asset.
- ◆ It is recommended to implement a safety awards program as an incentive to promote safety and reduce job related injuries and Worker's Compensation premiums for the City. This will be presented to the Finance Committee.
- ◆ Fifteen of the 1998 goals were met at follows:
 - 1) New Garage and Offices for Street and Sanitation Departments
 - 2) Installed new radios in all dump, salt, and garbage trucks
 - 3) Built new composting bin

- 4) Developed a new recycling center with donated dumpster from Kanawha County Solid Waste Authority.
- 5) Installed Fire Extinguishers in all trucks
- 6) Purchased a concrete saw for the Street Department
- 7) Purchased raincoats for all street and sanitation employees
- 8) Painted old city garage building and installed new downspouts
- 9) Paved city garage entrance to yard area
- 10) Removed all old vehicles and old storage trailer
- 11) Built and repaired aggregate storage bins in lower end of yard
- 12) Built storage areas in new garage for mechanics and grass crew
- 13) Purchased a new one ton dump truck for Street Department
- 14) Computerized and developed new vehicle maintenance forms on all vehicles
- 15) Developed and reorganized the street sign department in new garage

Thereupon, Councilman Garrett raised the issue of a grievance filed by the Fire Department Union pertaining to an individual pay health insurance premium of \$25 per month and whether it affected all city employees. Mayor Rigney referred this to Attorney Swisher.

Attorney Swisher stated he had just received a decision stating there would be no retroactivity past February 1 regardless of what employees it applied to. Because this is in litigation the Attorney was reluctant to comment further.

Councilman Garrett then introduced Terry Lilly to speak on behalf of the Firefighters Union. Mr. Lilly stated the employees were informed in June of 1998 they would need to pay \$25 per month for insurance because of the financial straits of the city. In July of 1998 department heads were given an increase of \$1500 per year in salary. He stated these department heads certainly deserved the raise, however they questioned the circumstances under which these raises were given. Mr. Lilly asked how council can justify these raises and whether or not there is an ordinance requiring the raises to be voted on on the council floor.

Mayor Rigney stated this issue had been addressed in a lengthy personnel meeting and no further action was taken by council. It would be the decision of council whether or not it would wish to revisit this issue. Mayor Rigney also suggested that all personnel issues be addressed to the committee who would then refer to council.

Thereupon, Councilman Scipio moved and Councilman Chambers seconded to adjourn. The motion carried.

C B Rigney

 MAYOR

Ron Rowley

 CLERK

COPY

**MEMO TO CITY COUNCIL MEMBERS, MAYOR & CITY CLERK
FOR THE CITY OF DUNBAR FROM STEPHEN P. SWISHER,
CITY ATTORNEY, REGARDING GRIEVANCE BOARD
DECISION REGARDING IAFF LOCAL 1228**

I enclose a copy of the decision rendered by the Grievance Board on the grievance filed by the Dunbar Firefighters Local 1228 relating to health care cost deductions, eye care cost deductions and termination of contract between the City of Dunbar and IAFF Local 1228.

Pursuant to that decision, the Grievance Board has held that the City cannot deduct hospitalization costs from individual firefighters; that it must keep the eye plan in effect; and that the City must begin negotiations with firefighters Local 1228 to bargain in good faith for a re-negotiation of the City contract.

Please advise as to what action Council wishes to take with respect to said appeal. Any such appeal must be filed within thirty (30) days of the date of the decision or, in this case, by February 12, 1999. Please note, however, that pursuant to Article 11 of the grievance procedure, the decisions of the Grievance Board are deemed final unless it can be determined that such decision was arbitrary and capricious.

12, 1999

B. Rigney, Mayor
City Council Members

Mr. Rigney:

On December 8, 1998, the grievance board held a meeting in the Council Chambers, Dunbar, West Virginia. Those who attended were, all the board members, Joe Pittman (City of Dunbar), Carl Swisher (representing Local 1228), Mike Stephens (Mutual Party), Stephen Swisher, (Attorney for the City of Dunbar), John Doscoli (Attorney for Local 1228), Terry Lilly, President of Local 1228.

The purpose of this meeting was to take information based on grievances filed by the City of Dunbar Firefighters (Local 1228).

- 1) The firefighters felt that the City of Dunbar illegally deducted \$25.00 a month for hospitalization out of their pay checks.
- 2) The City of Dunbar arbitrary stopped their Eye Plan which they felt was in dispute of the contract with the City of Dunbar.
- 3) The contract had a successor clause and the firefighters are filing a grievance with the City of Dunbar to sit down and bargain in good faith for a successor contract.
- 4) There were lengthy discussions with questions and answers during the December 8 meeting. The facts presented in favor of the Dunbar Firefighters with the Local 1228 if they had any questions for the City of Dunbar to renegotiate the contract which was about to run out. John Doscoli, (Attorney for Local 1228), presented evidence that the firefighters felt that the City of Dunbar was in violation of their contract, and would not sit down and bargain with them in good faith. Stephen Swisher, (Attorney for the City of Dunbar), agreed with the facts presented that the City of Dunbar had arbitrary deducted \$25.00 from the firefighters pay check, beginning January 1998, and then again in July 1998 when HMO took over. However, he felt that there was a window for the City of Dunbar to cancel the contract with the firefighters. John Doscoli, (Attorney for Local 1228) disagreed with Swisher analysis of that part of the contract. Upon receiving all of the information the three board members took documents and minutes of that meeting home with them, to study for over a week.

- 5) A meeting was held on January 7, 1999 at the City of Dunbar Council Chambers. Board members Joe Pittman for the City of Dunbar, Carl Beaver representing Local 1228, Mike Skeens a mutual party appointed by ~~Bill~~ Pittman and Carl Beaver were present.
- 6) Upon discussing the prior meeting and the information the board found primarily in favor for the City of Dunbar firefighters and Local 1228.

Issue 1:

The City of Dunbar did in fact act illegally when they began to take \$25 a month out of the check for hospitalization. First, in January then in July for HMO participates. Article 7, Paragraph 2; Health Insurance, the city to pay the full amount of the premium attributable to coverage of regular full time employees (his/ her) dependence in participation in the cities insurance plan concerning Life and Health Insurance.

Issue 2:

Also under Article 7, Paragraph 2: it states the Eye Plan shall be identical to what was in effect as of January 1995.

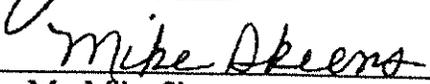
Issue 3:

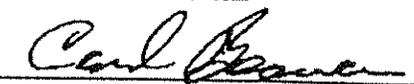
In negotiation of the agreement, Article 14, the parties of this agreement hereby agree to lengthen at least 60 days prior to the expiration date of this agreement to bargain in good faith with regard to a successor contract. The board voted unanimously that the City was in violation to all three of these grievances and have ruled in favor of the Dunbar Firefighters and Local 1228.

In order for some stabilities the board members had long discussions and agreed that the City of Dunbar would not be liable for any back pay or pay taken out up to February 1, 1999. The board hereby orders the City of Dunbar cease immediately the deductions of \$25.00 a month for the Dunbar Firefighters any monies withheld after that will have to be reimbursed to the Dunbar Firefighters. The board orders the City of Dunbar to restore the Eye Plan that was in effect in 1995, also orders the City of Dunbar to appoint a negotiator (suggestion the City Clerk) to begin negotiations with the Firefighters (the Local 1228) to bargain in good faith for a renegotiating of a successor contract.

The board has voted unanimously that the City will be responsible for reasonable attorney fees for Local 1228.


Mr. Joe Pittman


Mr. Mike Skeens


Mr. Carl Beaver

cc: John Doscoli
William Swisher

DUNBAR SANITARY BOARD
MEETING

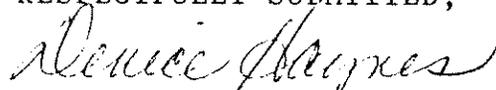
JANUARY 20, 1999

PRESENT: C B RIGNEY
JOE V PITTMAN
WILLIAM CUNNINGHAM
WILLIAM COLES
RONALD BYRNSIDE
TODD DINGESS

CHAIRMAN
TREASURER
GHOSH ENGINEERS INC
MANAGER
CHIEF OPERATOR
SMITH COCHRAN & HICKS

1. MR PITTMAN MADE THE MOTION TO APPROVE THE MINUTES OF THE PREVIOUS MEETING. THE MOTION WAS SECONDED. MOTION CARRIED.
2. AN INVOICE WAS PRESENTED FOR STEVE SWISHER IN THE AMOUNT OF \$3,000.00 FOR SERVICES TILL DECEMBER. MR PITTMAN MADE THE MOTION TO PAY THE INVOICE. THE MOTION WAS SECONDED. THE MOTION CARRIED.
3. THE ORDER FORM THE PSC ON THE WDPSD COMPLAINT WAS DISCUSSED. MR PITTMAN MADE A MOTION TO APPEAL THE ORDER TO THE FULL COMMISSION. THE MOTION WAS SECONDED. MOTION CARRIED.
4. MR PITTMAN MADE THE MOTION TO GO WITH A SALE/RESALE RATE FOR ALL RESALE CUSTOMERS. A NEW TARIFF WILL NEED TO BE PUT INTO EFFECT. THE MOTION WAS SECONDED. MOTION CARRIED.
5. MR PITTMAN MADE THE MOTION TO REPAIR THE LIFT STATION AT DUTCH HOLLOW. WE WILL PURCHASE THE MATERIALS AND OUR EMPLOYEES WILL INSTALL THEM AND PRECISION PUMP WILL PUT IN THE PANELS. THE MOTION WAS SECONDED. MOTION CARRIED.
6. THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD MR PITTMAN MADE THE MOTION TO ADJOURN. MOTION SECONDED. MOTION CARRIED.

RESPECTFULLY SUBMITTED,



DENICE HAYNES, OFFICE MANAGER

THE NEXT MEETING WILL BE ON FEBRUARY 3, 1999 AT 10:00AM IN THE COUNCIL CHAMBERS .IF YOU CANNOT ATTEND PLEASE CONTACT THIS OFFICE.

BOND ORDINANCE

Introduced in Council

June 7, 1999

Introduced by

Passed by Council

June 22, 1999

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE PUBLIC SEWERAGE FACILITY OF THE CITY OF DUNBAR AND TO FINANCE THE COST OF SUCH ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS AND TO PAY OTHER COSTS IN CONNECTION THEREWITH, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE OF NOT MORE THAN \$16,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF THE CITY OF DUNBAR SEWER SYSTEM REVENUE BONDS, SERIES 1999, PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SAID BONDS; AUTHORIZING EXECUTION AND DELIVERY OF SAID BONDS; RATIFYING THE LOAN AGREEMENT WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY AND THE WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION RELATING TO SAID BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SAID BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DUNBAR, WEST VIRGINIA:

ARTICLE I

STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS

Section 1.01. Authority for this Ordinance. This Ordinance is enacted pursuant to the provisions of the Chapter 16, Article 13, and Chapter 22C, Article 2 of the

Code of West Virginia, 1931, as amended (collectively the "Act") and other applicable provisions of law.

Section 1.02. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

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

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser of each Bond, or any other agency of the State that succeeds to the functions of the Authority.

"Authorized Officer" means the Mayor of the Governing Body of the Issuer or any other person duly appointed as such by the Governing Body.

"Bank" means the bank to be set forth in an ordinance supplemental hereto.

"Board" shall mean the Sanitary Board of the City of Dunbar, West Virginia, as created and appointed by ordinance enacted by the Council of the Issuer pursuant to the provisions of the Act, and any successor thereto.

"Bond" or "Bonds" means the The City of Dunbar Sewer System Revenue Bonds, Series 1999, originally authorized hereby, and any pari passu additional bonds hereafter issued within the terms, restrictions and conditions contained in this Ordinance.

"Bond Construction Trust Fund" shall mean the fund created by Section 5.01.

"Bondholders" "Holder of the Bonds," "Holder," "Registered Owner," "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 Register" means the books of the Issuer as hereinafter defined, maintained by the Bond Registrar as hereinafter defined for the registration and transfer of the Bonds.

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

"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.

"Certificate of Authentication and Registration" means the certificate of authentication and registration on the Bond in substantially the form set forth in the bond form contained herein.

"Clerk" shall mean the City Clerk of the Issuer.

"Closing Date" means the date upon which there is an exchange of the Bond for a portion of the proceeds representing the purchase of the Bond by the Authority.

"Code" means the Internal Revenue Code of 1986, as amended, including the rules and regulations promulgated pursuant thereto or any predecessors or successors thereto.

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

"Consulting Engineers" means Ghosh Engineers, Inc., Charleston, West Virginia, or any engineer or firm of engineers of reputation for skill and experience with respect to the planning and design of sewerage systems or facilities that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System.

"Costs" or "Costs of the Project" or any similar phrase means those costs described in Section 1.04G hereof to be a part of the cost of planning, design, acquisition and construction of the Project.

"Council" shall mean the Council of the Issuer.

"Debt Service" means the scheduled amount of interest and amortization of principal payable on the Bonds, as hereinafter defined, during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

"DEP" means the West Virginia Division of Environmental Protection.

"Depository Bank" means a bank eligible under the laws of the State of West Virginia to receive deposits of state and municipal funds and insured by the FDIC, as hereinafter defined, which Depository Bank shall be named in the Supplemental Resolution, and any successor thereto.

"Excess Investment Earnings" means an amount equal to the sum of:

(A) The excess of

(i) The aggregate amount earned from the Closing Date on all Nonpurpose Investments in which Gross Proceeds of the Bonds are invested [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings, over

(ii) The amount that would have been earned if the Yield on such Nonpurpose Investments [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings] had been equal to the Yield on the Bond, plus

(B) Any income attributable to the excess described in clause (A) of this definition of Excess Investment Earnings.

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

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

"Government Obligations" means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America, including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations or interest coupons stripped from such obligations, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian and (iii) obligations, the sole source of the payment of the

principal of and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

"Gross Proceeds" means the sum of the following amounts:

(i) Original proceeds, namely, net amounts received by or for the Issuer as a result of the sale of the Bond, excluding original proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Bond;

(ii) Investment proceeds, namely, amounts received at any time by or for the Issuer, such as interest and dividends, resulting from the investment of any original proceeds (as referenced in clause (i) above) or investment proceeds (as referenced in this clause (ii)) in Nonpurpose Investments, increased by any profits and decreased (if necessary, below zero) by any losses on such investments, excluding investment proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Bonds;

(iii) Transferred proceeds, namely, original proceeds of any prior obligations, and interest earnings and profits less losses resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any prior obligations and which are deemed to become proceeds of the Bonds ratably as original proceeds of the Bonds, and interest earnings and profits resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any such prior obligations, all on the date of such ratable discharge;

(iv) Sinking fund proceeds, namely, amounts, other than original proceeds, investment proceeds or transferred proceeds [as referenced in clauses (i) through (iii) above] of the Bonds, which are held in any fund to the extent that the Issuer reasonably expects to use such other fund to pay Debt Service;

(v) Amounts in the Reserve Accounts and in any other fund established as a reasonably required reserve or replacement fund;

(vi) Investment Property pledged as security for payment of Debt Service on the Bonds by the Issuer;

(vii) Amounts, other than as specified in this definition, used to pay Debt Service on the Bonds; and

(viii) Amounts received as a result of investing amounts described in this definition.

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

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

"Investment Property" means any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract or investment-type property, excluding, however, obligations the interest on which is excluded from gross income under Section 103 of the Code for federal income tax purposes, (the term specified private activity bonds as defined in Section 57(a)(5)(c) of the Code).

"Issuer" or "City" means the The City of Dunbar, a municipal corporation of the State of West Virginia and, when appropriate, also means the Council thereof and any department, board, organizing or instituting thereof in control of the management and operation of the System, as hereinafter defined.

"Loan Agreement" means the Water Pollution Control Revolving Fund (SRF) Loan Agreement by and among the Authority, the DEP and the Issuer providing for the purchase of the Bonds from the Issuer by the Authority, the form of which is attached as Exhibit B hereto and incorporated herein by reference.

"Mayor" means the Mayor of the Governing Body of the Issuer.

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

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

"Nonpurpose Investment" means any Investment Property which is acquired with the Gross Proceeds of the Bonds and is not acquired in order to carry out the governmental purpose of the Bonds.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System, as hereinafter defined 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 of Projects, fees and expenses of the Authority, fiscal agents, the Depository Bank, Registrar and Paying Agent, other than those capitalized as part of the Costs of Projects, SRF Administrative Fee, 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.

"Ordinance", "Bond Ordinance", or "Local Act" shall mean this Ordinance, as from time to time amended or supplemented.

"Original Bonds" or "Bonds originally authorized hereby" or similar phrases shall mean the not more than \$16,500,000 in aggregate principal of the City of Dunbar Sewer System Revenue Bonds, Series 1999.

"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 hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Article X hereof; and (iv) for purposes of consents, notices or other action by a specified percentage of Bondholders, any Bonds registered to the Issuer.

"Parity Bonds" means additional Bonds issued under the provisions and within the limitations prescribed by Section 7.08 hereof.

"Paying Agent" means the Commission.

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

"Program" shall mean the planning and design of certain extensions, additions, betterments and improvements to the sewerage facility program coordinated through the capitalization grants program established under the Clean Water Act and administered by the DEP.

"Project" means the construction of certain extensions, additions, betterments and improvements to the system substantially as described in Exhibit A attached hereto and incorporated herein by reference.

"PSC" means the Public Service Commission of West Virginia and any successors to the functions thereof.

"PSC Order" means the recommended decision of the PSC in Case No. 98-1382-S-CN which grants the Issuer approval of financing and a certification of convenience and necessity.

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

- (a) Government Obligations;
- (b) 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; the Governmental National Mortgage Association; the Tennessee Valley Authority or the Washington Metropolitan Area Transit Authority;
- (c) Any bond, debenture, note, participation certificate or other similar obligation 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;
- (d) Time accounts, (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC, shall be secured by a pledge of Government Obligations, provided, that such Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time account or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time account;
- (e) Money market funds or similar funds, the only assets of which are investments of the type described in paragraphs (a) through (d) above;
- (f) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (d) 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 paid repurchase agreements, and provided further that the owner 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;

(g) The "consolidated fund" (or any distinct portion thereof) managed by the West Virginia Investment Management Board pursuant to Article 6, Chapter 12 of the Code of West Virginia, 1931, as amended; and

(h) Advance-Refunded Municipal Bonds.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established or continued by Section 5.01(2).

"Reserve Account" means the account in the Sinking Fund, as hereafter defined, created by Section 5.02(1)(a) hereof.

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

"Revenue Fund" means the Revenue Fund established or continued by Section 5.01(1).

"SRF" means the Water Pollution Control Revolving Fund.

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

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

"Sinking Fund" means the Sinking Fund established by Section 5.02(1) hereof.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the," refers specifically to the

supplemental resolution or resolutions authorizing the sale of the Bond; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Bond and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by this Ordinance to be set aside and held for the payment of or security for the Bonds or any other obligations of the Issuer, including but not limited to the Renewal and Replacement Fund, the Reserve Accounts and Sinking Funds, the proceeds of which Bonds or other obligations are to be used to pay Costs of the Projects.

"System" means the public service properties for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes, owned by the Issuer, and any improvements or extensions thereto, both within and without the boundaries of the City, and shall include any extensions, additions, betterments and improvements thereto, including the facility as described in Exhibit A, hereafter acquired or constructed for said sewerage system from any sources whatsoever, both within and without said City.

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

"Yield" means that yield which, when used in computing the present worth of all payments of principal and interest (or other payments in the case of Nonpurpose Investments which require payments in a form not characterized as principal and interest) on a Nonpurpose Investment or on the Bond, produces an amount equal to the Purchase Price of such Nonpurpose Investment or the Bond, all computed as prescribed in applicable Regulations.

Additional terms and phrases are defined in this Ordinance as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with generally accepted accounting principles.

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

The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Ordinance; and the term "hereafter" means after the date of adoption of this Ordinance.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Ordinance so numbered.

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

Section 1.04. Findings. It is hereby found, determined and declared as follows:

A. The Issuer is a municipal corporation of the State located in Kanawha County, West Virginia.

B. The Issuer presently owns and operates a public sewerage system which requires upgrades and improvements to come into compliance with State and Federal Laws.

C. It is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer, that there be acquired and constructed, the Project, consisting of certain improvements, extensions or betterments to the facility, as described in Exhibit A attached hereto at an aggregate estimated cost of not more than \$16,500,000 in accordance with plans and specifications to be prepared by the Consulting Engineers, which plans and specifications following approval by DEP will be on file with the Issuer, and by reference, made a part hereof.

D. 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 the costs of the operation and maintenance of the System, the principal of and interest on the Bonds and all sinking funds, reserve accounts and other payments provided for herein in the PSC Order.

E. The estimated maximum cost of the acquisition and construction of the Project is \$13,265,000, which will be permanently obtained from the Bonds herein authorized. The Issuer may obtain such other grants and contributions or from other sources as may be necessary to pay Costs of the Project.

F. The period of usefulness of the System after completion of the Project will not be less than forty (40) years.

G. It is deemed necessary for the Issuer to issue its sewer system revenue bonds in the aggregate principal amount of not more than \$16,500,000 initially to be represented by a single bond, being the The City of Dunbar Sewer System Revenue Bonds, Series 1999, to permanently finance the costs of acquisition of the facility and construction of the Project. Said costs shall be deemed to include the cost of all property rights, easements, and franchises deemed necessary therefor; the cost of the acquisition of the facility and construction of said extensions, additions, betterments and improvements to the System, funding the Reserve Account and any other expenses necessary, incidental, desirable or appurtenant to the acquisition and construction of the Project and such replacements as are necessary therefor; the Tap Fee; the cost of interim financing for such Project; interest on the bonds, prior to, during and for six months after the estimated date of completion of acquisition and construction of the Project; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; expenses for the service of registrars, paying agents, depositories or other agents in connection with the issuance of the Bonds, including reasonable administrative expenses of the Authority and such other expenses as may be necessary or desirable to said construction and acquisition of the project and placing the same in operation and the financing authorized by this Ordinance.

H. It is in the best interest of the Issuer that the Bonds be secured by and payable from the Net Revenues of the System.

I. It is in the best interests of the Issuer that its Bonds be sold to the Authority pursuant to a Loan Agreement and made a part hereof, to take advantage of the favorable terms available to the Issuer.

J. The Issuer has complied with all requirements of West Virginia law relating to authorization of the acquisition of the facility and construction, operation of the Project and issuance of the Bonds, or will have so complied prior to issuance of any thereof, including, among other things, (the obtaining of the PSC Order, the time for rehearing and appeal of which have expired) and the written approval of the West Virginia Infrastructure and Jobs Development Council.

K. There are no outstanding obligations of the Issuer which will rank either on a parity with or senior or subordinate to the Bond as to liens, pledge and source of and security for payment.

The Board is involved in litigation in a case entitled "American Canoe Association v. Dunbar Sanitary Board, Civil Action No. 2;97-0941". The lawsuit requested that the court determine a civil penalty appropriate for past violations, issue injunctive relief requiring compliance with the Federal Water Pollution Control Act and compensate the American Canoe Association's attorney for fees and expenses. The West Virginia Division of Environmental Protection also filed a lawsuit against the Board for the same alleged violations. The law suit filed by the West Virginia Division of Environmental Protection has been settled, pursuant to a consent decree entered by the Circuit Court of Kanawha County, West Virginia. The Consent decreed the Board agreed to pay a cash penalty of \$50,000.00, undertake a \$75,000.00 supplemental environmental project and agreed to place a \$25,000.00 in escrow and agreed to a penalty "advanced" in the amount of \$350,000.00. The advanced penalty will not be collected by the West Virginia Division of Environmental Protection unless the Board fails to comply with the terms of the Consent Decree. The Board has reached an agreement with the American Canoe Association to settle that law suit based upon the terms of the settlement of the West Virginia Division of Environmental Protection lawsuit. The settlement does require that the Board pay to the American Canoe Association a total of \$154,000.00 in attorney fees and expenses. These amounts will be paid by the Board out of current operating revenue.

ARTICLE II

AUTHORIZATION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO SYSTEM

Section 2.01. Authorization of Extensions, Additions, Betterments and Improvements. There is hereby authorized the construction of the Project in accordance with plans and specifications prepared by the Consulting Engineers, approved by DEP and the Issuer and on file in the office of the Board. The proceeds of the Bonds are hereby authorized and shall be applied as provided in Article VI hereof.

Prior to issuing the Bonds for the acquisition of the facility and construction of the Project, the Issuer must receive acceptable bids or enter into contracts for the acquisition of the facility and construction of the Project, compatible with the financing plan submitted to the Program.

ARTICLE III

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

Section 3.01. Authorization of Bonds. For the purposes of financing a portion of the costs, not otherwise provided, of the acquisition of the facility and construction of the Project, funding a reserve account for the Bonds, and paying certain costs of issuance and related costs, or any of such purposes as shall be specified in the Supplemental Resolution, there shall be issued negotiable bonds of the Issuer in an aggregate principal amount of not more than \$16,500,000 for the Bonds. Said Bonds shall be issued as one bond to be designated "The City of Dunbar Sewer System Revenue Bonds, Series 1999." Original Bonds shall be dated as of the date of delivery thereof, shall bear such interest, shall mature at such times, not exceeding thirty (30) years after the date of project completion, and in such amount as shall be set out in Schedule X to the Loan Agreement and the Supplemental Resolution. The Original Bonds shall not bear interest and the annual repayment of principal shall begin not later than one (1) year after the completion date. The repayment of principal on the Bonds shall be as set forth on Schedule Y to the Loan Agreement. The Bonds shall contain such other terms, provisions, conditions and limitations, all as provided by this Ordinance and the Loan Agreement and as the Governing Council of the Issuer shall prescribe by Ordinance (or by supplemental or amendatory Resolution of said Governing Council as said Governing Council shall determine) adopted in connection with the sale of such Bonds. The SRF 1/2% Administrative Fee shall be paid quarterly on June 1, September 1, December 1 and March 1 of each year as set forth in the Supplemental Resolution.

The Bonds shall be payable as to principal at the principal office of the Paying Agent in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Bonds shall be paid by check or draft mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar, provided, that so long as the Authority is the owner thereof, interest on the Bonds may be paid by wire transfer or other methods satisfactory to the Issuer, the Paying Agent and the Authority.

Unless otherwise provided by the Supplemental Resolution, the Bond shall be issued in the form of a single bond, fully registered to the Authority, with a record of advances and a payment record attached, representing the aggregate principal amount, and shall mature in principal installments, all as provided in the Loan Agreement and said Supplemental Resolution. Bonds shall be exchangeable at the option and expense of the Bondholder for other fully registered Bond in aggregate principal amount equal to the

amount of said Bonds then Outstanding, 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 may be issued in fully registered form, in the denomination of \$5,000 or any integral multiple thereof, all as determined by a Supplemental Resolution. Said Bonds shall be dated as of the date specified in said Supplemental Resolution and shall bear interest from such date.

Section 3.02. Delivery of the Bonds. The issuer shall execute and deliver the Series 1999 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 1999 Bonds to the original purchasers upon receipt of the documents set forth below:

- A. If other than the Authority, a list of names in which the Series 1999 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 1999 Bonds to the original purchasers;
- C. An executed and certified copy of the Ordinance;
- D. An executed copy of the Loan Agreement; and
- E. The unqualified approving opinion of bond counsel on the Series 1999 Bonds.

Section 3.03. Additional Terms of Bond. In addition to the terms set forth in Section 3.01 hereof and in anticipation of the sale of the Bonds to the Authority, the City covenants that the Bonds shall comply in all respects with the provisions of the Loan Agreement and of any ordinance of the Authority and/or DEP.

Section 3.04. Execution of Bond. The Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Clerk. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the Issuer before the

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 has not ceased to hold such office. Any Bond may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bond shall hold the proper office in the Issuer, although at the date of such Bond such person may not have held such office or may not have been so authorized.

Section 3.05. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Ordinance unless and until the Certificate of Authentication and Registration on such Bond, substantially in the forms 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 Ordinance. The Certificate of Authentication and Registration on any 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 3.06. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Holder in accepting any of said 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, and each successive Holder shall further be conclusively deemed to have agreed that said Bond shall be incontestable in the hands of a bona fide holder for value.

So long as any of the Bonds remain Outstanding, the Issuer, through the Bond Registrar, shall keep and maintain books for the registration and transfer of the Bonds.

The Bond 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 the Bonds or transferring the Bonds is exercised, the Bonds shall be delivered in accordance with the provisions of this Ordinance. All Bonds surrendered in any such exchanges or transfers shall forthwith be

canceled by the Bond Registrar. For every such exchange or transfer of Bond, 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 obligated to make any such exchange or transfer of the Bonds during the period commencing on the fifteenth day of the month preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of the Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.07. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing proof of its ownership thereof and 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.

Any such duplicate Bonds issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the Issuer, whether or not the lost, stolen or destroyed Bonds be at any time found by anyone, and such duplicate bonds shall be entitled to equal and proportionate benefits and rights as to lien and source of security for payment from the revenues pledged herein with all other bonds issued hereunder.

Section 3.08. Bonds not to be Indebtedness of the Issuer. The Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided and amounts, if any, in the Reserve Account. No Holder or Owners of any of the Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay the Bonds or the interest thereon.

Section 3.09. Bonds Secured by Pledge of Net Revenues. The payment of the debt service on all the Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and to make the payments into the Sinking Fund, the Reserve Account therein and in the Renewal and Replacement Fund hereinafter continued or established and to make the payments requested by this Ordinance, and are hereby irrevocably pledged to the payment of the principal of and any interest on the Bonds as the same become due.

Section 3.10. Form of Bonds. The text of the 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
THE CITY OF DUNBAR
SEWER SYSTEM REVENUE BOND, SERIES 1999

No. R-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That The City of Dunbar, a municipal corporation of the State of West Virginia in Kanawha 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 installments on the 1st day of June, the 1st day of September, the 1st day of December and the 1st day of March in each year beginning June 1, 2000, as set forth on the "Schedule of Annual Debt Service" attached as Exhibit B hereto and incorporated herein by reference, without interest. The SRF Administrative Fee of 1% shall also be payable quarterly on the 1st day of June, the 1st day of September, the 1st day of December and the 1st day of March of each year beginning _____, 2000 as set forth on Exhibit B attached hereto.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement dated _____ among the Authority, the DEP and the Issuer.

This Bond is issued in the aggregate principal amount of \$ _____ (i) to pay the costs of construction of certain improvements and extensions to the sewerage system of the Issuer (the "Project"), (ii) to fully fund the Reserve Account; and (iii) to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), a Ordinance duly adopted by the Issuer on the ____ day of _____, 1999, and a Supplemental Resolution adopted by the Issuer on the ____ day of _____, 1999 (collectively called the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Ordinance) to be derived from the operation of the System with the pledge of Net Revenues in favor of the holders of the Bonds and moneys in the Reserve Account created under the Ordinance and unexpended proceeds of the Bond (the "Bond Proceeds"). Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond Proceeds. Pursuant to the Ordinance, 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 to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to

at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest, if any, on all obligations on a parity with or prior to the Bonds payable from such revenues, provided however, that so long as there exists in the Reserve Account an amount equal to the maximum amount of principal and interest which will become due on said Bond in the then current year or any succeeding year and the reserve account for any other obligations outstanding on a parity with the Bond is funded at 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 Ordinance. Remedies provided the registered owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Ordinance, only upon the books of the Bank One, West Virginia, National Association, Charleston, West Virginia as registrar (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, shall be applied solely to the payment of the costs of the Project described in the Ordinance, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

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

All provisions of the Ordinance, 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 City of Dunbar has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Clerk, and has caused this Bond to be dated _____, 1999.

[SEAL]

Mayor

ATTEST:

Clerk

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1999 Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the Registered Owner set forth above, as of the date set forth below.

Date: _____, 1999

Bank One, West Virginia, National Association,
as Registrar

By _____
Its Authorized Officer

EXHIBIT A
RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1)\$		(7) \$	
(2) \$		(8) \$	
(3) \$		(9) \$	
(4) \$		(10) \$	
(5) \$		(11) \$	
(6) \$		(12) \$	
		TOTAL \$ _____	

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

Form of Assignment

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

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

Dated: _____, _____.

In the presence of:

Section 3.11. Sale of Original Bonds; Ratification and Execution of Loan Agreement with Authority and DEP. The Bonds shall be sold to the Authority pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous ordinance, the Mayor is specifically authorized and directed to execute the Loan Agreement and the Clerk is directed to affix the seal of the Issuer thereto, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery of the Loan Agreement is hereby authorized, ratified and approved.

Section 3.12. Certificate of Consulting Engineers. Prior to the issuance of the Bonds, the Issuer must obtain the certificate of the Consulting Engineers, in the form attached to the SRF Loan Agreement, to the effect that the Project has been designed as provided in the Program application and will be constructed in accordance with the approved plans, specifications and design as submitted to the DEP and the Authority, as the case may be, that the Project will be adequate for the purposes for which it was designed, and the funding plan as submitted to the DEP and the Authority is sufficient to pay the costs of the acquisition of the facility and construction of the Project.

Section 3.13. Amended Schedule A Filing. Within 60 days following the Completion Date, the Issuer will file with the Authority its schedule, in substantially the form of "Amended Schedule A" to the Loan Agreement, setting forth the actual costs of the Project and sources of funds used therefor.

ARTICLE IV

[RESERVED]

ARTICLE V

SYSTEM REVENUES AND APPLICATION THEREOF

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

- (1) Revenue Fund;

- (2) Renewal and Replacement Fund;
- (3) Bond Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby established with the Commission:

- (1) Series 1999 Bond Sinking Funds;
 - (a) Within the Series 1999 Bond Sinking Funds, the Series 1999 Bond Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund created pursuant to Section 5.03 of the Ordinance and which is continued hereby. The Revenue Fund shall constitute a trust fund for the purposes provided in this Ordinance and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner therein and herein provided.

(1) From the Revenue Fund, the Issuer shall first each month pay the current Operating Expenses of the System.

(2) Next from the moneys in the Revenue Fund, the Issuer shall on the first day of each month, make the payments required by Section 5.03A(2) of the Ordinance and commencing on the first day of each month, 4 months prior to the first date of payment of interest on the Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Sinking Fund, a sum equal to 1/3rd of the amount of interest which will mature and become due on said Bonds on the next ensuing quarterly payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Sinking Fund and the next quarterly payment date is less than 4 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly payment date.

(3) Next from the moneys in the Revenue Fund, the Issuer shall (a) on the first day of each month, make the payment required by Sections 5.03A(3) of the Ordinance and, commencing 4 months prior to the first date of payment of principal on the Series 1999 Bond, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Sinking Fund, a sum equal to 1/3rd of the amount of principal which will

mature and become due on said Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Sinking Fund and the next quarterly principal payment date is less than 4 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

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

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

(5) The Issuer shall next, from the moneys remaining in the Revenue Fund, on the first day of each month, simultaneously with the payments listed above, transfer to the Renewal and Replacement Fund a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System and funding requirements of the Reserve Account.

Moneys in the Sinking Fund shall be used only for the purposes of paying principal of and interest on the Bonds as the same shall become due. Moneys in the Reserve Account in the Sinking Fund shall be used only for the purpose of paying principal of or interest on the Bonds as the same shall come due, when other moneys in the Sinking Funds are insufficient therefor, and for no other purpose. All investment earnings on moneys in the Sinking Fund and Reserve Account shall be transferred, not less than once each year, to the Bond Construction Trust Fund prior to completion of the Projects and thereafter, to the Revenue Fund and applied toward the next debt service payment.

Any withdrawals from the Reserve Account which result in a reduction in the balance of the Reserve Account to an amount below the Reserve Requirement shall

be subsequently restored from the first Net Revenues available after all required payments to the Sinking Funds for payment of debt service on the Bond have been made in full.

B. As and when additional Bonds ranking on a parity with the Original Bonds are issued, provision shall be made for additional payments into the Sinking Funds sufficient to pay any interest on such additional Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the Reserve Account in an amount equal to the Reserve Requirements.

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

The payments into the Sinking Funds shall be made on the first day of each month, except that when the first day of any month shall be a Sunday or legal holiday then such payments shall be made on the next succeeding business day, 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 Ordinance. If at any time required by the Authority, the Issuer shall make the necessary arrangements whereby required payments into the Series 1999 Bonds Sinking Fund and the Series 1999 Bonds Reserve Account shall be automatically deducted from the Revenue Fund and transferred to the Commission on the dates required hereunder.

Moneys in the Reserve Account shall be invested and reinvested by the Commission in accordance with Article VIII hereof.

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

C. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinabove provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Sinking Funds, including the Reserve Account therein, and the Renewal and Replacement Fund during the following month or such longer period as shall be required by the Act, such excess shall be considered as surplus revenues (the "Surplus Revenue"). Surplus Revenues may be used for any lawful purpose of the System.

D. The Issuer shall remit from the Revenue Fund to the Commission or the Depository Bank, on such dates as the Commission or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay any Depository Bank's charges then due. The Issuer shall also remit from the Revenue Fund to the Authority, on such dates as the Authority and the DEP shall require, the Issuer's allocable share of reasonable administrative expenses of the Authority relating to the Program, if any.

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

F. 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.

G. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited.

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

I. The Issuer shall each month, on the day set forth in Section 5.03A(2) hereof (if such day is not a business day, then the next succeeding business day), deposit with the Commission the SRF Administrative Fee as set forth in the Schedule Y attached to the Loan Agreement.

Section 5.04. Excess Bond Proceeds. The Issuer shall place any proceeds from the Bonds not required for the Project Costs in the Reserve Account to the extent that the balances therein are not equal to the Reserve Requirements or otherwise instructed by the DEP and the Authority.

ARTICLE VI

APPLICATION OF ORIGINAL BOND PROCEEDS, FUNDS AND ACCOUNTS

Section 6.01. Application of Original Bond Proceeds. The moneys derived from the sale of the Original Bonds shall be deposited by the Issuer as received from time to time in the Bond Construction Trust Fund established in Section 5.01(3) hereof.

The Depository Bank shall act as a trustee and fiduciary for the Bondholders with respect to the Bond Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond Construction Trust Fund set forth in this Ordinance. Except with respect to any transfers to the Rebate Fund, moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the Projects and until so transferred or expended, are hereby pledged as additional security for the 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 DEP a report listing the specific purposes for which the proceeds of the Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for Costs of the Projects shall be made monthly.

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

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

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

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

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions set forth in this Ordinance shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any owner or owners of the Bond as if they were set forth in full in this Ordinance. In addition to the other covenants, agreements and provisions of this Ordinance, the Issuer hereby covenants and agrees with the owners of the Bond 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 said Bonds, or the interest thereon, is Outstanding and unpaid.

Section 7.02. Bond not to be Indebtedness of the Issuer. The Bond 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 Ordinance. No Holder or Owners of any Bond shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay said Bond or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Original Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System. The Net Revenues derived from the System, in an amount sufficient to pay the principal of the Bonds herein authorized and to make the payments into the Sinking Fund, including the

Reserve Account herein, and all other payments provided for in the Ordinance are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds as the same become due, and for the other purposes provided in this Ordinance.

Section 7.04. Rates. Prior to issuance of the Original Bond, equitable rates or charges for the use of and service rendered by the System will 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 Clerk, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder . Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. The Issuer shall take the necessary actions with respect to the imposition of rates at such times and with such provisions with respect to interest rate and maturity of the Bond to finance the issuance of the Bond as the purchaser thereof shall require. 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 (i) to provide for all reasonable expenses of operation, repair and maintenance of the System and (ii) to leave a balance each Fiscal Year equal to at least 115% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest on the Bond; provided that, in the event that an amount at least equal to or in excess of the Reserve Requirement is on deposit in the Reserve Account and is funded at least at the requirement provided for in the Ordinance, such balance each Fiscal Year need only equal at least 110% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest on the Original Bond.

The Issuer enacted rates on October 1, 1998 and said rates are in full force and effect.

Section 7.05. Completion, Operation and Maintenance; Schedule of Cost. The Issuer will expeditiously complete the Projects and will maintain the System in good condition and will operate the same as a revenue-producing enterprise in an efficient and economical manner, making such expenditures for equipment and for renewal, repair and replacement as may be proper for the economical operation and maintenance thereof from the revenues of said System in the manner provided in this Ordinance.

Upon completion of the Projects, the Issuer shall file with the Authority a schedule in substantially the form of Amended Schedule A to the Program loan application, setting forth the actual costs of the Projects and sources of funds therefor.

Section 7.06. Sale of the System. Except as otherwise required by law 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 pay fully or redeem at or prior to maturity all the Bonds and Bonds Outstanding, or to effectively defease this Ordinance in accordance with Sections 10.01 hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall be immediately remitted to the Commission for deposit in the appropriate Sinking Funds, and the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Bonds about to mature and to the redemption prior to maturity at the earliest date permitted hereby and at the redemption price, of all other Outstanding Bonds. Any balance remaining after the redemption or payment of all the Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by ordinance, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, in writing, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by ordinance duly adopted, authorize such sale, lease or other disposition of such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$10,000 and not in excess of \$50,000, shall, upon receipt of approval of the Registered Owners, if needed, be remitted by the Issuer to the Commission for deposit in the appropriate Sinking Funds and shall be applied only to the purchase or redemption of

Bonds of the last maturities then Outstanding at prices not greater than the applicable redemption price, or, if not redeemable, par, or otherwise in the Renewal and Replacement Fund. The payment of such proceeds into the Sinking Funds or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Ordinance.

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 or redeem prior to maturity all Bonds then Outstanding without the prior approval and consent in writing of the Owners, or their duly authorized representatives, of sixty-six and two-thirds percent (66 2/3%) in amount of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Registered Owners of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.07. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. So long as any of the Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that Parity Bonds may be issued as provided for in Section 7.08 hereof. All obligations hereafter issued by the Issuer payable from the revenues of the System, except such Parity Bonds, shall contain an express statement that such obligations are junior and prior, as to lien on and source of and security for payment from such revenues and in all other respects, to the Bonds; provided, that no such prior obligations shall be issued unless all payments required to be made into the Reserve Account and the Renewal and Replacement Fund at the time of the issuance of such prior obligations have been made and are current.

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

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

Section 7.08. Parity Bonds. A. No Parity Bonds payable out of the Net Revenues of the System may be issued without the prior written consent of the Authority and DEP. No Parity Bonds payable out of the revenues of the System shall be issued after the issuance of any Bonds pursuant to this Ordinance, except under the conditions and in the manner herein provided.

No Parity Bonds shall be issued except for the purpose of financing the costs of the acquisition and construction of extensions, additions, betterments or improvements to the System or refunding the entirety of one or more issues or series of bonds 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 Clerk a written statement by Independent Accountants, based upon the necessary investigation and certification by the Consulting Engineers, reciting the conclusion that the net revenues actually derived, subject to the adjustments hereinafter provided, from the System during any twelve (12) consecutive months within the eighteen (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 three (3) succeeding years after the completion of the improvements to be financed by such additional Parity Bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on the following:

- (1) The Bonds then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Ordinance 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 three (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 any increase in rates enacted by the Issuer, the time for appeal of which shall have expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the Clerk prior to the issuance of such additional Parity Bonds.

The Net Revenues actually derived from the System during the twelve (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, in the opinion of the Consulting Engineers and the Independent Accountants as stated in a certificate jointly made and signed by the Consulting Engineers and the Independent Accountants, 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 prior to issuance of such Parity Bonds.

Not later than simultaneously with the delivery of such Parity Bonds, the Issuer shall have entered into written contracts for the immediate acquisition and construction of such extensions, additions, betterments or improvements to the System which are to be financed by such Parity Bonds.

All the covenants and other provisions of this Ordinance (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the owners of the Original Bonds and the owners of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this Section. All the Bonds, regardless of the time or times of their issuance shall rank equally with respect to their respective liens on the revenues of the System, and their respective sources of and security for payment from said revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds created in this Ordinance required for and on account of such additional Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Ordinance.

The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Bond.

No Parity Bonds shall be issued at any time, however, unless all the payments into the respective funds and accounts provided for in this Ordinance on account of the Bonds then Outstanding, and any other payments provided for in this Ordinance, shall have been made in full and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Ordinance.

B. Notwithstanding the foregoing, the Issuer may issue Parity Bonds without compliance with any other conditions for the purpose of refunding prior to maturity any issues or series of the Bonds, provided that the annual debt service required on account of the refunding Bonds and the Bonds which are not refunded shall not be greater in any year in which the Bonds not refunded and the refunding Bonds are to be Outstanding than the annual debt service required in such year if the Bonds to be refunded were not so refunded.

With the written consent in advance of the Authority and DEP and anything to the contrary in this Section 7.08 notwithstanding, Parity Bonds may be authorized and issued by the Issuer pursuant to Supplemental Resolution solely to complete the Projects as described in the Issuer's Program application to the Authority and DEP in accordance with the plans and specifications, in the event that the Original Bonds should be insufficient, together with other funds lawfully available therefor, to pay all costs of acquisition and construction of the Projects; provided, however, that, prior to the issuance of such Parity Bonds under the provisions of this paragraph, the Consulting Engineers shall file with the Clerk a certificate to the effect that additional funds are necessary for such purpose. All such Parity Bonds authorized and issued under the provisions of this paragraph shall be limited to the aggregate principal amount required to make up any deficiency in funds for payment of the acquisition and construction costs to complete the Projects, and the maturities of any such Parity Bonds shall be in years and amounts suggested by the Authority.

Section 7.09. Insurance and Acquisition and Construction Bonds. The Issuer will carry such insurance and in such amounts as is customarily carried with respect to works and properties similar to the System, with a reputable insurance carrier or carriers, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks. The Issuer will require that each of its contractors and all subcontractors maintain, during the life of any contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and the DEP, so long as the Authority is the Owner of the Bond. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Projects, to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their interests may appear, in accordance with the Loan Agreement, during acquisition and construction of the Projects in the full insurable value thereof. In time of war, the Issuer shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war. The proceeds of all such insurance policies shall be disposed of as provided in the Ordinance and otherwise shall be placed in the Renewal and Replacement Fund and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer will also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the System. The Issuer shall carry such other insurance as is required by the Authority and DEP and as set forth in the Loan Agreement, including but not limited to flood insurance and business interruption insurance, to the extent available at reasonable cost to the Issuer.

The Issuer shall require all contractors engaged in the acquisition and construction of the Projects 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 Projects covered by the particular contract as security for the faithful performance of such contract.

Section 7.10. Consulting Engineers. The Issuer shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and the DEP covering the supervision and inspection of the development of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers. Such resident engineer shall certify to the Authority, the DEP and the Issuer, 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 Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a Performance Certificate, the form of which is attached as Exhibit A to the Loan Agreement and is incorporated herein by reference, to the DEP within 60 days of the end of the first year after the Project is completed.

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

The Issuer agrees that qualified operating personnel, properly certified by the State, will be retained to operate the System during the entire term of the Loan Agreement.

Section 7.11. Compliance With Loan Agreements, Rules and Regulations. The Issuer hereby covenants and agrees to perform and satisfy all terms and conditions of the Loan Agreement and to comply with all applicable laws, rules and regulations issued by the Authority, the DEP or other State, federal or local bodies in regard to the planning and design of the Projects and operation, maintenance and use of the System.

Section 7.12. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by its System; and, in the event the Issuer or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or himself or herself 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. Such charges shall be paid as they accrue, and the Issuer shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. The revenues so received shall be deemed to be revenues derived from the operation of the System and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rates, 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, rates, rentals or other charges that shall become delinquent to the full extent permitted or authorized by the laws of the State of West Virginia. All such rates and charges, if not paid when due, shall become a lien on the premises served by the System.

Whenever any rates, rentals or charges for the services or facilities of the System, or of the waterworks system or sewerage system constituting a part thereof, shall remain unpaid for a period of thirty (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. The Issuer further covenants and agrees that it will, to the full extent permitted by law, and any rules and regulations promulgated by the Public Service Commission of West Virginia applicable thereto, discontinue and shut off both the water and sewerage services and facilities of the System to all delinquent users of the services and facilities of the System, or of the waterworks system or sewerage system constituting a part thereof, and will not restore either water or sewerage services of the System until all delinquent charges for the service and facilities of the System, or of the waterworks system or sewerage system constituting a part thereof, plus reasonable interest penalty charges for the restoration of service, have been fully paid.

Section 7.14. No Competing Franchise. To the extent allowable by law, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation or body, or agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.15. Books, Records and Facilities. The Issuer shall keep complete and accurate records of the cost of acquisition and construction of the Project. The Issuer shall permit the Authority and the DEP, or their agents and representatives, to inspect all books, documents, papers and records relating to the Projects and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Authority and the DEP such documents and information as they may reasonably require in connection with the installation of the Projects, the operation and maintenance of the System and the administration of the Loan Agreement or other sources of financing for the Projects.

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

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

The accounting system for the System shall follow currently accepted accounting practices in accordance with the rules and regulations of the PSC and the Act. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books, and along with other bookkeeping records as prescribed by the Issuer. The Issuer shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Issuer shall be reported to such agent of the Issuer as the Authority shall direct.

The Issuer shall file with the Consulting Engineers and the Authority and DEP, and shall mail in each year to any owner or owners of 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 Ordinance with respect to said Bonds and the status of all said funds and accounts.

(C) The amount of any Bonds, or other obligations Outstanding and secured by a lien on the Net Revenues of the System.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent 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 Accountants, or a summary thereof, to any owner or owners of Bonds issued pursuant to this Ordinance, and shall submit said report to the Authority and the DEP. The report of said audit shall include a statement that the Issuer is in compliance with the terms and provisions of the Act and the Loan Agreement and that the Issuer's revenues are adequate to meet its operation and maintenance expenses and debt service requirements.

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

The Issuer shall, during construction of the Projects, complete Payment Requisition Forms, the form of which is attached to the Loan Agreement as Exhibit C and is incorporated herein by reference, and forward a copy to the DEP in compliance with the Issuer's construction schedule.

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

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

powers and rights of the Authority and the DEP with respect to the System pursuant to the Act.

Section 7.16. Operating Budget. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by ordinance 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 DEP within thirty days of the adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a ordinance duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all ordinances authorizing increased expenditures for operation and maintenance to the Authority and to any Holder of any Bonds who shall file his address with the Issuer and request in writing that copies of all such budgets and ordinances be furnished him and shall make available such budgets and all ordinances authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

Section 7.17. Mandatory Connection. The mandatory use of the System is essential and necessary to protect and preserve the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matter from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30 day notice of the availability of the System, pay the rates and charges established therefor.

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

Section 7.18. Statutory Mortgage Lien. For the further protection of the Bondholders, 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 Bonds and shall be for the benefit of all Owners of the Bonds.

Section 7.19. Compliance. The Issuer also agrees to comply with all applicable laws, rules and regulations issued by the Authority, the DEP or other State, federal or local bodies in regard to the construction of the Project and the operation, maintenance and use of the System.

Section 7.20. Completion of Projects; Permits and Orders. The Issuer will complete the Projects as promptly as possible and operate and maintain the System in good condition and in compliance with all federal and state requirements and standards. The Issuer will obtain permits required by State and Federal Government Laws for the Project construction.

Section 7.21. Securities Laws Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17CRF Part 240).

ARTICLE VIII

INVESTMENT OF FUNDS; NON-ARBITRAGE

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Ordinance, 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 direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this

Ordinance, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section.

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

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 Bonds:

- (1) If default occurs in the due and punctual payment of the principal of or interest on any 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 Bonds set forth in this Ordinance, any Supplemental Resolution or in the Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Construction Trust Fund Depository Bank, the Bond Registrar, any Paying Agent or a Holder of a Bond; or
- (3) If the Issuer files a petition seeking reorganization or arrangement under

the federal bankruptcy laws or any other applicable law of the United States of America.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his 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 this Ordinance relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action at law or bill in equity enjoin any acts in violation of the Ordinance with respect to the Bonds, or the rights of such Registered Owners.

Section 9.03. Appointment of Receiver. Any Registered Owner of Bonds may, by proper legal action, compel the performance of the duties of the Issuer under this Ordinance and the Act, including the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any default in the payment of interest on any Bonds when the same shall become due, or in the payment of the principal of any Bond or Bonds, either at the specified date of maturity thereof or at a date set for redemption thereof, or otherwise in the performance of any covenant contained in the Ordinance other than as to such payment and such default shall continue for a period of thirty (30) days after written notice to the Issuer of such default, any Bondholder shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the Bonds and any interest thereon, the deposits into the funds and accounts hereby established as herein provided and the payment of Operating Expenses of the System and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of the Ordinance and the Act.

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

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Ordinance 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 Ordinance 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, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

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

ARTICLE X

DEFEASANCE

Section 10.01. Defeasance of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Owners of all Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Ordinance, then the pledge of Net Revenues and other moneys and securities pledged under this Ordinance and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

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

Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, Clerk and members of the Governing Body were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 11.07. Effective Date. This Ordinance shall take effect immediately upon adoption.

Section 11.08. Statutory Notice and Public Hearing. Upon adoption hereof, the abstract of this Ordinance in the form set forth in Exhibit C attached hereto and incorporated herein by reference, shall be published once a week for two successive weeks within a period of fourteen consecutive days, with at least six full days intervening between each publication in the Charleston Gazette and the Charleston Daily Mail, newspapers of general circulation in the City of Dunbar, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Bonds, and that any person interested may appear before the Issuer upon a certain date, 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 Issuer for review by interested persons during office hours of the Issuer. The Council hereby determines that the Abstract contains sufficient information as to give notice of the contents hereof. At such hearing, all objections and suggestions shall be heard and the Issuer shall take such action as it shall deem proper in the premises.

First Reading: June 7, 1999

Second Reading
and Passage: June 22, 1999

Public Hearing: July 6, 1999

THE CITY OF DUNBAR

(SEAL)

By: C B Pigney
Mayor

ATTEST:

Ron Rowley
Clerk

This Ordinance was placed into effect following the public hearing held on 6/22, 1999.

CERTIFICATE OF TRUTH AND ACCURACY

I, the undersigned, as Clerk of the Issuer of Dunbar, Kanawha County, West Virginia, do hereby certify that the foregoing document is a true and accurate copy of the official record of the City of Dunbar, such records being in the custody of the undersigned and maintained at the City of Dunbar, Municipal Building, Dunbar, Kanawha County, West Virginia, and that the action taken by the Council in the foregoing document remains in full force and effect and has not been amended.

Dated this 22 day of June, 1999.

[SEAL]

Ron Rowley
Clerk

EXHIBIT A

DESCRIPTION OF PROJECT

The proceeds of the Series 1999 Bond will be used to (i) make various improvements to the sanitary system; (ii) install and repair various storm sewer systems; (iii) upgrade and rehabilitate the existing 2.25 Trickling Filter Wastewater Treatment Plant to a 2.25 mgd Vertical Loop Reactor Wastewater Treatment Plant; (iv) enter into an interim loan to be repaid from proceeds from the SRF Bond issued to upgrade its wastewater pumping stations, purchase a Vactor truck, and repair the 23rd Street storm and sanitary sewer; (v) include additional work under this project in the area from 3rd Street to 16th Street between Dunbar Avenue and the Kanawha River, work in this area will include the repair and separation of storm and sanitary sewers; and (vi) install a radio telemetry system to monitor its pumping stations and record CSO events at the pumping station.

EXHIBIT B

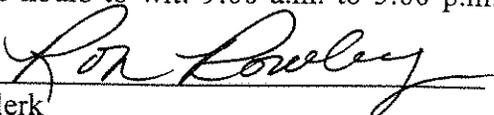
LOAN AGREEMENT
(Tab 11)

EXHIBIT C

ABSTRACT AND NOTICE

**THE CITY OF DUNBAR
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Council of the City of Dunbar, West Virginia adopted on June 22, 1999 its Ordinance entitled: "An Ordinance authorizing the acquisition and construction of certain extensions, additions, betterments and improvements to the public sewerage facility of the City of Dunbar and to finance the cost of such acquisition and construction of certain extensions, additions, betterments and improvements and to pay other costs in connection therewith, not otherwise provided, through the issuance of not more than \$16,500,000 in aggregate principal amount of the City of Dunbar Sewer System Revenue Bonds, Series 1999, providing for the rights and remedies of and security for the registered owners of said bonds; authorizing execution and delivery of said bonds; ratifying the Loan Agreement with the West Virginia Water Development Authority and the West Virginia Division of Environmental Protection relating to said bonds; authorizing the sale and providing for the terms and provisions of said bonds; and adopting other provisions relating thereto. The proceeds of the Series 1999 Bond will be used to (i) make various improvements to the sanitary system; (ii) install and repair various storm sewer systems; (iii) upgrade and rehabilitate the existing 2.25 Trickling Filter Wastewater Treatment Plant to a 2.25 mgd Vertical Loop Reactor Wastewater Treatment Plant; (iv) enter into an interim loan to be repaid from proceeds from the SRF Bond issued to upgrade its wastewater pumping stations, purchase a Vactor truck, and repair the 23rd Street storm and sanitary sewer; (v) include additional work under this project in the area from 3rd Street to 16th Street between Dunbar Avenue and the Kanawha River, work in this area will include the repair and separation of storm and sanitary sewers; and (vi) install a radio telemetry system to monitor its pumping stations and record CSO events at the pumping station. The City contemplates issuance of the Series 1999 Bonds described in the above mentioned Ordinance. Said Ordinance has been adopted. The title of this Ordinance set forth above describes the contents of the Ordinance. Any person interested may appear before the City Council of the City of Dunbar at a public hearing to be conducted during its meeting at 7:00p.m. on July 6, 1999, in the Council Chambers, Dunbar, West Virginia, and present protests, objections and suggestions to be heard by the council as to the matter set forth in said Ordinance. If at such public hearing by the council as to the matter set forth in said Ordinance. If at such public hearing written protest is filed by 30% or more of the owners of real estate situate in the City, the Council shall not take further action pursuant to said ordinance unless four fifths of the members of Council shall assent thereto. Copies of said Ordinance are on file in the Office of the Clerk of the City Clerk for review by interested persons during regular office hours to wit: 9:00 a.m. to 5:00 p.m. Mondays through Fridays.


Clerk

CITY OF DUNBAR, WV
Date: 6/22, 1999.

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO DATES, MATURITIES, INTEREST RATES, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES, AND OTHER TERMS OF THE CITY OF DUNBAR SEWER SYSTEM REVENUE BONDS, SERIES 1999; DESIGNATING A REGISTRAR, PAYING AGENT, DEPOSITORY BANK; APPROVING LOAN AGREEMENT WITH RESPECT TO THE BOND; AND MAKING OTHER PROVISIONS AS TO THE BOND.

WHEREAS, the Sanitary Board of the City of Dunbar (the "City") has duly and officially adopted a Bond Ordinance on June 22, 1999 (the "Ordinance"), entitled:

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE PUBLIC SEWERAGE FACILITY OF THE CITY OF DUNBAR AND TO FINANCE THE COST OF SUCH ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS AND TO PAY OTHER COSTS IN CONNECTION THEREWITH, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE OF NOT MORE THAN \$16,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF THE CITY OF DUNBAR SEWER SYSTEM REVENUE BONDS, SERIES 1999, PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SAID BONDS; AUTHORIZING EXECUTION AND DELIVERY OF SAID BONDS; RATIFYING THE LOAN AGREEMENT WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY AND THE WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION RELATING TO SAID BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SAID BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Ordinance provides for the issuance of the City of Dunbar Sewer System Revenue Bonds, Series 1999 (the "Bonds") in aggregate principal amount not to exceed \$16,500,000 in accordance with Chapter 16, Article 13 and Chapter 22C, Article 2, of the Code of West Virginia, 1931, as amended, (the "Act"), and the terms of the Loan Agreement (the "Loan Agreement") entered into among the City, the West Virginia Division of Environmental Protection (the "DEP") and the West Virginia Water Development Authority (the "Authority"), but requires that the dates, interest rates, maturities, sale prices and other terms of the Bonds should be established by a supplemental resolution;

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

WHEREAS, the Sanitary Board (the "Board") of the City deems it essential and desirable that this resolution (the "Supplemental Resolution"), be adopted and that the prices, the maturity dates, the redemption provisions, the interest rates, and the interest and principal dates of the Bonds be fixed hereby in the manner stated herein; that the Loan Agreement be approved; and that other matters relating to the Bonds be herein provided for.

WHEREAS, capitalized terms not otherwise defined shall have the meanings given such terms in the Ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE SANITARY BOARD OF THE CITY OF DUNBAR:

Section 1. Pursuant to the Ordinance, the Act, and this Supplemental Resolution, the Bonds shall be in the aggregate principal amount of \$16,152,148 with the following provisions:

(A) The Bonds shall be originally issued in the form of a single bond, numbered R-1, in the principal amount of \$16,158,148. The Bonds shall be dated the date of delivery thereof, shall bear interest at the rate of zero percent (0%) per annum which principal shall be payable quarterly on June 1, September 1, December 1 and March 1 of each year commencing June 1, 2001, shall be subject to redemption upon the written consent of the Authority and DEP, upon payment of the interest, and subject to the other requirements provided in the Loan Agreement, as long as the Authority shall be the registered owner of the Bond. The SRF 1% Administrative Fee shall be paid quarterly on June 1, September 1, December 1 and March 1 of each year commencing June 1, 2000.

(B) The Bonds shall be sold to the Authority in accordance with the terms of the Loan Agreement at a price equal to 100% of the principal amount thereof.

Section 2. All other provisions relating to the Bonds shall be as provided in the Ordinance, and the Bonds shall be in substantially the form provided in the Ordinance with such changes, insertions and omissions as may be approved by the Mayor of the City. The execution of the Bonds by the Mayor shall be conclusive evidence of such approval.

Section 3. The City does hereby ratify, approve and accept the Loan Agreement including the "Schedule X" attached thereto, a copy of which is incorporated herein by reference, and the execution and delivery by the Mayor of the Loan Agreement and the performance of the obligations contained therein, on behalf of the City have been and are hereby authorized, approved and directed.

Section 4. The City hereby appoints and designates United National Bank, Dunbar, West Virginia, as the Depository Bank, as provided in the Ordinance.

Section 5. The City hereby appoints and designates United National Bank, Dunbar, West Virginia, as Registrar for the Bond.

Section 6. The City hereby appoints and designates the West Virginia Municipal Bond Commission (the "Commission"), Charleston, West Virginia as Paying Agent for the Bond.

Section 7. The Mayor and Clerk are hereby authorized and directed to execute and deliver such other documents and certificates, including the Registrar's Agreement, required or desirable in connection with the Bonds hereby and by the Ordinance approved and provided for, to the end that the Bonds may be delivered to the Authority pursuant to the Loan Agreement on or about August 1, 1999

Section 8. The financing of the Project in part with proceeds of the Bonds is in the public interest, serves a public purpose of the City and will promote the health, welfare and safety of the residents of the City.

Section 9. The City hereby directs the Depository Bank to initially invest all monies in the funds and accounts established under the Bond Ordinance in Qualified Investments further directed by the City.

Section 10. The City shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the City to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder or under any predecessor thereto (the "Code"), by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The City will take all actions necessary to comply with the Code and Treasury Regulations to be promulgated thereunder.

Section 11. This Supplemental Resolution shall be effective immediately upon adoption.

Dated: July 6, 1999

THE CITY OF DUNBAR



Mayor

[SEAL]



Clerk

THE CITY OF
DUNBAR
NOTICE OF
PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Council of the City of Dunbar, West Virginia adopted on June 22, 1999, its Ordinance entitled: "An Ordinance authorizing the acquisition and construction of certain extensions, additions, betterments and improvements to the public sewerage facility of the City of Dunbar and to finance the cost of such acquisition and construction of certain extensions, additions, betterments and improvements and to pay other costs in connection therewith, not otherwise provided, through the issuance of not more than \$16,500,000 in aggregate principal amount of the City of Dunbar Sewer System Revenue Bonds, Series 1999, providing the rights and remedies of and security for the registered owners of said bonds; authorizing execution and delivery of said bonds; ratifying the Loan Agreement with the West Virginia Water Development Authority and the West Virginia Division of Environmental Protection relating to said bonds; authorizing the sale and providing for the terms and provisions of said bonds; and adopting other provisions relating thereto. The proceeds of the Series 1999 Bond will be used to (i) make various improvements to the sanitary system; (ii) install and repair various storm sewer systems; (iii) upgrade and rehabilitate the existing 2.25 Trickling Filter Wastewater Treatment Plant to a 2.25 mgd Vertical Loop Reactor Wastewater Treatment Plant; (iv) enter into an interim loan to be repaid from proceeds from the SRF Bonds issued to upgrade its wastewater pumping stations, purchase a Vector truck, and repair the 13rd Street storm and sanitary sewer; (v) include additional work under this project in the area from 3rd Street to 16th Street between Dunbar Avenue and the Kanawha River, work in this area will include the repair and separation of storm and sanitary sewers; and (vi) install a radio telemetry system to monitor its pumping stations and record CSO events at the pumping station. The City contemplates issuance of the Series 1999 Bonds described in the above mentioned Ordinance. Said Ordinance has been adopted. The title of this Ordinance set forth above describes the contents of the Ordinance. Any person interested may appear before the City Council of the City of Dunbar at a public hearing to be conducted during its meeting at 7:00p.m. on July 6, 1999, in the Council Chambers, Dunbar, West Virginia, and present protests, objections and suggestions to be heard by the council as to the matter set forth in said Ordinance. If at such public hearing by the council as to the matter set forth in said Ordinance. If at such public hearing written protest is filed by 30% or more of the owners of real estate situate in the City, the Council shall not take further action pursuant to said ordinance unless four fifths of the members of Council shall assent thereto. Copies of said Ordinance are on file in the Office of the Clerk of the City Clerk for review by interested persons during regular office

hours to wit: 9:00 a.m. to 5:00 p.m. Mondays through Fridays.

Ron Rowley
Clerk
City of Dunbar, WV
Date: June 22, 1999
(454982)

State of West Virginia.

AFFIDAVIT OF PUBLICATION

Linda Hogg

of
THE CHARLESTON GAZETTE, A DAILY DEMOCRATIC NEWSPAPER,
THE DAILY MAIL, A DAILY REPUBLICAN NEWSPAPER,

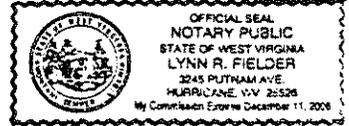
published in the city of Charleston, Kanawha County, West Virginia, do solemnly swear that the annexed notice of:

PUBLIC HEARING

was duly published in said papers) during the dates listed below, and was posted at the front door of the court house of said Kanawha County, West Virginia, on the 26TH day of JUNE 1999. Published during the following dates: 06/25/99-07/01/99

Subscribed and sworn to before me this 6 day of July

Printers fee \$ 224.24



Lynn R. Fielder
Notary Public of Kanawha County, West Virginia

SRF-BPA-1
(July 8, 1999)

BOND PURCHASE AGREEMENT

THIS WATER POLLUTION CONTROL REVOLVING FUND BOND PURCHASE AGREEMENT (the "Bond Purchase Agreement"), made and entered into in several counterparts, by and among the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), the WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION, a division of the West Virginia Bureau of Environment (the "DEP"), and the local government designated below (the "Local Government").

CITY OF DUNBAR
(Local Government)

WITNESSETH:

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

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

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

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

WHEREAS, pursuant to the Act, the Authority and DEP are empowered to utilize moneys from the Fund to purchase the bonds of local governments to provide the financing for

the acquisition or construction of wastewater treatment projects by such local governments, all subject to such provisions and limitations as are contained in the Clean Water Act and the Act;

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

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

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

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

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

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

WHEREAS, the Local Government meets the "disadvantaged community" provisions of the SRF Regulations.

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

ARTICLE I

Definitions

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

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

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

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

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

1.6 "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.

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

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

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

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

1.11 Additional terms and phrases are defined in this Bond Purchase Agreement as they are used.

ARTICLE II

The Project and the System

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

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

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

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

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

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

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

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

2.9 The Local Government shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority, DEP and the Local Government at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Local Government shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Local Government shall notify DEP in writing of such receipt. The Local Government shall submit a Performance Certificate, the form of which is attached hereto as Exhibit A, and being incorporated herein by reference, to DEP within 60 days of the end of the first year after the Project is completed.

2.10 The Local Government shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to DEP when the Project is 90% completed. The Local Government agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The Local Government agrees that qualified operating personnel properly certified by the State will be employed before the Project is 50% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of this Bond Purchase Agreement. The Local Government shall notify DEP in writing of the certified operator employed at the 50% completion stage.

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

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

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

ARTICLE III

Conditions to Purchase of Local Bonds; Issuance of Local Bonds

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

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

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

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

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

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

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

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

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

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

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

3.2 Subject to the terms and provisions of this Bond Purchase Agreement, the rules and regulations promulgated by the Authority and DEP, including the SRF Regulations, or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government, it is hereby agreed that the Authority shall purchase the Local Bonds of the Local Government and the Local Government shall issue and sell the Local Bonds to the Authority, and in furtherance thereof it is agreed that the Local Government shall sell to the Authority and the Authority shall purchase 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 Local Bonds shall be secured and shall be repaid in the manner hereinafter provided in this Bond Purchase Agreement.

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

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

The Local Government further specifically recognizes that all bonds will be purchased in conjunction with the SRF Regulations and with the approval of DEP.

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

ARTICLE IV

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

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

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

(i) to pay Operating Expenses of the System;

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

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

emergency repairs or replacements to the System or eliminating any deficiencies in the Reserve Account; and

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

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

(b) Covenants substantially as follows:

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

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

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

(iv) That, except as otherwise required by State law or the Regulations, the System may be sold, mortgaged, leased or otherwise disposed of as a whole or substantially as a whole provided that the net proceeds to be realized from such sale, mortgage, lease or other disposition shall be sufficient to fully pay all of the local bonds outstanding and further provided that portions of the System when no longer required for the ongoing operation of such System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

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

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

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

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

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

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

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

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

(xii) That the Local Government shall annually adopt a detailed, 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 DEP within 30 days of adoption thereof;

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

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

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

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

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

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

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

(xx) That the Local Government shall, to the full extent permitted by applicable law and the rules and regulations of the West Virginia Public Service Commission, terminate the services of any water facility owned by it to any customer of the System who is delinquent in payment of charges for services provided by the System and will not restore the services of the water facility until all delinquent charges for the services of the

System have been fully paid or, if the water facility is not owned by the Local Government, then the Local Government shall enter into a termination agreement with the water provider.

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

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

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

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

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

4.6 The obligation of the Authority to purchase local bonds 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 purchase local bonds.

ARTICLE V

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

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

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

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

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

ARTICLE VI

Other Agreements of the Local Government

6.1 The Local Government hereby acknowledges to the Authority and DEP its understanding of the provisions of the Act, vesting in the Authority and DEP certain powers, rights and privileges with respect to wastewater treatment projects in the event of default by local governments in the terms and covenants of this Bond Purchase Agreement, and the Local Government hereby covenants and agrees that, if the Authority should hereafter have recourse

to said rights and powers, the Local Government shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Bond Purchase Agreement.

6.2 The Local Government hereby warrants and represents that all information provided to the Authority and DEP in this Bond Purchase 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 purchasing and receiving the Local Bonds, the Authority and DEP shall have the right to cancel all or any of their obligations under this Bond Purchase Agreement if (a) any representation made to the Authority and DEP by the Local Government in connection with the issuance of the Local Bonds shall be incorrect or incomplete in any material respect or (b) the Local Government has violated any commitment made by it in its Application or in any supporting documentation or has violated any of the terms of the SRF Regulations or this Bond Purchase Agreement.

6.3 The Local Government hereby agrees to repay on or prior to the Date of 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 Local Bonds.

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

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

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

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

ARTICLE VII

Miscellaneous

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

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

7.3 This Bond Purchase 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 Bond Purchase Agreement.

7.4 No waiver by any party of any term or condition of this Bond Purchase 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 Bond Purchase Agreement.

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

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

7.7 This Bond Purchase Agreement shall terminate upon the earlier of:

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

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

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

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

City of Dunbar
[Proper Name of Local Government]

(SEAL)

By: C B Rigney
Its: Mayor

Attest:

Date: 7-21-99

[Signature]
Its Recorder

WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION

By: [Signature]
Its: Chief

Date: 7/26/99

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By: [Signature]
Its: Director

(SEAL)

Attest:

Date: July 15, 1999

[Signature]
Secretary-Treasurer

EXHIBIT A

[Form of Performance Certificate]

[TO BE PROVIDED BY DEP]

EXHIBIT B

[Form of Monthly Financial Report]
[Name of Local Government]
[Name of Bond Issue]
Fiscal Year - ____
Report Month: _____

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

Witnesseth my signature this ____ day of _____, ____.

[Name of Local Government]

By: _____
Authorized Officer

EXHIBIT C

PAYMENT REQUISITION FORM

(All Copies to Be Provided by DEP for Each Project)

EXHIBIT D

FORM OF CERTIFICATE OF CONSULTING ENGINEER

(Issuer)

(Name of Bonds)

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

1. The Bonds are being issued for the purpose of _____ (the "Project").

2. 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 _____ and approved by DEP and any change orders approved by the Local Government 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 Local Government 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; (iv) the successful bidder(s) 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 DEP and the bid form(s) provided to the bidders contain the central operation components of the Project; (vi) the successful bid(s) include prices for every item on such bid form(s); (vii) the uniform bid procedures were followed; (viii) the Local Government 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, the rates and charges for the System as adopted by the Local Government will be sufficient to comply with the provisions of Subsections 4.1(a) and 4.1(b) (ii) of the Bond Purchase 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 DEP; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project and Sources of Funds" for the Project.

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

By _____

West Virginia License No. ____

[SEAL]

EXHIBIT E

SPECIAL CONDITIONS

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

B. **AUDIT REQUIREMENT** (Supplement to Article IV 4.1 (b) (xi)) - The loan recipient that receives \$300,000 or more in a fiscal year must obtain audits in accordance with the applicable Single Audit Act and OMB Circular or any appropriate successor. Financial statement audits are required once all funds have been received by the loan recipient.

C. Submission of the following prior to bond closing:

1. Final title opinion
2. PSC Final Order with revised project costs and terms of loan.

D. The Bond Purchase Agreement and bond closing are contingent on the extended bond purchase regulations being approved by the Secretary of State's Office.

EXHIBIT F

[Monthly Payment Form]

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

Re: [Name of bond issue]

Dear Sirs:

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

Sinking Fund:

Interest \$ _____

Principal \$ _____

Total: \$ _____

Reserve Fund: \$ _____

Witness my signature this ____ day of _____.

[Name of Local Government]

By: _____
Authorized Officer

Enclosure: copy of check(s)

EXHIBIT G

[Opinion of Bond Counsel for Local Government]

[To Be Dated as of Date of Closing]

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

Gentlemen:

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

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

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

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

We have also examined the applicable provisions of _____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond _____ duly enacted by the Local Government on _____ (the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Bond Purchase Agreement that has been undertaken. The Local Bonds are subject to redemption prior to

maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Bond Purchase 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 Bond Purchase Agreement has been duly authorized by and executed on behalf of the Local Government and is a valid and binding special obligation of the Local Government enforceable in accordance with the terms thereof.

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

3. The Local Government is a duly organized and presently existing _____, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Bond Purchase Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Government has legally and effectively enacted the Local Act and all other necessary _____ in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Bond Purchase Agreement.

5. The Local Bonds are valid and legally enforceable special obligations of the Local Government, payable from the net revenues of the System referred to in the Local Act and secured by a [first] lien on and pledge of the net revenues of said System, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.

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

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

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

Very truly yours,

SCHEDULE X

DESCRIPTION OF BONDS

Principal Amount of Bonds	\$ 16,152,148
Purchase Price of Bonds	\$ 16,152,148

Interest on the Bonds shall be zero percent from the date of delivery ~~to and including~~ ~~-----~~. Principal ~~and interest~~ on the Bonds is payable quarterly, commencing June 1, 2001, at a rate of 0 % per annum. Quarterly payments will be made thereafter on each September 1, December 1, March 1 and June 1 as set forth on Schedule Y attached hereto and incorporated herein by reference. As of the date of this Bond Purchase Agreement, it is the Authority's and DEP's understanding that the Local Government has [other obligations outstanding which have a lien as to the source of and security for payment equal to or superior to the lien being granted by the Bonds] ~~or [provide list of outstanding debt]. (See attached schedule)~~ None

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

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

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

SCHEDULE Y

City of Dunbar, West Virginia
Bond Agreement for \$16,152,148
26 Years, 0% Interest Rate, 1/2% Administrative Fee

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
9/01/1999	-	-	-
12/01/1999	-	-	-
3/01/2000	-	-	-
6/01/2000	-	-	-
9/01/2000	-	-	-
12/01/2000	-	-	-
3/01/2001	-	-	-
6/01/2001	155,310.00	-	155,310.00
9/01/2001	155,310.00	-	155,310.00
12/01/2001	155,310.00	-	155,310.00
3/01/2002	155,310.00	-	155,310.00
6/01/2002	155,310.00	-	155,310.00
9/01/2002	155,310.00	-	155,310.00
12/01/2002	155,310.00	-	155,310.00
3/01/2003	155,310.00	-	155,310.00
6/01/2003	155,310.00	-	155,310.00
9/01/2003	155,310.00	-	155,310.00
12/01/2003	155,310.00	-	155,310.00
3/01/2004	155,310.00	-	155,310.00
6/01/2004	155,309.00	-	155,309.00
9/01/2004	155,309.00	-	155,309.00
12/01/2004	155,309.00	-	155,309.00
3/01/2005	155,309.00	-	155,309.00
6/01/2005	155,309.00	-	155,309.00
9/01/2005	155,309.00	-	155,309.00
12/01/2005	155,309.00	-	155,309.00
3/01/2006	155,309.00	-	155,309.00
6/01/2006	155,309.00	-	155,309.00
9/01/2006	155,309.00	-	155,309.00
12/01/2006	155,309.00	-	155,309.00
3/01/2007	155,309.00	-	155,309.00
6/01/2007	155,309.00	-	155,309.00
9/01/2007	155,309.00	-	155,309.00
12/01/2007	155,309.00	-	155,309.00
3/01/2008	155,309.00	-	155,309.00
6/01/2008	155,309.00	-	155,309.00
9/01/2008	155,309.00	-	155,309.00
12/01/2008	155,309.00	-	155,309.00
3/01/2009	155,309.00	-	155,309.00
6/01/2009	155,309.00	-	155,309.00
9/01/2009	155,309.00	-	155,309.00
12/01/2009	155,309.00	-	155,309.00
3/01/2010	155,309.00	-	155,309.00
6/01/2010	155,309.00	-	155,309.00
9/01/2010	155,309.00	-	155,309.00
12/01/2010	155,309.00	-	155,309.00
3/01/2011	155,309.00	-	155,309.00

City of Dunbar, West Virginia
Bond Agreement for \$16,152,148
26 Years, 0% Interest Rate, 1/2% Administrative Fee

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
6/01/2011	155,309.00	-	155,309.00
9/01/2011	155,309.00	-	155,309.00
12/01/2011	155,309.00	-	155,309.00
3/01/2012	155,309.00	-	155,309.00
6/01/2012	155,309.00	-	155,309.00
9/01/2012	155,309.00	-	155,309.00
12/01/2012	155,309.00	-	155,309.00
3/01/2013	155,309.00	-	155,309.00
6/01/2013	155,309.00	-	155,309.00
9/01/2013	155,309.00	-	155,309.00
12/01/2013	155,309.00	-	155,309.00
3/01/2014	155,309.00	-	155,309.00
6/01/2014	155,309.00	-	155,309.00
9/01/2014	155,309.00	-	155,309.00
12/01/2014	155,309.00	-	155,309.00
3/01/2015	155,309.00	-	155,309.00
6/01/2015	155,309.00	-	155,309.00
9/01/2015	155,309.00	-	155,309.00
12/01/2015	155,309.00	-	155,309.00
3/01/2016	155,309.00	-	155,309.00
6/01/2016	155,309.00	-	155,309.00
9/01/2016	155,309.00	-	155,309.00
12/01/2016	155,309.00	-	155,309.00
3/01/2017	155,309.00	-	155,309.00
6/01/2017	155,309.00	-	155,309.00
9/01/2017	155,309.00	-	155,309.00
12/01/2017	155,309.00	-	155,309.00
3/01/2018	155,309.00	-	155,309.00
6/01/2018	155,309.00	-	155,309.00
9/01/2018	155,309.00	-	155,309.00
12/01/2018	155,309.00	-	155,309.00
3/01/2019	155,309.00	-	155,309.00
6/01/2019	155,309.00	-	155,309.00
9/01/2019	155,309.00	-	155,309.00
12/01/2019	155,309.00	-	155,309.00
3/01/2020	155,309.00	-	155,309.00
6/01/2020	155,309.00	-	155,309.00
9/01/2020	155,309.00	-	155,309.00
12/01/2020	155,309.00	-	155,309.00
3/01/2021	155,309.00	-	155,309.00
6/01/2021	155,309.00	-	155,309.00
9/01/2021	155,309.00	-	155,309.00
12/01/2021	155,309.00	-	155,309.00
3/01/2022	155,309.00	-	155,309.00
6/01/2022	155,309.00	-	155,309.00
9/01/2022	155,309.00	-	155,309.00
12/01/2022	155,309.00	-	155,309.00

City of Dunbar, West Virginia
Bond Agreement for \$16,152,148
26 Years, 0% Interest Rate, 1/2% Administrative Fee

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
3/01/2023	155,309.00	-	155,309.00
6/01/2023	155,309.00	-	155,309.00
9/01/2023	155,309.00	-	155,309.00
12/01/2023	155,309.00	-	155,309.00
3/01/2024	155,309.00	-	155,309.00
6/01/2024	155,309.00	-	155,309.00
9/01/2024	155,309.00	-	155,309.00
12/01/2024	155,309.00	-	155,309.00
3/01/2025	155,309.00	-	155,309.00
6/01/2025	155,309.00	-	155,309.00
9/01/2025	155,309.00	-	155,309.00
12/01/2025	155,309.00	-	155,309.00
3/01/2026	155,309.00	-	155,309.00
6/01/2026	155,309.00	-	155,309.00
9/01/2026	155,309.00	-	155,309.00
12/01/2026	155,309.00	-	155,309.00
3/01/2027	155,309.00	-	155,309.00
Total	16,152,148.00	-	16,152,148.00 *

*Plus \$10,129.60 one-half percent administrative fee paid quarterly.
 Total fee paid over the life of the loan is \$1,053,478.40.

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 19th day of August, 1999.

CASE NO. 98-1382-S-CN

CITY OF DUNBAR

Petition to reopen certificate proceeding
for approval of increased construction, increased costs
and revised funding.

COMMISSION ORDER

By Recommended Decision issued January 26, 1999, which became a final order of the Commission on February 15, 1999, the Commission granted the City of Dunbar (City) a certificate of public convenience and necessity to construct a new wastewater treatment facility. The project was estimated to cost \$13,265,000. The Commission approved proposed financing in the form of a twenty-year loan from the State Revolving Fund (SRF).

On June 24, 1999, the City filed a petition to reopen this certificate case for approval of additional borrowing and of additional construction. The City stated that the acceptable low bids for the project as certificated resulted in a cost increase necessitating additional borrowing of \$1,700,635. Furthermore, the City desired to include additional work on its east end at further cost of \$1,190,000. These factors result in a project cost increase of \$2,890,635. The City proposes to fund this increase with an increased SRF loan in the amount of \$16,152,148 at 0% interest and a .5% annual administration fee for a 26 year term, in lieu of the SRF loan contemplated when this project was initially approved.

On August 17, 1999, Commission Staff filed a Final Joint Staff Memorandum in this matter. Staff explained that annual debt service for the new SRF loan will be \$664,041. This is a \$70,647 decrease from the annual debt service as previously approved for this project. Staff stated that the City's current tariff rates will not be impacted due to the increased borrowing. Staff further noted that the proposed work on the City's east

end is necessary to address water quality violations caused by the existing sewage collection system. Staff set forth the revised project budget as follows:

Construction Cost	\$12,818,930
Engineering	603,664
Legal and Fiscal	92,000
Administrative	55,000
Site and Other Lands	14,000
Westbanco LOC	1,115,674
Bond Counsel	30,000
Contingency	<u>1,422,880</u>
<u>Total Project Cost</u>	<u>16,162,148</u>

Staff recommended that the City's petition to reopen this proceeding be granted and that the Commission approve the increased construction, costs, and funding for the project, subject to approval of the east end work by the West Virginia Division of Environmental Protection.

Upon review, the Commission will grant the petition to reopen and approve the increased construction, costs, and funding for the project as outlined herein.

FINDINGS OF FACT

1. The City seeks to reopen this proceeding for approval of additional construction, costs, and funding.
2. The City states that acceptable bids for the project as originally approved resulted in a cost increase necessitating additional borrowing of \$1,700,635.
3. To alleviate environmental problems, the City proposes to include additional work on its east end at further cost of \$1,190,000.
4. These factors result in a project cost increase of \$2,890,635. The City proposes to fund this increase with increased SRF loan in the amount of \$16,152,148 at 0% interest and a .5% annual administration fee for a 26 year term, in lieu of the twenty-year SRF loan contemplated when this project was initially approved.
5. The City's current tariff rates will not be impacted due to the increased borrowing.

6. Staff recommends that the City's petition to reopen this proceeding be granted and that the Commission approve the increased construction, costs, and funding for the project, subject to approval of the east end work by the West Virginia Division of Environmental Protection.

CONCLUSIONS OF LAW

The Commission will grant the petition to reopen and approve the increased construction, costs, and funding for the project as outlined herein.

ORDER

IT IS THEREFORE ORDERED that the City's petition to reopen this proceeding is hereby granted.

IT IS FURTHER ORDERED that the revised project budget is hereby approved as follows:

Construction Cost	\$12,818,930
Engineering	603,664
Legal and Fiscal	92,000
Administrative	55,000
Site and Other Lands	14,000
Westbanco LOC	1,115,674
Bond Counsel	30,000
Contingency	<u>1,422,880</u>
<u>Total Project Cost</u>	<u>16,162,148</u>

IT IS FURTHER ORDERED that inclusion within this project of the proposed work to the City's system on its east end, is hereby approved, subject to approval by the West Virginia Division of Environmental Protection.

IT IS FURTHER ORDERED that should further changes to the cost, scope, or funding of this project arise, the City shall seek prior approval from the Commission for such changes.

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

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

A True Copy, Teste:



Sandra Squire
Executive Secretary

ARC
JML/g
981382c.wpd

981382alj012699.wpd

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: January 26, 1999

CASE NO. 98-1382-S-CN

CITY OF DUNBAR

Application for a certificate of convenience
and necessity to construct a new 2.25 mgd
wastewater treatment facility.

RECOMMENDED DECISION

On November 9, 1998, the City of Dunbar (Utility) filed an application with the Public Service Commission, pursuant to W.Va. Code §24-2-11, for a certificate of public convenience and necessity to construct a new wastewater treatment facility. The project is estimated to cost \$13,265,000. The proposed financing is a loan from the State Revolving Fund (SRF).

On November 13, 1998, the Commission directed the Utility to publish the Notice of Filing, once, in a newspaper duly qualified by the Secretary of State, published and generally circulated in Kanawha County. The Notice provided that, if no substantial protests were filed within thirty (30) days, the Commission may waive formal hearing and grant the certificate, based upon its review of the evidence submitted with the application.

On November 25, 1998, Staff filed its Initial Joint Staff Memorandum recommending that the proceeding be referred to the Division of Administrative Law Judges.

On December 16, 1998, the Commission entered its Commission Referral Order in this proceeding. The Commission established a decision due date of on or before June 10, 1999.

On January 21, 1999, the Utility filed a copy of an Affidavit of Publication indicating that the Notice of Filing was published on November 21, 1998, in The Charleston Gazette. No protests were filed.

On January 25, 1999, Staff filed its Final Joint Staff Memorandum. Staff described the project as constructing a new 2,250,000 GPD wastewater treatment facility, a new building and new garage building. The current treatment plant will be demolished and certain pump stations will be renovated. Certain treatment facilities will be upgraded or converted to different functions. The project also involves installation of new sanitary sewer lines and storm sewer lines.

The total construction cost estimate is \$11,614,175 which Staff views as reasonable for the proposed project. The total project costs are estimated at \$13,261,513 which amounts to \$3,555 per customer. Staff views the estimated cost per customer as reasonable.

Alternatives were considered including transportation of the effluent to the City of Charleston or the City of South Charleston. Transporting the effluent to another provider was deemed unacceptable because of peak flow restrictions with both of the other providers. The treatment technology chosen has the lowest operation and maintenance expense.

The project plans have been approved by the West Virginia Division of Environmental Protection (DEP) and the West Virginia Infrastructure Council. DEP issued its approval on September 29, 1998. Commission Staff's review indicates that the plans and specifications do not conflict with the Commission's rules and regulations. Staff did raise concern with some new 4-inch service laterals which are proposed to serve more than one home. Staff found these connections acceptable as long as the Utility is responsible for the maintenance of these laterals after construction. Staff also believed that proper easements should be obtained by the Utility for laterals that infringe on private property.

The improvements to the Utility's system have been mandated by the DEP. The DEP has issued several administrative orders and a consent decree was entered in Circuit Court dated October 22, 1998. The Utility has been violating water quality standards for discharging pollutants into the Kanawha River due to the poor condition of its existing collection and treatment facilities. The proposed project will enable the Utility to achieve compliance with its NPDES Permit and the mandates of the Federal Clean Water Act.

The Utility's operating and maintenance expenses are expected to increase by \$230,408 as a result of the project. Included in the amount is the hiring of an additional full-time employee at the treatment plant.

The project is to be fully funded by a loan from the SRF administered by the DEP at 0% interest with a 1% administrative fee. The repayment is scheduled over twenty years with an annual payment equal to \$734,688. Written confirmation of the funding has been provided.

The Utility has amended its tariff with new rates effective on November 27, 1998. The revised rates are equal to 1.5% of the median family income making the Utility eligible for the low interest rates on the SRF loan. Staff believes that the new rates are sufficient to handle the additional debt service and the additional operation and maintenance expenses associated with the project.

Staff recommended that the Utility's application for a certificate of convenience and necessity and the proposed financing be approved. Staff recommended that the Utility be required to obtain Commission approval should the scope of the project or financing change. Staff also recommended that the Commission require the Utility to assume operation and maintenance of all new 4-inch and 6-inch service laterals and cleanouts and secure all necessary easements related to the laterals.

Finally, Staff recommended expedited processing of the proceeding due to the DEP enforcement actions against the Utility.

DISCUSSION

The Utility's application should be approved without hearing. The Utility has demonstrated that the project is both necessary and convenient. The project will enable the Utility to achieve compliance with its NPDES Permit and the mandates of the Federal Clean Water Act. Proper notice was given and no protests were filed.

The proposed financing is reasonable and should be approved. The very favorable interest rate was available because the revised rates were equal to 1.5% of the median family income in the service area. The rate ordinance already passed by the Utility will adequately cover the costs associated with the project.

The Utility should be required to petition the Commission to approve any modifications to the cost, financing, or scope of the project. The Utility should also be required to assume operation and maintenance of all new 4-inch and 6-inch service laterals and cleanouts which are designed to serve more than one customer and to obtain all necessary easements related to the laterals.

FINDINGS OF FACT

1. On November 9, 1998, the City of Dunbar filed an application with the Public Service Commission, pursuant to W.Va. Code §24-2-11, for a certificate of public convenience and necessity to construct a new wastewater treatment facility and certain collection lines. (See application).
2. On November 13, 1998, the Commission directed the Utility to publish the Notice of Filing, once, in a newspaper duly qualified by the Secretary of State, published and generally circulated in Kanawha County. (See Commission Order of November 13, 1998).
3. On January 21, 1999, the Utility filed a copy of an Affidavit of Publication indicating that the Notice of Filing was published on November 21, 1998, in The Charleston Gazette. (See affidavit).
4. No protests were filed. (See file generally).
5. The project involves constructing a new 2,250,000 GPD wastewater treatment facility, a new building and new garage building. The current treatment plant will be demolished and certain pump stations will be renovated. Certain treatment facilities will be upgraded or converted to different functions. The project also involves installation of new sanitary sewer lines and storm sewer lines. (See Final Joint Staff Memorandum).
6. The total construction cost estimate is \$11,614,175 which is reasonable for the proposed project. (See Final Joint Staff Memorandum).

7. The total project costs are estimated at \$13,261,513 which amounts to \$3,555 per customer. The estimated cost per customer is reasonable. (See Final Joint Staff Memorandum).

8. Alternatives were considered including transportation of the effluent to the City of Charleston or the City of South Charleston. Transporting the effluent to another provider was deemed unacceptable because of peak flow restrictions with both of the other providers. (See Final Joint Staff Memorandum).

9. The treatment technology chosen has the lowest operation and maintenance expense. (See Final Joint Staff Memorandum).

10. The project plans have been approved by the DEP and the West Virginia Infrastructure Council. (See Final Joint Staff Memorandum).

11. The plans and specifications do not conflict with the Commission's rules and regulations. (See Final Joint Staff Memorandum).

12. Staff did raise concern with some new 4-inch service laterals which are proposed to serve more than one home. Staff found these connections acceptable as long as the Utility is responsible for the maintenance of these laterals after construction. Staff also believed that proper easements should be obtained by the Utility for laterals that infringe on private property. (See Final Joint Staff Memorandum).

13. The improvements to the Utility's system have been mandated by the DEP. The DEP has issued several administrative orders and a consent decree was entered in Circuit Court dated October 22, 1998. The Utility has been violating water quality standards for discharging pollutants into the Kanawha River due to the poor condition of its existing collection and treatment facilities. (See Final Joint Staff Memorandum).

14. The proposed project will enable the Utility to achieve compliance with its NPDES Permit and the mandates of the Federal Clean Water Act. (See Final Joint Staff Memorandum).

15. The Utility's operating and maintenance expenses are expected to increase by \$230,408 as a result of the project. Included in the amount is the hiring of an additional full-time employee at the treatment plant. (See Final Joint Staff Memorandum).

16. The project is to be fully funded by a loan from the SRF administered by the DEP at 0% interest with a 1% administrative fee. The repayment is scheduled over twenty years with an annual payment equal to \$734,688. (See Final Joint Staff Memorandum).

17. The Utility has amended its tariff with new rates effective on November 27, 1998. The revised rates are equal to 1.5% of the median family income making the Utility eligible for the low interest rates on the SRF loan. (See Final Joint Staff Memorandum).

18. The new rates are sufficient to handle the additional debt service and the additional operation and maintenance expenses associated with the project. (See Final Joint Staff Memorandum).

CONCLUSIONS OF LAW

1. The public convenience and necessity require the project.
2. The Utility's proposed financing of the project is reasonable and should be approved.
3. The Utility's application for a certificate of convenience and necessity should be granted.
4. The Utility should be required to seek Commission approval should the project scope or the proposed financing change for any reason.

ORDER

IT IS, THEREFORE, ORDERED that the application filed by the City of Dunbar on November 9, 1998, for a certificate of convenience and necessity to construct a new treatment plant and install certain sewer lines be, and hereby is, granted.

IT IS FURTHER ORDERED that the proposed financing for the project, consisting of a \$13,265,000 loan from the State Revolving Fund at 0% interest and a 1% administrative fee for twenty years, be, and hereby is, approved.

IT IS FURTHER ORDERED that, should the cost, scope or financing of the project change for any reason, the Utility is hereby required to seek Commission approval before commencing construction.

IT IS FURTHER ORDERED that the Utility assume operation and maintenance of all new 4-inch and 6-inch service laterals and cleanouts which are designed to serve more than one customer. The Utility is also required to obtain all necessary easements related to the laterals where they infringe on private property.

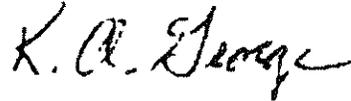
The Executive Secretary hereby is ordered to serve a copy of this order upon the Commission Staff by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

Leave hereby is 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 the exceptions.

If no exceptions are filed, this order shall become the order of the Commission, without further action or order, five (5) days following the expiration of the 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 Executive 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.



Keith A. George
Administrative Law Judge

KAG:mal
981382A.WFD

**PETITION OF THE SANITARY BOARD
OF THE CITY OF DUNBAR,
WEST VIRGINIA**

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

Pursuant to the provisions of Chapter 16, Article 13, and Chapter 22C, Article 2 of the Code of West Virginia of 1931, as amended, the Sanitary Board (the "Sanitary Board") of The City of Dunbar, West Virginia (the "City"), which was established pursuant to an ordinance passed by the Council of the City hereby petitions the Council to enact an ordinance which shall:

(a) set forth a brief and general description of extensions, improvements and betterments to the sewerage system of the City in accordance with plans and specifications (the "Project") prepared and filed by Ghosh Engineers, Inc., the Engineers chosen by the Sanitary Board (the "Consulting Engineers"), including the report of the Consulting Engineers, a copy of which is filed with the Board and the City;

(b) set forth the amount needed to pay a portion of the costs of the project. The total cost is estimated not to exceed \$15,000,000;

(c) order the construction and acquisition of the extensions, improvements and betterments to the sewerage system of the City as outlined by the Consulting Engineer;

(d) direct that sewerage system revenue bonds of the City be issued pursuant to Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended (the "Act"), with bonds in the aggregate amount not to exceed \$15,000,000, or in such other amount as may be found necessary to pay for a part of the cost of the Project and direct the sewerage system revenue bonds of the City be issued at the earliest possible date pursuant to the Act;

(e) contain such other provisions as may be necessary in the premises to implement the Project;

This petition was duly authorized at a regular meeting of this Sanitary Board duly called and held on the 17th day of April, 1999.

WITNESS our signatures on this 14 day of April, 1999.

THE SANITARY BOARD OF THE
CITY OF DUNBAR, WEST VIRGINIA

By: C B Reynes
Mayor

By: Joe Pittman
Member

By: Richard D. Tautolotti, P.E.
Member



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 22, 1999

The Honorable C. B. Rigney
Mayor, City of Dunbar
P.O. Box 216
Dunbar, WV 25064

Re: Wastewater Treatment Plant Upgrade 98S-460

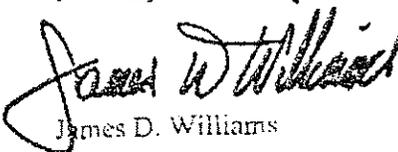
Dear Mayor Rigney:

The West Virginia Infrastructure and Jobs Development Council (Council) has reviewed the City of Dunbar's (City) preliminary application regarding the City's proposed project to upgrade its wastewater treatment plant and construct sanitary and storm sewer lines (Project). Based on the findings of the Sewer Technical Review Committee, the Council has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act. The City should carefully review the enclosed comments of the Sewer Technical Review Committee. The City 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 determined that the City should pursue a Small Cities Block Grant in the amount of \$1,115,678 and utilize the City's contribution of \$75,000 to finance the Project. Please contact the Development Office at 558-4010 for specific information on the steps the City needs to follow to apply for the Small Cities Block Grant. **Please note that this letter does not constitute funding approval from the Development Office.**

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

Sincerely,


James D. Williams

JDW/tb

Enclosure

cc: Fred Hypes, P.E.
Debbie Legg
John Romano

Bill 11 pages

THE CITY OF DUNBAR

\$16,152,148 Sewer System Revenue Bonds, Series 1999

CERTIFICATE OF:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS;
REFUNDING
5. SIGNATURES
6. PUBLIC SERVICE COMMISSION ORDER; RATES
7. INCUMBENCY AND OFFICIAL NAME
8. MEETINGS
9. INSURANCE
10. LOAN AGREEMENTS
11. SPECIMEN BOND
12. CONFLICTS OF INTEREST
13. NO FEDERAL GUARANTY
14. (PURPOSEFULLY LEFT VACANT)
15. CLEAN WATER ACT
- 16A. DELIVERY, PAYMENT AND TERMS OF BONDS
- 16B. AMOUNT OF PROCEEDS (SERIES 1999 BONDS)
- 16C. DEBT RESERVE ACCOUNTS
17. PRIVATE USE OF FACILITIES BOND PROCEEDS
18. YEAR 2000 COMPLIANCE

We, the undersigned MAYOR and the undersigned CLERK-TREASURER of the Sanitary Board of The City of Dunbar (herein called the "City"), and the undersigned ATTORNEY for the City, hereby certify in connection with the single, fully registered City of Dunbar Sewer System Revenue Bonds, Series 1999, numbered R-1, dated the date hereof, in the aggregate principal amount of \$16,152,148 (herein called the "Series 1999 Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this Certificate and not otherwise defined shall have the same meaning as in the Bond Ordinance adopted by the Council of the City on June 22, 1999, relating to the Series 1999 Bond and the Bond Purchase Agreement entered into between the City, the Authority and the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment (the "DEP"), on July 15, 1999.

2. NO LITIGATION: No controversy or litigation of any nature is now pending, or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting the issuance and delivery of the Series 1999 Bond; nor questioning the

proceedings and authority by which the Council of the City authorized the issuance and sale of the Series 1999 Bond; nor affecting the validity of the Series 1999 Bond or any provisions made or authorized for the payments thereof; nor questioning the existence of the City or the title of the members or officers of the City or of the Council thereof to their respective offices; nor questioning the design and construction of certain extensions, improvements or betterments to the existing facilities for the City, (herein called the "Project"), nor operation by the City of the Project (the Project and any further improvements or extensions thereto, herein collectively called the "System"), nor challenging the collection or use of the Gross Revenues or the pledge of its Net Revenues to the security for the Series 1999 Bonds.

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

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS; REFUNDING: There has been no adverse change in the financial condition of the City since July 15, 1999. There are no outstanding obligations of the City which will rank on a parity with the Series 1999 Bond, as to liens, pledge and source of and security for payment. The Issuer has met all conditions prescribed in the Loan Agreement entered into among the Issuer, the DEP and the Authority. The Issuer has or can provide the financial, institutional, legal and managerial capabilities necessary to complete the Project.

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

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

Bond Ordinance
Supplemental Resolution
Loan Agreement
Public Service Commission Orders

Infrastructure and Jobs Development Council Approval
City Charter
Oaths of Office of Officers and Councilmembers
Ordinance Creating Sanitary Board
Petition of Sanitary Board
Sewer Rate Ordinance
Affidavit of Publication of Sewer Rate Ordinance and Notice of
Public Hearing
Minutes on Adoption and Enactment of Sewer Rate Ordinance
Affidavit of Publication of Abstract and Bond Ordinance and
Notice of Public Hearing
Minutes on Adoption and Enactment of Bond Ordinance and Adoption
of Supplemental Resolution
NPDES Permit

6. LAND AND RIGHT-OF-WAY: All land in fee simple and all right-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.

7. SIGNATURES: The undersigned Mayor and Clerk-Treasurer are the duly elected or appointed, qualified and serving officers of the Sanitary Board of the City as indicated by the official titles opposite their signatures below, and were duly authorized to execute and seal the Series 1999 Bonds for the City. The seal impressed upon the Series 1999 Bond, and this Certificate is the duly authorized, proper and only seal of the City.

8. PUBLIC SERVICE COMMISSION ORDER; RATES: The undersigned Attorney hereby certifies that the City has filed all information with the Public Service Commission (the "PSC") and taken all other action required to maintain the PSC Final Order issued in Case No. 98-1382-S-CN and the Modified PSC Order dated August 19, 1999, in full force and effect, and has taken all other action required by applicable law. The City has enacted an Ordinance as of November 23, 1998 and the new rates went into effect November 28, 1998 and are in full force and effect and the time for appeal has passed.

9. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the City is "The City of Dunbar," and it is a public corporation organized and existing under the laws of, and a public corporation and political subdivision of, the State of West Virginia in Kanawha County of said State. The governing body of the City is its Council, consisting of ten (10) members, whose names and dates of commencement and termination of terms of office during these Bonds proceedings are as follows:

	<u>Name</u>	<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
Mayor	C. B. Rigney	June 16, 1997	June, 2001
Clerk-Treasurer	Ron Rowley	June 16, 1997	June, 2001
Councilmen:	Dana Hayes	June 16, 1997	June, 2001
	Michael Scipio	June 16, 1997	June, 2001
	Franklin Chambers	June 16, 1997	June, 2001
	Dallas Garrett	June 16, 1997	June, 2001
	John Coleman	June 16, 1997	June, 2001
	Ronald Fulknier	June 16, 1997	June, 2001
	David Flowers	June 16, 1997	June, 2001
	Fern Jobe	June 16, 1997	June, 2001

The City of Dunbar Sanitary Board Members as of the date of the passage of the Ordinance and issuance of the Series 1999 Bonds are as follows:

	<u>Name</u>	<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
Mayor,	C. B. Rigney	June 16, 1997	June, 2001
	Joe V. Pittman	July 1, 1997	July, 2001
	Richard Bertolotti, P.E.	July 1, 1997	July, 2001

Stephen P. Swisher, whose signature appears hereon is the duly appointed and acting Attorney for the City.

10. MEETINGS: All actions, ordinances, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the City in any way connected with the issuance of the Bonds and acquisition, construction and financing of the Project or the operation of the System were authorized or adopted at meetings of the Council of the Issuer duly and regularly or specially called and held pursuant to all applicable statutes and the rules of procedure of the Council 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 appointed, qualified and acting members of the Council was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

11. INSURANCE: The City will maintain or, as appropriate, will require all contractors to maintain Worker's Compensation, public liability and property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance where applicable, in accordance with the Ordinances and the Loan Agreement.

12. LOAN AGREEMENT: As of the date hereof, (i) the representations of the City contained in the Loan Agreement is true and correct in all material respects as if made on the date hereof to the best knowledge and belief of the undersigned; (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; and (iii) to the best knowledge and belief of the undersigned, no event affecting the City has occurred since the date of the Loan Agreement which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading.

13. SPECIMEN BOND: Attached hereto as Exhibit A is the specimen of the Series 1999 Bonds this day delivered to the Authority and being substantially in the form prescribed in the Ordinance.

14. CONFLICTS OF INTEREST: No officer or employee of the City has a substantial financial interest, direct, indirect, by reason of ownership of stock or otherwise, in any corporation, in any contract with the City or to any contractor supplying the City, relating to the Series 1999 Bonds 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.

15. NO FEDERAL GUARANTY: The Series 1999 Bonds are not, in whole or in part, and will not be, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

16. (PURPOSEFULLY LEFT VACANT).

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

17A. DELIVERY, PAYMENT AND TERMS OF BONDS: On the date hereof, the Bonds were delivered to the Authority by the undersigned Mayor. At the time of such delivery, the Bonds had been duly and fully executed and sealed on behalf of the City in accordance with the Bond Ordinance. The City received by check the first advance under the Bonds in the amount of \$1,225,549.00 representing more than a de minimus portion of the Bond proceeds.

The Bonds are dated the date hereof, and interest thereon at the rate of zero percent (0%) per annum with a ½% Administrative Fee is payable from such date on the amounts advanced under the Bonds. The Bonds shall be subject to prepayment of scheduled installments, or any portion thereof, at the option of the City, and shall be payable as to principal as provided in the 1999 Bonds.

16B. On the date hereof, the City received \$1,225,549.00 from the Authority and the DEP, being a portion of the principal amount of the Series 1999 Bonds, and more than a de minimus amount of the proceeds of 1999 Series of Bond. The remaining balance, if any, in the principal amount of each series of Bonds will be advanced to the City from time to time as acquisition and construction of the Project progresses.

17. PRIVATE OF OF FACILITIES: The City shall at all times, take, and refrain from taking, and shall not fail to take, any and all actions necessary in order to ensure the initial and continued tax-exempt status of the 1999 Bonds, and the interest thereon less than 10% of the proceeds of the Bonds will be used, directly or indirectly, for any private business use, and less than 10% of the payment of principal of, or the interest on, such issue, under the terms of such issue or any underlying arrangement, is, directly or indirectly, secured by any interest in property used or to be used for a private business use, payments in respect of such property, or to be derived from payments (whether or not to the City) in respect of property, or borrowed money, used or to be used for a private business use. None of the proceeds of the Bonds will be used, directly or indirectly, for any private business use which is not related to the governmental use of the proceeds of the Bonds, including the

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

18. 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 Charleston Gazette and the Charleston Daily Mail, a newspaper of general circulation in the City of Charleston, 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 public meeting of the Council on July 6, 1999, at 7:00pm at the Council Chambers, Dunbar, West Virginia, and present protests, and stating that a certified copy of the Bond Ordinance was on file at the office of the City Clerk of the Issuer for review by interested parties during the office hours of the Issuer. As 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.

19. YEAR 2000 COMPLIANCE. The Issuer represents that it has undertaken or will undertake an investigation to determine whether the operations of the System, including but not limited to any billing, collection and inventory computer programs of the System and any electronic or mechanical components of the System's wastewater collection and treatment facilities are Year 2000 Compliant. The City further represents that if it determines as a result of this investigation that any Mission-Critical Component of the System is not Year 2000 Compliant, the City (i) will take timely and affirmative action to

repair or replace any such component, and (ii) will perform adequate testing to ensure the sound operation and Year 2000 Compliant status of the repaired or replaced component. For the purpose of this paragraph, "Year 2000 Compliant" means, with respect to the information technology the Issuer uses or will use in the operation of the System (including any date-sensitive microprocessors embedded in electronic or mechanical components of the System), the information technology is designed to be used prior to, during and after calendar Year 2000 A.D., and the information technology used during each such time period will accurately receive, provide and process date-time data (including, but not limited to, calculating, comparing and sequencing) from, into and between the twentieth and twenty-first centuries, including the years 1999 and 2000 and leap-year calculations, and will not malfunction, cease to function, or provide invalid or incorrect results as a result of date-time data. For purposes of this paragraph, "Mission-Critical Component" means any component of the System that would be critical to (a) the System's continued operation after January 1, 2000; (b) the Issuer's ability to continue to bill its customers and collect amounts billed from those customers after January 1, 2000; or (c) the City's ability to make all principal and interest payments for the Bonds contemplated by the Ordinance as and when they become due.

WITNESS our signatures and the official corporate seal of the City of Dunbar on this 24th day of August, 1999.

[SEAL]

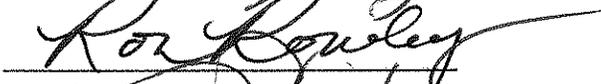
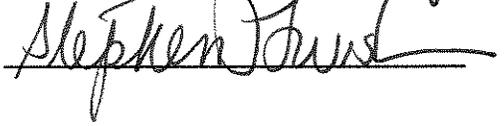
<u>Signature</u>	<u>Official Title</u>
	Mayor
	Clerk-Treasurer
	Attorney for City

EXHIBIT A

Specimen of Series 1999 Bond
(see Tab No. 25)

THE CITY OF DUNBAR

\$16,152,148

The City of Dunbar Sewer System Revenue Bonds
Series 1999

CERTIFICATE OF CONSULTING ENGINEER

I, Pulak Ghosh, Registered Professional Engineer, West Virginia License No. 7806, of Ghosh Engineers, Inc., Consulting Engineers, Charleston, West Virginia, hereby certify as follows:

1. My firm is engineer for construction of the City of Dunbar Project (the "Project") of the City of Dunbar (the "Issuer") to be constructed in Kanawha County, West Virginia, which construction is being financed by the above-captioned bond (the "Bond") of the Issuer. All capitalized words not defined herein shall have the same meaning set forth in the Bond Ordinance passed by the City Council of the Issuer on June 22, 1999 and a Supplemental Resolution adopted by the City Council on July 6, 1999, (collectively the "Ordinance"), and the Bond Purchase Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection ("DEP") dated July 15, 1999.

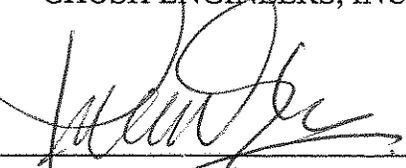
2. The Bonds are being issued for the purposes of (i) making various improvements to the sanitary system; (ii) install and repair various storm sewer systems; (iii) upgrade and rehabilitate the existing 2.25 Trickling Filter Wastewater Treatment Plant to a 2.25 mgd Vertical Loop Reactor Wastewater Treatment Plant; (iv) enter into an interim loan to be repaid from proceeds from the SRF Bond issued to upgrade its wastewater pumping stations, purchase a Vactor truck, and repair the 23rd Street storm and sanitary sewer; (v) include additional work under this project in the area from 3rd Street to 16th Street between Dunbar Avenue and the Kanawha River, work in this area will include the repair and separation of storm and sanitary sewers; (vi) install a radio telemetry system to monitor its pumping stations and record CSO events at the pumping station and (vii) paying certain costs of issuance thereof and related costs (the "Project").

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 DEP and any change orders approved by the Issuer, the DEP and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least twenty-eight (28) years if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for

construction of the Project that are in an amount and otherwise compatible with the plan of financing described in Schedule A attached hereto as Exhibit A; (iv) all successful bidder(s) have made required provisions for all insurance payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (v) the successful bidder(s) received any and all addenda to the original bid documents; (vi) the bid documents relating to the Project reflect the Project as approved by the DEP and the bid form(s) provided to the bidder(s) contained all critical operational components of the Project; (vii) the successful bid(s) include prices for every item on such bid form(s); (viii) the uniform bid procedures were followed; (ix) in my professional opinion the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project and operation of the System; (x) in reliance upon the certificate of Smith, Cochran & Hicks, P.L.L.C., Certified Public Accountants, of even date herewith, 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; (xi) the net proceeds of the Bonds, together with all Sources of Funding as both set forth on Exhibit A are sufficient to pay the Estimated Costs of Project approved by the DEP plus the Cost of Financing as also indicated in Exhibit A; and (xii) 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 this 24th day of August 1999

GHOSH ENGINEERS, INC.

By 

West Virginia License No. 7806

[SEAL]

SCHEDULE A

NAME OF GOVERNMENTAL AGENCY: _____

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

A. Cost of Project

1	Construction	\$ 12,818,930	
2	Technical Services	\$ 603,664	
3	Legal and Fiscal	\$ 92,000	
4	Administrative	\$ 55,000	
5	Site and Other Lands	\$ 14,000	
6	Fac. Plan/Design or other Loan Repayment (Specify Type: _____)	\$ 1,115,674	
7	Interim Financing Costs	\$ -	
8	Contingency	\$ 1,422,880	
9	Total of Lines 1 Through 8		<u>\$ 16,122,148</u>

B. Source of Funds

10	Federal Grants: ¹ _____ (Specify Sources) _____	\$ -	
11	State Grants: ¹ _____ (Specify Sources) _____	\$ -	
12	Other Grants: ¹ _____ (Specify Sources) _____	\$ -	
13	Any Other Source ² _____ (Specify) _____	\$ -	
14	Total of Lines 10 Through 13		<u>\$ -</u>
15	Net Proceeds Required from Bond Issue (Line 9 minus Line 14)		<u>\$ 16,122,148</u>

C. Cost of Financing

16	Capitalized Interest (Construction period plus six months)	\$ -	
17	Funded Reserve Account ¹	\$ -	
18	Other Costs: ⁴	\$ 30,000	
19	Total Cost of Financing (Lines 16 minus 18)	\$ 30,000	
20	Size of Bond Issue (Line 15 plus Line 19)		<u>\$ 16,152,148</u>

(see attached Detailed Project Budget for details)

* not allowable for State Revolving Fund Assistance

** WDA loans are not allowable

C B Rigney
Signature of Applicant

[Signature]
Signature of Consulting Engineer



Smith, Cochran & Hicks, P.L.L.C.

Certified Public Accountants

Beckley Bridgeport Charleston Montgomery

405 Capitol Street • Suite 908 • Charleston, West Virginia 25301 • 304-345-1151 • Fax 304-346-6731

**THE CITY OF DUNBAR
\$16,152,148 SEWER SYSTEM REVENUE BONDS SERIES 1999
CERTIFIED PUBLIC ACCOUNTANT CERTIFICATE**

August 24, 1999

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

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

The City of Dunbar
Post Office Box 483
Dunbar, West Virginia 25064

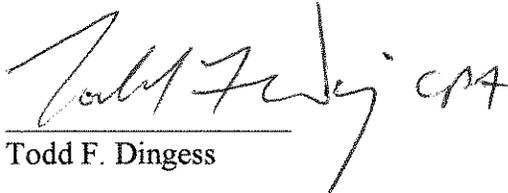
John T. Poffenbarger
Bank One Center, Suite 910
Charleston, West Virginia 25301

Ladies and Gentlemen:

Based upon the rates and charges now in effect, projected operation and maintenance expenses and anticipated customer usage as furnished to us by The City of Dunbar (the "Issuer"), it is our opinion that such rates and charges will be sufficient to provide revenue which, together with other revenues of the sewerage system (the "System") of the Issuer, will pay all repair, operation and maintenance expenses and leave a balance each year equal to at least 115% of the maximum amount required in any Fiscal Year for debt service on the Issuer's Sewer System Revenue Bonds, Series 1999 (the "Bonds"), and all other obligations secured by or payable from the revenues of the System prior to or on a parity with the Bonds.

There will usually be differences between the forecasted and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material. We have no responsibility to update this letter for events and circumstances occurring after the date of this letter. Capitalized terms used in and not otherwise defined herein shall have the meanings assigned to them in the Bond Ordinance.

Very truly yours,

 CPA

Todd F. Dingess

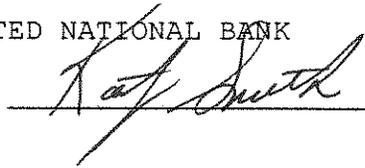
THE CITY OF DUNBAR
\$16,152,148 SEWER SYSTEM REVENUE BONDS SERIES 1999

ACCEPTANCE OF DUTIES OF REGISTRAR

UNITED NATIONAL BANK, a national banking association with its principal office in Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the Series 1999 Bond Ordinance of the City of Dunbar enacted June 22, 1999, and the Supplemental Resolution adopted July 6, 1999, (collectively the "Ordinance") authorizing issuance of The City of Dunbar Sewer System Revenue Bonds, Series 1999 in the principal amount of \$16,152,148, dated August 24, 1999 (the "Bonds") and agrees to perform all duties of Registrar in connection with such Bonds, all as set forth in said Resolution.

WITNESS my signature as of August 24, 1999

UNITED NATIONAL BANK

By:  _____

THE CITY OF DUNBAR
SEWER SYSTEM REVENUE BONDS
SERIES 1999

ACCEPTANCE OF DUTIES OF DEPOSITORY BANK

United National Bank, with its office in Dunbar, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Ordinance of the City of Dunbar, duly enacted on June 22, 1999, and the Supplemental Resolution adopted July 6, 1999 (collectively, the "Ordinance"), authorizing issuance of The City of Dunbar Sewer System Revenue Bonds, Series 1999, in the aggregate principal amount of \$16,152,148, dated August 24, 1999 (the "Bonds") and agrees to perform all duties of Depository Bank, all as set forth in said Ordinance.

Witness my signature as of the 24th day of August, 1999.

UNITED NATIONAL BANK

By  _____
Its Authorized Officer

REQUEST AND AUTHORIZATION AS TO AUTHENTICATION
AND DELIVERY OF THE BONDS

August 24, 1999

United National Bank
500 Virginia Street East
Charleston, West Virginia 25301

Ladies and Gentlemen:

We herewith hand to you, duly executed, the \$16,152,148 The City of Dunbar Sewer System Revenue Bond, Series 1999, in the form of one bond numbered R-1 (the "Bond"), authorized to be issued under and pursuant to the Bond Ordinance, duly enacted by the Council of the City of Dunbar (the "City") on June 22, 1999 and a Supplemental Resolution adopted by the Board on July 6, 1999 (collectively the "Ordinance").

You are hereby requested and authorized to register, authenticate and deliver the Bonds on behalf of the District to the West Virginia Water Development Authority.

The City of Dunbar

By: *C B Rigney*
Mayor

(Seal)

Attest:

Ron Bowley
Clerk-Treasurer

THE CITY OF DUNBAR
\$16,152,148 SEWER SYSTEM REVENUE BONDS SERIES 1999

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 24th day of August, 1999, by and between THE CITY OF DUNBAR, a municipal corporation of the State of West Virginia (the "Governmental Agency"), and UNITED NATIONAL BANK (the "Registrar").

WHEREAS, the Governmental Agency has, contemporaneously with the execution hereof, issued and sold its \$16,152,148 Sewer System Revenue Bonds, Series 1999, pursuant to the Ordinance duly enacted June 22, 1999, and the Supplemental Resolution for the Series 1999 Bonds adopted July 6, 1999;

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Ordinance, copies of which are attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Ordinance provides for an appointment by the Governmental Agency of a Registrar for the Bonds; and

WHEREAS, the Governmental Agency desires to appoint, and by the Ordinance and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Ordinance and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Governmental Agency and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar, for the Bond, all as set forth in the Ordinance, such duties including, among other things, the duties to authenticate, register and deliver the Bond 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 Bond from gross income for federal income tax purposes, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Governmental Agency advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Governmental Agency with appropriate records of all transactions carried out by it as Registrar and to furnish the Governmental Agency with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Governmental Agency may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Governmental Agency.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Governmental Agency hereby agrees to pay to the Registrar, from time to time, the compensation for services rendered as provided in the annexed schedule and reimbursement for reasonable expenses incurred in connection with this Registrar's Agreement.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Ordinance with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Ordinance, the terms of the Ordinance shall govern.

6. The Governmental Agency and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Ordinances will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective address:

GOVERNMENTAL AGENCY:

THE CITY OF DUNBAR
Post Office Box 483
Dunbar, West Virginia 25064

REGISTRAR:

UNITED NATIONAL BANK
500 Virginia Street East
Charleston, West Virginia 25301

The Governmental Agency and the Registrar shall notify the other in writing of any change of address.

8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Ordinance.

IN WITNESS WHEREOF, THE CITY OF DUNBAR and UNITED NATIONAL BANK, have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

THE CITY OF DUNBAR

By: CB Rigney
Mayer

UNITED NATIONAL BANK

By: K of Smith
Authorized Officer

EXHIBIT A

See Bond Ordinance (Tab No. 6)

BOND REGISTER

**United National Bank
as Bond Registrar for
\$16,152,148 City of Dunbar
Sewer System Revenue Bond, Series 1999**

Bondholder	Bond Number	Registration	Authorized Officer
West Virginia Water Development Authority 180 Association Drive Charleston, WV 25311	R-1	\$16,152,148	August 24, 1999

CHASFS3:32064

THE CITY OF DUNBAR

**\$16,152,148 Sewer System Revenue Bonds,
Series 1999**

RECEIPT FOR BOND

The undersigned, Barbara B. Meadows, Secretary-Treasurer of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, hereby certifies as follows:

1. On the 24th day of August, 1999, in Charleston, West Virginia, the Authority received the entire original issue of \$16,152,148 in aggregate principal amount of The City of Dunbar Sewer System Revenue Bonds, Series 1999 (the "Bonds"), said Bonds being dated the 24th day of August, 1999, and issued in the form of one bond, fully registered to the Authority, and numbered R-1.

2. At the time of receipt of the Series 1999 Bond, it had been executed by C. B. Rigney, as Mayor of the City, by manual signature, and attested by Ron Rowley, as Clerk-Treasurer of the City, by manual signature, and the official seal of said City had been impressed upon the Bond.

IN WITNESS WHEREOF, Barbara B. Meadows duly signed and delivered this receipt on behalf of the West Virginia Water Development Authority on the 24th day of August, 1999.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

By: Barbara B Meadows
Secretary-Treasurer

\$16,152,148
THE CITY OF DUNBAR
SEWER SYSTEM REVENUE BONDS
SERIES 1999

RECEIPT FOR BOND PROCEEDS

The undersigned, C. B. Rigney, Mayor of the City of Dunbar (the "City"), hereby certifies as follows:

1. The City has received and hereby acknowledges receipt from the West Virginia Water Development Authority (the "Authority"), as original purchaser of the \$16,152,148 The City of Dunbar Sewer System Revenue Bonds, Series 1999 (the "Bonds"), of \$1,225,549.00 being more than a de minimis portion of the purchase price of the Bonds. The City understands that the remaining proceeds will be advanced to the City from time to time as construction proceeds to completion.

IN WITNESS WHEREOF, The City of Dunbar has caused this receipt to be executed by its Mayor on this 24th day of August, 1999.

THE CITY OF DUNBAR

By

C B Rigney
MAYOR



**RESOLUTION OF THE CITY OF DUNBAR APPROVING
INVOICES RELATING TO ACQUISITION AND OTHER
SERVICES FOR THE PROPOSED
WASTEWATER SYSTEM PROJECT AND AUTHORIZING
PAYMENT THEREOF**

WHEREAS, the City of Dunbar has reviewed the invoices attached hereto and incorporated herein by reference relating to the acquisition of the Wastewater System Project (Project) funded by the Sewer System Revenue Bonds, Series 1999 (Infrastructure Fund) and an Infrastructure Fund Grant and finds as follows:

- (a) That none of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;
- (b) That each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the services for the Project;
- (c) That each of such costs has been otherwise properly incurred; and
- (d) That payment for each of the items proposed is then due and owing.

NOW, THEREFORE, BE IT RESOLVED by The City of Dunbar as follows:

There is hereby authorized and directed the payment of the attached invoices as summarized as follows:

Attorney Fees (Right-of-Way Activities)	\$ 10,125.00
Ghosh Engineers Inc.	\$ 69,750.00
Interim Financial Costs	\$1,115,674.00
Bond Counsel - John T. Poffenbarger	<u>\$ 30,000.00</u>
Total	\$1,225,549.00

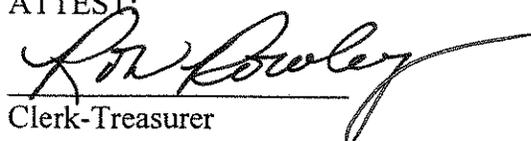
Adopted by the City of Dunbar at a meeting held on the 24th day of August, 1999.

The City of Dunbar


Mayor

[SEAL]

ATTEST:


Clerk-Treasurer



DIVISION OF ENVIRONMENTAL PROTECTION

CECIL H. UNDERWOOD
GOVERNOR

1201 Greenbrier Street
Charleston, WV 25311-1088

MICHAEL P. MIANO
DIRECTOR

December 17, 1998

Honorable C. B. Rigney
Mayor, City of Dunbar
Sanitary Board
P. O. Box 216
Dunbar, WV 25064

CERTIFIED RETURN RECEIPT REQUESTED

Re: WV/NPDES Permit No. WV0028118
Modification No. 1

Dear Mayor Rigney:

This correspondence shall serve as Modification No. 1 of your existing WV/NPDES Water Pollution Control Permit No. WV0028118, issued the 30th day of June 1995.

After review and consideration of the information submitted on, and with, Permit Modification Application No. WV0028118-B, dated the 5th day of August 1998, the plans and specifications, additional information, received the 1st day of September 1998, additional information, dated the 29th day of September 1998, and other relevant information, the subject WV/NPDES Water Pollution Control Permit is hereby modified to incorporate, and effectuate, the following data and changes, respectively.

1. To acquire, construct, install, operate and maintain, improvements to an existing wastewater collection system to be comprised of approximately 450 linear feet of six(6) inch diameter gravity sewer line, 2,000 linear feet of eight(8) inch diameter gravity sewer line, 800 linear feet of 10 inch diameter gravity sewer line, 2,200 linear feet of 12 inch diameter gravity sewer line, 18 manholes, 2,000 linear feet of six(6) inch diameter force main, new control panels and telemetry systems for the 9th Street, 25th Street, Dutch Hollow, Moore Avenue, Park Drive, and Dunbar Avenue Pump Stations, renovations to overflow manholes at the intersection of Charles Avenue with 18th, 19th, 20th, and 21st Streets, outfall renovations on 18th and 17th Streets, and separation of some of the combined sewer collection system, and all requisite appurtenances.
2. Portions of the existing 2.25 million gallons per day trickling filter wastewater treatment plant shall become an integral part of the new wastewater treatment plant, or be abandoned.

Honorable C. B. Rigney
Mayor, City of Dunbar
Page 2
December 17, 1998

3. To acquire, construct, install, operate and maintain a 2.25 million gallons per day vertical loop reactor wastewater treatment plant to be comprised of a renovated influent lift station, a mechanical bar screen, a manual bar screen, grit removal facilities, three(3) reactor chambers with a volume of 560,800 gallons each, two(2) clarifiers with a volume of 446,800 gallons each and a surface area of 2,827 square feet each, chlorination facilities, renovation of the existing two(2) chlorine contact chambers to have a volume of 53,300 gallons each, dechlorination facilities, conversion of the existing circular primary clarifier to a sludge thickener with a volume of 170,500 gallons, conversion of the existing anaerobic digester to an aerobic digester with a volume of 349,300 gallons, a 2.0 meter sludge dewatering belt filter press, post lime sludge stabilization facilities, cleaning and abandonment in place of the existing secondary clarifier, abandonment and removal of the existing grit chamber, rectangular primary clarifier, recirculating pump station, trickling filter, and sludge drying beds, and all requisite appurtenances.
4. These facilities are to serve a population equivalent of approximately 28,125 persons in the City of Dunbar, the West Dunbar Public Service District, West Virginia State College, a portion of the Mt. Tyler Public Service District, and environs, and discharge treated wastewater, through Outlet No. 001, to the Kanawha River, at Mile Point 51.5, located at a latitude of 38° 22' 00" north and a longitude of 81° 45' 30" west.
5. The wastewater treatment plant and wastewater collection system improvements project shall be constructed in accordance with the plans and specifications, approved the 29th day of September 1998, prepared by Ghosh Engineers, Inc., 12th Floor Union Building, 723 Kanawha Boulevard East, Charleston, WV 25301, and entitled "City of Dunbar, Kanawha County, West Virginia; Contract 1 - Wastewater Treatment Plant and Pump Stations Project; Contract 2 - Storm and Sanitary Sewer System Improvements; SRF Project No. C-544064."
6. The Environmental Quality Board promulgated revised Title 46, Series 1, Legislative Rules, effective, on the 1st day of July 1998. These Rules establish water quality standards that provide for the protection of acute and chronic aquatic life impacts, and human health protection. Subsequently, when performing an analysis of the analytical review of the discharge from the proposed wastewater treatment plant, in accordance with the water quality standards, and procedural developments relative to the implementation of Title 46, Series 1 of the Legislative Rules, specific numeric effluent discharge limitations are warranted, for certain parameters and, therefore, have been prescribed, herein. These limitations should provide for the protection of human health, as well as for the protection of both the acute and chronic aquatic life impacts.

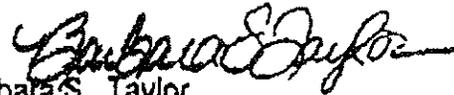
Honorable C. B. Rigney
Mayor, City of Dunbar
Page 3
December 17, 1998

Enclosed are incorporated page 10A of 22, incorporated page 10B of 22, incorporated page 10C of 22, incorporated page 10D of 22, and revised page 18 of 22, along with Discharge Monitoring Reports. Further, Section G has been revised to incorporate the requirements relative to the permitting procedures being implemented herein. These documents shall supersede the ones currently in your possession, and be incorporated, as appropriate, into your existing WW/NPDES Water Pollution Control Permit.

All other terms and conditions of the subject WW/NPDES Water Pollution Control Permit shall remain in effect and unchanged.

Sincerely,

OFFICE OF WATER RESOURCES



Barbara S. Taylor
Chief

BST/jdm

Enclosures

WV MUNICIPAL BOND COMMISSION

Suite 300
812 Quarrier St
Charleston, WV 25301
PH (304) 558-3971
FAX (304) 558-1280

NEW ISSUE REPORT FORM

Date of Report: August 24, 1999
(See Reverse for Instructions)

ISSUER & ISSUE: \$16,152,148 City of Dunbar Sewer System Revenue Bonds, Series 1999

ADDRESS: P. O. Box 483, Dunbar, WV 25064 COUNTY: Kanawha

PURPOSE: New Money

OF ISSUE: Refunding Refunds issue(s) dated: _____

ISSUE DATE: 8/24/99 CLOSING DATE: 8/24/99

ISSUE AMOUNT: \$16,152,148.00 RATE: 0%

1st DEBT SERVICE DUE: 6/1/2001 1st PRINCIPAL DUE: 6/1/2001

1st DEBT SERVICE AMOUNT: \$155,310.00 PAYING AGENT: WV Municipal Bond Commission

ISSUERS

BOND COUNSEL: John T. Poffenbarger, Esq.

Contact Person: John T. Poffenbarger

Phone: (304)342-1678

CLOSING BANK: United National Bank

Contact Person: Kathy Smith

Phone: (304)348-8400

KNOWLEDGEABLE ISSUER CONTACT

Contact Person: C. B. Rigney

Position: Mayor

Phone: (304)766-0216 Fax: 766-0230

UNDERWRITERS

BOND COUNSEL: _____

Contact Person: _____

Phone: _____

ESCROW TRUSTEE: WV Municipal Bond Commission

Contact Person: _____

Phone: _____

OTHER: United National Bank

Contact Person: Kathy Smith

Function: Registrar

Phone: 348-8400

DEPOSITS TO MBC AT CLOSE: Accrued Interest: _____ Days \$ _____

By Wire Capitalized Interest: _____ \$ _____

Check Reserve Account: _____ \$ _____

IGT Other: _____ \$ _____

REFUNDS & TRANSFERS BY MBC AT CLOSE:

By Wire To Escrow Trustee: _____ \$ _____

Check To Issuer: _____ \$ _____

IGT To CIF-State Treasury _____ \$ _____

To Other: _____ \$ _____

NOTES: _____

FOR MUNICIPAL BOND COMMISSION USE ONLY:

DOCUMENTS

REQUIRED: _____

TRANSFERS

REQUIRED: _____



UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF DUNBAR
SEWER SYSTEM REVENUE BOND, SERIES 1999

No. R-1

\$16,152,148

KNOW ALL MEN BY THESE PRESENTS: That The City of Dunbar, a municipal corporation of the State of West Virginia in Kanawha 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 \$16,152,148 or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as Exhibit A hereto and incorporated herein by reference, in installments on the 1st day of June, the 1st day of September, the 1st day of December and the 1st day of March in each year beginning June 1, 2001, as set forth on the "Schedule of Annual Debt Service" attached as Exhibit B hereto and incorporated herein by reference, without interest. The SRF Administrative Fee of $\frac{1}{2}$ % shall also be payable quarterly on the 1st day of June, the 1st day of September, the 1st day of December and the 1st day of March of each year beginning June 1, 2001.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Bond Purchase Agreement dated July 15, 1999 among the Authority, the DEP and the Issuer.

This Bond is issued in the aggregate principal amount of \$16,152,148 (i) to pay the costs of construction of certain improvements and extensions to the sewerage system of the Issuer (the "Project"), and (ii) to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the

Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), a Ordinance duly adopted by the Issuer on the 22nd day of June, 1999, and a Supplemental Resolution adopted by the Issuer on the 6th day of July, 1999 (collectively called the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Ordinance) to be derived from the operation of the System with the pledge of Net Revenues in favor of the holders of the Bonds created under the Ordinance and unexpended proceeds of the Bond (the "Bond Proceeds"). Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, and unexpended Bond Proceeds. Pursuant to the Ordinance, 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 to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest, if any, on all obligations on a parity with or prior to the Bonds payable from such revenues, provided however, that so long as there exists in the Reserve Account an amount equal to the maximum amount of principal and interest which will become due on said Bond in the then current year or any succeeding year and the reserve account for any other obligations outstanding on a parity with the Bond is funded at 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 Ordinance. Remedies provided the registered owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Ordinance, only upon the books of the United National Bank, Charleston, West Virginia, as registrar (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, shall be applied solely to the payment of the costs of the Project described in the Ordinance, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

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

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

IN WITNESS WHEREOF, The City of Dunbar has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Clerk-Treasurer, and has caused this Bond to be dated August 24, 1999.

[SEAL]

C. B. Rigney
Mayor

ATTEST:

Ron Rowley
Clerk-Treasurer

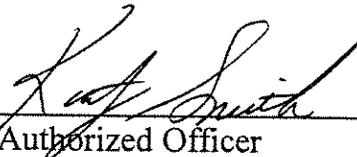
CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1999 Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the Registered Owner set forth above, as of the date set forth below.

Date: August 24, 1999

United National Bank,
as Registrar

By



Its Authorized Officer

EXHIBIT A
RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$1,225,549.00	August 24, 1999	(7) \$	
(2) \$		(8) \$	
(3) \$		(9) \$	
(4) \$		(10) \$	
(5) \$		(11) \$	
(6) \$		(12) \$	

TOTAL \$ _____

SCHEDULE B

City of Dunbar, West Virginia
Bond Agreement for \$16,152,148
26 Years, 0% Interest Rate, 1/2% Administrative Fee

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
9/01/1999	-	-	-
12/01/1999	-	-	-
3/01/2000	-	-	-
6/01/2000	-	-	-
9/01/2000	-	-	-
12/01/2000	-	-	-
3/01/2001	-	-	-
6/01/2001	155,310.00	-	155,310.00
9/01/2001	155,310.00	-	155,310.00
12/01/2001	155,310.00	-	155,310.00
3/01/2002	155,310.00	-	155,310.00
6/01/2002	155,310.00	-	155,310.00
9/01/2002	155,310.00	-	155,310.00
12/01/2002	155,310.00	-	155,310.00
3/01/2003	155,310.00	-	155,310.00
6/01/2003	155,310.00	-	155,310.00
9/01/2003	155,310.00	-	155,310.00
12/01/2003	155,310.00	-	155,310.00
3/01/2004	155,310.00	-	155,310.00
6/01/2004	155,309.00	-	155,309.00
9/01/2004	155,309.00	-	155,309.00
12/01/2004	155,309.00	-	155,309.00
3/01/2005	155,309.00	-	155,309.00
6/01/2005	155,309.00	-	155,309.00
9/01/2005	155,309.00	-	155,309.00
12/01/2005	155,309.00	-	155,309.00
3/01/2006	155,309.00	-	155,309.00
6/01/2006	155,309.00	-	155,309.00
9/01/2006	155,309.00	-	155,309.00
12/01/2006	155,309.00	-	155,309.00
3/01/2007	155,309.00	-	155,309.00
6/01/2007	155,309.00	-	155,309.00
9/01/2007	155,309.00	-	155,309.00
12/01/2007	155,309.00	-	155,309.00
3/01/2008	155,309.00	-	155,309.00
6/01/2008	155,309.00	-	155,309.00
9/01/2008	155,309.00	-	155,309.00
12/01/2008	155,309.00	-	155,309.00
3/01/2009	155,309.00	-	155,309.00
6/01/2009	155,309.00	-	155,309.00
9/01/2009	155,309.00	-	155,309.00
12/01/2009	155,309.00	-	155,309.00
3/01/2010	155,309.00	-	155,309.00
6/01/2010	155,309.00	-	155,309.00
9/01/2010	155,309.00	-	155,309.00
12/01/2010	155,309.00	-	155,309.00
3/01/2011	155,309.00	-	155,309.00

City of Dunbar, West Virginia
Bond Agreement for \$16,152,148
26 Years, 0% Interest Rate, 1/2% Administrative Fee

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
6/01/2011	155,309.00	-	155,309.00
9/01/2011	155,309.00	-	155,309.00
12/01/2011	155,309.00	-	155,309.00
3/01/2012	155,309.00	-	155,309.00
6/01/2012	155,309.00	-	155,309.00
9/01/2012	155,309.00	-	155,309.00
12/01/2012	155,309.00	-	155,309.00
3/01/2013	155,309.00	-	155,309.00
6/01/2013	155,309.00	-	155,309.00
9/01/2013	155,309.00	-	155,309.00
12/01/2013	155,309.00	-	155,309.00
3/01/2014	155,309.00	-	155,309.00
6/01/2014	155,309.00	-	155,309.00
9/01/2014	155,309.00	-	155,309.00
12/01/2014	155,309.00	-	155,309.00
3/01/2015	155,309.00	-	155,309.00
6/01/2015	155,309.00	-	155,309.00
9/01/2015	155,309.00	-	155,309.00
12/01/2015	155,309.00	-	155,309.00
3/01/2016	155,309.00	-	155,309.00
6/01/2016	155,309.00	-	155,309.00
9/01/2016	155,309.00	-	155,309.00
12/01/2016	155,309.00	-	155,309.00
3/01/2017	155,309.00	-	155,309.00
6/01/2017	155,309.00	-	155,309.00
9/01/2017	155,309.00	-	155,309.00
12/01/2017	155,309.00	-	155,309.00
3/01/2018	155,309.00	-	155,309.00
6/01/2018	155,309.00	-	155,309.00
9/01/2018	155,309.00	-	155,309.00
12/01/2018	155,309.00	-	155,309.00
3/01/2019	155,309.00	-	155,309.00
6/01/2019	155,309.00	-	155,309.00
9/01/2019	155,309.00	-	155,309.00
12/01/2019	155,309.00	-	155,309.00
3/01/2020	155,309.00	-	155,309.00
6/01/2020	155,309.00	-	155,309.00
9/01/2020	155,309.00	-	155,309.00
12/01/2020	155,309.00	-	155,309.00
3/01/2021	155,309.00	-	155,309.00
6/01/2021	155,309.00	-	155,309.00
9/01/2021	155,309.00	-	155,309.00
12/01/2021	155,309.00	-	155,309.00
3/01/2022	155,309.00	-	155,309.00
6/01/2022	155,309.00	-	155,309.00
9/01/2022	155,309.00	-	155,309.00
12/01/2022	155,309.00	-	155,309.00

City of Dunbar, West Virginia
Bond Agreement for \$16,152,148
26 Years, 0% Interest Rate, 1/2% Administrative Fee

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
3/01/2023	155,309.00	-	155,309.00
6/01/2023	155,309.00	-	155,309.00
9/01/2023	155,309.00	-	155,309.00
12/01/2023	155,309.00	-	155,309.00
3/01/2024	155,309.00	-	155,309.00
6/01/2024	155,309.00	-	155,309.00
9/01/2024	155,309.00	-	155,309.00
12/01/2024	155,309.00	-	155,309.00
3/01/2025	155,309.00	-	155,309.00
6/01/2025	155,309.00	-	155,309.00
9/01/2025	155,309.00	-	155,309.00
12/01/2025	155,309.00	-	155,309.00
3/01/2026	155,309.00	-	155,309.00
6/01/2026	155,309.00	-	155,309.00
9/01/2026	155,309.00	-	155,309.00
12/01/2026	155,309.00	-	155,309.00
3/01/2027	155,309.00	-	155,309.00
Total	16,152,148.00	-	16,152,148.00 *

*Plus \$10,129.60 one-half percent administrative fee paid quarterly.
 Total fee paid over the life of the loan is \$1,053,478.40.

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 said Bond on the books
kept for registration thereof with full power of substitution in the premises.

Dated: _____, _____.

In the presence of:

JOHN T. POFFENBARGER

Attorney at Law

BANK ONE CENTER, SUITE 910
707 VIRGINIA STREET EAST
CHARLESTON, WEST VIRGINIA 25301
PHONE (304) 342-1678 • FAX (304) 345-0375
email: jtpoff57@citynet.net

August 24, 1999

The City of Dunbar
Post Office Box 483
Dunbar, West Virginia 25064

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

State of West Virginia
Division of Environmental Protection
Office of Water Resources
617 Broad Street
Charleston, West Virginia 25301

Re: **\$16,152,148 The City of Dunbar
Sewer System Revenue Bonds, Series 1999**

Ladies and Gentlemen:

I am bond counsel to the City of Dunbar (the "Local Government"), a duly organized and presently existing municipal corporation of the State of West Virginia.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of the bond purchase agreement, dated July 15, 1999, including all schedules and exhibits attached thereto (the "Bond Purchase Agreement"), between the Local Government, the West Virginia Water Development Authority (the "Authority") and the West Virginia Bureau of Environment ("DEP"), and (ii) the issue of The City of Dunbar Sewer System Revenue Bonds, Series 1999 of the Local Government, dated August 24, 1999 (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Bond Purchase Agreement. The Local Bonds are in the principal amount of \$16,152,148, issued in the form of one bond registered to the Authority, with principal payable June 1, September 1, December 1 and March 1 of each year, beginning June 1, 2001, at the rate of zero percent (0%) per annum with a ½% Administrative Fee and as set forth in "Schedule Y," attached to the Bond Purchase Agreement and incorporated in and made a part of the Bond.

JOHN T. POFFENBARGER

City of Dunbar
West Virginia Water Development Authority
State of West Virginia
Division of Environmental Protection
August 24, 1999

The Bonds are being issued for the purposes of financing a portion of the costs of the construction of certain extensions, additions, betterments and improvements to the wastewater collection and treatment system of the Governmental Agency (the "Project"), to serve The City of Dunbar and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 16, Article 13 and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (the "Local Statute"), under which the Bonds are issued, and the Bond Purchase Agreement that has been undertaken. The Bonds have been authorized by a bond ordinance (the "Ordinance") duly passed on June 22, 1999 and a supplemental resolution (the "Supplemental Resolution") duly passed by the Governmental Agency on July 6, 1999 (collectively the "Act"), which contain provisions and covenants substantially in the form of those set forth in the Bond Purchase Agreement. 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 Act and the Bond Purchase 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 Bond Purchase Agreement has been duly authorized by and executed on behalf of the Governmental Agency and is a valid and binding special obligation of the Governmental Agency enforceable in accordance with the terms thereof.
2. The Bond Purchase Agreement inures to the benefit of the Authority and DEP and cannot be amended so as to affect adversely the rights of the Authority or DEP or diminish the obligations of the Governmental Agency without the consent of the Authority and DEP.
3. The Local Government is a duly organized and presently existing public corporation with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Bond Purchase Agreement and to issue and sell the Series 1999 Bonds, all under the Local Statute and other applicable provisions of law.
4. The Local Government has legally and effectively adopted the Local Act and all other necessary ordinances and orders in connection with the issuance and sale of the Bonds.
5. The Bonds are valid and legally enforceable special obligations of the Governmental Agency, payable from the net revenues of the System referred to in the Local Act and are secured by a first lien on and pledge of the net revenues of said System as more fully defined in the Act.

JOHN T. POFFENBARGER

City of Dunbar
West Virginia Water Development Authority
State of West Virginia
Division of Environmental Protection
August 24, 1999

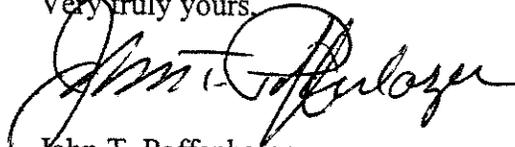
6. The Local Government has reserved the right to issue additional bonds ranking on a parity with the Bonds, as provided in the Act.

7. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System referred to in the Bond Ordinance secured by a first lien on and pledge of the Net Revenues of said System, all in accordance with the terms of the Bonds and the Bond Ordinance. Based upon the certificate of the certified public accountant dated August 24, 1999, the Issuer has met the coverage requirements for issuance of the ordinance authorizing the Bonds.

It is to be understood that the rights of the holders of the Bonds and the enforceability of the Bonds and the Act may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that such enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

I have examined the executed Bonds numbered R-1, and in our opinion the form of said Bonds and their execution and authentication are regular and proper.

Very truly yours,



John T. Poffenbarger



RECYCLED PAPER MADE FROM 20% POST CONSUMER CONTENT

JOHN T. POFFENBARGER

Attorney at Law

BANK ONE CENTER, SUITE 910
707 VIRGINIA STREET EAST
CHARLESTON, WEST VIRGINIA 25301
PHONE (304) 342-1678 * FAX (304) 345-0375
email: jtpoff57@citynet.net

August 24, 1999

The City of Dunbar
Post Office Box 483
Dunbar, West Virginia 25064

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

State of West Virginia
Division of Environmental Protection
Office of Water Resources
617 Broad Street
Charleston, West Virginia 25301

Re: **\$16,152,148 The City of Dunbar
Sewer System Revenue Bonds, Series 1999**

Ladies and Gentlemen:

I am bond counsel to the City of Dunbar (the "Local Government"), a duly organized and presently existing municipal corporation of the State of West Virginia.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of the bond purchase agreement, dated July 15, 1999, including all schedules and exhibits attached thereto (the "Bond Purchase Agreement"), between the Local Government, the West Virginia Water Development Authority (the "Authority") and the West Virginia Bureau of Environment ("DEP"), and (ii) the issue of The City of Dunbar Sewer System Revenue Bonds, Series 1999 of the Local Government, dated August 24, 1999 (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Bond Purchase Agreement. The Local Bonds are in the principal amount of \$16,152,148, issued in the form of one bond registered to the Authority, with principal payable June 1, September 1, December 1 and March 1 of each year, beginning June 1, 2001, at the rate of zero percent (0%) per annum with a ½% Administrative Fee and as set forth in "Schedule Y," attached to the Bond Purchase Agreement and incorporated in and made a part of the Bond.

JOHN T. POFFENBARGER

City of Dunbar
West Virginia Water Development Authority
State of West Virginia
Division of Environmental Protection
August 24, 1999

The Bonds are being issued for the purposes of financing a portion of the costs of the construction of certain extensions, additions, betterments and improvements to the wastewater collection and treatment system of the Governmental Agency (the "Project"), to serve The City of Dunbar and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 16, Article 13 and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (the "Local Statute"), under which the Bonds are issued, and the Bond Purchase Agreement that has been undertaken. The Bonds have been authorized by a bond ordinance (the "Ordinance") duly passed on June 22, 1999 and a supplemental resolution (the "Supplemental Resolution") duly passed by the Governmental Agency on July 6, 1999 (collectively the "Act"), which contain provisions and covenants substantially in the form of those set forth in the Bond Purchase Agreement. 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 Act and the Bond Purchase 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 Bond Purchase Agreement has been duly authorized by and executed on behalf of the Governmental Agency and is a valid and binding special obligation of the Governmental Agency enforceable in accordance with the terms thereof.
2. The Bond Purchase Agreement inures to the benefit of the Authority and DEP and cannot be amended so as to affect adversely the rights of the Authority or DEP or diminish the obligations of the Governmental Agency without the consent of the Authority and DEP.
3. The Local Government is a duly organized and presently existing public corporation with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Bond Purchase Agreement and to issue and sell the Series 1999 Bonds, all under the Local Statute and other applicable provisions of law.
4. The Local Government has legally and effectively adopted the Local Act and all other necessary ordinances and orders in connection with the issuance and sale of the Bonds.
5. The Bonds are valid and legally enforceable special obligations of the Governmental Agency, payable from the net revenues of the System referred to in the Local Act and are secured by a first lien on and pledge of the net revenues of said System as more fully defined in the Act.

JOHN T. POFFENBARGER

City of Dunbar
West Virginia Water Development Authority
State of West Virginia
Division of Environmental Protection
August 24, 1999

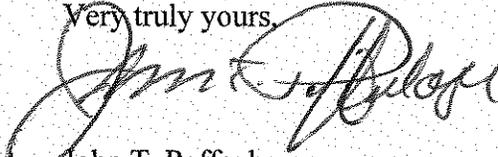
6. The Local Government has reserved the right to issue additional bonds ranking on a parity with the Bonds, as provided in the Act.

7. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System referred to in the Bond Ordinance secured by a first lien on and pledge of the Net Revenues of said System, all in accordance with the terms of the Bonds and the Bond Ordinance. Based upon the certificate of the certified public accountant dated August 24, 1999, the Issuer has met the coverage requirements for issuance of the ordinance authorizing the Bonds.

It is to be understood that the rights of the holders of the Bonds and the enforceability of the Bonds and the Act may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that such enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

I have examined the executed Bonds numbered R-1, and in our opinion the form of said Bonds and their execution and authentication are regular and proper.

Very truly yours,



John T. Poffenbarger



RECYCLED PAPER MADE FROM 20% POST CONSUMER CONTENT

COPY

A Proud Past

the city of
Dunbar
West Virginia

An Exciting Future

August 24, 1999

The City of Dunbar
P.O. Box 483
Dunbar, WV 25064-3020

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

State of West Virginia
Division of Environmental Protection
Office of Water Resources
617 Broad Street
Charleston, WV 25301

John T. Poffenbarger, Esq.
Bank One Center, Suite 910
Charleston, WV 25301

Re: \$16,152,148 The City of Dunbar
Sewer System Revenue Bonds, Series 1999

Ladies and Gentlemen:

I am counsel for The City of Dunbar (the "City"). As such counsel, I have examined the copies of the approving opinions of John T. Poffenbarger, as bond counsel, relating to the above-captioned Bonds, the Bond Ordinance adopted by the Council of the City on June 22, 1999, the Supplemental Resolution adopted by the Council of the City on July 6, 1999, and the Bond Purchase Agreement dated July 15, 1999 in relation to the 1999 Bonds. Terms used in said opinions and Ordinance and not otherwise defined herein have the same meanings herein.

The City of Dunbar
WV Water Development Authority
State of WV/Division of Environmental Protection
John T. Poffenbarger, Esq.
August 24, 1999
Page 2

I am of the opinion that:

1. The City was duly and legally created and the members of the Council were properly elected and are thereby authorized to act on behalf of the City.

2. The Bond Ordinance has been duly enacted by the City and is in full force and effect.

3. The City has received a Certificate of Convenience and Necessity to construct the Project and issue the Series 1999 from the Public Service Commission of West Virginia (the "PSC") (Case No. 98-1382-S-CN), and said Certificate is in full force and effect. The time for appeal of the Final Order of the PSC has expired prior to the date hereof.

4. The City has the authority under Article 13 of Chapter 16 and Article 2 of Chapter 22C of the Code of West Virginia, 1931, as amended, to adopt the rates which have been approved by the Public Service Commission and the revenue from said rates may be used to pay the debt service on the above-noted Bonds and the operation and maintenance cost of the Project. The City has passed its Rate Ordinance, said passage occurring on November 23, 1998. The rate enacted by the Ordinance has been in effect since November 27, 1998 and continues to be the effective rate.

5. The City has received all the necessary permits, licenses, approvals and authorizations that are presently obtainable to construct certain extentions, betterments and improvements to the Project.

6. To the best of my knowledge, there is no action, suit, proceeding or investigation at law or in the equity before or by any court, public council or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by or the validity



The City of Dunbar
WV Water Development Authority
State of WV/Division of Environmental Protection
John T. Poffenbarger, Esq.
August 24, 1999
Page 3

of the bonds, the operation of the System or the collection of Revenues or the pledge of Net Revenues to the Bonds.

7. That I have investigated and ascertained the location of and am familiar with the legal description of the necessary sites, including easements and/or rights of way, required for this project as set forth in the plans for this project prepared by Ghosh Engineers, Inc., the consulting engineers for this project.

8. That I have examined the records on file in the Office of the Clerk of the County Commission of Kanawha County, West Virginia, the county in which this project is to be located, and, in my opinion, The City of Dunbar Sanitary Board has acquired legal title or such other estate or interest in the necessary site components for this project sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the facilities to be constructed, except and subject to the following:

The following listed properties, as shown on Exhibit A attached hereto, are being acquired by eminent domain and The City of Dunbar Sanitary Board's title thereto is defeasible in the event said Sanitary Board does not satisfy any resulting judgment and/or award in the proceedings for acquisition of said properties, and our certification is subject to the pending litigation. Please see Exhibit A.

9. That all deeds or other documents which have been acquired to date by The City of Dunbar Sanitary Board have been duly recorded in the aforesaid County Clerk's Office in order to protect the legal title to and interest of The City of Dunbar Sanitary Board.



The City of Dunbar
WV Water Development Authority
State of WV/Division of Environmental Protection
John T. Poffenbarger, Esq.
August 24, 1999
Page 4

10. Based upon my review of the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, I am of the opinion 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 interest of the Issuer; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act, the Ordinance 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.

Very truly yours,



Stephen P. Swisher
Dunbar City Attorney

SPS/pl

Attachment: Exhibit A

EXHIBIT A

THE CITY OF DUNBAR SANITARY BOARD
FINAL LISTING OF CONDEMNATIONS
AUGUST 24, 1999

<u>NAME</u>	<u>MAP NO.</u>	<u>PARCEL NO.</u>
Amend, Renee L.	7	262
Gullion, Linda S.	13	226 & 228
Hoffman, Wayne	7	319
Williams, Nancy F.	7	386