THE CITY OF ELKINS

Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program); and Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA)

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THE CITY OF ELKINS
SEWER REVENUE BONDS, SERIES 2009 A
AND SEWER REVENUE BONDS, SERIES 2009 B
(WEST VIRGINIA SRF PROGRAM/ARRA)

CONFORMED BOND ORDINANCE

Ordinance No 099
(Davis Avenue)

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Conformed Ordinance No 099
(Davis Avenue)

THE CITY OF ELKINS

ORDINANCE AUTHORIZING THE PAYMENT OF THE SERIES 2008 A BONDS AND THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF ELKINS AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF ELKINS OF NOT MORE THAN $2,000,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA SRF PROGRAM), AND NOT MORE THAN $2,000,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA SRF PROGRAM/ARRA); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING ARRA ASSISTANCE AGREEMENTS RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF ELKINS:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

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

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

B. The Issuer presently owns and operates a public sewerage system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be

acquired and constructed certain additions, betterments and improvements to the existing public sewerage system of the Issuer, consisting of the improvements in the sewer collection system including construction of improvements to the existing downtown storm water separation facilities, together with all appurtenant facilities (collectively, the "Project"), which constitute properties for the collection, transportation, treatment, purification, or disposal of liquid or solid wastes, residential sewage or industrial waste (the existing public sewerage system of the Issuer, the Project and any further additions, betterments and improvements thereto are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The Issuer has heretofore issued its Sewer Revenue Bonds, Series 2008 A, dated May 16, 2008 in the original aggregate principal amount of $600,000 (the "Series 2008 A Bonds") to pay the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer.

D. The Series 2008 A Bonds were issued pursuant to an Ordinance of the Issuer previously enacted for such purpose (such ordinance, as amended and supplemental is herein called the "Series 2008 A Bonds Ordinance").

E. It is deemed necessary and desirable for the Issuer to pay the Series 2008 A Bonds.

F. The Issuer intends to pay the Series 2008 A Bonds and to permanently finance a portion of the costs of acquisition and construction of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority (the "Authority"), which administers the West Virginia Water Pollution Control Revolving Fund Program (the "SRF Program"), all pursuant to the Act.

G. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds, in the total aggregate principal amount of not more than $4,000,000 in two or more series, initially planned to be (i) the Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), in the aggregate principal amount of not more than $2,000,000 (the "Series 2009 A Bonds"); and (ii) the Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), in the aggregate principal amount of not more than $2,000,000 (the "Series 2009 B Bonds") (collectively, the "Series 2009 Bonds"), to pay the Series 2008 A Bonds, to permanently finance a portion of the costs of acquisition and construction of the Project. Such costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor and eligible under the Act; interest, if any, upon the Series 2009 Bonds prior to and during acquisition or construction and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Reserve Accounts (as hereinafter defined) for the Series 2009 Bonds; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense; commitment fees; fees and expenses of the Authority, including the SRF Administrative Fee (as hereafter defined); discount; initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2009 Bonds and such other expenses as may be necessary or incidental to the financing herein authorized; the design, acquisition or construction of the Project and

the placing of same in operation; and the performance of the things herein required or permitted, in connection with any thereof, provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2009 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

H. The period of usefulness of the System after completion of the Project is not less than 40 years.

I. It is in the best interests of the Issuer that its Series 2009 A Bonds be sold to the Authority pursuant to the terms and provisions of a ARRA assistance agreement by and among the Issuer, the Authority and the West Virginia Department of Environmental Protection (the "DEP"), and its Series 2009 B Bonds be sold to the Authority pursuant to the terms and provisions of a ARRA Assistance Agreement by and among the Issuer, the Authority and the DEP, all in form satisfactory to the respective parties, to be approved hereby if not previously approved by resolution of the Issuer.

J. Upon payment of the Series 2008 A Bonds, the Issuer will have the following outstanding obligations which will rank on a parity with the Series 2009 Bonds as to liens, pledge, source of and security for payment, being the (i) Subordinate Sewer Revenue Bonds, Series 1986 B (West Virginia Water Development Authority), dated April 28, 1986, issued in the original aggregate principal amount of $517,001 (the "Series 1986 B Bonds"); (ii) Sewer Revenue Bonds, Series 1996 A (West Virginia SRF Program), dated August 12, 1996, issued in the original aggregate principal amount of $300,000 (the "Series 1996 A Bonds"); (iii) Sewer Refunding Revenue Bond, Series 2004 A, dated June 18, 2004, issued in the original aggregate principal amount of $1,022,000, (the "Series 2004 A Bonds"); and (iv) Sewer Revenue Bonds, Series 2006 A (West Virginia SRF Program), dated December 12, 2006, issued in the original aggregate principal amount of $8,588,400 (the "Series 2006 A Bonds") (collectively, the "Prior Bonds").

The Series 2009 Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all respects. Prior to the issuance of the Series 2009 Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met, and (ii) the written consent of certain of the Holders of the Series 1986 B Bonds, Series 1996 A Bonds and Series 2006 A Bonds to the issuance of the Series 2009 Bonds on a parity with the Prior Bonds. The Series 2004 A Bonds do not require consent. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with the covenants of the Prior Bonds and the Prior Ordinances.

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

L. The Issuer has complied with all requirements of West Virginia law and ARRA Assistance Agreement (hereinafter defined) relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 2009 Bonds, or will have so complied

prior to issuance of any thereof, including, among other things, the approval of the Project and the financing thereof by the West Virginia Infrastructure and Jobs Development Council and the obtaining of a Certificate of Public Convenience and Necessity from the Public Service Commission of West Virginia.

M. Pursuant to the Act, the Issuer has heretofore established a Sanitary Board and the Sanitary Board has petitioned the Governing Body to issue the Series 2009 Bonds for the purposes set forth herein.

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

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

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

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

"ARRA" means the American Recovery and Reinvestment Act of 2009.

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

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

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

"Board" means the Sanitary Board of the Issuer.

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

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

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

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

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

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

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

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

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

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

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

"Costs" or "Costs of the Project" means those costs described in Section 1.02D hereof to be a part of the costs of design, acquisition and construction of the Project as described in Section 1.02B hereof.

"DEP" means the West Virginia Department of Environmental Protection, or any other agency, board or department of the state that succeeds to the functions of the DEP.

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

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

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

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

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

"Gross Revenues" means all rates, rents, fees, charges or other income received by the Issuer, or accrued to the Issuer, or any department, board, agency or instrumentality thereof in control of the management and operation of the System, from the operation of the System and all parts thereof, all as calculated in accordance with sound accounting practices.

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

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

"Issuer" means The City of Elkins, a municipal corporation and political subdivision of the State of West Virginia, in Randolph County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 2009 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 2009 A Bonds Reserve Account or the Series 2009 B Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 2009 Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

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

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the System and its facilities, and includes, without limiting the generality of the foregoing,

the SRF Administrative Fee (as hereinafter defined), insurance premiums, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting practices.

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

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

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

"Prior Bonds" means the Series 1986 B Bonds, Series 1996 A Bonds, Series 2004 A Bonds and Series 2006 A Bonds.

"Prior Ordinance" means the ordinance of the Issuer authorizing the issuance of the Prior Bonds.

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

"Qualified Investments" means and includes the following:

(a) Government Obligations;

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

(c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government

National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

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

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

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

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

(h) The West Virginia "consolidated fund" managed by the West Virginia Board of Treasury Investments pursuant to Chapter 12, Article 6C of the West Virginia Code of 1931, as amended, including, without limitation, authorized pools of investments operated by such State Board of Investments; and

(i) Obligations of states or political subdivisions or agencies thereof, the interest on which is excluded from gross income for federal

income tax purposes, and which are rated at least "A" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

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

"Registrar" means the Bond Registrar.

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

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

"Reserve Accounts" means, collectively, the respective reserve accounts established for the Prior Bonds and the Series 2009 Bonds.

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

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

"Series 1986 B Bonds" means the Issuer's Subordinate Sewer Revenue Bonds, Series 1986 B (West Virginia Water Development Authority), dated April 28, 1986, issued in the original aggregate principal amount of $517,001.

"Series 1996 A Bonds" means the Issuer's Sewer Revenue Bonds, Series 1996 A (West Virginia SRF Program), dated August 12, 1996, issued in the original aggregate principal amount of $300,000.

"Series 2004 A Bonds" means the Issuer's Sewer Refunding Revenue Bond, Series 2004 A, dated June 18, 2004, issued in the original aggregate principal amount of $1,022,000.

"Series 2006 A Bonds" means the Issuer's Sewer Revenue Bonds, Series 2006 A (West Virginia SRF Program), dated December 12, 2006, issued in the original aggregate principal amount of $8,588,400.

"Series 2008 A Bonds" means the Issuer's Sewer Revenue Bonds, Series 2008 A, dated May 16, 2008, issued in the original aggregate principal amount of $600,000 and held by the Huntington National Bank.

"Series 2008 A Bonds Ordinance" means the ordinance of the Issuer, as supplemented, authorizing the Series 2008 A Bonds.

"Series 2009 A Bonds" means the Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), of the Issuer, authorized by this Ordinance.

"Series 2009 A Bonds Reserve Account" means the Series 2009 A Bonds Reserve Account established by Section 5.02 hereof.

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

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

"Series 2009 B Bonds" means the Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), of the Issuer, authorized by this Ordinance.

"Series 2009 B Bonds Reserve Account" means the Series 2009 B Bonds Reserve Account established by Section 5.02 hereof.

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

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

"Series 2009 Bonds" means, collectively, the Series 2009 A Bonds and the Series 2009 B Bonds.

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

"Sinking Funds" means, collectively, the respective sinking funds established for the Prior Bonds and the Series 2009 Bonds.

"SRF Administrative Fee" means any administrative fee required to be paid under the ARRA Assistance Agreement for the Series 2009 Bonds.

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

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

"State" means the State of West Virginia.

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

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

"System" means the complete existing public sewerage system of the Issuer, as presently existing in its entirety or any integral part thereof, and shall include the Project and any further extensions, additions, betterments and improvements thereto hereafter acquired or constructed for the System from any sources whatsoever.

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

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

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT AND PAYMENT OF THE SERIES 2008 A BONDS

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost not to exceed $4,000,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2009 A Bonds and the Series 2009 B Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received bids or will receive and will enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the DEP.

The cost of the Project is estimated not to exceed $4,000,000, of which up to $2,000,000 will be obtained from proceeds of the Series 2009 A Bonds and up to $2,000,000 will be obtained from proceeds of the Series 2009 B Bonds.

Section 2.02. Authorization of Payment of the Series 2008 A Bonds. There is hereby authorized and ordered the payment in full of the entire outstanding principal of and the interest on the Series 2008 A Bonds on the Closing Date. The cost of which will be paid from the proceeds of the Series 2009 A Bonds. Upon payment in full of the Series 2008 A Bonds, any funds pledged in favor of the holders of the Series 2008 A Bonds imposed by the Series 2008 A Bonds Ordinance are hereby ordered terminated, discharged and released.

ARTICLE III

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

Section 3.01. Authorization of Bonds. For the purposes of paying a portion of the Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 2009 Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the negotiable Series 2009 Bonds of the Issuer. The Series 2009 Bonds shall be issued in two series, each as a single bond, designated respectively as "Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program)", in the principal amount of not more than $2,000,000, and "Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA)," in the principal amount of not more than $2,000,000, and all shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2009 Bonds remaining after funding of the Reserve Accounts (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in or credited to the Series 2009 Bonds Construction Trust Funds established by Section 5.01 hereof.

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

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

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

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

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

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

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

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

In all cases in which the privilege of exchanging or transferring the registered Series 2009 Bonds are exercised, all Series 2009 Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 2009 Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Series 2009 Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond

upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of any Series 2009 Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 2009 Bonds or, in the case of any proposed redemption of such Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

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

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

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

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

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

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

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

D. An executed copy of the ARRA Assistance Agreement; and

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

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

(FORM OF SERIES 2009 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF ELKINS
SEWER REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA SRF PROGRAM)

No. AR-_____ $_____

KNOW ALL MEN BY THESE PRESENTS: That on the ___ day of _____, 2009, THE CITY OF ELKINS, a municipal corporation and political subdivision of the State of West Virginia in Randolph County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of _____ DOLLARS ($_____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as Exhibit A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 20___, to and including _____ 1, 20___ as set forth on the "Debt Service Schedule" attached as Exhibit B hereto and incorporated herein by reference. The SRF Administrative Fee (as defined in the hereinafter described Bond Legislation) shall be payable quarterly on March 1, June 1, September 1, and December 1 of each year, commencing _____ 1, 20___, as set forth on Exhibit B attached hereto.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement (the "ARRA Assistance Agreement") by and among the Issuer, the Authority, and the DEP, dated _____, 200__.

This Bond is issued (i) to pay the Issuer's Series 2008 A Bonds (the "Series 2008 A Bonds"); (ii) to pay the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); (iii) funding the Series 2009 A Reserve Account; and (iv) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing public sewerage system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This

Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on _____, 2009, and a Supplemental Resolution duly adopted by the Issuer on _____, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY, WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, TO THE ISSUER'S (I) SUBORDINATE SEWER REVENUE BONDS, SERIES 1986 B (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED APRIL 28, 1986, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $517,001 (THE "SERIES 1986 B BONDS"); (II) SEWER REVENUE BONDS, SERIES 1996 A (WEST VIRGINIA SRF PROGRAM), DATED AUGUST 12, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $300,000 (THE "SERIES 1996 A BONDS"); (III) SEWER REFUNDING REVENUE BOND, SERIES 2004 A, DATED JUNE 18, 2004, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,022,000, (THE "SERIES 2004 A BONDS"); AND (IV) SEWER REVENUE BONDS, SERIES 2006 A (WEST VIRGINIA SRF PROGRAM), DATED DECEMBER 12, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $8,588,400 (THE "SERIES 2006 A BONDS"); (COLLECTIVELY, THE "PRIOR BONDS") AND (V) THE SEWER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA SRF PROGRAM/ARRA), DATED _____, 2009, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $_____, (THE "SERIES 2009 B BONDS"), ISSUED SIMULTANEOUSLY HEREWITH.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the Holders of the Prior Bonds and the Series 2009 B Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Series 2009 A Bonds (the "Series 2009 A Bonds Reserve Account"), and unexpended proceeds of the Series 2009 A Bonds. Such Net Revenues shall be sufficient to pay all operating expenses of the System and the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2009 A Bonds Reserve Account and unexpended proceeds of the Series 2009 A Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest on the Series 2009 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2009 A Bonds including the Series 2009 B Bonds and the Prior Bonds; provided however, that, so long as there exists in the Series 2009 A Bonds Reserve Account an amount at least equal to the maximum amount of principal

and interest which will become due on the Series 2009 A Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with or junior and subordinate to the Bonds, including the Series 2009 B Bonds and the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

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

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

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

[SEAL]

_____
Mayor

ATTEST:

_____
City Clerk

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

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

Date: _____, 2009.

_____
as Registrar

_____
Authorized Officer

(Form of)

EXHIBIT A

RECORD OF ADVANCES

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

TOTAL $_____

(Form of)

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

(FORM OF SERIES 2009 B BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF ELKINS
SEWER REVENUE BONDS, SERIES 2009 B
(WEST VIRGINIA SRF PROGRAM/ARRA)

No. BR-_____ $_____

KNOW ALL MEN BY THESE PRESENTS: That on the ___ day of _____, 2009, THE CITY OF ELKINS, a municipal corporation and political subdivision of the State of West Virginia in Randolph County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of _____ DOLLARS ($_____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as Exhibit A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 20___, to and including _____ 1, 20___ as set forth on the "Debt Service Schedule" attached as Exhibit B hereto and incorporated herein by reference. The SRF Administrative Fee (as defined in the hereinafter described Bond Legislation) shall be payable quarterly on March 1, June 1, September 1, and December 1 of each year, commencing _____ 1, 20___, as set forth on Exhibit B attached hereto.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement (the "ARRA Assistance Agreement") by and among the Issuer, the Authority, and the DEP, dated _____, 200__.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing public sewerage system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under

the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on _____, 2009, and a Supplemental Resolution duly adopted by the Issuer on _____, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY, WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, TO THE ISSUER'S (I) SUBORDINATE SEWER REVENUE BONDS, SERIES 1986 B (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED APRIL 28, 1986, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $517,001 (THE "SERIES 1986 B BONDS"); (II) SEWER REVENUE BONDS, SERIES 1996 A (WEST VIRGINIA SRF PROGRAM), DATED AUGUST 12, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $300,000 (THE "SERIES 1996 A BONDS"); (III) SEWER REFUNDING REVENUE BOND, SERIES 2004 A, DATED JUNE 18, 2004, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,022,000, (THE "SERIES 2004 A BONDS"); AND (IV) SEWER REVENUE BONDS, SERIES 2006 A (WEST VIRGINIA SRF PROGRAM), DATED DECEMBER 12, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $8,588,400 (THE "SERIES 2006 A BONDS") (COLLECTIVELY, THE "PRIOR BONDS"), AND (V) SEWER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA SRF PROGRAM), DATED _____, 2009, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $_____, (THE "SERIES 2009 A BONDS"), ISSUED SIMULTANEOUSLY HEREWITH.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the Holders of the Prior Bonds and the Series 2009 A Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Series 2009 B Bonds (the "Series 2009 B Bonds Reserve Account"), and unexpended proceeds of the Series 2009 B Bonds. Such Net Revenues shall be sufficient to pay all operating expenses of the System and the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2009 B Bonds Reserve Account and unexpended proceeds of the Series 2009 B Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest on the Series 2009 B Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2009 B Bonds including the Series 2009 A Bonds and the Prior Bonds; provided however, that, so long as there exists in the Series 2009 B Bonds Reserve Account an amount at least equal to the maximum amount of principal

and interest which will become due on the Series 2009 B Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with or junior and subordinate to the Bonds, including the Series 2009 A Bonds and the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

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

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

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

[SEAL]

_____
Mayor

ATTEST:

_____
City Clerk

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

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

Date: _____, 2009.

_____
as Registrar

_____
Authorized Officer

(Form of)

EXHIBIT A

RECORD OF ADVANCES

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

TOTAL $_____

(Form of)

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

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

Section 3.12. Filing of Amended Schedule. Within 60 days following the Completion Date, the Issuer will file with the Authority and the DEP a schedule for the Series 2009 Bonds, the form of which will be provided by the DEP, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

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

(1) Revenue Fund (established by Prior Ordinance);

(2) Renewal and Replacement Fund (established by Prior Ordinance); and

(3) Series 2009 Bonds Construction Trust Fund.

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

(1) Series 1986 B Bonds Sinking Fund (established by Prior Ordinance and continued hereby);

(2) Series 1986 B Bonds Reserve Account (established by Prior Ordinance and continued hereby);

(3) Series 1996 A Bonds Sinking Fund (established by Prior Ordinance and continued hereby);

(4) Series 1996 A Bonds Reserve Account (established by Prior Ordinance and continued hereby);

(5) Series 2004 A Bonds Sinking Fund (established by Prior Ordinance and continued hereby);

(6) Series 2004 A Bonds Reserve Account (established by Prior Ordinance and continued hereby);

(7) Series 2006 A Bonds Sinking Fund (established by Prior Ordinance and continued hereby);

(8) Series 2006 A Bonds Reserve Account (established by Prior Ordinance and continued hereby);

(9) Series 2009 A Bonds Sinking Fund;

(10) Series 2009 A Bonds Reserve Account;

(11) Series 2009 B Bonds Sinking Fund; and

(12) Series 2009 B Bonds Reserve Account.

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

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

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission the amount required by Prior Ordinance to pay interest on the Series 1996 A Bonds, Series 2004 A Bonds and Series 2006 A Bonds.

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

monthly payment shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) the amount required by the Prior Ordinance for deposit in the respective Reserve Accounts for the Prior Bonds; (ii) commencing 3 months prior to the first date of payment of principal of the Series 2009 A Bonds, if not fully funded upon issuance of the Series 2009 A Bonds, for deposit in the Series 2009 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2009 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2009 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2009 A Bonds Reserve Requirement; and (iii) commencing 3 months prior to the first date of payment of principal of the Series 2009 B Bonds, if not fully funded upon issuance of the Series 2009 B Bonds, for deposit in the Series 2009 B Bonds Reserve Account, an amount equal to 1/120th of the Series 2009 B Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2009 B Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2009 B Bonds Reserve Requirement.

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

Monies in the Series 2009 A Bonds Sinking Fund and Series 2009 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2009 Bonds, respectively, as the same shall become due. Monies in the Series 2009 A Bonds Reserve Account and the

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

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

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

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

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

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

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

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

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

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

C. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required principal, interest and reserve payments with respect to the Series 2009 Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. The Issuer shall also on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the SRF Administrative Fee as set forth in the ARRA Assistance Agreement for the Series 2009 Bonds.

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

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

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

G. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as herein above provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made

pursuant to this Section 5.03, and the Net Revenues shall be applied to such deficiencies on a parity and pro rata with respect to the Series 2009 Bonds and the Prior Bonds all in accordance with the respective principal amounts outstanding before being applied to any other payments hereunder.

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

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

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

ARTICLE VI

APPLICATION OF BOND PROCEEDS

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

A. From the proceeds of the Series 2009 A Bonds, there shall first be deposited with the Commission in the Series 2009 A Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest.

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

C. Next, from the proceeds of the Series 2009 A Bonds, there shall be wired to the Huntington National Bank, the amount set forth in the Supplemental Resolution to pay the entire outstanding principal and interest of the Series 2008 A Bonds.

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

E. From the proceeds of the Series 2009 B Bonds, there shall first be deposited with the Commission in the Series 2009 B Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest.

F. Next, from the proceeds of the Series 2009 B Bonds, there shall be deposited with the Commission in the Series 2009 B Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 2009 B Bonds Reserve Account.

G. As the Issuer receives advances of the monies derived from the sale of the Series 2009 B Bonds, such monies shall be deposited with the Depository Bank in the Series 2009 Bonds Construction Trust Fund and applied solely to payment of the costs of the Project in the manner set

forth in Section 6.02 hereof and, until so expended, are hereby pledged as additional security for the Series 2009 B Bonds.

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

Section 6.02. Disbursements of Bond Proceeds.

On or before the Closing Date, the Issuer shall have delivered to the Authority and the DEP a report listing the specific purposes for which the proceeds of the Series 2009 Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly. Invoices for which repayment from the Series 2009 Bonds Construction Trust Fund will be sought must be first approved by the Issuer.

Except as provided in Section 6.01 hereof, disbursements from the Series 2009 Bonds Construction Trust Fund shall be made only after submission to, and approval from, the Authority and the DEP of the following:

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

(2) a certificate, signed by an Authorized Officer, stating that:

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

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

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

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

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

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

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

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

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service on the Series 2009 Bonds issued hereunder shall be secured equally and ratably by a first lien on the Net Revenues derived from the System, on a parity with each other and with the lien on the Net Revenues in favor of the Holders of the Prior Bonds. The Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds, and to make all other payments hereinafter set forth, are hereby irrevocably pledged to such payments as they become due.

Section 7.04. Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal and the Issuer shall supply an opinion of counsel to such effect. Such rates and charges shall be sufficient to comply with the requirements of the ARRA Assistance Agreement and the Issuer shall supply a certificate of Certified Public Accountant to such effect. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the sewer rate ordinance of the Issuer enacted November 9, 2006, which rates are incorporated herein by reference as a part hereof.

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

increase such schedule of rates and charges and take all such actions necessary to provide funds sufficient to produce the amounts required by this Bond Legislation and the ARRA Assistance Agreement.

Section 7.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, lease, mortgage or in any manner dispose of or encumber the System, or any part thereof, except as provided in the Prior Ordinance and with the written consent of the Authority.

So long as the Series 2009 Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority and the DEP, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding, in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall immediately be remitted to the Commission for deposit in the Series 2009 A Bonds Sinking Fund and the Series 2009 B Bonds Sinking Fund, respectively, pro rata with respect to the principal amount of each of the Bonds then Outstanding, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the Series 2009 A Bonds and the Series 2009 B Bonds in accordance with Article X hereof. Any balance remaining after the payment of the Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of $10,000, the Issuer shall, by resolution, 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, determine, upon consultation with a professional engineer, that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property in accordance with the laws of the State. The proceeds of any such sale shall be deposited in the Sinking Fund for repayment of the Bonds. The payment of such proceeds into the Renewal and Replacement Fund and Sinking Fund shall not reduce the amounts required to be paid into such account by other provisions of this Bond Legislation.

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

prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

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

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

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

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

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

So long as the Prior Bonds, and the Series 2009 Bonds are outstanding, no Parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the City Clerk a written statement by Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustment hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such additional Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity

Bonds, if any, shall be not less than 115%, of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

(1) The Bonds then Outstanding;

(2) Any additional Parity Bonds theretofore issued pursuant to the provisions contained in the Prior Ordinance and this Bond Legislation then Outstanding; and

(3) The additional Parity Bonds then proposed to be issued.

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

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

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

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to the lien on and source of and security for payment from such revenues, with the Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the respective funds and accounts provided for in this Ordinance and the Prior Ordinance with respect to the

Bonds then Outstanding, and any other payments provided for in this Ordinance and the Prior Ordinance, shall have been made in full as required to the date of issuance of such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Ordinance and the Prior Ordinance.

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

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

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

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

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

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

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

(C) The amount of any Bonds, notes or other obligations outstanding.

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

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

The Issuer shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in the ARRA Assistance Agreement for the Series 2009 Bonds or any Exhibit thereto 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 Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the Authority and the DEP, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and the DEP with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to the issuance of the Series 2009 Bonds, rates or charges for the use of the services and facilities of the System will be fixed and established, all in the manner and form required by law, and a copy of such rates and charges so fixed and established shall at all times be kept on file in the office of the City Clerk of the Issuer, which copy will be open to inspection by all interested parties. The schedule or schedules of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds and accounts created hereunder. Such schedule or schedules of rates and charges shall be revised from time to time, whenever necessary, so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule or schedules of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System, to meet the coverage requirements set forth in the Prior Ordinance so long as the Prior Bonds are outstanding and thereafter, (i)

to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2009 Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with, or subordinate to, the Series 2009 Bonds including the Prior Bonds; provided that, in the event that, an amount equal to or in excess of the Reserve Requirement is on deposit in the Reserve Accounts and any reserve accounts for obligations on a parity with the Series 2009 Bonds are funded at least at the requirement therefor, such sum need only equal 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2009 Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with, or subordinate to, the Series 2009 Bonds.

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

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

Commencing on the date contracts are executed for the acquisition and construction of the Project and for 2 years following the completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the ARRA Assistance Agreement, and forward a copy of such report to the Authority and the DEP by the 10th day of each month.

Section 7.11. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineers in the form attached to the ARRA Assistance Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved

plans, specifications and designs as submitted to the Authority and the DEP, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the DEP is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the Authority and the DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority, the DEP and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a "Performance Certificate," a form of which is attached to the ARRA Assistance Agreement for the Series 2009 Bonds as Exhibit A, 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 shall at all times provide operation and maintenance of the System in compliance with all state and federal standards.

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

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

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

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, rates, rentals and other

charges, if not paid when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services of the System, and any services and facilities of the water system, to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services of either system until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law. If the water facilities are not owned by the Issuer, the Issuer shall enter into a termination agreement with the water provider of such water, subject to any required approval of such agreement by the Public Service Commission of West Virginia and all rules, regulations and orders of the Public Service Commission of West Virginia.

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

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 2009 Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

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

the Issuer, the contractors and subcontractors, as their interests may appear.

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

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the amount of any construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

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

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

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

B. The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Issuer shall verify such bonds prior to commencement of construction.

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

of the Authority, the DEP, the Issuer, the prime contractor and all subcontractors, as their interests may appear. The Issuer shall verify such insurance prior to commencement of construction.

Section 7.16. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30-day notice of the availability of the System, pay the rates and charges established therefor.

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

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

The Issuer will obtain all permits required by state and federal laws for the acquisition and construction of the Project, all orders and approvals from the Public Service Commission of West Virginia and the West Virginia Infrastructure and Jobs Development Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals of issuance of the Series 2009 Bonds required by State law, with all requisite appeal periods having expired without successful appeal, except as otherwise provided in Section 1.02(I).

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

Section 7.19. [RESERVED}.

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

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

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

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

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

ARTICLE VIII

INVESTMENT OF FUNDS

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

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

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

Section 8.02. Certificate as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2009 Bonds as a condition to issuance of the Series 2009 Bonds. In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the Series 2009 Bonds as may be necessary in order to maintain the status of the Series 2009 Bonds as governmental bonds; (ii) that it shall not take, or permit or suffer to be taken, any action with respect to the Issuer's use of the proceeds of the Series 2009 Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority or the DEP, as the case may be, from which the proceeds of the Series 2009 Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed necessary by the Issuer, or requested by the Authority or the DEP, to ensure compliance with the covenants and agreements set forth in this

Section, regardless of whether such actions may be contrary to any of the provisions of this Bond Legislation.

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

ARTICLE IX

DEFAULT AND REMEDIES

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

(1) If default occurs in the due and punctual payment of the principal of or interest on any Series 2009 Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions relating to the Series 2009 Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2009 Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Registrar, the Paying Agent or any other Paying Agent or a Holder of a Bond; or

(3) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America; or

(4) If default occurs with respect to the Prior Bonds or the Prior Ordinance.

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

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds, any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the

right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

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

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

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

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

ARTICLE X

PAYMENT OF BONDS

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

Section 10.02. Payment of Series 2009 B Bonds. If the Issuer shall pay, or there shall otherwise be paid, to the Registered Owners of all of the Series 2009 B Bonds, the principal of and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2009 B Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2009 B Bonds from gross income for federal income tax purposes.

ARTICLE XI

MISCELLANEOUS

Section 11.01. American Recovery and Reinvestment Act. If the Issuer is notified by DEP that one or more of its Bonds will be purchased by the Authority on behalf of DEP using funding from the ARRA, then the terms and conditions contained in the ARRA Assistance Agreement required by the ARRA will be incorporated herein and made a part of this Bond Legislation as if specifically set forth herein. The Issuer will follow the requirements set forth by DEP and will provide ongoing reporting and information as is required by DEP and the ARRA.

Section 11.02. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2009 Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2009 Bonds, no material modification or amendment of this Ordinance, or of any ordinance, resolution or order amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2009 Bonds shall be made without the consent in writing of the Registered Owners of the Series 2009 Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of the Series 2009 Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 2009 Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the excludability of interest, if any, on the Series 2009 Bonds from gross income of the holders thereof.

Section 11.03. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.04. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution or the Series 2009 Bonds.

Section 11.05. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

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

and the Prior Ordinance, the Prior Ordinance shall control (unless less restrictive), so long as the Prior Bonds are outstanding.

Section 11.07. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the City Clerk and members of the Governing Body were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 11.08. Effective Date. This Ordinance shall take effect immediately following public hearing hereon.

Section 11.09. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in *The Inter-Mountain*, a newspaper of general circulation in The City of Elkins, no newspaper being published therein, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Series 2009 Bonds, and that any person interested may appear before the Governing Body upon a date certain, not less than ten days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

Passed on First Reading: May 7, 2009

Passed on Second Reading: May 21, 2009

Passed on Final Reading
Following Public Hearing: June 4, 2009

Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Governing Body of THE CITY OF ELKINS on the 4th day of June, 2009.

Dated: June 18, 2009.

[SEAL]

City Clerk

EXHIBIT A

ARRA Assistance Agreement included in bond transcript as Documents 3 and 4

03.27.09
155510.00002

THE CITY OF ELKINS

Sewer Revenue Bonds, Series 2009 A
(West Virginia SRF Program) and
Sewer Revenue Bonds, Series 2009 B
(West Virginia SRF Program/ARRA)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITY DATES, REDEMPTION PROVISIONS, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICES AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA SRF PROGRAM) AND SEWER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA SRF PROGRAM/ARRA) OF THE CITY OF ELKINS; APPROVING A CONFORMED ORDINANCE; APPROVING AND RATIFYING THE ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the City council (the "Governing Body") of The City of Elkins (the "Issuer" or "Governmental Agency") has duly and officially adopted and enacted a bond ordinance, effective June 4, 2009 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE PAYMENT OF THE SERIES 2008 A BONDS AND THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF ELKINS AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF ELKINS OF NOT MORE THAN $2,000,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA SRF PROGRAM), AND NOT MORE THAN $2,000,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA SRF PROGRAM/ARRA); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND

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

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

WHEREAS, the Bond Ordinance provides for the issuance of the Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program) in an aggregate principal amount not to exceed $2,000,000 (the "Series 2009 A Bonds") and Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA) in an aggregate principal amount not to exceed $2,000,000 (the "Series 2009 B Bonds") (collectively, the "Series 2009 Bonds");

WHEREAS, the Bond Ordinance has authorized the execution and delivery of an ARRA assistance agreement relating to the Series 2009 Bonds, including all schedules and exhibits attached thereto, by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Department of Environmental Protection (the "DEP") (the "ARRA Assistance Agreement"), all in accordance with Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Bond Ordinance it is provided that the form of the ARRA Assistance Agreement and the exact principal amounts, dates, maturity dates, redemption provisions, interest rates, interest and principal payment dates, sale prices and other terms of the Series 2009 Bonds should be established by a supplemental resolution pertaining to the Series 2009 Bonds; and that other matters relating to the Series 2009 Bonds be herein provided for;

WHEREAS, the ARRA Assistance Agreement have been presented to the Issuer at this meeting;

WHEREAS, the Series 2009 A Bonds and the Series 2009 B Bonds are proposed to be purchased by the Authority pursuant to the ARRA Assistance Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the ARRA Assistance Agreement be approved and ratified by the Issuer, that the exact principal amounts, the dates, the maturity dates, the redemption provisions, the interest rates, the interest and principal payment dates and the sale prices of

the Series 2009 Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Series 2009 Bonds be herein provided for;

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

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the following bonds of the Issuer:

A. Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), of the Issuer, originally represented by a single Bond, numbered AR-1, in the original aggregate principal amount of $868,030. The Series 2009 A Bonds shall be dated the date of delivery thereof, shall finally mature September 1, 2040 and shall bear no interest. The principal of the Series 2009 A Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2010, to and including September 1, 2040, and in the amounts as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement for the Series 2009 A Bonds and incorporated in and made a part of the Series 2009 A Bonds. The Series 2009 A Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2009 A Bonds. The Issuer does hereby approve and shall pay the SRF Administrative Fee equal to 1% of the principal amount of the Series 2009 A Bonds set forth in "Schedule Y" attached to the ARRA Assistance Agreement.

B. Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), of the Issuer, originally represented by a single Bond, numbered BR-1, in the original aggregate principal amount of $868,030. The Series 2009 B Bonds shall be dated the date of delivery thereof, shall finally mature September 1, 2020, and shall bear no interest. The principal of the Series 2009 B Bonds shall be 100% forgiven as set forth in ARRA Assistance Agreement. The Series 2009 B Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2009 B Bonds. The Series 2009 B Bonds are not subject to the SRF Administrative Fee.

Section 2. All other provisions relating to the Series 2009 Bonds and the text of each series of the Series 2009 Bonds shall be in substantially the forms provided in the Bond Ordinance.

Section 3. The Issuer does hereby authorize, approve, ratify and accept the ARRA Assistance Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the ARRA Assistance Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the ARRA Assistance Agreement and in the applications to the DEP and the Authority. The price of the Series 2009 Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Series 2009 Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 4. The Issuer does hereby appoint and designate The Huntington National Bank, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Series 2009 Bonds under the Bond Ordinance and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Series 2009 Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 5. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Series 2009 Bonds under the Bond Ordinance.

Section 6. The Issuer does hereby appoint and designate Citizens National Bank, Elkins, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 7. Series 2009 A Bonds proceeds in the amount of $28,934 shall be deposited in the Series 2009 A Bonds Reserve Account.

Section 8. Series 2009 B Bonds proceeds in the amount of $-0- shall be deposited in the Series 2009 B Bonds Reserve Account.

Section 9. Series 2009 A Bonds proceeds in the amount of $594,325 shall be deposited with The Huntington National Bank, Elkins, West Virginia to pay the outstanding principal balance of and all accrued interest on the Issuer's Sewer Revenue Bonds, Series 2008 A (the "Series 2008 A Bonds") at Closing.

Section 10. The balance of the proceeds of the Series 2009 A Bonds and the Series 2009 B Bonds shall be deposited in or credited to the Series 2009 Bonds Construction Trust Funds for payment of the costs of the Project, including, without limitation, costs of issuance of the Series 2009 Bonds and related costs.

Section 11. The Mayor and the Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Series 2009 Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Series 2009 Bonds may be delivered on or about June 18, 2009, to the Authority pursuant to the ARRA Assistance Agreement.

Section 12. Payment of the Series 2008 A Bonds and the acquisition and construction of the Project and the financing thereof in part with proceeds of the Series 2009 Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 13. The Issuer does hereby ratify, approve and accept all contracts relating to the financing, acquisition and construction of the Project.

Section 14. The Issuer hereby determines to invest all monies in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such monies to be invested in such repurchase agreements or time accounts until further directed in writing by the Issuer. Monies in the Sinking Funds and the Reserve Accounts for the Series 2009 Bonds, shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 15. The Special Conditions of the ARRA Assistance Agreement are attached as Exhibit A hereto and incorporated herein by reference.

Section 16. The Issuer hereby approves the Conformed Bond Ordinance attached hereto as Exhibit B.

Section 17. This Supplemental Resolution shall be effective immediately following adoption hereof.

[Remainder of Page Intentionally Blank]

Adopted this 4th day of June, 2009.

Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of The City of Elkins on the 4th day of June, 2009.

Dated: June 18, 2009.

[SEAL]

City Clerk

06.02.09
255620.00012

EXHIBIT A

SPECIAL CONDITIONS – ARRA FUNDED PROJECTS

SPECIAL CONDITIONS

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

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

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

D. ASSET MANAGEMENT – The Local Government shall develop and implement an asset management plan in accordance with guidelines issued by DEP and is approved by DEP.

E. CONTRACTS – The Local Government shall enter into contracts or commence construction by February 17, 2010.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S. USER RATES – The Local Government shall covenant that it will not reduce its approved or enacted customer rates for at least eighteen months after completion of the Project or until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses.

EXHIBIT B

CONFORMED BOND ORDINANCE

(See Tab 1 of Bond Transcript)

Resolution 197

THE CITY OF ELKINS

Sewer Revenue Bonds, Series 2009 A
(West Virginia SRF Program); and
Sewer Revenue Bonds, Series 2009 B
(West Virginia SRF Program/ARRA)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITY DATES, REDEMPTION PROVISIONS, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICES AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA SRF PROGRAM) AND SEWER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA SRF PROGRAM/ARRA) OF THE CITY OF ELKINS; APPROVING A CONFORMED ORDINANCE; APPROVING AND RATIFYING THE ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the City council (the "Governing Body") of The City of Elkins (the "Issuer" or "Governmental Agency") has duly and officially adopted and enacted a bond ordinance, effective June 4, 2009 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE PAYMENT OF THE SERIES 2008 A BONDS AND THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF ELKINS AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF ELKINS OF NOT MORE THAN $2,000,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA SRF PROGRAM), AND NOT MORE THAN $2,000,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE

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

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

WHEREAS, the Bond Ordinance provides for the issuance of the Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program) in an aggregate principal amount not to exceed $2,000,000 (the "Series 2009 A Bonds") and Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA) in an aggregate principal amount not to exceed $2,000,000 (the "Series 2009 B Bonds") (collectively, the "Series 2009 Bonds");

WHEREAS, the Bond Ordinance has authorized the execution and delivery of an ARRA assistance agreement relating to the Series 2009 Bonds, including all schedules and exhibits attached thereto, by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Department of Environmental Protection (the "DEP") (the "ARRA Assistance Agreement"), all in accordance with Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Bond Ordinance it is provided that the form of the ARRA Assistance Agreement and the exact principal amounts, dates, maturity dates, redemption provisions, interest rates, interest and principal payment dates, sale prices and other terms of the Series 2009 Bonds should be established by a supplemental resolution pertaining to the Series 2009 Bonds; and that other matters relating to the Series 2009 Bonds be herein provided for;

WHEREAS, the ARRA Assistance Agreement have been presented to the Issuer at this meeting;

WHEREAS, the Series 2009 A Bonds and the Series 2009 B Bonds are proposed to be purchased by the Authority pursuant to the ARRA Assistance Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the ARRA Assistance Agreement be

approved and ratified by the Issuer, that the exact principal amounts, the dates, the maturity dates, the redemption provisions, the interest rates, the interest and principal payment dates and the sale prices of the Series 2009 Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Series 2009 Bonds be herein provided for;

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

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the following bonds of the Issuer:

A. Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), of the Issuer, originally represented by a single Bond, numbered AR-1, in the original aggregate principal amount of $883,280. The Series 2009 A Bonds shall be dated the date of delivery thereof, shall finally mature September 1, 2040 and shall bear no interest. The principal of the Series 2009 A Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2010, to and including September 1, 2040, and in the amounts as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement for the Series 2009 A Bonds and incorporated in and made a part of the Series 2009 A Bonds. The Series 2009 A Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2009 A Bonds. The Issuer does hereby approve and shall pay the SRF Administrative Fee equal to 1% of the principal amount of the Series 2009 A Bonds set forth in "Schedule Y" attached to the ARRA Assistance Agreement.

B. Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), of the Issuer, originally represented by a single Bond, numbered BR-1, in the original aggregate principal amount of $883,280. The Series 2009 B Bonds shall be dated the date of delivery thereof, shall finally mature September 1, 2020, and shall bear no interest. The principal of the Series 2009 B Bonds shall be 100% forgiven as set forth in ARRA Assistance Agreement. The Series 2009 B Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2009 B Bonds. The Series 2009 B Bonds are not subject to the SRF Administrative Fee.

Section 2. All other provisions relating to the Series 2009 Bonds and the text of each series of the Series 2009 Bonds shall be in substantially the forms provided in the Bond Ordinance.

Section 3. The Issuer does hereby authorize, approve, ratify and accept the ARRA Assistance Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the ARRA Assistance Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the ARRA Assistance Agreement and in the applications to the DEP and the Authority. The price of the Series 2009 Bonds shall be 100% of par

value, there being no interest accrued thereon, provided that the proceeds of the Series 2009 Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 4. The Issuer does hereby appoint and designate The Huntington National Bank, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Series 2009 Bonds under the Bond Ordinance and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Series 2009 Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 5. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Series 2009 Bonds under the Bond Ordinance.

Section 6. The Issuer does hereby appoint and designate Citizens National Bank, Elkins, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 7. Series 2009 A Bonds proceeds in the amount of $29,444 shall be deposited in the Series 2009 A Bonds Reserve Account.

Section 8. Series 2009 B Bonds proceeds in the amount of $-0- shall be deposited in the Series 2009 B Bonds Reserve Account.

Section 9. Series 2009 A Bonds proceeds in the amount of $594,325 shall be deposited with The Huntington National Bank, Elkins, West Virginia to pay the outstanding principal balance of and all accrued interest on the Issuer's Sewer Revenue Bonds, Series 2008 A (the "Series 2008 A Bonds") at Closing.

Section 10. The balance of the proceeds of the Series 2009 A Bonds and the Series 2009 B Bonds shall be deposited in or credited to the Series 2009 Bonds Construction Trust Funds for payment of the costs of the Project, including, without limitation, costs of issuance of the Series 2009 Bonds and related costs.

Section 11. The Mayor and the Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Series 2009 Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Series 2009 Bonds may be delivered on or about June 18, 2009, to the Authority pursuant to the ARRA Assistance Agreement.

Section 12. Payment of the Series 2008 A Bonds and the acquisition and construction of the Project and the financing thereof in part with proceeds of the Series 2009 Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 13. The Issuer does hereby ratify, approve and accept all contracts relating to the financing, acquisition and construction of the Project.

Section 14. The Issuer hereby determines to invest all monies in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such monies to be invested in such repurchase agreements or time accounts until further directed in writing by the Issuer. Monies in the Sinking Funds and the Reserve Accounts for the Series 2009 Bonds, shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 15. The Special Conditions of the ARRA Assistance Agreement are attached as Exhibit A hereto and incorporated herein by reference.

Section 16. The Issuer hereby approves the Conformed Bond Ordinance attached hereto as Exhibit B.

Section 17. This Supplemental Resolution shall be effective as of June 15, 2009.

[Remainder of Page Intentionally Blank]

Adopted this 3rd day of September, 2009.

Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of The City of Elkins on the 3rd day of September, 2009.

[SEAL]

Phelps J. Grazione
City Clerk

06.02.09
255620.00012

EXHIBIT A

SPECIAL CONDITIONS – ARRA FUNDED PROJECTS

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

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

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

D. ASSET MANAGEMENT – The Local Government shall develop and implement an asset management plan in accordance with guidelines issued by DEP and is approved by DEP.

E. CONTRACTS – The Local Government shall enter into contracts or commence construction by February 17, 2010.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S. USER RATES – The Local Government shall covenant that it will not reduce its approved or enacted customer rates for at least eighteen months after completion of the Project or until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses.

EXHIBIT B

CONFORMED BOND ORDINANCE

(See Tab 1 of Bond Transcript)

SRF-ARRA
(04/02/09)

ARRA ASSISTANCE AGREEMENT

THIS WATER POLLUTION CONTROL REVOLVING FUND ARRA ASSISTANCE AGREEMENT (the "ARRA Assistance Agreement"), made and entered into in several counterparts, by and among the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), the WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION (the "DEP"), and the local government designated below (the "Local Government").

CITY OF ELKINS (C-544380-02/2007S-996)
(Local Government)

W I T N E S S E T H:

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

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

WHEREAS, pursuant to the provisions of Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a state water pollution control revolving fund program (the "Program") to direct the distribution of loans to particular local governments pursuant to the Clean Water Act and the ARRA;

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

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

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

WHEREAS, pursuant to the Act, the Authority and DEP are empowered to make loans from the Fund to local governments for the acquisition or construction of wastewater treatment projects by such local governments, all subject to such provisions and limitations as are contained in the Clean Water Act, the ARRA 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 acquire, construct, improve, operate and maintain a wastewater treatment project and to finance the cost of acquisition and construction of the same by borrowing money to be evidenced by revenue bonds issued by the Local Government;

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

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

WHEREAS, having reviewed the Application and the Fund having available sufficient funds therefor, the Authority and DEP are willing to lend the Local Government the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Local Government with

moneys held in the Fund, subject to the Local Government's satisfaction of certain legal and other requirements of the Program.

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

ARTICLE I

Definitions

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II

The Project and the System

2.1 The Project shall generally consist of the construction and acquisition of the facilities described in the Application, to be, being or having been constructed in accordance with plans, specifications and designs prepared for the Local 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 ARRA Assistance Agreement and 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, during and after completion of construction and commencement of operation of the Project, have such rights of access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and DEP with respect to the System pursuant to the pertinent provisions of the Act.

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

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

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

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 and shall verify or have verified such insurance prior to commencement of construction. ~~Until the Project facilities are completed and accepted by the Local Government,~~ the Local Government or (at the option of the Local Government) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent

(100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Local Government, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Local Government on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds are outstanding. Prior to commencing operation of the Project, the Local Government must also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Local Government shall provide and maintain competent and adequate 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 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 shall at all times provide operation and maintenance of the System in compliance with any and all State and federal standards. The Local Government shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator(s) to operate the System during the entire term of this ARRA Assistance 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 acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project, shall each month complete a Monthly Financial Report, the form of which is attached hereto as Exhibit B and incorporated herein by reference, and forward a copy by the 10th of each month to DEP and 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 such forms to DEP in compliance with the Local Government's construction schedule.

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

2.15 The Governmental Agency shall perform an annual maintenance audit which maintenance audit shall be submitted to the WDA and the Public Service Commission of West Virginia.

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

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

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

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

(d) The Local Government shall either have received bids or entered into contracts for the construction of the Project, which are in an amount and otherwise compatible with the plan of financing described in the Application; provided that, if the Loan will refund an interim construction financing, 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") and the West Virginia Infrastructure and Jobs Development Council necessary for the construction of the Project and operation of the System, with all requisite appeal periods having expired without successful appeal and the Authority and 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 without successful appeal, 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 Subsections 4.1(a) and 4.1(b)(ii) hereof, and the Authority and DEP shall have received a certificate of the accountant 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 ARRA Assistance 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 including rules, regulations and procedures promulgated under the Clean Water Act and/or the ARRA, it is hereby agreed that the Authority shall make the Loan to the Local Government and the Local Government shall accept the Loan from the Authority, and in furtherance thereof it is agreed that the Local Government shall sell to the Authority and the Authority shall make the Loan by purchasing the Local Bonds in the principal amount and at the price set forth in Schedule X hereto. The Local Bonds shall have such further terms and provisions as described in Article IV hereof.

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

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

execution of this ARRA Assistance Agreement by the Authority or such later date as is agreed to in writing by DEP.

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 from the Fund 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 ARRA Assistance Agreement on or prior to the Date of Loan Closing and to the requirements of the Program. The Local Government specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Fund to purchase all the Local Bonds and that, prior to such purchase, the Authority may purchase the bonds of other local governments set out in the State Project Priority List, as defined in the SRF Regulations. The Local Government further specifically recognizes that all loans will be originated in conjunction with the SRF Regulations and with the prior approval of DEP.

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

ARTICLE IV

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

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

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

(i) to pay Operating Expenses of the System;

(ii) unless waived or modified by Schedule X and to the extent not otherwise limited by any outstanding loan resolution, indenture or other act or document and beginning on the date set forth in Schedule X, to provide debt service on

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

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

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

amount required in any year for debt service on the Local Bonds and any such prior or parity obligations;

(iii) That the Local Government shall 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 not be sold, mortgaged, leased or otherwise disposed of, except 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 prior 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 the Authority 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 notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the Local Government's revenues are adequate to meet its Operating Expenses and debt service and reserve 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) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim financing 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 West Virginia Municipal Bond Commission (the "Commission") shall serve as paying agent for all Local Bonds;

(xvii) 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 Commission the required interest, principal and reserve account 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 or electronic transfer to the Authority by the 5th day of such calendar month. When required by the Authority, the Local Government shall make monthly payments to the Commission by electronic transfer;

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

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

(xx) That the Local Government shall, to the full extent permitted by applicable law and the rules and regulations of the PSC, 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; and

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

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

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

4.3 At least five percent (5%) of the proceeds of the Local Bonds will be advanced on the Date of Loan Closing. The remaining proceeds of the Local Bonds shall be advanced by the DEP 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 ~~alloeable share of the reasonable administrative expenses of the Authority relating~~ to the Program. Such administrative expenses shall be determined by the Authority and shall include, without limitation, Program expenses, legal fees paid by the Authority and fees

paid to the trustee and paying agents for any bonds or notes to be issued by the Authority for contribution to the Fund and the fees and expenses of any corporate trustee for the Fund.

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

ARTICLE V

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

5.1 The Local Government hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this ARRA Assistance Agreement and the Local Act. The Local Government hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System and will take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and in compliance with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the required sums set forth in the Local Act and this ARRA Assistance Agreement, the Local 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 (or where applicable, immediately file with the PSC for a rate increase) and take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and this ARRA Assistance Agreement.

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

5.4 The Local 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 charges 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 the Local Government in the terms and covenants of this ARRA Assistance 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 ARRA Assistance Agreement.

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

6.3 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 System, payable from the revenues of the System or from any grants for the Project or otherwise related to the Project or the System.

ARTICLE VII

Miscellaneous

7.1 Schedules X and Y shall be attached to this ARRA Assistance Agreement by the Authority as soon as practicable after the Date of Loan Closing is established and shall be approved by an official action of the Local 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 ARRA Assistance Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this ARRA Assistance Agreement, and this ARRA Assistance Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

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

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

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

7.6 By execution and delivery of this ARRA Assistance Agreement, notwithstanding the date hereof, the Local 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 ARRA Assistance Agreement shall terminate upon the earlier of:

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

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

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

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

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

CITY OF ELKINS

(SEAL)

By: _____
Its: Mayor
Date: June 18, 2009

Attest:

_____
Its: Recorder

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

By: _____
Its: Acting Director
Date: June 18, 2009

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: _____
Its: Executive Director
Date: June 18, 2009

Attest:

_____
Its: Secretary-Treasurer

{C1549616.1}

EXHIBIT A

FORM OF PERFORMANCE CERTIFICATE

[To Be Provided By DEP]

EXHIBIT B

MONTHLY FINANCIAL REPORT

Name of Local Government
Name of Bond Issue(s)_____
Type of Project _____ **Water** _____ **Wastewater**
Fiscal Year _____ **Report Month** _____

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

_____
Name of Person Completing Form

_____
Address

_____
Telephone

INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

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

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

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

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

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

EXHIBIT 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 as follows:

1. My firm is engineer for the acquisition and construction of _____ to the _____ system (the "Project") of _____ (the "Issuer"), to be constructed primarily in _____County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the same meaning set forth in the bond _____ adopted or enacted by the Issuer on _____, and the ARRA Assistance Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Department of Environmental Protection (the "DEP"), dated _____.

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

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the 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 _____ years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in Schedule A attached hereto as Exhibit

A, and my firm[1] has ascertained that all successful bidders have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the DEP and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) the Issuer has received the Buy American Certificate from each contractor; (x) as of the effective date thereof[2], the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the ARRA Assistance Agreement; (xi) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the DEP; 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 and seal on this ____ day of _____, ____.

By _____
West Virginia License No.

[SEAL]

---

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

[2]If the Rule 42 Exhibit and/or rate structure was prepared by an accountant, then insert the following: "In reliance upon the certificate of _____ of even date herewith," at the beginning of (x).

EXHIBIT E

SPECIAL CONDITIONS

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

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

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

D. ASSET MANAGEMENT – The Local Government shall develop and implement an asset management plan in accordance with guidelines issued by DEP and is approved by DEP.

E. CONTRACTS – The Local Government shall enter into contracts or commence construction by February 17, 2010.

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

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

H. PURCHASING REQUIREMENTS – The Local Government shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds $10,000 or where the quantity of such items

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

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

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

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

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

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

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

O. OFFICE OF MANAGEMENT AND BUDGET (OMB) GUIDANCE – The Local Government acknowledges and agrees that this ARRA

Assistance is subject to all applicable provisions of implementing guidance for the American Recovery and Reinvestment Act of 2009 issued by the United States Office of Management and Budget, including the Initial Implementing Guidance for the American Recovery and Reinvestment Act (M-09-10) issued on February 18, 2009 and available on www.recovery.gov, and any subsequent guidance documents issued by OMB.

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

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

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

S. USER RATES – The Local Government shall covenant that it will not reduce its approved or enacted customer rates for at least eighteen months after completion of the Project or until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses.

EXHIBIT F

MONTHLY PAYMENT FORM

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

Re: [Name of bond issue]

Ladies and Gentlemen:

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

Sinking Fund:

Interest	$
Principal	$
Total:	$
Reserve Account:	$

Witness my signature this ___ day of_____.

[Name of Local Government]

By: _____
Authorized Officer

Enclosure: copy of check(s)

EXHIBIT G

OPINION OF BOND COUNSEL FOR LOCAL GOVERNMENT

[To Be Dated as of Date of Loan Closing]

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

West Virginia Department of Environmental Protection
601 57th Street
Charleston, WV 25304

Ladies and Gentlemen:

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

We have examined a certified copy of proceedings and other papers relating to the authorization of (i) a ARRA assistance agreement dated _____, ____, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), among the Local Government, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), and (ii) the issue of a series of revenue bonds of the Local Government, dated _____, ____ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Local Bonds are issued in the principal amount of $_____, in the form of one bond, registered as to principal and interest to the Authority, with principal and interest payable quarterly on March 1, June 1, September 1, and December 1 of each year, beginning _____ 1, ____, and ending _____ 1, ____, all as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Local Bonds.

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

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

resolution duly adopted by the Local Government on _____ (collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the ARRA Assistance Agreement has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the ARRA Assistance Agreement.

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

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

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

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

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

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

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

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

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

Very truly yours,

SCHEDULE X

DESCRIPTION OF LOCAL BONDS

A. Series A Bonds (CWSRF Base Program)
Principal Amount of Local Bonds $883,280
Purchase Price of Local Bonds $883,280

The Local Bonds shall bear no interest. Commencing December 1, 2010, principal of the Local Bonds is payable quarterly, with an administrative fee of 1%. Quarterly payments will be made on March 1, June 1, September 1 and December 1 of each year as set forth on the Schedule Y attached hereto and incorporated herein by reference.

The Local Government shall submit its payments monthly to the Commission with instructions that the Commission will make quarterly payments to the Authority at such address as is given to the Commission in writing by the Authority. If the Reserve Account is not fully funded at closing, the Local 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 Commission. The Local Government shall instruct the Commission to notify the Authority of any monthly payments which are not received by the 20th day of the month in which the payment was due.

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

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

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

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

(i) City of Elkins Subordinate Sewer Revenue Bonds, Series 1986 B (West Virginia Water Development Authority), dated April 28, 1986, issued in the original aggregate principal amount of $517,001;

(ii) City of Elkins Sewer Revenue Bonds, Series 1996 A (West Virginia SRF Program), dated August 12, 1996, issued in the original aggregate principal amount of $300,000;

(iii) City of Elkins Sewer Refunding Revenue Bond, Series 2004 A, dated June 18, 2004, issued in the original aggregate principal amount of $1,022,000;

(iv) City of Elkins Sewer Revenue Bonds, Series 2006 A (West Virginia SRF Program), dated December 12, 2006, issued in the original aggregate principal amount of $8,588,400;

(v) City of Elkins Sewer Revenue Bonds, Series 2008 A (The Huntington National Bank), dated May 16, 2008, issued in the original aggregate principal amount of $600,000; and

(ii) City of Elkins Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), dated June 18, 2009, issued in the original aggregate principal amount of $883,280.

B. Series B Bonds (ARRA)

Principal Amount of Local Bonds	$883,280
Purchase Price of Local Bonds	$883,280

The Local Bonds shall bear no interest. The Authority at the direction of the DEP shall forgive the principal amount of the Local Bonds. Principal forgiveness shall begin on December 1, 2010 and shall be made quarterly thereafter (March 1, June 1, September 1 and December 1 of each year) as set forth on Schedule Y attached hereto and incorporated herein by reference for a period of ten years.

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

The Local Government shall make monthly payments into the Renewal and Replacement Fund as required by Section 4.1 of this Agreement for at least the term of the Local Bonds.

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

SCHEDULE Y
DEBT SERVICE SCHEDULE

	0% Interest Rate			
	1% Administrative Fee			
	30 Years			
		Dated Date	6/18/09	
		Delivery Date	6/18/09	
	Period Ending	Principal	Interest	Debt Service
	6/18/09			
	12/1/10	7,361.		7,361.
	3/1/11	7,361.		7,361.
	6/1/11	7,361.		7,361.
	9/1/11	7,361.		7,361.
	12/1/11	7,361.		7,361.
	3/1/12	7,361.		7,361.
	6/1/12	7,361.		7,361.
	9/1/12	7,361.		7,361.
	12/1/12	7,361.		7,361.
	3/1/13	7,361.		7,361.
	6/1/13	7,361.		7,361.
	9/1/13	7,361.		7,361.
	12/1/13	7,361.		7,361.
	3/1/14	7,361.		7,361.
	6/1/14	7,361.		7,361.
	9/1/14	7,361.		7,361.
	12/1/14	7,361.		7,361.
	3/1/15	7,361.		7,361.
	6/1/15	7,361.		7,361.
	9/1/15	7,361.		7,361.
	12/1/15	7,361.		7,361.
	3/1/16	7,361.		7,361.
	6/1/16	7,361.		7,361.
	9/1/16	7,361.		7,361.
	12/1/16	7,361.		7,361.
	3/1/17	7,361.		7,361.
	6/1/17	7,361.		7,361.
	9/1/17	7,361.		7,361.
	12/1/17	7,361.		7,361.
	3/1/18	7,361.		7,361.
	6/1/18	7,361.		7,361.
	9/1/18	7,361.		7,361.
	12/1/18	7,361.		7,361.
	3/1/19	7,361.		7,361.
	6/1/19	7,361.		7,361.
	9/1/19	7,361.		7,361.
	12/1/19	7,361.		7,361.
	3/1/20	7,361.		7,361.
	6/1/20	7,361.		7,361.
	9/1/20	7,361.		7,361.
	12/1/20	7,361.		7,361.
	3/1/21	7,361.		7,361.
	6/1/21	7,361.		7,361.

0% Interest Rate

1% Administrative Fee

30 Years

Period Ending	Principal	Interest	Debt Service
9/1/21	7,361.		7,361.
12/1/21	7,361.		7,361.
3/1/22	7,361.		7,361.
6/1/22	7,361.		7,361.
9/1/22	7,361.		7,361.
12/1/22	7,361.		7,361.
3/1/23	7,361.		7,361.
6/1/23	7,361.		7,361.
9/1/23	7,361.		7,361.
12/1/23	7,361.		7,361.
3/1/24	7,361.		7,361.
6/1/24	7,361.		7,361.
9/1/24	7,361.		7,361.
12/1/24	7,361.		7,361.
3/1/25	7,361.		7,361.
6/1/25	7,361.		7,361.
9/1/25	7,361.		7,361.
12/1/25	7,361.		7,361.
3/1/26	7,361.		7,361.
6/1/26	7,361.		7,361.
9/1/26	7,361.		7,361.
12/1/26	7,361.		7,361.
3/1/27	7,361.		7,361.
6/1/27	7,361.		7,361.
9/1/27	7,361.		7,361.
12/1/27	7,361.		7,361.
3/1/28	7,361.		7,361.
6/1/28	7,361.		7,361.
9/1/28	7,361.		7,361.
12/1/28	7,361.		7,361.
3/1/29	7,361.		7,361.
6/1/29	7,361.		7,361.
9/1/29	7,361.		7,361.
12/1/29	7,361.		7,361.
3/1/30	7,361.		7,361.
6/1/30	7,361.		7,361.
9/1/30	7,360.		7,360.
12/1/30	7,360.		7,360.
3/1/31	7,360.		7,360.
6/1/31	7,360.		7,360.
9/1/31	7,360.		7,360.
12/1/31	7,360.		7,360.
3/1/32	7,360.		7,360.
6/1/32	7,360.		7,360.
9/1/32	7,360.		7,360.
12/1/32	7,360.		7,360.
3/1/33	7,360.		7,360.
6/1/33	7,360.		7,360.

0% Interest Rate

1% Administrative Fee

30 Years

Period Ending	Principal	Interest	Debt Service
9/1/33	7,360.		7,360.
12/1/33	7,360.		7,360.
3/1/34	7,360.		7,360.
6/1/34	7,360.		7,360.
9/1/34	7,360.		7,360.
12/1/34	7,360.		7,360.
3/1/35	7,360.		7,360.
6/1/35	7,360.		7,360.
9/1/35	7,360.		7,360.
12/1/35	7,360.		7,360.
3/1/36	7,360.		7,360.
6/1/36	7,360.		7,360.
9/1/36	7,360.		7,360.
12/1/36	7,360.		7,360.
3/1/37	7,360.		7,360.
6/1/37	7,360.		7,360.
9/1/37	7,360.		7,360.
12/1/37	7,360.		7,360.
3/1/38	7,360.		7,360.
6/1/38	7,360.		7,360.
9/1/38	7,360.		7,360.
12/1/38	7,360.		7,360.
3/1/39	7,360.		7,360.
6/1/39	7,360.		7,360.
9/1/39	7,360.		7,360.
12/1/39	7,360.		7,360.
3/1/40	7,360.		7,360.
6/1/40	7,360.		7,360.
9/1/40	7,361.		7,361.
	883,280.		**883,280.**

Quarterly Admin Fee $1,113.27

Total Admin Fee $133,592.20

	10 Years			
		Dated Date	6/18/09	
		Delivery Date	6/18/09	
	Period Ending	Debt Service		Principal Forgiveness
	6/18/09			
	12/1/10	22,082.		-22,082.
	3/1/11	22,082.		-22,082.
	6/1/11	22,082.		-22,082.
	9/1/11	22,082.		-22,082.
	12/1/11	22,082.		-22,082.
	3/1/12	22,082.		-22,082.
	6/1/12	22,082.		-22,082.
	9/1/12	22,082.		-22,082.
	12/1/12	22,082.		-22,082.
	3/1/13	22,082.		-22,082.
	6/1/13	22,082.		-22,082.
	9/1/13	22,082.		-22,082.
	12/1/13	22,082.		-22,082.
	3/1/14	22,082.		-22,082.
	6/1/14	22,082.		-22,082.
	9/1/14	22,082.		-22,082.
	12/1/14	22,082.		-22,082.
	3/1/15	22,082.		-22,082.
	6/1/15	22,082.		-22,082.
	9/1/15	22,082.		-22,082.
	12/1/15	22,082.		-22,082.
	3/1/16	22,082.		-22,082.
	6/1/16	22,082.		-22,082.
	9/1/16	22,082.		-22,082.
	12/1/16	22,082.		-22,082.
	3/1/17	22,082.		-22,082.
	6/1/17	22,082.		-22,082.
	9/1/17	22,082.		-22,082.
	12/1/17	22,082.		-22,082.
	3/1/18	22,082.		-22,082.
	6/1/18	22,082.		-22,082.
	9/1/18	22,082.		-22,082.
	12/1/18	22,082.		-22,082.
	3/1/19	22,082.		-22,082.
	6/1/19	22,082.		-22,082.
	9/1/19	22,082.		-22,082.
	12/1/19	22,082.		-22,082.
	3/1/20	22,082.		-22,082.
	6/1/20	22,082.		-22,082.
	9/1/20	22,082.		-22,082.
		883,280.		**-883,280.**

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

Case No.: 09-0051-S-CN

CITY OF ELKINS

Application for a certificate of convenience and necessity to construct improvements to its existing downtown storm water separation system and for approval of associated financing.

STATE OF WEST VIRGINIA
COUNTY OF Harrison, TO-WIT:

AFFIDAVIT

I, Tasha Hartley, CPA, after making an oath of affirmation to tell the truth, say that, I have reviewed the Recommended Decision of the Public Service Commission of West Virginia in Case No. 09-0051-S-CN dated May 19, 2009 which approved the funding of a $1,352,800 loan from the West Virginia Department of Environmental Protection State Revolving Fund, repayable over a twenty year period at an annual interest rate of 2% plus an annual administrative fee of 1% and a $30,000 contribution from the City of Elkins, and based upon all the information that has been provided to me to date, I am of the opinion that the rates and charges for the City (i) are not affected by the revised funding which includes an $868,030 loan from the West Virginia Department of Environmental Protection State Revolving Fund, repayable over a thirty year period at an annual interest rate of 0% plus an annual administrative fee of 1%; and a forgivable $868,030 loan from the West Virginia Department of Environmental Protection State Revolving Fund/ARRA for a total project cost of $1,736,060; and (ii) will be sufficient to provide revenues which, together with other revenues of the System, will allow me to provide the CPA certification required for the issuance of the loans.

This Affidavit is executed on the 11 day of June, 2009.

Tasha Hartley
Tasha Hartley, CPA

Taken, subscribed and sworn to before me this 11 day of June, 2009.

My commission expires 8/1/2010.

[SEAL]

OFFICIAL SEAL
NOTARY PUBLIC, STATE OF WEST VIRGINIA
MARGARET D. YOST
P. O. BOX 36
GYPSY, WV 26361
MY COMMISSION EXPIRES AUG. 1, 2010

Margaret D. Yost
Notary Public

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
5/27/2009
Per Commission Order Waiving the Exception Period

Entered: May 19, 2009

CASE NO. 09-0051-S-CN

CITY OF ELKINS
Application for a certificate of convenience and necessity to construct improvements to its existing downtown storm water separation system and for approval of associated financing.

RECOMMENDED DECISION

On January 21, 2009, the City of Elkins (City) filed an unverified application for a certificate of convenience and necessity to replace or upgrade existing sanitary wastewater lines and remove storm water inflow/infiltration from the City's existing combined sanitary and storm wastewater collection system by constructing new storm water collection lines in two (2) areas of the City. The proposed project consists of replacing 2,220 linear feet of 6" to 18" sanitary sewer lines, installation of 4,280 linear feet of 8" to 30" storm lines, installation of 38 catch basins and street reconstruction. The total projected cost of the proposed project is $1,382,800 and will be funded by a $1,352,800 loan from the West Virginia Department of Environmental Protection State Revolving Fund (SRF) and a $30,000 contribution from the City. The SRF loan will be for a term of twenty (20) years at an annual interest rate of two percent (2%), plus an annual administrative fee of one percent (1%). The City indicated that no additional sewer customers will result from the proposed project and that no increase in its sewer rates will be necessary to support the financing of the project. A Rule 42 Exhibit for the year ended June 30, 2008, prepared by Tasha R. Hartley, C.P.A. of Tetrick & Bartlett, PLLC, was attached to the certificate application.

By Commission Order dated January 21, 2009, the City was directed to provide notice of the filing of the certificate application by publishing a copy of said Order once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in Randolph County, West Virginia, making due return to the Commission of proper certification of publication immediately after publication. The Notice directed that anyone desiring to make objection to the certificate application or intervene in said proceeding must do so, in writing, within thirty (30) days after publication of said Notice. It was further provided that failure to timely protest or intervene could affect one's right to protest, including any associated rate increase, or to participate in further proceedings. The Notice further provided that, if no protests were received within the thirty-day period, the Commission could waive

formal hearing and grant the application based upon the evidence submitted in the application and the Commission's review thereof.

On February 2, 2009, the City filed an affidavit of publication reflecting that the Notice of Filing was published on January 27, 2009, in The Inter-Mountain, a newspaper, duly qualified by the Secretary of State, published and of general circulation in Randolph County, West Virginia.

By Commission Order dated February 4, 2009, the Commission referred this matter to the Division of Administrative Law Judges for further disposition, with a decision due date of on or before June 5, 2009, if no protests to the certificate application were filed within the thirty-day protest period, and on or before August 19, 2009, if protests to the certificate application were filed.

On February 26, 2009, Staff Attorney C. Terry Owen filed an Initial Joint Staff Memorandum to which was attached an Initial Staff Internal Memorandum dated February 19, 2009, prepared by Troy Eggleton, Utilities Analyst II, Water and Wastewater Division, and Sylvie Steranka, Technical Analyst Associate, Engineering Division. Commission Staff reported that it was continuing its review of the District's certificate application and would file its final recommendations herein in a timely manner. Commission Legal Staff also specifically pointed out that the certificated application was sworn to by the City's legal counsel, but was not signed or verified by an authorized representative of the City as required by the Commission's Rules of Practice and Procedure (Procedural Rules). Accordingly, the City needed to provide a verification for its certificate application executed by an authorized representative of the City, other than its legal counsel.

On April 14, 2009, Mr. Owen filed a Final Joint Staff Memorandum to which was attached a Final Staff Internal Memorandum dated April 13, 2009, prepared by Mr. Eggleton and Ms. Steranka. Ms. Steranka reported that the City proposes to construct certain improvements to its existing sanitary and storm wastewater collection system by adding new storm drain lines and replacing old clay sewer lines in certain areas in order to reduce combined sewer overflows (CSOs) into the Tygart River. The proposed system improvements will take place in the following areas:

(1) A three-block area of downtown that includes Railroad Avenue, Davis Avenue, Fourth Street, Fifth Street, Sixth Street and Randolph Avenue. This area has no existing storm drain lines; all storm water enters the existing sanitary sewer collection system. New sanitary collection lines will replace old existing clay lines and new storm water collection lines will be added that will tie into a recently placed storm line at the Railroad Avenue and Fourth Street. This improvement will have a direct effect on combined sewer overflows at Railroad Avenue(Outfall 007) and Davis Avenue(Outfall 006). There will be an indirect effect on Worth Avenue(Outfall 008) and Kerens Avenue(Outfall 005);

(2) A new storm water collection line will be constructed in the railyard area just west of Railroad Avenue. This

segment of the project will intercept the existing storm drainage system down Worth Avenue and direct it to a newly placed 42" storm drain in the railyard. The existing overloaded Worth Avenue storm drain line will be improved and storm drainage capacity will be available for future sanitary/storm separation in the Worth Avenue area. The Worth Avenue(Outfall 008) will be directly affected; and

(3) New storm drain lines will be added to a two-block area of Elm Street, a residential area just east of downtown. The existing sanitary sewer will be utilized. The Henry Avenue(Outfall 005) will be directly affected.

A summary of the total project cost is as follows, to-wit:

Construction	$1,074,800
Engineering Design and Construction Management	75,000
Legal and Administration	35,000
Bond Counsel	25,000
Interim Financing	25,000
Funded Reserve	48,000
Project Contingency	100,000
Total	$1,382,800

Commission Engineering Staff was of the opinion that the contingency costs, the engineering design costs and the construction costs were reasonable. Commission Engineering Staff went on to note that the City's operation and maintenance costs are not expected to increase as a result of this project and that, since the project involves upgrades and improvements to an existing sanitary and storm water collection system without the addition of new customers, customer density and cost per customer were not calculated. It was also noted that the City's consulting engineer has proposed three (3) additive alternatives, should additional funds become available, which are as follows, to-wit:

(1) Extend the new proposed storm water system from manhole 12 across Randolph Avenue to the college, which will cost an estimated $160,000;

(2) Extend the new proposed storm water system from manhole 18 along Fifth Avenue to Randolph Avenue, which will cost an estimated $107,500; and

(3) Extend the new proposed storm water system from manhole 15 along Fourth Avenue to Randolph Avenue, which will cost an estimated $212,500.

Based upon its review of the City's application and the plans, specifications and other technical documentation provided by the City in connection with its certificate application, Commission Engineering Staff recommended that the City's certificate application be approved.

Commission Staff reported that the filing of the certificate application included a commitment letter from the West Virginia Department of Environmental Protection for a loan in the amount of $1,352,800, for a term of twenty (20) years at an annual interest rate of two percent

(2%), plus an annual administrative fee of one percent (1%), as well as a bank statement from Citizens National Bank reflecting an available balance in the City's sewer fund account as of March 31, 2009, in excess of $400,000. Commission Financial Staff went on to note that the City's annual operation and maintenance (O & M) expenses will not increase as a result of the proposed project and that the City has not proposed to increase its sewer rates as a result of the proposed project. At going-level, the City's current rates produced annual operating revenues of $2,108,098, thereby generating a cash flow surplus of $353,472, with a debt service coverage factor of 138.82%. Based on the City's current level of rates and the Staff recommended adjustments for the proposed project, the adjusted proforma cash flow surplus will be $264,017, with a debt service coverage factor of 139.27%. A cash flow analysis prepared by Commission Staff was attached to the Final Staff Internal Memorandum as Attachment 2.

On April 17, 2009, counsel for the City filed a verification executed by its City Clerk verifying the City's January 21, 2009 certificate application. The letter also stated that the City concurred with Staff's recommendations that its certificate application and associated financing be approved.

On April 22, 2009, Mr. Owen filed a Second Final Joint Staff Memorandum regarding a typographical error on page 4 of Commission Staff's April 13, 2009 Final Staff Internal Memorandum.

No one has protested the application.

DISCUSSION

Based upon a review of the City's certificate application and Commission Staff's recommendations set forth in the Final Joint Staff Memorandum, it is clear that the City's proposed improvements to its sanitary and storm wastewater collection system are needed to reduce CSOs into the Tygart Valley River, thereby improving the water quality of the Tygart Valley River. The proposed project will also lead to a reduction of basement flooding in the project area as well as reduce the amount of wastewater that requires treatment at the City's wastewater treatment plant. Accordingly, the certificate application filed herein will be granted. The financing for the proposed project, consisting of an SRF loan in the amount of $1,352,800, for a term of twenty (20) years, at an annual interest rate of two percent (2%), with an annual administrative fee of one percent (1%), together with a $30,000 contribution from the City, will also be approved, since it will result in no rate increase for the City's customers and, therefore, does not impose an undue financial burden on the City's current customers.

FINDINGS OF FACT

1. On January 21, 2009, the City of Elkins filed an application for a certificate of convenience and necessity to replace or upgrade existing sanitary wastewater lines and remove storm water inflow/infiltration from the City's existing combined sanitary and storm wastewater collection system by constructing new storm water collection lines in two (2) areas

of the City. The total projected cost of the proposed project is $1,382,800 and will be funded by a $1,352,800 loan from the West Virginia Department of Environmental Protection State Revolving Fund and a $30,000 contribution from the City. The SRF loan will be for a term of twenty (20) years at an annual interest rate of two percent (2%), plus an annual administrative fee of one percent (1%). The City indicated that no additional sewer customers will result from the proposed project and that no increase in its sewer rates will be necessary to support the financing of the project. (See, January 21, and April 17, 2009 filings; Final Joint Staff Memorandum and attachment filed April 14, 2009).

2. On February 2, 2009, the City filed an affidavit of publication reflecting that, in compliance with the Commission's January 21, 2009 Order, the Notice of Filing had been published on January 27, 2009, in The Inter-Mountain, a newspaper, duly qualified by the Secretary of State, published and of general circulation in Randolph County, West Virginia. (See, affidavit of publication filed February 2, 2009).

3. No protests or objections were received to the City's certificate application within the thirty-day response period, which expired on February 27, 2009, or as of the date of this Order. (See, case file generally).

4. The proposed improvements to the City's sanitary and storm wastewater collection system are needed to reduce CSOs into the Tygart Valley River, thereby improving the water quality of the Tygart Valley River; will lead to a reduction of basement flooding in the project area, as well as reduce the amount of wastewater that requires treatment at the City's wastewater treatment plant; and will reduce the incidence of violations of the Clean Water Act. (See, application filed January 21, 2009; Final Joint Staff Memorandum and attachment filed April 14, 2009).

5. Commission Staff recommended that the City's certificate application be granted, and that the proposed project financing be approved. (See, Final Joint Staff Memorandum and attachment filed April 14, 2009).

6. The City filed a letter stating that it concurred with Commission Staff's recommendations that its certificate application and associated financing be approved. (See, letter filed April 17, 2009).

CONCLUSIONS OF LAW

1. The public convenience and necessity require the project.

2. It is reasonable to approve the financing of the project, which consists of a $1,352,800 State Revolving Fund loan, repayable over a period of twenty (20) years, at an annual interest rate of two percent (2%), plus an annual administrative fee of one percent (1%) and a $30,000 contribution from the City.

3. The proposed project is economically feasible since adequate funding has been secured and the proposed project costs will not require an increase in the City's current rates.

4. Since no protests were filed after proper notice of the certificate application was given, a certificate of convenience and necessity should be granted to the City of Elkins for the proposed project, as recommended by Commission Staff, without need for a formal hearing.

ORDER

IT IS, THEREFORE, ORDERED that the application for a certificate of convenience and necessity, filed herein on January 21, 2009, by the City of Elkins, to replace or upgrade existing sanitary wastewater lines and remove storm water inflow/infiltration from the City's existing combined sanitary and storm wastewater collection system by constructing new storm water collection lines in two (2) areas of the City be, and hereby is, granted.

IT IS FURTHER ORDERED that the financing of the project, consisting of a $1,352,800 loan from the West Virginia Department of Environmental Protection State Revolving Fund, repayable over a twenty (20) year period, at an annual interest rate of two percent (2%), plus an annual administrative fee of one percent (1%), and a $30,000 contribution from the City of Elkins be, and hereby is, approved.

IT IS FURTHER ORDERED that the City of Elkins submit a certificate of substantial completion for the project from its engineer as soon as it becomes available.

IT IS FURTHER ORDERED that the City of Elkins file a copy of the engineer's certificate tabulation of bids for the project within ten (10) days of the bid-opening date.

IT IS FURTHER ORDERED that, if there are any changes in the plans and/or scope of the project or if a change in financing affects rates, the City of Elkins shall obtain Commission approval of such changes prior to commencing construction.

IT IS FURTHER ORDERED that, if there are any changes in the project costs that do not affect rates, the City of Elkins shall file herein an affidavit, duly executed by a certified accountant, verifying that the City's rates and charges are not affected.

IT IS FURTHER ORDERED that actual construction on the proposed project shall not commence until such time as the City has obtained all necessary federal, state and local permits and approvals for the proposed project, copies of which shall be filed with the Commission as received.

IT IS FURTHER ORDERED that, if this project requires use of Division of Highways' rights-of-way, the City of Elkins comply with all rules and regulations of the Division of Highways regarding the use of those rights-of-way.

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

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

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

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

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

John P. Carter

John P. Carter
Administrative Law Judge

JPC:bam
090051a.wpd

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 22nd day of May 2009.

CASE NO. 09-0051-S-CN

CITY OF ELKINS,
a municipal utility, Randolph County.
Application for a certificate of convenience and necessity
to construct improvements to its existing downtown storm
water separation system and for approval of associated financing.

COMMISSION ORDER
WAIVING EXCEPTION PERIOD

On May 19, 2009, the Administrative Law Judge entered a Recommended Decision that granted the application filed by the City of Elkins (City) for a certificate of convenience and necessity to replace or upgrade existing sanitary wastewater lines and remove storm water inflow/infiltration from the City's existing combined sanitary and storm wastewater collection system, to become effective on and after the date that the Recommended Decision becomes a final order of the Commission.

On May 21, 2009, the City filed a petition to waive the fifteen-day period of time in which a party may file exceptions to the May 19, 2009 Recommended Decision in this proceeding.

In the petition, the City stated that Commission Staff has been contacted, and that it has no objection to the waiver being granted. There are no other parties in this proceeding.

W. Va. Code §24-1-9 provides a time period of at least twenty days from the date of a recommended order until it becomes effective. According to W. Va. Code §24-1-9(c), at least fifteen days must be afforded the parties within which to file exceptions. In addition, §24-1-9(e) provides that when no exceptions are filed within the specified time period, the Commission shall have an additional five days within which to stay or postpone the Order.

IT IS THEREFORE ORDERED that the requested waiver is granted.

IT IS FURTHER ORDERED that the Administrative Law Judge May 19, 2009 Recommended Decision in this matter becomes final five days after the date of this order, absent further action by the Commission.

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

A True Copy, Test:

Sandra Squire
Executive Secretary

SS/kc
090051sa.wpd

Affidavit of filing

LAW OFFICES
ROBERT R. RODECKER
BB&T SQUARE
300 SUMMERS STREET, SUITE 1230
POST OFFICE BOX 3713
CHARLESTON, WEST VIRGINIA 25337

ROBERT R. RODECKER
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JAMES V. KELSH
OF COUNSEL
kelshlaw@yahoo.com

AREA CODE 304
343-1654

FACSIMILE
343-1657

February 2, 2009

RECEIVED
09 FEB -2 PM 4:25
W VA PUBLIC SERVICE COMMISSION
SECRETARY'S OFFICE

Ms. Sandra Squire
Executive Secretary
Public Service Commission
201 Brooks Street
Charleston, West Virginia 25301

RE: CASE NO. 09-0051-S-CN
CITY OF ELKINS

Dear Ms. Squire:

Pursuant to the January 21, 2009 Notice of Filing Order entered in the above-referenced proceeding, enclosed herein please find the original and twelve (12) copies of an Affidavit evidencing Class I legal publication of the Order in the January 27, 2009 edition of *The Inter-Mountain* newspaper.

With the filing of the enclosed Affidavit, all publication requirements set forth in the Notice of Filing Order have been met.

Sincerely,

Robert R. Rodecker

Robert R. Rodecker
WV State Bar No. 3145

bg
enclosures
cc: C. Terry Owen, Esquire
Philip J. Graziani, Jr., City Clerk

State of West Virginia, County of Randolph, ss.

I, Donald W. Smith, General Manager of THE INTER-MOUNTAIN, a newspaper published at Elkins, in said county, do hereby certify that the annexed advertisement was published on the following dates:

Jan 27 _____ _____ _____

20 09 as required by law.

Given under my hand this 27th day of Jan 20, 09

Donald Smith
General Manager

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
LISA A. JONES
RR 3, BOX 62
PARSONS, WV 26287
My commission expires March 15, 2017

Printer's Fee: $ 100.67

Subscribed and sworn to before me this 27th day of January, 20, 09.

Lisa A Jones
Notary Public

My Commission Expires the 15th day of March, 2017.

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA CHARLESTON

Entered by the Public Service Commission of West Virginia, in the City of Charleston on the 21st day of January, 2009.

CASE NO. 08-0051-S-CN

CITY OF ELKINS'
Application for a certificate of convenience and necessity to construct improvements to its existing downtown stormwater separation system and for approval of associated financing

NOTICE OF FILING

On January 21, 2008, the City of Elkins ("City") filed an application, duly verified, seeking a certificate of convenience and necessity to construct improvements to its existing downtown stormwater separation system in Randolph County, West Virginia. The application further seeks approval of financing related thereto. The application is on file with and available for public inspection at the Public Service Commission, 201 Brooks Street, in Charleston, West Virginia.

The City estimates that the total project cost to be $1,352,800.00. Financing will be provided by a $1,352,800.00 State Revolving Fund loan for a term of twenty (20) years at an interest rate of two percent (2%) and an one percent (1%) annual administrative fee.

Notable increase will be necessary as a result of the proposed project. The City will continue to bill its sewer customers under its current Tariff No. 9, which has been in effect since March 1, 2008, and is on file with the Public Service Commission of West Virginia.

Resale customers of the City of Elkins include Leading Edge Public Service District and Midland Public Service District.

The requested rates and charges are only a proposal and are subject to change (increase or decrease) by the Public Service Commission in its review of this filing.

Pursuant to 24-2-11, West Virginia Code, IT IS ORDERED that the City of Elkins give NOTICE of this filing of said application by publishing a copy of this order once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Randolph County, making due return to the Commission of proper certification of publication immediately after publication. Anyone desiring to protest or intervene should file a written protest or notice of intervention within 30 days following the date of this publication unless otherwise modified by Commission order. Failure to timely protest or intervene can affect your right to protest aspects of this certificate case, including any associated rate increases, or to participate in future proceedings. All protests or requests to intervene should briefly state the reason for the protest or intervention. Requests to intervene must comply with the Commission's rules on intervention set forth in the Commission's Rules of Practice and Procedure. All protests and requests should be addressed to Sandra Squire, Executive Secretary, P.O. Office Box 812, Charleston, West Virginia 25323.

IT IS FURTHER ORDERED that if no protests are received within said thirty (30) day period the Commission may waive formal hearing and grant the application based on the evidence submitted with said application and its review thereof.

A True Copy: Teste:

Sandra Squire
Executive Secretary

1-27

West Virginia Infrastructure & Jobs Development Council

Public Members:
Kenneth Lowe, Jr.
Shepherdstown
Dwight Calhoun
Petersburg
Dave McComas
Prichard
Ron Justice
Morgantown

300 Summers Street, Suite 980
Charleston, West Virginia 25301
Telephone: (304) 558-4607
Facsimile: (304) 558-4609

Jefferson E. Brady, PE
Executive Director

Jefferson.Brady@verizon.net

November 13, 2007

The Honorable Judith Guye
Mayor, City of Elkins
401 Davis Avenue
Elkins, West Virginia 26241

Re: City of Elkins
Sewer Project 2007S-996

Dear Mayor Guye:

The West Virginia Infrastructure and Jobs Development Council (the "Council") has reviewed the City of Elkins'(the "City") revised preliminary application regarding its proposed project to replace or upgrade wastewater collection lines and remove infiltration by constructing new storm water lines; replace or relocate existing water lines and rebuild streets as necessary due to construction (the "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 as the City may need to address certain issues raised in said comments as it proceeds with the Project.

Upon consideration of the revised preliminary application, the Infrastructure Council recommends that the City utilize a $30,000 City contribution and pursue a $1,352,800 Clean Water State Revolving Fund loan to fund this $1,382,800 project. Please contact the West Virginia Department of Environmental Protection office at 926-0495for specific information on the steps the City needs to follow to apply for these funds. **Please note that this letter <u>does not</u> constitute funding approval from this agency.**

If you have any questions regarding this matter, please contact Jeff Brady at 558-4607.

Sincerely,

Kenneth Lowe, Jr.

Enclosure
cc: Mike Johnson, P.E., DEP (w/o enclosure)
Region VII Planning & Development Council
Swecker Engineering

THE CITY OF ELKINS

Sewer Revenue Bonds, Series 2009 A
(West Virginia SRF Program); and
Sewer Revenue Bonds, Series 2009 B
(West Virginia SRF Program/ARRA)

CROSS-RECEIPT FOR BOND AND BOND PROCEEDS

On the 18th day of June, 2009, the undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, and the undersigned Mayor of The City of Elkins (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the 18th day of June, 2009, the Authority received the Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), of the Issuer, in the principal amount of $883,280, numbered AR-1 (the "Series 2009 A Bonds") and the Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), of the Issuer, in the principal amount of $883,280, numbered BR-1 (the "Series 2009 B Bonds"), each issued as a single, fully registered Bond, and each dated June 18, 2009.

2. At the time of such receipt, all the Series 2009 A Bonds and the Series 2009 B Bonds had been executed by the Mayor and the City Clerk of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been affixed upon the Bonds.

3. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Series 2009 A Bonds, of $666,656, being a portion of the principal amount of the Series 2009 A Bonds. The balance of the principal amount of the Series 2009 A Bonds will be advanced by the Authority and the West Virginia Department of Environmental Protection to the Issuer as acquisition and construction of the Project progresses.

4. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Series 2009 B Bonds, of $-0-, being a portion of the principal amount of the Series 2009 B Bonds. The balance of the principal amount of the Series 2009 B Bonds will be advanced by the Authority and by the West Virginia Department of Environmental Protection to the Issuer as acquisition and construction of the Project progresses.

[Remainder of Page Intentionally Blank]

Dated as of the day and year first written above.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

By: Carol A. Cummings
Its: Authorized Representative

THE CITY OF ELKINS

By: Duke Talbott
Its: Mayor

03.30.09
255620.00012

THE CITY OF ELKINS

Sewer Revenue Bonds, Series 2009 A
(West Virginia SRF Program); and
Sewer Revenue Bonds, Series 2009 B
(West Virginia SRF Program/ARRA)

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

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

Ladies and Gentlemen:

There are delivered to you herewith on this 18th day of June, 2009.

(1) Bond No. AR-1, constituting the entire original issue of The City of Elkins Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), in the principal amount of $883,280 (the "Series 2009 A Bonds") and Bond No. BR-1, constituting the entire original issue of The City of Elkins Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), in the principal amount of $883,280 (the "Series 2009 B Bonds"), both dated June 18, 2009 (collectively, the "Series 2009 Bonds"), executed by the Mayor and the City Clerk of The City of Elkins (the "Issuer") and bearing the official seal of the Issuer, authorized to be issued under and pursuant to a Bond Ordinance duly enacted by the Issuer on June 4, 2009, and a Supplemental Resolution duly adopted by the Issuer on June 4, 2009 (collectively, the "Bond Legislation");

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

(3) Executed counterparts of an ARRA Assistance Agreement for the Series 2009 Bonds, dated June 18, 2009, by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"); and

(4) Executed opinions of nationally recognized bond counsel regarding the validity of the ARRA Assistance Agreement and the Series 2009 Bonds.

You are hereby requested and authorized to deliver the Series 2009 A Bonds to the Authority upon payment to the Issuer of the sum of $666,656, representing a portion of the principal amount of the Series 2009 A Bonds. You are further hereby requested and authorized to deliver the Series 2009 B Bonds to the Authority upon payment to the Issuer of the sum of $-0-, representing a

portion of the principal amount of the Series 2009 B Bonds. Prior to such delivery of the Series 2009 Bonds, you will please cause the Series 2009 Bonds to be authenticated and registered by an authorized officer, as Bond Registrar, in accordance with the forms of Certificate of Authentication and Registration thereon.

[Remainder of Page Intentionally Blank]

Dated as of the day and year first written above.

THE CITY OF ELKINS

By: _____
Its: Mayor

06.03.09
255620.00012

SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF ELKINS
SEWER REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA SRF PROGRAM)

No. AR-1 $883,280

KNOW ALL MEN BY THESE PRESENTS: That on the 18th day of June, 2009, THE CITY OF ELKINS, a municipal corporation and political subdivision of the State of West Virginia in Randolph 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 EIGHT HUNDRED EIGHTY-THREE THOUSAND TWO HUNDRED AND EIGHTY DOLLARS ($883,280), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as Exhibit A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2010, to and including September 1, 2040 as set forth on the "Debt Service Schedule" attached as Exhibit B hereto and incorporated herein by reference. The SRF Administrative Fee (as defined in the hereinafter described Bond Legislation) shall be payable quarterly on March 1, June 1, September 1, and December 1 of each year, commencing December 1, 2010, as set forth on Exhibit B attached hereto.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement (the "ARRA Assistance Agreement") by and among the Issuer, the Authority, and the DEP, dated June 18, 2009.

This Bond is issued (i) to pay the Issuer's Series 2008 A Bonds (the "Series 2008 A Bonds"); (ii) to pay the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); (iii) funding the Series 2009 A Reserve Account; and (iv) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing public sewerage system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer

the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY, WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, TO THE ISSUER'S (I) SUBORDINATE SEWER REVENUE BONDS, SERIES 1986 B (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED APRIL 28, 1986, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $517,001 (THE "SERIES 1986 B BONDS"); (II) SEWER REVENUE BONDS, SERIES 1996 A (WEST VIRGINIA SRF PROGRAM), DATED AUGUST 12, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $300,000 (THE "SERIES 1996 A BONDS"); (III) SEWER REFUNDING REVENUE BOND, SERIES 2004 A, DATED JUNE 18, 2004, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,022,000, (THE "SERIES 2004 A BONDS"); AND (IV) SEWER REVENUE BONDS, SERIES 2006 A (WEST VIRGINIA SRF PROGRAM), DATED DECEMBER 12, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $8,588,400 (THE "SERIES 2006 A BONDS"); (COLLECTIVELY, THE "PRIOR BONDS") AND (V) THE SEWER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA SRF PROGRAM/ARRA), DATED JUNE 18, 2009, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $868,030, (THE "SERIES 2009 B BONDS"), ISSUED SIMULTANEOUSLY HEREWITH.

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

has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

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

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

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

[SEAL]

Mayor

SPECIMEN

ATTEST:

City Clerk

SPECIMEN

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

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

Date: June 18, 2009.

The Huntington National Bank
as Registrar

Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) $666,656	June 18, 2009	(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

TOTAL $_____

EXHIBIT B

DEBT SERVICE SCHEDULE

BOND DEBT SERVICE
City of Elkins
0% Interest Rate
1% Administrative Fee
30 Years

Dated Date	6/18/2009
Delivery Date	6/18/2009

Period Ending	Principal	Interest	Debt Service
6/18/2009			
12/1/2010	7,361.		7,361.
3/1/2011	7,361.		7,361.
6/1/2011	7,361.		7,361.
9/1/2011	7,361.		7,361.
12/1/2011	7,361.		7,361.
3/1/2012	7,361.		7,361.
6/1/2012	7,361.		7,361.
9/1/2012	7,361.		7,361.
12/1/2012	7,361.		7,361.
3/1/2013	7,361.		7,361.
6/1/2013	7,361.		7,361.
9/1/2013	7,361.		7,361.
12/1/2013	7,361.		7,361.
3/1/2014	7,361.		7,361.
6/1/2014	7,361.		7,361.
9/1/2014	7,361.		7,361.
12/1/2014	7,361.		7,361.
3/1/2015	7,361.		7,361.
6/1/2015	7,361.		7,361.
9/1/2015	7,361.		7,361.
12/1/2015	7,361.		7,361.
3/1/2016	7,361.		7,361.
6/1/2016	7,361.		7,361.
9/1/2016	7,361.		7,361.
12/1/2016	7,361.		7,361.
3/1/2017	7,361.		7,361.
6/1/2017	7,361.		7,361.
9/1/2017	7,361.		7,361.
12/1/2017	7,361.		7,361.
3/1/2018	7,361.		7,361.
6/1/2018	7,361.		7,361.
9/1/2018	7,361.		7,361.
12/1/2018	7,361.		7,361.
3/1/2019	7,361.		7,361.
6/1/2019	7,361.		7,361.
9/1/2019	7,361.		7,361.
12/1/2019	7,361.		7,361.
3/1/2020	7,361.		7,361.
6/1/2020	7,361.		7,361.
9/1/2020	7,361.		7,361.
12/1/2020	7,361.		7,361.
3/1/2021	7,361.		7,361.
6/1/2021	7,361.		7,361.

BOND DEBT SERVICE
City of Elkins
0% Interest Rate
1% Administrative Fee
30 Years

Period Ending	Principal	Interest	Debt Service
9/1/2021	7,361.		7,361.
12/1/2021	7,361.		7,361.
3/1/2022	7,361.		7,361.
6/1/2022	7,361.		7,361.
9/1/2022	7,361.		7,361.
12/1/2022	7,361.		7,361.
3/1/2023	7,361.		7,361.
6/1/2023	7,361.		7,361.
9/1/2023	7,361.		7,361.
12/1/2023	7,361.		7,361.
3/1/2024	7,361.		7,361.
6/1/2024	7,361.		7,361.
9/1/2024	7,361.		7,361.
12/1/2024	7,361.		7,361.
3/1/2025	7,361.		7,361.
6/1/2025	7,361.		7,361.
9/1/2025	7,361.		7,361.
12/1/2025	7,361.		7,361.
3/1/2026	7,361.		7,361.
6/1/2026	7,361.		7,361.
9/1/2026	7,361.		7,361.
12/1/2026	7,361.		7,361.
3/1/2027	7,361.		7,361.
6/1/2027	7,361.		7,361.
9/1/2027	7,361.		7,361.
12/1/2027	7,361.		7,361.
3/1/2028	7,361.		7,361.
6/1/2028	7,361.		7,361.
9/1/2028	7,361.		7,361.
12/1/2028	7,361.		7,361.
3/1/2029	7,361.		7,361.
6/1/2029	7,361.		7,361.
9/1/2029	7,361.		7,361.
12/1/2029	7,361.		7,361.
3/1/2030	7,361.		7,361.
6/1/2030	7,361.		7,361.
9/1/2030	7,360.		7,360.
12/1/2030	7,360.		7,360.
3/1/2031	7,360.		7,360.
6/1/2031	7,360.		7,360.
9/1/2031	7,360.		7,360.
12/1/2031	7,360.		7,360.
3/1/2032	7,360.		7,360.
6/1/2032	7,360.		7,360.
9/1/2032	7,360.		7,360.
12/1/2032	7,360.		7,360.
3/1/2033	7,360.		7,360.
6/1/2033	7,360.		7,360.

BOND DEBT SERVICE
City of Elkins
0% Interest Rate
1% Administrative Fee
30 Years

Period Ending	Principal	Interest	Debt Service
9/1/2033	7,360.		7,360.
12/1/2033	7,360.		7,360.
3/1/2034	7,360.		7,360.
6/1/2034	7,360.		7,360.
9/1/2034	7,360.		7,360.
12/1/2034	7,360.		7,360.
3/1/2035	7,360.		7,360.
6/1/2035	7,360.		7,360.
9/1/2035	7,360.		7,360.
12/1/2035	7,360.		7,360.
3/1/2036	7,360.		7,360.
6/1/2036	7,360.		7,360.
9/1/2036	7,360.		7,360.
12/1/2036	7,360.		7,360.
3/1/2037	7,360.		7,360.
6/1/2037	7,360.		7,360.
9/1/2037	7,360.		7,360.
12/1/2037	7,360.		7,360.
3/1/2038	7,360.		7,360.
6/1/2038	7,360.		7,360.
9/1/2038	7,360.		7,360.
12/1/2038	7,360.		7,360.
3/1/2039	7,360.		7,360.
6/1/2039	7,360.		7,360.
9/1/2039	7,360.		7,360.
12/1/2039	7,360.		7,360.
3/1/2040	7,360.		7,360.
6/1/2040	7,360.		7,360.
9/1/2040	7,361.		7,361.
	883,280.		883,280.

(Form of)

ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF ELKINS
SEWER REVENUE BONDS, SERIES 2009 B
(WEST VIRGINIA SRF PROGRAM/ARRA)

No. BR-1 $883,280

KNOW ALL MEN BY THESE PRESENTS: That on the 18th day of June, 2009, THE CITY OF ELKINS, a municipal corporation and political subdivision of the State of West Virginia in Randolph 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 EIGHT HUNDRED EIGHTY-THREE THOUSAND TWO HUNDRED AND EIGHTY DOLLARS ($883,280), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as Exhibit A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2010, to and including September 1, 2020 as set forth on the "Debt Service Schedule" attached as Exhibit B hereto and incorporated herein by reference. This Bond shall not be subject to the SRF Administrative fee (as defined in the hereinafter describe Bond Legislation).

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement (the "ARRA Assistance Agreement") by and among the Issuer, the Authority and the DEP, dated June 18, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing public sewerage system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on June 4, 2009, and a Supplemental Resolution duly adopted by the Issuer on June 4, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY, WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, TO THE ISSUER'S (I) SUBORDINATE SEWER REVENUE BONDS, SERIES 1986 B (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED APRIL 28, 1986, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $517,001 (THE "SERIES 1986 B BONDS"); (II) SEWER REVENUE BONDS, SERIES 1996 A (WEST VIRGINIA SRF PROGRAM), DATED AUGUST 12, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $300,000 (THE "SERIES 1996 A BONDS"); (III) SEWER REFUNDING REVENUE BOND, SERIES 2004 A, DATED JUNE 18, 2004, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,022,000, (THE "SERIES 2004 A BONDS"); AND (IV) SEWER REVENUE BONDS, SERIES 2006 A (WEST VIRGINIA SRF PROGRAM), DATED DECEMBER 12, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $8,588,400 (THE "SERIES 2006 A BONDS") (COLLECTIVELY, THE "PRIOR BONDS"), AND (V) SEWER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA SRF PROGRAM), DATED JUNE 18, 2009, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $868,030, (THE "SERIES 2009 A BONDS"), ISSUED SIMULTANEOUSLY HEREWITH.

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

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

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

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

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

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

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

[SEAL]

Mayor

ATTEST:

City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

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

Date: June 18, 2009.

The Huntington National Bank
as Registrar

SPECIMEN

Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) $-0-	June 18, 2009	(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

TOTAL $_____

EXHIBIT B

DEBT SERVICE SCHEDULE

BOND DEBT SERVICE

City of Elkins

10 Years

Dated Date	6/18/2009
Delivery Date	6/18/2009

Period Ending	Debt Service	Principal Forgiveness
6/18/2009		
12/1/2010	22,082.	-22,082.
3/1/2011	22,082.	-22,082.
6/1/2011	22,082.	-22,082.
9/1/2011	22,082.	-22,082.
12/1/2011	22,082.	-22,082.
3/1/2012	22,082.	-22,082.
6/1/2012	22,082.	-22,082.
9/1/2012	22,082.	-22,082.
12/1/2012	22,082.	-22,082.
3/1/2013	22,082.	-22,082.
6/1/2013	22,082.	-22,082.
9/1/2013	22,082.	-22,082.
12/1/2013	22,082.	-22,082.
3/1/2014	22,082.	-22,082.
6/1/2014	22,082.	-22,082.
9/1/2014	22,082.	-22,082.
12/1/2014	22,082.	-22,082.
3/1/2015	22,082.	-22,082.
6/1/2015	22,082.	-22,082.
9/1/2015	22,082.	-22,082.
12/1/2015	22,082.	-22,082.
3/1/2016	22,082.	-22,082.
6/1/2016	22,082.	-22,082.
9/1/2016	22,082.	-22,082.
12/1/2016	22,082.	-22,082.
3/1/2017	22,082.	-22,082.
6/1/2017	22,082.	-22,082.
9/1/2017	22,082.	-22,082.
12/1/2017	22,082.	-22,082.
3/1/2018	22,082.	-22,082.
6/1/2018	22,082.	-22,082.
9/1/2018	22,082.	-22,082.
12/1/2018	22,082.	-22,082.
3/1/2019	22,082.	-22,082.
6/1/2019	22,082.	-22,082.
9/1/2019	22,082.	-22,082.
12/1/2019	22,082.	-22,082.
3/1/2020	22,082.	-22,082.
6/1/2020	22,082.	-22,082.
9/1/2020	22,082.	-22,082.
	883,280.	**-883,280.**

(Form of)

ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

STEPTOE & JOHNSON PLLC
ATTORNEYS AT LAW

Chase Tower, Eighth Floor
P.O. Box 1588
Charleston, WV 25326-1588
(304) 353-8000 (304) 353-8180 Fax
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Writer's Contact Information

June 18, 2009

The City of Elkins
Sewer Revenue Bonds, Series 2009 A
(West Virginia SRF Program)

The City of Elkins
Elkins, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Department of Environmental Protection
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel to The City of Elkins (the "Issuer"), a municipal corporation and political subdivision of the State of West Virginia in connection with its $883,280 Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), dated the date hereof (the "Bonds").

We have examined the law and a certified copy of proceedings and other papers relating to the authorization of (i) an ARRA assistance agreement dated June 18, 2009, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), and (ii) the Bonds to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Bonds are issued in the principal amount of $883,280, in the form of one bond, bearing no interest, registered as to principal only to the Authority, with principal payable quarterly on March 1, June 1, September 1, and December 1 of each year, beginning December 1, 2010, to and including September 1, 2040, all as set forth in "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Bonds. The Series 2009 A Bonds are subject to the SRF Administrative Fee equal to 1% of the principal amount of the Series 2009 A Bonds as set forth in the Schedule Y attached to the ARRA Assistance Agreement.

The Bonds are issued for the purposes of (i) paying the Issuer's Series 2008 A Bonds; (ii) paying a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); (iii) funding the Series 2009 A Bonds Reserve Account; and (iv) paying certain issuance and other costs in connection therewith.

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Huntington, WV • Columbus, OH

TERRALEX

We have also examined the applicable provisions of Chapter 16, Article 13 and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (collectively, the "Act"), and the bond ordinance duly enacted by the Issuer on June 4, 2009, as supplemented by the Supplemental Resolution duly adopted by the Issuer on June 4, 2009 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the ARRA Assistance Agreement has been undertaken. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the ARRA Assistance Agreement. All capitalized terms used herein and not defined herein shall have the same meanings set forth in the Bond Legislation.

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

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

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

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

4. The Bond Legislation and all other necessary ordinances and resolutions have been legally and effectively adopted or enacted by the Issuer and constitute valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their terms. The Bond Legislation contains provisions in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

5. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with the Issuer's (i) Subordinate Sewer Revenue Bonds, Series 1986 B (West Virginia Water Development Authority), dated April 28, 1986, issued in the original aggregate principal amount of $517,001 (the "Series 1986 B Bonds"); (ii) Sewer Revenue Bonds, Series 1996 A (West Virginia SRF Program), dated August 12, 1996, issued in the original aggregate principal amount of $300,000 (the "Series 1996 A Bonds"); (iii) Sewer Refunding Revenue Bond, Series 2004 A, dated June 18, 2004, issued in the original aggregate principal amount of $1,022,000, (the "Series 2004 A Bonds"); and (iv) Sewer Revenue Bonds, Series 2006 A (West Virginia SRF Program), dated December 12, 2006, issued in the original aggregate principal amount of $8,588,400 (the "Series 2006 A Bonds") (collectively, the "Prior Bonds"), and Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program), dated June 18, 2009, issued in the original aggregate principal amount of $883,280, (the "Series 2009 B Bonds") issued contemporaneously herewith, all in accordance with the terms of the Bond Legislation.

6. The Bonds are, under the Act, exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

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

8. A portion of the proceeds of the Series 2009 A Bonds has been applied to repay the Issuer's Sewer Revenue Bonds, Series 2008 A, dated May 16, 2008 in the original aggregate principal amount of $600,000 (the "Series 2008 A Bonds"). The Series 2008 A Bonds have been paid within the meaning and with the effect expressed in the Series 2008 A Bonds Ordinance, and the covenants, agreements and other obligations of the Issuer to the holders and owners of the Series 2008 A Bonds have been satisfied and discharged. In rendering the opinion set forth in this paragraph, we have relied upon the certificate of The Huntington National Bank, stating that it has received payment for the entire outstanding principal and interest and that the Series 2008 A Bonds have been paid in full.

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

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

Very truly yours,

STEPTOE & JOHNSON PLLC

06.05.09
255620.00012

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Writer's Contact Information

June 18, 2009

The City of Elkins
Sewer Revenue Bonds, Series 2009 B
(West Virginia SRF Program/ARRA)

The City of Elkins
Elkins, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Department of Environmental Protection
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel to The City of Elkins (the "Issuer"), a municipal corporation and political subdivision of the State of West Virginia in connection with its $883,280 Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), dated the date hereof (the "Bonds").

We have examined the law and a certified copy of proceedings and other papers relating to the authorization of (i) an ARRA assistance agreement dated June 18, 2009, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Department of Environmental Protection (the "DEP"), and (ii) the Bonds to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Bonds are issued in the principal amount of $883,280, in the form of one bond, bearing no interest, registered as to principal only to the Authority, with 100% of the principal being forgiven as set forth in the ARRA Assistance Agreement. The Series 2009 B Bonds are not subject to the SRF Administrative Fee.

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

We have also examined the applicable provisions of Chapter 16, Article 13 and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (collectively, the "Act"), and the bond ordinance duly enacted by the Issuer on June 4, 2009, as supplemented by the Supplemental Resolution

duly adopted by the Issuer on June 4, 2009 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the ARRA Assistance Agreement has been undertaken. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the ARRA Assistance Agreement. All capitalized terms used herein and not defined herein shall have the same meanings set forth in the Bond Legislation.

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

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

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

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

4. The Bond Legislation and all other necessary ordinances and resolutions have been legally and effectively adopted or enacted by the Issuer and constitute valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their terms. The Bond Legislation contains provisions in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

5. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with the Issuer's (i) Subordinate Sewer Revenue Bonds, Series 1986 B (West Virginia Water Development Authority), dated April 28, 1986, issued in the original aggregate principal amount of $517,001 (the "Series 1986 B Bonds"); (ii) Sewer Revenue Bonds, Series 1996 A (West Virginia SRF Program), dated August 12, 1996, issued in the original aggregate principal amount of $300,000 (the "Series 1996 A Bonds"); (iii) Sewer Refunding Revenue Bond, Series 2004 A, dated June 18, 2004, issued in the original aggregate principal amount of $1,022,000, (the "Series 2004 A Bonds"); and (iv) Sewer Revenue Bonds, Series 2006 A (West Virginia SRF Program), dated December 12, 2006, issued in the original aggregate principal amount of $8,588,400 (the "Series 2006 A Bonds") (collectively, the "Prior Bonds"), and Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), dated June 18, 2009, issued in the original aggregate principal amount of $883,280, (the "Series 2009 A Bonds") issued contemporaneously herewith, all in accordance with the terms of the Bond Legislation.

6. The Bonds are, under the Act, exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

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

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

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

Very truly yours,

STEPTOE & JOHNSON PLLC

06.05.09
255620.00012

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June 18, 2009

The City of Elkins
Sewer Revenue Bonds, Series 2009 A
(West Virginia SRF Program) and
Sewer Revenue Bonds, Series 2009 B
(West Virginia SRF Program/ARRA)

The City of Elkins
Elkins, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Department of Environmental Protection
Charleston, West Virginia

Ladies and Gentlemen:

We are counsel to The City of Elkins in Randolph County, West Virginia (the "Issuer"). As such counsel, we have examined copies of the approving opinion of Steptoe & Johnson PLLC, as bond counsel, an ARRA assistance agreement for the Series 2009 Bonds, dated June 18, 2009, including all schedules and exhibits attached thereto, by and among the Issuer and the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP") (the "ARRA Assistance Agreement"), a Bond Ordinance duly enacted by the Issuer on June 4, 2009, as supplemented by a Supplemental Resolution duly adopted by the Issuer on June 4, 2009 (collectively, the "Bond Legislation"), and other documents relating to the above-captioned Bonds of the Issuer (the "Bonds"). All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein.

We are of the opinion that:

1. The Issuer has been duly created and is validly existing as a municipal corporation and political subdivision of the State of West Virginia, and the Mayor, City Clerk and members of the council of the Issuer

have been duly and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act on behalf of the Issuer in their respective capacities.

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

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

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

5. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations necessary for the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges for use of the System, including, without limitation, the receipt of all requisite orders and approvals from the West Virginia Department of Environmental Protection and the Public Service Commission of West Virginia, and has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance prescribing such rates and charges.

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

7. Prior to the execution of construction contracts by the Issuer, we will verify that all successful bidders have made the required provisions for all insurance and payment and performance bonds and we will verify such insurance policies and bonds for accuracy. Prior to the execution of construction contracts by the Issuer, we will review the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, and verify that such surety bonds and policies: (1) are in compliance with the contracts; (2) are adequate in form, substance and amount to protect the various interests of the Issuer; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act, the Bond Legislation and the ARRA Assistance Agreement; and (5) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

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

Very truly yours,

Robert C. Chenoweth

Robert C. Chenoweth

RCC/jmw

LAW OFFICES
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JAMES V. KELSH
OF COUNSEL
kelshlaw@yahoo.com

AREA CODE 304
343-1654

FACSIMILE
343-1657

June 18, 2009

The City of Elkins
Sewer Revenue Bonds, Series 2009 A
(West Virginia SRF Program); and
Sewer Revenue Bonds, Series 2009 B
(West Virginia SRF Program/ARRA)

The City of Elkins
Elkins, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Department of
Environmental Protection
Charleston, West Virginia

Steptoe & Johnson PLLC
Charleston, West Virginia

Ladies and Gentlemen:

I am special counsel to The City of Elkins, a municipality in Randolph County, West Virginia (the "Issuer"). As such counsel, I have represented the Issuer before the Public Service Commission of West Virginia in connection with the issuance of the above-referenced bonds, and the acquisition and construction of the Project. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein.

I am of the opinion that the Issuer has received all orders and approvals from the Public Service Commission of West Virginia, including the Recommended Decision entered May 19, 2009, which became Final Order on May 27, 2009, per Commission Order Waiving the Exception Period, in Case No.09-0051-S-CN, and Affidavit of Certified Public Accountant dated June 11, 2009 among other things, granting to the Issuer a certificate of convenience and necessity for the Project and approving the financing for the Project. The time for appeal of the Order has not expired prior to the date hereof; however, the parties to such Order have stated that they do not intend to appeal such Order.

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

Very truly yours,

Robert R. Rodecker

Robert R. Rodecker

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www.bztlaw.com

June 18, 2009

West Virginia Department of Environmental Protection
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: The City of Elkins
FINAL TITLE OPINION

Ladies & Gentlemen:

This firm represents The City of Elkins (the "City") with regard to a proposed project to construct improvements to the existing downtown stormwater separation system (the "Project"), and provides this final title opinion on behalf of the City to satisfy the requirements of the West Virginia Department of Environmental Protection (the "DEP") with regard to the Clean Water State Revolving Fund financing proposed for the Project. Please be advised of the following:

1. That I am of the opinion that the City is a duly created and existing Municipal Corporation possessed with all the powers and authority granted to Municipal Corporations under the laws of the State of West Virginia and through its sanitary board has the full power and authority to construct, operate and maintain the Project as approved by the Division of Environmental Protection.

2. That the City has obtained approval for all necessary permits and approvals for the construction of the Project.

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

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

5. That all deeds or other documents which have been acquired to date by the City have been duly recorded in the aforesaid Clerk's Office in order to protect the legal title to and interest of the City.

Sincerely,

David E. Thompson

DET/jmw
cc: Samme L. Gee, Esquire

THE CITY OF ELKINS

Sewer Revenue Bonds, Series 2009 A
(West Virginia SRF Program) and
Sewer Revenue Bonds, Series 2009 B
(West Virginia SRF Program/ARRA)

GENERAL CERTIFICATE OF ISSUER AND ATTORNEY ON:

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

We, the undersigned MAYOR and CITY CLERK of The City of Elkins in Randolph County, West Virginia (the "Issuer"), and the undersigned COUNSEL TO THE ISSUER hereby certifies on this 18th day of June, 2009 in connection with the Issuer's Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program) and Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), both dated the date hereof (collectively, the "Series 2009 Bonds" or individually, the "Series 2009 A Bonds" and the "Series 2009 B Bonds," respectively), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning as set forth in the Bond Ordinance of the Issuer duly enacted June 4, 2009, and the Supplemental Resolution duly adopted June 4, 2009 (collectively, the "Bond Legislation").

2. NO LITIGATION: No controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Series 2009 Bonds, the acquisition and construction of the Project, the operation of the System, the receipt of the Gross Revenues or any grants, or in any way contesting or affecting the validity of the Series 2009 Bonds, or any proceedings of the Issuer taken with respect to the issuance or sale of the Series 2009 Bonds, the pledge or application of the Gross Revenues or any other moneys or security provided for the payment of the Series 2009 Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, sale and issuance of the Series 2009 Bonds, the acquisition and construction of the Project, the operation of the System, the pledge or application of moneys and security or the collection of the Net Revenues or the pledge of Net Revenues as security for the Series 2009 Bonds.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable approvals, permits, exemptions, consents, authorizations, registrations and certificates required by law for the acquisition and construction of the Project, the operation of the System and the issuance of the Series 2009 Bonds have been obtained and remain in full force and effect, and competitive bids for the acquisition and construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1 of the West Virginia Code of 1931, as amended, which bids remain in full force and effect.

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

There are outstanding obligations of the Issuer which will rank on a parity with the Series 2009 Bonds as to liens, pledge, source of and security for payment, being the Issuer's (i) Subordinate Sewer Revenue Bonds, Series 1986 B (West Virginia Water Development Authority), dated April 28, 1986, issued in the original aggregate principal amount of $517,001 (the "Series 1986 B Bonds"); (ii) Sewer Revenue Bonds, Series 1996 A (West Virginia SRF Program), dated August 12, 1996, issued in the original aggregate principal amount of $300,000 (the "Series 1996 A Bonds"); (iii) Sewer Refunding Revenue Bond, Series 2004 A, dated June 18, 2004, issued in the original aggregate principal amount of $1,022,000, (the "Series 2004 A Bonds"); and (iv) Sewer Revenue Bonds, Series 2006 A (West Virginia SRF Program), dated December 12, 2006, issued in the original aggregate principal amount of $8,588,400 (the "Series 2006 A Bonds") (collectively, the "Prior Bonds"). The Issuer is current on all Prior Bonds' payments and is in compliance with all covenants and requirements of the Prior Ordinance.

The Series 2009 Bonds shall be issued on a parity with the Prior Bonds, with respect to liens, pledge, source of and security for payment and in all other respects. The Issuer has obtained (i) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met, and (ii) the written consent of certain of the Holders of the Series 1986 B Bonds, Series 1996 A Bonds and Series 2006 A Bonds to the issuance of the Series 2009 A Bonds on a parity with the Prior Bonds. The Series 2004 A Bonds do not require consent. Other than the Prior Bonds, there are no other bonds, notes or other obligations of the Issuer which are secured by revenues or assets of the System.

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

Bond Ordinance

Supplemental Resolution

ARRA Assistance Agreement for Series 2009 Bonds

Public Service Commission Orders

Infrastructure Council Approval

City Charter

Ordinance creating Sanitary Board

Petition of Sanitary Board

Oaths of Office of Officers and Councilmembers

Resolution on Open Governmental Proceedings Rules

Sewer Rate Ordinance

Minutes on Enactment of Sewer Rate Ordinance and Notice of Public Hearing

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

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

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

Prior Bond Ordinance and Supplemental Resolution

Consent of WDA to Issuance of Parity Bonds

Evidence of Insurance

Receipt and Release of Series 2008 A Bonds

6. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "The City of Elkins". The Issuer is a municipal corporation in Randolph County and is presently existing under the laws of, and is a political subdivision of, the State of West Virginia. The governing body of the Issuer is its Council, consisting of a Mayor, City Clerk and ten (10) councilmembers, all duly elected or appointed, as applicable, qualified and acting, and whose names and dates of commencement and termination of current terms of office are as follows:

Name		Date of Commencement of Office	Date of Termination of Office
Irvin D. Talbott, Jr	- Mayor	April 1, 2009	March 31, 2011
Robert N. Beckwith	- Councilmember	April 1, 2009	March 31, 2011
James S. Bibey	- Councilmember	April 1, 2009	March 31, 2011
Carman L. Metheny	- Councilmember	April 1, 2009	March 31, 2011
Hazel K. Burford	- Councilmember	April 1, 2009	March 31, 2011
Robert J. Malcom	- Councilmember	April 1, 2009	March 31, 2011
Robert A. Woolwine	- Councilmember	April 1, 2009	March 31, 2011
Nanci Bross-Fregona	- Councilmember	April 1, 2009	March 31, 2011
Danny Satterfield	- Councilmember	April 1, 2009	March 31, 2011
Marilynn D. Cuonza	- Councilmember	April 1, 2009	March 31, 2011

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

Chairman	-	Irvin D. Talbott, Jr
Member	-	David L. Ice
Member	-	Randall Biller, P.E.

The duly appointed and acting City Clerk of the Issuer is Philip J. Grazianni, Jr.. The duly appointed and acting Counsel to the Issuer is Busch, Zurbuch & Thompson, PLLC, Elkins, West Virginia and the duly appointed Special PSC Counsel is Robert Rodecker, Esquire, Charleston, West Virginia.

7. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the acquisition and construction of the Project and the operation and maintenance of the System have been acquired or will be acquired 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 Series 2009 Bonds.

8. MEETINGS, ETC.: All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the issuance of the

Series 2009 Bonds and the acquisition, construction, operation and financing of the Project or the System were authorized or adopted at regular or special meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes, including, particularly and without limitation, Chapter 6, Article 9A of the West Virginia Code of 1931, as amended, and a quorum of duly elected or appointed, as applicable, qualified and acting members of the Governing Body was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

9. CONTRACTORS' INSURANCE, ETC.: All contractors have been required to maintain Worker's Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Bond Legislation. Prior to the execution of construction contracts by the Issuer, all insurance for the System required by the Bond Legislation will be in full force and effect.

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

The Issuer shall make monthly payments into the Renewal and Replacement Fund as required by Section 4.1 of the ARRA Assistance Agreement for at least the term of the Series 2009 B Bonds.

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

The special conditions of the ARRA Assistance Agreement are attached as EXHIBIT A hereto and incorporated herein by reference.

11. RATES: The Issuer has duly enacted a sewer rate ordinance on November 9, 2006, setting rates and charges of the System. The time for appeal of such Order has expired prior to the date hereof without any appeal and such rates are currently in full force and effect.

12. SIGNATURES AND DELIVERY: On the date hereof, the undersigned Mayor did officially sign all of the Series 2009 Bonds of the aforesaid issue, consisting upon original issuance of a single Bond of each series, dated the date hereof, by his or her manual signature, and the undersigned City Clerk did officially cause the official seal of the Issuer to be affixed upon said Series 2009 Bonds and to be attested by his or her manual signature, and the Registrar did officially authenticate and deliver the Series 2009 Bonds to a representative of the Authority as the original purchaser of the Series 2009

Bonds under the ARRA Assistance Agreement. Said official seal of the Issuer is also impressed above the signatures appearing on this certificate.

13. BOND PROCEEDS: On the date hereof, the Issuer received $666,656 from the Authority and the DEP, being a portion of the principal amount of the Series 2009 A Bonds and $-0- from the Authority and the DEP, being a portion of the principal amount of the Series 2009 B Bonds. The balance of the principal amount of the Series 2009 A Bonds and the Series 2009 B Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

14. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE: Upon adoption of the Bond Ordinance, an abstract thereof, determined by the Governing Body to contain sufficient information as to give notice of the contents thereof, was published once each week for 2 successive weeks, with not less than 6 full days between each publication, the first such publication occurring not less than 10 days before the date stated below for the public hearing, in *The Inter-Mountain*, a qualified newspaper of general circulation in The City of Elkins, no newspaper being 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 Series 2009 Bonds described in such Bond Ordinance, stating that any person interested may appear before the Council at the public hearing held at a public meeting of Council on the 4th day of June, 2009, at 7:00 p.m., at City Hall and present protests, and stating that a certified copy of the Bond Ordinance was on file at the office of the City Clerk of the Issuer for review by interested parties during the office hours of the Issuer. At such hearing all objections and suggestions were heard by the Governing Body and the Bond Ordinance became finally adopted, enacted and effective as of the date of such public hearing, and remains in full force and effect.

15. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received all orders and approvals from the Public Service Commission of West Virginia, including the Recommended Decision entered on May 19, 2009 which became final order on May 27, 2009 per Commission Order Waiving the Exception Period, in Case No. 09-0051-S-CN, among other things, granting to the Issuer a certificate of convenience and necessity for the Project and approving the financing for the Project. The time for appeal of the Order has not expired prior to the date hereof; however, the parties to such Order have stated that they do not intend to appeal such Order.

16. SPECIMEN BONDS: Delivered concurrently herewith are true and accurate specimens of the Series 2009 Bonds.

17. CONFLICT OF INTEREST: No member, officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Series 2009 Bonds, the Bond Legislation and/or the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

18. CLEAN WATER ACT: The Project described in the Bond Ordinance complies with the Clean Water Act.

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

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

WITNESS our signatures and the official seal of THE CITY OF ELKINS on this the day and year first above written.

[CORPORATE SEAL]

SIGNATURE	OFFICIAL TITLE
Duke Talbott	Mayor
Philip J. Grozani	City Clerk
	Counsel to Issuer
	Special PSC Counsel (Paragraph 15)

06.03.09
255620.00012

WITNESS our signatures and the official seal of THE CITY OF ELKINS on this the day and year first above written.

[CORPORATE SEAL]

SIGNATURE	OFFICIAL TITLE
_____	Mayor
_____	City Clerk
Robert C. Chmiel	Counsel to Issuer
_____	Special PSC Counsel (Paragraph 15)

06.03.09
255620.00012

WITNESS our signatures and the official seal of THE CITY OF ELKINS on this the day and year first above written.

[CORPORATE SEAL]

SIGNATURE	OFFICIAL TITLE
_____	Mayor
_____	City Clerk
_____	Counsel to Issuer
Robert R. Rodecker	Special PSC Counsel (Paragraph 15)

06.03.09
255620.00012

CH5121200.1

EXHIBIT A

ARRA Assistance Agreement Special Conditions

THE CITY OF ELKINS

Sewer Revenue Bonds, Series 2009 A
(West Virginia SRF Program); and
Sewer Revenue Bonds, Series 2009 B
(West Virginia SRF Program/ARRA)

CERTIFICATE AS TO USE OF PROCEEDS

The undersigned Mayor of The City of Elkins in Randolph County, West Virginia (the "Issuer"), being the official of the Issuer duly charged with the responsibility for the issuance of $883,280 Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), and $883,280 Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), of the Issuer, dated June 18, 2009 (the "Bonds" or the "Series 2009 Bonds"), hereby certifies on the 18th day of June, 2009, as follows:

1. I am the officer of the Issuer duly charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances and estimates herein certified and duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Bond Ordinance duly enacted by the Issuer on June 4, 2009, as supplemented by Supplemental Resolution duly adopted by the Issuer on June 4, 2009 (the "Bond Ordinance"), authorizing the Bonds.

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

3. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on June 18, 2009, the date on which the Bonds are being physically delivered in exchange for an initial advance of $666,656, being a portion of the principal amount of the Series 2009 A Bonds and $-0-, being a portion of the principal amount of the Series 2009 B Bonds, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

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

5. The Series 2009 A Bonds were sold on June 18, 2009, to the Authority, pursuant to an ARRA assistance agreement dated June 18, 2009, by and among the Issuer, the Authority and the West Virginia Department of Environmental Protection (the "DEP"), for an aggregate purchase price of $883,280 (100% of par), at which time, the Issuer received $666,656 from the Authority and the DEP,

being the first advance of the principal amount of the Series 2009 A Bonds. No accrued interest has been or will be paid on the Series 2009 A Bonds. The balance of the principal amount of the Series 2009 A Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

6. The Series 2009 B Bonds were sold on June 18, 2009, to the Authority, pursuant to an ARRA assistance agreement dated June 18, 2009, by and among the Issuer, the Authority and the DEP, for an aggregate purchase price of $883,280 (100% of par), at which time, the Issuer received $-0- from the Authority and the DEP, being the first advance of the principal amount of the Series 2009 B Bonds. No accrued interest has been or will be paid on the Series 2009 B Bonds. The balance of the principal amount of the Series 2009 B Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

7. The Series 2009 Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying the Issuer's Sewer Revenue Bonds, Series 2008 A; (ii) paying a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing sewerage system of the Issuer (the "Project"); (iii) funding the Series 2009 A Bonds Reserve Account; and (iv) paying certain costs of issuance of the Bonds and related costs.

8. Within 30 days after the delivery of the Bonds, the Issuer shall enter into agreements which require the Issuer to expend at least 5% of the net sale proceeds of the Bonds on the Project, constituting a substantial binding commitment. The acquisition and construction of the Project and the allocation of the net sale proceeds of the Bonds to expenditures of the Project shall commence immediately and shall proceed with due diligence to completion, and with the exception of proceeds deposited in the Series 2009 A Bonds Reserve Account or the Series 2009 B Bonds Reserve Account, if any, all of the proceeds from the sale of the Bonds, together with any investment earnings thereon, will be expended for payment of costs of the Project on or before October 1, 2010. The acquisition and construction of the Project is expected to be completed by April 1, 2010.

9. The total cost of the Project is estimated at $1,736,060. Sources and uses of funds for the Project are as follows:

SOURCES	
Proceeds of the Series 2009 A Bonds	$883,280
Proceeds of the Series 2009 B Bonds	$883,280
Total Sources	$1,766,560
USES	
Payment of Series 2008 A Bonds	$594,325
Costs of Acquisition and Construction of the Project	$1,116,791
Fund Series 2009 A Bonds Reserve	$29,444
Costs of Issuance	$26,000
Total Uses	$1,766,560

10. Pursuant to Article V of the Bond Ordinance, the following special funds or accounts have been created or continued relative to the Series 2009 Bonds:

(1) Revenue Fund;

(2) Series 2009 Bonds Construction Trust Fund;

(3) Series 2009 A Bonds Sinking Fund;

(4) Series 2009 A Bonds Reserve Account;

(5) Series 2009 B Bonds Sinking Fund; and

(6) Series 2009 B Bonds Reserve Account.

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

(1) Proceeds of the Series 2009 A Bonds in the amount of $29,444 will be deposited with the Commission in the Series 2009 A Bonds Reserve Account.

(2) Proceeds of the Series 2009 B Bonds in the amount of $-0- will be deposited with the Commission in the Series 2009 B Bonds Reserve Account.

(3) Proceeds of the Series 2009 A Bonds in the amount of $594,325 will be wired to The Huntington National Bank, Elkins, West Virginia, to pay the entire principal of and interest, if any, on the Series 2008 A Bonds.

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

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

12. Monies held in the Series 2009 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Series 2009 A Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on monies in the Series 2009 A Bonds Sinking Fund and Series 2009 A Bonds Reserve Account, if any, will be withdrawn therefrom and deposited into the Series 2009 Bonds Construction Trust Fund during construction of the Project, and following completion of the Project, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Ordinance.

13. Monies held in the Series 2009 B Bonds Sinking Fund will be used solely to pay principal of and interest on the Series 2009 B Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on monies in the Series 2009 B Bonds Sinking Fund and Series 2009 B Bonds Reserve Account, if any, will be withdrawn therefrom and deposited into the Series 2009 Bonds Construction Trust Fund during construction of the Project, and following completion of the Project, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Ordinance.

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

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

16. With the exception of the amount deposited in the Series 2009 A Bonds Reserve Account, if any, or the Series 2009 B Bonds Reserve Account, if any, all of the proceeds of the Bonds will be expended on the Project within 9 months from the date of issuance thereof.

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

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

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

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

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

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

23. The Bonds are not federally guaranteed.

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

25. The Issuer has either (a) funded the Series 2009 A Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due on the Series 2009 A Bonds in the then current or any succeeding year with the proceeds of the Series 2009 A Bonds, or (b) created the Series 2009 A Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2009 A Bonds Reserve Account holds an amount equal to the maximum amount of principal and interest which will mature and become due on the Series 2009 A Bonds in the then current or any succeeding year. Monies in the Series 2009 A Bonds Reserve Account and the Series 2009 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

26. The Issuer has either (a) funded the Series 2009 B Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due on the Series 2009 B Bonds in the then current or any succeeding year with the proceeds of the Series 2009 B Bonds, or (b) created the Series 2009 B Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2009 B Bonds Reserve Account holds an amount equal to the maximum amount of principal and interest which will mature and become due on the Series 2009 B Bonds in the then current or any succeeding year. Monies in the Series 2009 B Bonds Reserve Account and the Series 2009 B Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

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

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

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

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

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

THE CITY OF ELKINS

By: _____
Its: Mayor

06.02.09
255620.00012

THE CITY OF ELKINS

Sewer Revenue Bonds, Series 2009 A
(West Virginia SRF Program); and
Sewer Revenue Bonds, Series 2009 B
(West Virginia SRF Program/ARRA)

CERTIFICATE OF ENGINEER

I, William Swecker, Registered Professional Engineer, West Virginia License No. 005953, of Swecker Engineering, Elkins, West Virginia, hereby certify this 18th day of June, 2009 as follows:

1. My firm is engineer for the acquisition and construction of certain extensions, additions, betterments and improvements (the "Project") to the sewerage system (the "System") of The City of Elkins (the "Issuer"), to be constructed in Randolph County, West Virginia, which acquisition and construction are being permanently financed in part by the proceeds of the above-captioned bonds (collectively, the "Bonds") of the Issuer. Capitalized terms used herein and not defined herein shall have the same meaning set forth in the Bond Ordinance enacted by the Issuer on June 4, 2009, as supplemented by the Supplemental Resolution of the Issuer adopted June 4, 2009 (collectively, the "Bond Legislation"), the ARRA Assistance Agreement for the Series 2009 Bonds by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), dated June 18, 2009 (the "ARRA Assistance Agreement").

2. The Bonds are being issued (i) to pay the Series 2008 A Bonds; (ii) to pay a portion of the costs of acquisition and construction of the Project; (iii) fund the Series 2009 A Bonds Reserve Account; and (iv) to pay certain costs of issuance and related costs.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the DEP and the Authority and any change orders approved by the Issuer, the Authority, the DEP and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least 32 years, if properly constructed, operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in the Schedule B attached hereto as Exhibit A and Busch, Zurbuch & Thompson, PLLC, counsel to the Issuer, will ascertain that all successful bidders have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds will be verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the DEP and the bid forms provided to the bidders contain the critical operational components of the

Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) in reliance upon the certificate of the Issuer's certified public accountant, Tetrick and Bartlett, of even date herewith, as of the effective date thereof, the rates and charges for the System as enacted by the Issuer will be sufficient to comply with the provisions of the ARRA Assistance Agreement; (x) the net proceeds of the Bonds, together with all other monies on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the DEP; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Final Total Cost of Project, Sources of Funds and Cost of Financing" for the Project.

4. I have received the Buy American Certification from each contractor.

5. The Project will service zero (0) new customers.

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

SWECKER ENGINEERING

(SEAL)

William Swecker, P.E.
West Virginia License No. 005953

06.06.09
255620.00012

SCHEDULE B - Elkins, City

	TOTAL	SRF Base, 0% int, 1% adm, 30 yr	SRF ARRA
A COST OF PROJECT			
1 CONSTRUCTION			
Contract #1	923,242	80,962	842,280
2 TECHNICAL SERVICES			
Basic	15,000	15,000	0
Special/Other Svcs	0	0	0
Resident Inspection	35,000	35,000	0
Design	30,000	30,000	0
3 LEGAL & FISCAL			
Legal	10,000	10,000	0
4 ADMINISTRATIVE			
Administrative	10,000	0	10,000
Huntington Bank Loan	594,324	594,324	0
Interest paid on loan	17,398	17,398	0
Materials	30,000	0	30,000
5 Sites & Other Lands	0	0	0
6 CONTINGENCY (5%)	46,152	46,152	0
7 SUB TOTAL	**1,711,116**	**828,836**	**882,280**
B COST OF FINANCING			
8 Funded Reserve	29,444	29,444	0
9 Registrar fees	1,000	0	1,000
10 Bond Counsel	25,000	25,000	0
11 Capitalized Interest	0	0	0
12 Cost of Financing	55,444	54,444	1,000
13 TOTAL Cost of Project	**1,766,560**	**883,280**	**883,280**
C SOURCES OF FUNDS			
14 State Grants	0	0	0
15 Other sources (local)	0	0	0
16 Total Grants	**0**	**0**	**0**
17 net proceeds from Bond Issuance	**1,766,560**	**883,280**	**883,280**

The City of Elkins

09-03-09
Date

Swecker Engineering

Oct. 15, 2009
Date

Tetrick & Bartlett, PLLC
Certified Public Accountants
Consultants

122 N. Oak St. • PO Box 1916 • Clarksburg, WV 26302-1916 • (304) 624-5564 • Fax: (304) 624-5582 • E-mail: TBCPA@tetrickbartlett.com

June 18, 2009

The City of Elkins
Sewer Revenue Bonds, Series 2009 A
(West Virginia SRF Program) and
Sewer Revenue Bonds, Series 2009 B
(West Virginia SRF Program/ARRA)

The City of Elkins
Elkins, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Department of Environmental Protection
Charleston, West Virginia

Ladies and Gentlemen:

Based upon the rates and charges set forth in the sewer rate ordinance of The City of Elkins (the "Issuer"), enacted November 9, 2006, and projected operation and maintenance expenses and anticipated customer usage as furnished to us by Swecker Engineering, the Consulting Engineer to the Issuer, it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the sewerage system (the "System") of the Issuer, will pay all repair, operation and maintenance expenses of the System and leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on the Issuer's Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program) and Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA) (collectively, the "Bonds"), and all other obligations secured by a lien on or payable from such revenues, including the Issuer's (i) Subordinate Sewer Revenue Bonds, Series 1986 B (West Virginia Water Development Authority), dated April 28, 1986, issued in the original aggregate principal amount of $517,001 (the "Series 1986 B Bonds"); (ii) Sewer Revenue Bonds, Series 1996 A (West Virginia SRF Program), dated August 12, 1996, issued in the original aggregate principal amount of $300,000 (the "Series 1996 A Bonds"); (iii) Sewer Refunding Revenue Bond, Series 2004 A, dated June 18, 2004, issued in the original aggregate principal amount of $1,022,000, (the "Series 2004 A Bonds"); and (iv) Sewer Revenue Bonds, Series 2006 A (West Virginia SRF Program), dated December 12, 2006, issued in the original aggregate principal amount of $8,588,400 (the "Series 2006 A Bonds") (collectively, the "Prior Bonds").

It is further our opinion that the Net Revenues actually derived from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of the Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by the Bonds, are not less than 115% of the largest aggregate amount that will mature and become due in any succeeding fiscal year for the principal of and interest on the Bonds and the Prior Bonds.

Very truly yours,

Tetrick & Bartlett, PLLC

TETRICK AND BARTLETT, PLLC

06.04.09
255620.00012

PART I.

THE CHARTER.

Editor's note.--The city Charter herein set out is Acts 1901, Chapter 151, as amended by the state legislature and by Home Rule Amendment pursuant to law as indicated by the historical citation following affected sections. A frontal analysis has been added for the convenience of the user. Some section catchlines have been altered and some material has been inserted in brackets for the purpose of clarification, no portion of which should be regarded as official. A uniform system of capitalization has been used and numbers have been spelled out rather than set out in arabic numerals. Editor's notes have been added to certain sections where the section is no longer accurate.

The legislature, in its 1969 revision and consolidation of chapters 8 and 8A of the Code of West Virginia into a new chapter 8, recognized, in section 8-1-8, "that when the provisions of existing special legislative charters are compared with and are considered in the light of the provisions of this chapter [i.e., the new chapter 8], there are five basic possibilities as to the relationship between such charter provisions and the provisions of this chapter, namely: (1) As to any particular charter provisions, such charter provisions may be inconsistent or in conflict with the pertinent provisions of this chapter; (2) although relating to the same subject matter and although not inconsistent or in conflict with any provisions of this chapter, certain charter provisions may be sufficiently different from pertinent provisions of this chapter as to indicate, as a matter of practical construction, that either the charter provisions or the provisions of this chapter, but not both, should be applicable; (3) although varying in certain respects, certain charter provisions may be similar to and in essential harmony with corresponding provisions of this chapter; (4) as to any particular charter provisions, there may be no counterpart of such provisions in this chapter; and (5) as to any provisions of this chapter, there may be no counterpart charter provisions."

Section 8-1-8, therefore, sets forth certain rules to be applied, in addition to the usual and ordinary

rules of statutory construction, with respect to construction and applicability of legislative charters, and it is suggested that users of this city Code refer to W. Va. Code, § 8-1-6, in determining the present construction and applicability of any portion of the Elkins Charter to any given situation.

§ 1. Corporate name and powers.
§ 2. Corporate limits.
§ 3. Wards.
§ 4. Elective municipal authorities.
§ 5. Council to exercise corporate powers.
§ 6. Qualification of mayor and councilman.
§ 7. Appointive officers and their qualifications.
§ 8. Election of mayor and other officers.
§ 9. Election of councilmen; vacancies.
§ 10. Qualifications and registration of voters.
§ 11. Elections; mode of voting; law governing.
§ 12. Determination of ties.
§ 13. Determination of contested elections.
§ 14. Vacancies.
§ 15. Council to have power to provide for additional officers and to set forth the power, duties, bonds, compensation, etc., of all officers; certain officers set forth.
§ 16. To whom official bonds made payable and proceedings thereon.
§ 17. Oaths of officers.
§ 18. When officers' duties begin.
§ 19. Procedure when officer-elect is ineligible or fails to qualify.
§ 20. Executive and judicial powers of mayor.
§ 21. City clerk to keep records, etc., and act as mayor in his absence.
§ 22. Quorum.
§ 23. Powers and duties and books required to be kept by city clerk.
§ 24. Minutes of previous meeting to be read; roll call of council.
§ 25. Mayor to vote only in case of a tie.
§ 26. Regular and special meetings and compulsory attendance thereto.
§ 27. City Collector and treasurer to keep all city moneys; how paid out.
§ 28. General corporate powers of council.
§ 28-(a). Authority to erect community building.
§ 29. Mayor's docket and what shall be contained therein; record of cases.
§ 30. Annual estimate of expenses and levy of taxes; statement of receipts and expenditures to be published annually.
§ 31. City assessor--Powers and duties generally.
§ 32. Same--Assessment books.
§ 33. Lien for taxes, fines, etc., and enforcement thereof.
§ 34. Duties, bond, etc., of city collector and treasurer.
§ 35. License ordinances and payment of tax thereon.
§ 36. Provisions of law applicable to licenses and expiration date of certain licenses.

§ 37. Condemnation of real estate for public use.
§ 38. Charter of South Elkins abolished.
§ 39. Ordinances, etc., not inconsistent and bonds, etc., remain in effect.
§ 40. City to take over corporate assets and assume obligations of town of South Elkins.
§ 41. Duties of council as to first election, etc.
§ 42. Former rights, powers, etc., of city undisturbed.
§ 43. Inconsistent ordinances and acts repealed.

Sec. 1. Corporate name and powers.

The inhabitants of so much of the county of Randolph as is within the bounds prescribed by section two of this act [this Charter], and their successors, shall be and remain and they are hereby made a body politic and corporate by the name of "The City of Elkins," and as such shall have perpetual succession and a common seal; and by that name may sue and be sued, plead and be impleaded, purchase, lease and hold real estate, and personal property necessary for the purpose of said corporation. (1901, ch. 151, § 1.)

Sec. 2. Corporate limits.

The corporate limits of said city shall hereafter be as follows: Beginning at the southern abutment of Bridge Number two of the Western Maryland Railway, across the Tygarts Valley River on its Huttonsville branch, being the bridge of said railway, situated about one thousand feet south of the junction of the Belington extension and Huttonsville branch of said railway, and running thence down said Tygarts Valley River on the east bank thereof to a stone the southwest corner of the Davis and Elkins College property; thence with six lines thereof S. 80 E. 478.4 feet to a white oak; N. 47.30 E. 316.8 feet to a stone; N. 48 E. 268.6 feet to a white oak; N. 59 E. 255.5 feet to a stone; N. 21.30 E. 115.5 feet to a stone; N. 68 E. 328 feet to a stone in the west lines of the Beverly and Fairmont Pike; thence with the western line of said pike in a northerly direction 489 feet to a stake; thence N. 62.15 E. 582 feet to a small oak tree; thence N. 38.55 E. 1405 feet to a small oak; thence N. 19.15 E. 957 feet to the Woolwine Run; thence S. 58 E. 1885 feet to a post in the line between Woolwine and Taylor 40 Feet southeast of Judson Goddin's corner; thence N. 17 E. 900 feet to a stone, corner to Wees, Woolwine and Taylor; thence N. 26 W. 2562 feet to the southeastern corner of the reservoir lot on the top of "Wees Hill"; thence with the back line of said reservoir lot to the northern corner thereof; the same being an oak; thence by a straight line to a point where the Buffalo and Leading Creek Pike crosses Cravens Run; thence by a straight line to the nearest corner of Maplewood Cemetery; thence with the line of said cemetery on the northern boundary thereof to the northwestern corner of the new addition to said cemetery; thence by a straight line due west to a stake in the elongation of Isaac Scott's eastern line; thence with said line S. 13.45 W. to a large chestnut, a corner of said Scott's land; thence with another line of said Scott's land S. 24.30 W. 1333.7 feet to the western line of Harrison Avenue; thence with the western line of said avenue S. 77 E. 201.8 feet to a stake; thence S. 25 W. 1024.5 feet to

stake; thence S. 65 E. 166 feet to the western line of Robert E. Lee Avenue; thence with western line of said avenue; S. 25 W. 690 feet to a stake standing N. 65 W. 30 feet from a stone monument; thence S. 14.40 W. 940 feet to the river; thence with a straight line to the beginning. (1901, ch. 151, § 2; 1911, ch. 81; 1918, Munl. Chtr., ch. 16; 1921, Munl. Chtr., ch. 8.)

Editor's note.--The corporate limits description set out in this section is no longer valid as there have been subsequent additions to the city by annexations as provided for by state law. Copies of such annexations are on file in the city clerk's office.

Sec. 3. Wards.

The territory of said city shall be divided into wards as follows:

First ward. Beginning at the beginning point of the corporate boundary, at Bridge Number two, and running thence down the Tygarts Valley River, with the meanders thereof, to the point where said river crosses the western boundary of said city and with said western boundary to the place of beginning.

Second ward. Beginning at the point where the second corporate boundary line crosses the Beverly and Fairmont Pike, near the residence of W. H. Head and running thence with said Beverly and Fairmont Pike to the point where it intersects the Buffalo and Leading Creek Pike; thence with said last mentioned pike to the point where it crosses Cravens Run on the corporate boundary and shall include all the territory lying between said two pikes and the eastern boundary of the city.

Third ward. Beginning at the point where the boundary of the First Ward crosses the West Virginia Central and Pittsburgh Railway, in the Tygarts Valley River, at Bridge Number one, near the intersection of Railroad Avenue and First Street, and running thence down said river with the meanders thereof to the point where the said river crosses the northern boundary of the city, thence with said northern boundary, in a northern direction to the point where said boundary line crosses said railroad, near Maplewood Cemetery, thence with said railroad to the place of beginning.

Fourth ward. Beginning on the West Virginia Central and Pittsburgh Railway at the junction of Railroad Avenue and Second Street and running thence with Second Street to John Street; thence with John Street to Randolph Avenue, thence with Randolph Avenue to the junction of said avenue with Buffalo Street (a point in the boundary of the second ward) and shall include all the territory lying west and south of the streets just named which is not embraced in the First and Second Wards as above bounded.

Fifth ward. Shall include all the territory within the corporate boundary lying north of the fourth ward, between the Second and Third Wards as above bounded.

The number and boundary of the wards of said city may be changed at any time by the council thereof, but the number of wards shall not be reduced below three or increased above seven in number and shall be made as nearly equal in population as practical; provided, however, that no change in number or boundary of said wards shall be made nearer than sixty days before any general or special election to be held in said city; and provided, further, that no such change shall be made until public notice is given for at least thirty days, such notice to be posted at the front door of the mayor's office and at five or more public places in said city at least one of which notices shall be posted in each ward. (1901, ch. 151, § 3.)

Editor's note.--The ward descriptions set out in this section are no longer valid because of annexations to the city. Present ward boundary descriptions are on file in the city clerk's office.

Sec. 4. Elective municipal authorities.

The municipal authorities of said city shall consist of a mayor, to be elected by the voters of the whole city, and two councilmen from each ward, to be elected by the voters of such wards, (ten councilmen as provided by this Charter but the number thereof to be increased or diminished if the number of wards be increased or diminished), who together shall form a common council and who shall receive such compensation as the council shall from time to time determine, and which shall not be increased or diminished during their term of office. (1901, ch. 151, § 4.)

For related provisions of general law, see W. Va. Code, § 8-5-7, subsecs. (a) and (b).

Sec. 5. Council to exercise corporate powers.

All the corporate powers of said corporation shall be exercised by said council or under their authority, except when otherwise provided. (1901, ch. 151, § 5.)

Sec. 6. Qualification of mayor and councilmen.

The mayor and councilmen must severally at the time of their election, be assessed with property, real or personal, or both in the aggregate, of the value of at least two hundred dollars and have paid taxes for the preceding year on property situated within the corporate limits of said city of an assessed value of

at least two hundred dollars, and at the time of their election be entitled to vote in said city for members of the common council thereof. (1901, ch. 151, § 6.)

Editor's note.--The provisions of this section have been declared unconstitutional. State ex rel City of Follansbee, 233 SE2d 419 (1977).

For related provisions of general law, providing, inter alia, that mayors and councilmen of municipalities must be assessed with only $100 worth of property, with exceptions thereto for honorably discharged veterans of the armed forces of the U.S. for two years after discharge, see W. Va. Code, § 8-5-7, subsec. (c).

Sec. 7. Appointive officers and their qualifications.

There shall be a chief of police, city attorney, superintendent of streets, commissioner of waterworks, city assessor, city collector and treasurer, and city clerk, who at the time of their election or appointment shall be entitled to vote for members of the common council. These several offices or any two or more of them may be held by the same person, except that the offices of city clerk and city attorney shall be deemed incompatible with any other city office. These several offices shall be filled by appointment by the common council and to be held by the appointee during the pleasure of the council, and until his successor shall have been appointed and qualified; provided, however, that the common council by ordinance may provide for the election of any of said officers and prescribe their term of office at not less than one, nor more than two years. (1901, ch. 151, § 7.)

Editor's note.--Inasmuch as county assessors now perform the duties heretofore performed by municipal assessors, a city assessor is no longer appointed.

Sec. 8. Election of mayor and other officers.

On the first Tuesday in March, one thousand nine hundred and eleven, and every two years thereafter, on the first Tuesday in March, there shall be elected by the qualified voters of said city, a mayor and such other officers as may be prescribed by ordinance as provided for in the preceding section. The mayor shall hold his office for the term of two years, commencing on the first day of April after his election until his successor shall be elected and qualified.

Sec. 9. Election of councilmen; vacancies.

On the same day mentioned in the preceding section, one member of the common council shall be elected in each ward of the city, who shall reside in

the ward from which they were [he is] elected, and shall hold their [his] office for the term of two years, or until their successors are [his successor is] elected and qualified. On the first Tuesday in March, 1912, one member of the common council shall be elected in each ward of the said city, who shall reside in the ward from which they are [he is] elected, and shall hold their [his] office for the period of three years from the first day of April next succeeding their [his] election, or until their successors are [his successor is] elected and qualified; on the first Tuesday in March, 1913, and on the same day of every second year thereafter, one member of [the common] council shall be elected in each ward, whose term of office shall begin on the first day of April next succeeding his election, and continue for the term of four years, and until his successor is elected and qualified; but if any member of the common council remove from the ward in which he was elected, his office shall thereby become vacant, and the council, shall fill such vacancy by appointment, until the next general election, of some qualified person residing in the ward. Each ward shall constitute an election precinct, and the council of the city, in office at the time of the passage of this act [this Charter], shall establish a voting place in each ward, at which the first election above provided for shall be held, and unless such new places be established, the election shall be held at the several places now established therefor. No voter shall be allowed to vote at any city election, excepting in the ward in which he resides. (1901, ch. 151, § 9; 1911, ch. 81.)

For general law relating to municipal voting precincts and duty of governing bodies to establish them so as to coincide with county precincts, see W. Va. Code, § 3-1-6. As to municipal precinct registration records, see W. Va. Code, § 3-1-27.

Sec. 10. Qualifications and registration of voters.

Editor's note.—The text of this section (being Acts 1901, ch. 151, § 10; 1911, ch. 81; 1915, Muni. Chtr., ch. 16; 1921, Muni. Chtr., ch. 8) is omitted as obsolete in all respects.

For general law as to qualifications and registration of voters, see W. Va. Code, ch. 3, arts. 1 and 2; see also, § 8-5-13.

Sec. 11. Elections; mode of voting; law governing.

The mode of voting shall be by ballot, but the voter shall be left free to vote an open, sealed or secret ballot, as he may elect. The elections in said city shall be held and conducted and the result thereof certified, returned and finally determined under the laws in force in this state, relating to general elections, as they exist at the time any such election is being held, except that the persons conducting said elections shall on the day after the election is held deliver the ballots, tally sheets and poll books to the city clerk, and thereafter

§ 12

the common council of said city shall meet on the sixth day succeeding said election and canvass the returns of said election, and declare the result thereof, and in all respects comply with the requirements of the statutes relating to general elections as they are in force at the time of holding said election. The corporate authorities of said city shall perform all the duties in relation to such election required by general law of county courts [county commissions] and officers in the general election laws of this state, and the provisions of chapter 3 of the Code of West Virginia, in effect at the date of such election, concerning elections by the people, shall govern such elections and be applicable thereto, and the penalties therein prescribed for offenses relating to elections shall be enforced against the offenders at such corporate election; and the said general election laws shall have the same force and effect as if they were specially enacted for corporate elections and were by this act [this Charter] specially reenacted in extenso, except as modified in this amended Charter to the city of Elkins. (1901, ch. 151, § 11; 1911, ch. 81.)

For general law as to applicability of state election laws to municipal elections, see W. Va. Code, § 8-5-6. As to the canvassing of municipal elections, see W. Va. Code, § 8-5-17.

Sec. 12. Determination of ties.

Whenever two or more persons shall receive an equal number of votes for mayor, councilman or other city office, such tie shall be decided by the council in being at the time the election was held. (1901, ch. 151, § 12.)

For general law as to determination of tie votes in municipal elections, see W. Va. Code, § 8-5-15.

Sec. 13. Determination of contested elections.

All contested elections shall be heard and determined by the common council and the contest shall be made and conducted in the same manner as provided for in contests for county and district officers, and the common council by their proceedings in such cases shall comply as nearly as practicable in conformity with like proceedings of the county courts [county commissions] in such cases. (1901, ch. 151, § 13.)

For general law as to determination of contested municipal elections, see W. Va. Code, § 8-5-17.

Sec. 14. Vacancies.

Whenever a vacancy from any cause shall occur in any office the council shall by a majority vote of those present fill such vacancy. (1901, ch. 151, § 14.)

For general law as to filling vacancies in elective municipal offices, see W. Va. Code, § 8-5-10.

Sec. 15. Council to have power to provide for additional officers and to set forth the power, duties, bonds, compensation, etc., of all officers; certain officers set forth.

(a) The council shall also have authority to provide by ordinance for the appointment of such other officers as shall be necessary and proper to carry into full force and authority the power, capacity, jurisdiction and duties of said city which is [are] or shall be vested therein, or in the council, or in the mayor or any other officer or body of officers thereof, and to grant to the officers so appointed the power necessary or proper for the purposes above mentioned. The council by ordinance shall define the duties of all officers so appointed or elected as aforesaid, and allow them reasonable compensation which shall be by monthly or quarterly salaries and not otherwise, except as to the collection of taxes, and fees to the mayor and chief of police in criminal convictions wherein the fees are recovered from the defendant, which compensation shall not be increased or diminished during their term of office; and shall require and take from all of them whose duty it shall be to receive its funds, assets or property, or have charge of the same, such bonds, obligations or other writings as they shall deem necessary or proper to insure the faithful performance of their several duties. All officers whether appointed or elected may be removed from office for malfeasance, nonfeasance or misfeasance by the council; but provided always that any appointed officer who holds his office at the pleasure of the council may be removed from his office at any time without notice.

For 1974 amendment to state constitution providing, in pertinent part, that no "judge of a municipal, police or mayor's court or any officer thereof shall be compensated for his services on a fee base or receive for his own use for his services any pecuniary compensation, reward or benefit other than the salary prescribed therefor," see Const., art. 8, § 11.

(b) Powers, duties, etc., of chief of police. The chief of police shall have all powers, rights and privileges within the corporate limits of said city in regard to the arrests of persons, the collection of claims, the execution and return of process, that can be legally exercised by a constable of a district within this state; and may without having any warrant or other process therefor arrest any person who commits any offense against the laws of this state or infraction of the ordinances of said city, in his presence. He shall be ex officio the keeper of the jail and have charge of the city prisoners confined therein and may confine any persons arrested by him in the city jail until such time as the charges against such person can be inquired into by the mayor. Any person fined by the mayor for infraction of any of the ordinances of the city may pay such fine to either the mayor or chief of police; and the said chief of police and his sureties shall be liable to all fines, penalties and forfeitures that a constable of a district is liable to for any failure or dereliction in his said office to be recovered in the same manner and in the same courts that the said fines, penalties and forfeitures are now recovered against a district constable.

(c) Powers, duties, etc., of collector and treasurer. It shall be the duty of the collector and treasurer to collect city taxes, licenses, levies, assessments, and other such city claims as are placed in his hands for collection by the council, and [he] may distrain and sell therefor in like manner as a sheriff may distrain and sell for state taxes, and he shall in all other respects have the same powers as the sheriff to enforce the payment and collection thereof. (1901, ch. 151, § 15.)

Sec. 16. To whom official bonds made payable and proceedings thereon.

All bonds, obligations or other writings taken in pursuance of any provision of this act, [this Charter], or under the provisions of any ordinance of said city, shall be made payable to "The City of Elkins," and the obligors therein and their heirs, executors, administrators and assigns, bound thereby shall be subject to the same proceedings on such bonds, obligations or writings for enforcing the conditions of the terms thereof, by motion or otherwise before any court of record or justice of the peace having jurisdiction thereof, held or acting in, or for said Randolph county, or any district thereof or elsewhere, that the sheriff or collector of said county and his sureties are or shall be subject to on his bond taken for the enforcement of his duties in the payment of the county levies. (1901, ch. 151, § 16.)

For constitutional provision abolishing office of justices of the peace as of January 1, 1977, see W. Va. Const., art. 8, § 15.

Sec. 17. Oaths of officers.

The mayor and council and all other officers provided for in this act [this Charter] shall each, before entering upon the duties of their office, and within thirty days after their election or appointment, take the oath or affirmation prescribed by law for all officers in this state, and make oath or affirmation that they will truly, faithfully and impartially, to the best of their ability, discharge the duties of their respective offices so long as they continue therein. Said oath or affirmation may be taken before any person authorized to administer oaths under the laws in force at the time the same is taken, or before the mayor or city clerk of said city, but in any event a copy of said oath of said officers shall be filed with the city clerk. (1901, ch. 151, § 17.)

For general law as to oath of office of municipal officers, and requirement for filing certified copy in office of the county clerk, see W. Va. Code, § 8-5-5.

Sec. 18. When officers' duties begin.

The mayor and councilmen, and all other elected officers, shall enter upon the duties of their office on the first day of April next after their election, or as soon thereafter as they have qualified, and all appointed officers shall enter upon the duties of their offices as soon as they have qualified; and all officers shall remain in office until their successors are elected and qualified or until removed therefrom. (1901, ch. 151, § 18.)

Sec. 19. Procedure when officer-elect is ineligible or fails to qualify.

If any person elected to any office shall not be eligible thereto under the provisions of this act [this Charter] or shall fail to qualify as herein required, the council shall declare his said office vacant and proceed to fill the vacancy as required by this act. (1901, ch. 151, § 19.)

Sec. 20. Executive and judicial powers of mayor.

The mayor shall be the chief executive officer of the city, and shall take care that the orders, by-laws, ordinances, acts and resolutions of the council thereof are faithfully executed. He shall be ex officio a justice and conservator of the peace within the city, and shall within the same have, possess and exercise all the powers and perform all the duties vested by law in a justice of the peace, except [that] he shall have no jurisdiction in civil cases or causes of action arising out of the corporate limits of the city unless the defendant resides or is found therein and process therein served upon him. He shall have the same power to issue attachments in a civil suit as a justice of his county has, but in such cases he shall have no power to try the same, but such attachments shall be made returnable and heard before a justice of the peace of his county. Any warrant or other process issued by him may be executed at any place in

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the county. He shall have control of the police of the city and may appoint special police officers whenever he deems it necessary, and may suspend any police officer until the next regular meeting of the council. And it shall be his duty especially to see that the peace and good order of the city are preserved, and that persons and property therein are protected, and to this end he may arrest, or cause the arrest and detention of, all violators of the laws of the state and the ordinances of the city, before issuing his warrant therefor if the offence is committed in his presence. He shall have power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof and in default of such payment he may commit the party in default to the jail of the county of Randolph or other place of imprisonment in such corporation, if there be one, until the fine or penalty and costs shall be paid; but the term of imprisonment in such cases shall not exceed thirty days. And in all cases when a person is sentenced to imprisonment or to the payment of a fine of ten dollars or more (and in no case shall a judgment for a fine be for less than ten dollars if the defendant, his agent or attorney object to a less fine being imposed), such person shall be allowed an appeal from such decision to the circuit court of the county of Randolph upon the execution of an appeal bond with security deemed sufficient by the mayor, in a penalty sufficient to cover said fine and costs before the mayor, and the costs in the circuit court in case said judgment be affirmed, with condition that the person proposing to appeal will perform and satisfy any judgment which may be rendered against him by the circuit court on such appeal. If such appeal be taken the warrant of arrest (if any), a transcript of the judgment, the appeal bond and other papers in the case, shall be forthwith delivered by the mayor to the clerk of said court, and the court shall proceed to try the case as upon indictment or presentment, and render such judgment, including costs, as the law and the evidence may require. The mayor shall from time to time recommend to the council such measures as he may deem needful for the welfare of the city. The expense of maintaining any person committed to the jail of the county by him, except it be to answer an indictment, shall be paid by the city and taxed as costs against the defendant. The mayor before acting shall execute bond with good security in the penalty of not less than one thousand dollars, or in such additional penalty as the council may require, subject to the approval of the council, with the same conditions as required in bonds executed by [a] justice of the peace by chapter 50 of the said Code [of West Virginia]; and all the provisions of said chapters relating to money received by a justice shall apply to like moneys received by the mayor. (1901, ch. 151, § 20.)

For constitutional provisions that mayor's courts in incorporated cities shall have jurisdiction to enforce municipal ordinances, but that on and after January 1, 1977, any other jurisdiction theretofore exercised by such courts shall cease, see W. Va. Const., art. 8, § 11. As to abolition of office of justice of the peace as of January 1, 1977, see W. Va. Const., art. 8, § 15.

Sec. 21. City clerk to keep records, etc., and act as mayor in his absence.

The city clerk shall keep an accurate record of the proceedings of the council, and have charge of and preserve the records of the city, and in case of the absence from the city, or in case of the sickness or inability of the mayor to act, or during any vacancy in the office of mayor, he shall perform such duties of the mayor as pertain to him as chief executive of the city and be vested with all power necessary for the performance of such duties, but shall not be vested with any of the authority of the mayor, pertaining to civil suits. He shall be a conservator of the peace within the city. (1901, ch. 151, § 21.)

For constitutional provision divesting municipal mayor of jurisdiction over civil suits, see W. Va. Const., art. 8, § 11.

Sec. 22. Quorum.

The presence of a majority of the council shall be necessary to make a quorum for the transaction of business. (1901, ch. 151, § 22.)

For general law as to quorum at meetings of municipal governing bodies, see W. Va. Code, § 8-9-1.

Sec. 23. Powers and duties and books required to be kept by city clerk.

The council shall cause to be kept by the clerk in a well bound book to be called the "Minute Book," an accurate record of all its proceedings, ordinances, acts, orders and resolutions, and in another to be called "Ordinance Book," accurate copies of all general ordinances adopted by the council; both of which shall be accurately indexed and open to [the] inspection of anyone required to pay taxes in the city, or who may be otherwise interested therein. All oaths and bonds of officers in the town, and all papers of the council shall be endorsed, filed and securely kept by the clerk. The bond of officers shall be recorded in a well bound book to be called "Record of Bonds." The clerk shall perform such other duties as may by ordinance of the council be prescribed. The transcripts of ordinances, acts, orders and resolutions certified by the clerk under the seal of the city shall be deemed prima facie correct when sought to be used in any court or before any justice. (1901, ch. 151, § 23.)

For constitutional provisions abolishing office of justice of the peace as of January 1, 1977, see W. Va. Const., art. 8, § 15.

For general law as to records and minutes of municipal governing bodies, and duties of clerks and recorders with respect thereto, see W. Va. Code, §§ 8-9-3, 8-10-3.

Sec. 24. Minutes of previous meeting to be read; roll call of council.

At each meeting of the council the proceedings of the last meeting shall be read and corrected if erroneous and signed by the presiding officer for the time being. Upon the call of any member the ayes and noes on any question shall be taken and recorded by the clerk in the minute book. The call of the members for such vote shall be made alphabetically. (1901, ch. 151, § 24.)

For corresponding provisions of general law, see W. Va. Code, § 8-9-3.

Sec. 25. Mayor to vote only in case of a tie.

The mayor shall have no vote upon any proceedings before the council except in the case of a tie. (1901, ch. 151, § 25.)

For general law as to authority of municipal mayor to cast tie-breaking vote "unless he has previously voted," see W. Va. Code, § 8-9-2.

Sec. 26. Regular and special meetings and compulsory attendance thereto.

The regular meeting of the council shall be held at such time and at such places in the city as they shall from time to time ordain and appoint; and it shall be lawful for the council by ordinance to vest in any officer of the city, or in any member or number of members of their own body, the authority to call special meetings and prescribe the modes in which notice of such special meetings shall be given. If a majority of the members of the council do not attend any regular or special meeting, those in attendance shall have authority to compel the attendance of absent members under such reasonable penalties as they may think proper to impose; all questions put to a vote, except such matters as are hereinafter provided for, shall be decided by a majority of the members present. (1901, ch. 151, § 26.)

For general law as to proceedings of municipal governing bodies, see W. Va. Code, §§ 8-9-1 through 8-9-3.

Sec. 27. City collector and treasurer to keep all city moneys; how paid out.

All moneys belonging to the city shall be paid over to the city collector and treasurer; and no money shall be paid out by him except as the same shall have been appropriated by the council and upon an order signed by the mayor and city clerk, and not otherwise, except [that] at the expiration of his term of office upon the order of the council, signed by the mayor and clerk, he shall pay over to his successor all the money remaining in his hands. (1901, ch. 151, § 27.)

Sec. 28. General corporate powers and duties of council.

Editor's note.--The subsection numbers in this section are supplied by the editors to facilitate reference thereto, and are not to be regarded as official. For state law as to general powers of municipalities, see W. Va. Code, § 8-12-1 et seq.

(1) The council of said city shall have the following general powers, and may provide by ordinance and resolution for the exercise and enforcement of the same, namely:

(2) To lay off, open, close, vacate and maintain public grounds, parks and public places, and name and re-name the same.

(3) To regulate the planting, trimming and preservation of shade trees by persons and corporations in streets, alleys, roads, public grounds and places, and to provide for the planting, removal, trimming and preservation of such trees and other ornamental shrubbery by the municipality.

(4) To declare as public nuisances any trees, shrubbery, etc., growing on private property within said city, the roots of which clog or choke any public sewer belonging to said city, or damage the streets or sidewalks of said city, and provide for the removal or destruction of said trees or shrubbery.

(5) To establish, maintain and regulate free public libraries and reading rooms, and to purchase books, papers, maps, and manuscripts therefor, and receive donations and bequests of money or property for the same, in trust or otherwise, and to provide for the rent and compensation for the use of any existing free public libraries established or managed by private corporations or associations organized for that purpose.

(6) To protect divine worship in or about the premises where held.

(7) To locate, lay off, close, open, alter, grade, straighten, widen, narrow, vacate, pave, repave, construct and keep in repair bridges, viaducts, undergrade crossings, roads, streets, alleys, sidewalks, crosswalks, drains and gutters, for the use of the public, or any of the citizens thereof, and to improve and light the same, and keep them clean and free from obstruction on or over them; provided, the municipality shall not be liable for or respond in damages for injury to persons or property caused by or from a defect or obstruction in or on the plat [plot] of ground between the gutter or curb of any street and the paved or plank sidewalk extending there along, or between any such sidewalks and the property lying next adjacent thereto, unless the municipality had actual notice of such defect or obstruction prior to the time of the injury complained of.

(8) To enter into a contract with any internal improvement company for the joint ownership of any bridge erected by the municipality and such improve-

company, upon such terms as may be prescribed in the contract between them, but such bridge or bridges shall be in a public highway, and the interest of the company shall only be such proportionate part thereof as it may pay for, or that [which] may be named in the contract.

(9) To regulate the width of sidewalks and streets, and the width and size of public grounds or grass plots abutting thereon, and to order the sidewalks, footways, crosswalks, drains and gutters to be curbed and paved, or repaved and kept in good order, free and clean, and to provide for the removal of ice and snow therefrom and for sprinkling the same, by the owners or occupants of the real estate next adjacent thereto.

(10) To regulate the use of walks, highways and bridges and the rate of speed or travel thereon, and to prevent and punish for fast driving or riding thereon of any horse, bicycle, wheeled vehicle, wagon, steam or electric or traction engine, motor car or automobile; and to prevent injury to or waste on such streets, alleys, roads or highways from overloaded or improperly loaded vehicles.

(11) To regulate the making of division fences and party walls by the owners of adjoining and adjacent premises and lots, and to regulate or require drainage by the owner of such lots or other real estate by the proper drains, ditches and sewers, and to fill and cause to be filled any lot below the established elevation or grade.

For a case holding that the legislative grant to regulate division fences does not authorize the municipal council to declare a fence a nuisance unless and until it has, by a general ordinance, in fact declared the nature and character of the fences that may property be built and maintained, see Donohoe v. Fredlock, 72 W. Va. 712, 79 SE 738 (1913).

(12) To regulate the erection and use of radio aerials and other radio equipment.

(13) To regulate or prohibit street carnivals, street fairs, or street parades, advertising exhibitions or other exhibitions thereon, or the exhibition of natural or artificial curiosities thereon.

(14) To regulate or prohibit the ringing of bells, blowing of steam whistles, sounding of motor car or automobile horns, or use of hand organs or other musical instruments of any annoying character or other music of itinerant performers in the streets, roads, parks or public places of the municipality; provided, however, that this regulation shall not apply to common carriers in the ordinary discharge of their duties.

(15) To license, regulate or prohibit auctioneering.

(16) To license or prohibit the sale of goods, wares, merchandise, drugs or medicines on the streets or other public places.

(17) To impose a license tax on persons keeping for hire taxis, carriages, hacks, buggies, wagons or for carrying for hire persons or baggage in such vehicles, and to regulate the charge for such services within the corporate limits of said city.

(18) To establish and regulate hack stands and stands for automobiles, coaches, cabs and omnibuses kept on the streets for hire.

(19) To regulate, assess and collect a license fee for the use of the municipality on anything or business for which a state license is required by chapter 32 of the Code, subject to the exemption as provided therein; and excepting herefrom the right to require licenses under subsections (s) and (t) of section 1 of chapter 32 of the Code.

Editor's note.--The statutory citations in subsection (19) are to Barne's Code, Annotated, 1923, which were carried over into the Official Code of West Virginia, 1931, as article 12, chapter 11 thereof. What was § 1 of ch. 32 of Barne's Code has since been repealed; and the whole of article 12, chapter 11 of the Official Code of 1931, relating to state license taxes, was repealed and reenacted so as to provide for state business franchise certificates instead; but see W. Va. Code, § 11-12-4 as to authority of municipalities to impose license taxes pursuant to W. Va. Code, § 8-13-4, up to the amount of the state license tax in effect on January 1, 1970, "with like effect as if this article Part. 12, ch. 11¼ had not been enacted."

(20) To establish, locate and keep in repair market places and market houses, and regulate markets, prescribe the time for holding the same and to authorize the seizure thereat and destruction of any and all such foods and drink products as shall be found unwholesome, dangerous or offensive, and without recourse against the municipality for its [the] cost or value.

(21) To regulate the sale of all food or drink products, milk, fresh meats, fish and vegetables, and provide for inspection of the same.

(22) To appoint market masters and invest them with power to make arrests for the violation of the municipal ordinances or regulations.

(23) To regulate and provide for the weighing of hay, coal and other articles for sale in the markets.

(24) To prevent injury or annoyance to the public or individuals from anything dangerous, offensive or unwholesome, and to prevent and [or] regulate the distribution by canvassers, agents or other persons of sample packages of drugs, medicine, powders, paint, or other articles which may be dangerous or unwholesome for children.

> *For a case holding that, under the grant of power "To prevent injury or annoyance to the public or individuals from anything dangerous, offensive or unwholesome....," the common council may abate only that as a nuisance which is recognized as such per se or branded as such by lawful statute or ordinance, see Donohoe v. Fredlock, 72 W. Va. 712, 79 SE 736 (1913).*

(25) To regulate or prohibit the keeping, handling and transportation of explosives and dangerous combustibles within the municipality.

(26) To regulate or prohibit the erection or maintenance, in what council deems an improper locality within the municipality, of any blacksmith shop, livery stable, cow house, cattle pen, poultry house, pigpen, privy, billboard, signboard, gas or other engine, or the use of walls and walks for signs, and to abate by summary proceedings whatever in the opinion of the council is a nuisance; provided, that nothing in this paragraph shall apply to common carriers in the construction, erection or maintenance of shops, engines, machinery, or structures upon their own property.

> *For a case holding that, under the legislative grant of power to the common council "to abate or cause to be abated anything which in the opinion of a majority of the whole council shall be a nuisance," the council may abate only that as a nuisance which is recognized as such per se or branded as such by lawful statute or ordinance, see Donohoe v. Fredlock, 72 W. Va. 712, 79 SE 736 (1913).*

(27) To regulate or prohibit the distribution of hand-bills, circulars and other advertisements of like kind on the streets, roads, alleys and public places, or in private yards or buildings, without first having procured the consent of the owner or occupier thereof.

(28) To prohibit within the municipality or within one mile of its corporate limits the erection or maintenance of any slaughter house, soap factory, glue factory, lampblack factory, tannery or other house, shop or factory, of like kind or character.

(29) To establish, regulate and maintain baths, bath houses, swimming pools, drinking fountains, water troughs and public toilet stations and free

public band concerts, and to regulate the time and place of bathing in pools, streams and public waters within the police jurisdiction of the municipal corporation.

(30) To prevent hogs, cattle, sheep, horses and other animals and fowls of all kinds from going at large in the municipality and to establish and maintain places for their detention, to make regulations respecting the keeping and sale of same, and to appoint a poundmaster and define his duties.

(31) To arrest, convict and punish any person for keeping an assignation house, house of ill fame, or for leasing or letting to another person any house or other building for the purpose of being used or kept as an assignation house or house of ill fame, or for knowingly permitting any house owned by him or under his control to be used as an assignation house or house of ill fame or loafing, boarding or loitering in an assignation house or house of ill fame, or frequenting the same.

(32) To arrest, convict and punish any person for importing, printing, publishing, selling or distributing any book, picture or device or other thing containing obscene language or pictures, or making indecent representations.

(33) To restrain and punish vagrants, mendicants, beggars, tramps, common prostitutes and their associates, and drunken and disorderly persons within the municipality, and to provide for their arrest and manner of punishment.

(34) To establish a board of health and invest it with the necessary power to attain its object.

(35) To establish quarantine and to erect and maintain pest houses and places of detention, and to make and enforce necessary orders for controlling or preventing the spread of infectious and contagious diseases, and for abating pestilence.

(36) To prohibit and punish by fine any person, firm or corporation knowingly bringing into the corporate limits persons who are paupers, or persons afflicted with contagious diseases, or to punish by fine, or by fine and imprisonment, any persons so bringing within the corporate limits such pauper or diseased person.

(37) To provide for the poor of the municipality, and to that end the municipality may contract with the county court [commission] of Randolph county for keeping such poor at the county poorhouse at a price and on such terms as may be agreed upon between the county court and such municipal authorities.

(38) To authorize the taking up and provide for the safekeeping and education, for such periods of time as may be deemed expedient, of all children who are destitute or are without proper parental or other care and who are growing up in mendicancy, ignorance, idleness or vice.

(39) To arrest, convict and punish any person for cruelty, unnecessarily or needlessly beating, torturing, mutilating, killing or overloading, overdriving or wilfully depriving of necessary sustenance, any horse or other domestic animals.

(40) To restrain fraudulent practices within the municipality.

(41) To arrest, convict and punish any person for gambling or keeping any gaming tables, commonly called faro bank, table and chips used in playing such game; crap table or chips used in playing such game; or roulette or the wheel or chips used in playing such game; or keno table or table of like kind or device used in playing the same; or table of like kind under any denomination, whether the game or games be played with cards, dice or otherwise, or any person who shall be a partner, or concerned in interest in the keeping or exhibiting of such gaming table, faro bank table, or chips, roulette table or chips, crap table or chips, keno table or devices, or keeping or maintaining any gambling house or place, or betting or gambling for money or anything of value, and to destroy such gambling paraphernalia as may be found in use on any such premises.

(42) To restrain all felons and persons guilty of offense against this state or the United States and deliver them over to the authorities or court having jurisdiction of the offense whereof such person is accused.

(43) To apprehend and punish any person, who, without a state license therefor, is guilty of carrying about his person within the municipality any revolver or other pistol, dirk, bowie knife, slingshot, razor, billy, metallic or other false knuckles, or any other dangerous or deadly weapons of like kind and character, as provided by chapter 51 of the acts of the legislature of 1909 [W. Va. Code, § 61-7-1] and the punishment therefor, whether for the first or other offense, shall be that prescribed by said chapter for any such person guilty under the misdemeanor clause provided therein, but the place of confinement of such guilty person may be in the jail or lockup of the municipality, in lieu of the county jail; provided, that the mayor of the municipality or other person exercising the functions of his office, may, in his discretion, decline to inflict the punishment herein mentioned, and instead thereof may require or hold such guilty person to answer an indictment by the grand jury of Randolph county for the violation of such law; and it shall be the duty of the prosecuting attorney of said county, when requested by the mayor of the municipality, to appear and prosecute such offending person before such mayor; provided, further, that regularly appointed police officers of the municipality, whose services are rendered to and paid for by the municipality, shall not be required to give bond, or any bond provided by said chapter 51 of the acts of the legislature of 1909 [W. Va. Code, § 61-7-2].

(44) To provide in or near the corporate limits of the municipality a cemetery or other place for the burial of the dead, and to regulate interments therein, and to guard and police the same, and to provide for the cremation and incineration of dead human bodies when from the nature of the malady or pestilence from which death ensued, the municipal board of health may direct.

(45) To regulate the erection, construction, alteration and repair of dwelling houses, buildings and other structures within the municipality and to compel the numbering of the same by the owners or occupants thereof; provided, that the provisions of this paragraph shall not apply to common carriers in the erection, construction, alteration or repair of structures upon their own property.

(46) To regulate by license and otherwise, plumbers, electricians, sewer tappers and vault cleaners, except when such persons are employed by a common carrier upon its own property.

(47) To regulate the hanging of doors and construction of stairways, elevators and fire escapes in theatres, churches, school buildings, factories and other places where many persons are received at one time, and to require the construction of fire escapes in such buildings.

(48) To establish fire limits, and to regulate the construction of buildings and designate material to be used in the construction of buildings within such limits.

(49) To regulate the building of fire walls, fireplaces, chimneys, boilers, smokestacks and stovepipes.

(50) To take down and remove, or make safe and secure, any and all buildings hereafter erected and require the alteration and repair of any by the owners thereof, that are or may become dangerous, or to require the owners or their agents to take down and remove them or put them in a safe and sound condition at their own expense.

(51) To regulate the height, construction and inspection of all new buildings hereafter erected, and the alteration and repair of any buildings now or hereafter erected in the municipality, and to require permits to be obtained of the municipality for such building and structures, and the repair and alteration thereof, and that plans and specifications thereof be submitted to the council or some person designated by it; provided, that the provisions of this paragraph shall not apply to buildings or structures located upon the property of common carriers.

(52) To regulate the limits within which it shall be lawful to erect any steps, porticos, bay windows, bow windows, show windows, awnings, signs, columns, piers, or other projection or structural ornaments of any kind for the houses or buildings on any street.

(53) To provide for the prevention and extinguishment of fires, and for this purpose to organize, equip and govern fire companies, and to prescribe the powers and duties of such companies and department, and of the several officers thereof, and to impose on those who fail to obey any lawful command of the officers in charge of such company any penalty which the council is authorized to impose for the violation of an ordinance, and to give authority to such fire officer to direct the pulling down of any building or the destruction of any fence, wall, building or other thing if such officer deem it necessary to prevent the spreading of fire.

(54) To protect the persons and property within the corporate limits and to preserve the peace and good order therein, and for this purpose to appoint, when necessary, a police force and such other officers as may be deemed necessary.

(55) To prescribe the powers and define the duties of the officers appointed under corporate authority, fix their term of service and compensation, if not otherwise prescribed in this chapter [Charter], and to require and take from them bonds, when deemed necessary, payable to the State of West Virginia, or the City of Elkins, with such securities and in such penalties as may be prescribed, conditioned for the faithful discharge of their duties.

(56) To erect, authorize and prohibit the erection of power plants, heating plants, gasworks, electric light works or waterworks in the municipality for public service, and to erect, purchase, own or lease and maintain within or without the corporate limits of the municipality such gasworks, electric lights, power works, waterworks and reservoir to supply the municipality or its inhabitants, water, light, heat and power, and to prevent injury to the same or the pollution of the water or to impair the healthfulness thereof and may acquire land for said purposes by purchase, lease or condemnation.

(57) To grant, by ordinance or franchise, for periods not exceeding twenty-five years, the use of its streets, roads, alleys and public places, to lay pipes, conduits, manholes, drains, and other necessary fixtures and appliances, to be used for supplying the municipality and its inhabitants with steam or hot water, or both, for heat and power purposes, or both, or for illuminating purposes, and to grant by ordinance or franchise, for periods of not exceeding twenty-five years, the use of its streets, roads, alleys and public places for the construction of movable or rolling roads for the conveying or moving of passengers, freight and other property, and those in charge of the same, upon such terms and conditions as may be prescribed.

(58) To grant by ordinance or resolution permits for the temporary use of its streets, roads, alleys and public places for the construction of moving or rolling roads for the conveying or moving of passengers, freight, vehicles, animals or other property, upon such conditions as may be prescribed.

(59) To provide a revenue for the municipality and appropriate the same to its expense; and to cause to be assessed and collected in each year an

ad valorem tax, within the limits of the general tax laws of the state, on all property in the municipality subject to state and county taxes, as valued and returned for such taxation by the county assessor.

(60) To levy an annual capitation tax of not more than two dollars upon each male resident of the municipality who has attained the age of twenty-one years, and from which persons afflicted with bodily injury and those having attained the age of fifty years shall be excepted.

Editor's note.--Sec. 2, art. 10 of the constitution of West Virginia, authorizing a capitation tax as provided in subsections (60) and (61), has been repealed.

(61) To provide for the collection of said capitation at the time, and in the manner as the regular capitation tax is collected, which may be done either through the county assessor or by any other person designated by the municipality; but if the county assessor or other person than city assessor, he shall give such bond as may be required by the council before making such collection.

(62) To issue and sell bonds in the manner provided by general laws governing the same, and in addition to other taxes, to levy for the maintenance of a sinking fund where such bonds have been issued and are unpaid, and to control such sinking fund and to make temporary loans thereof, or to make temporary investments thereof, or of any specific fund for the time such fund cannot be advantageously used for the purpose for which it was levied and collected.

(63) To provide for the rent and compensation for the use of any existing free public hospital, established or managed by a private association or corporation organized for that purpose.

(64) To provide for the removal and abatement of nuisances; and to carry out and enforce sanitary regulations.

(65) To compel the attendance at public meetings of the members of the council, or other body exercising their respective functions.

(66) To buy, lease and operate, either within or without the municipality, stone quarries, crushers and land for said purposes, for the purpose of furnishing a supply of stone or other material suitable for macadamizing or paving the streets, sidewalks and alleys and improving public property.

(67) Subject to the approval of the public service commission, the council may regulate the running of steam and electric cars over and across any street or alley, and when deemed proper by the council, it may by resolution require any railroad company or street car company to provide at its own expense a suitable watchman at any crossing of any street or alley during such hours as may be designated by the council or otherwise regulate such crossings in order to protect persons walking or driving over them.

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(68) Whenever in the opinion and judgment of the council of the municipality it is necessary, it shall have power to construct such sewers as in its opinion and judgment are needful to the comfort, health, safety and welfare of the inhabitants of said municipality or of the public, and may construct such sewers at such places within or without the corporate limits, and in such manner as in the opinion and judgment of said council may be proper; but so far as practicable, shall construct such sewers under the streets, alleys or roads of the city; and whenever in the opinion and judgment of said council any street or alley of said city should be paved or repaired with brick, or other suitable substance for paving purposes, or surfaced and repaired with amiesite or other suitable material, the said council may cause the same to be done in such manner as in the opinion and judgment of the council is most suitable for the purpose, and whenever in the opinion and judgment of the council any sidewalks or footwalks of stone, brick, cement or other suitable substances, are necessary, or beneficial, and for the best interest of the inhabitants of said city, the council may order the same to be constructed in such manner and of such material as in the opinion and judgment of the council are most suitable for the purpose, and for the purpose of paying the expenses and cost of any such sewer, paving, sidewalks or footwalks, the said council may levy a special assessment for the cost thereof against the real estate benefited thereby, and which bounds or abuts thereon, and may cause such special assessment with interest thereon after thirty days from the levying of such assessment, at the rate of six per cent per annum, to be collected as city taxes are collected against real estate in said city, as provided in chapter 151 of the acts of 1901 [this Charter], and as provided for the collection of state taxes assessed against real estate in said city; but in the case of any sewer constructed under and along any street, alley or road, or in case of any pavement constructed upon any street or alley, the bounding or abutting real estate on each side of the street or alley shall be held liable to pay one-half of the cost of such sewer and pavement, repavement or surfacing of pavement heretofore laid, and in case of any sidewalks or footwalks, the real estate next adjacent thereto shall be held liable to pay the whole cost of such sidewalks or footwalks; provided, that in case of the construction of any sewer, the amount to be assessed against the abutting property shall be ascertained by taking one-half of the total costs of such sewer, including mains and laterals, on all the streets or alleys or through private property which enters into such mains, and together make one complete sewer line, and from one-half of the total cost and total length of such sewer, the cost per foot shall be ascertained. This sum shall than be multiplied by the number of feet which any lot, part of lot, or other real estate, abuts thereon which is liable to assessment under this act, and the amount so ascertained shall be assessed against the abutting property as hereinbefore provided, but no lot already having sewer ser-

vice and occupied by a dwelling shall be assessed with any portion of the cost of any new sewer unless it is necessary for the owner of such lot to connect with such new sewer.

For a case holding that the language of this subsection to the effect that "no lot already having sewer service shall be assessed with any portion of the cost of any new sewer," does not apply to a property owner who has secured a connection to an unsanitary sewer, which renders necessary the construction by the city of the new sewer, see City of Elkins v. Haggerty, 111 W. Va. 422, 162 SE 313 (1932).

For a case construing similar language in a predecessor of this subsection, that is " * * and for the purpose of paying the expenses and cost of any * * * sidewalks or footwalks, the said council may levy a special assessment for the cost thereof against the real estate benefitted thereby which bounds or abuts thereon. * * * and in case of any sidewalks or footwalks the real estate next adjacent thereto shall be held liable to pay the whole cost of such sidewalks or footwalks," see Lee v. City of Elkins, 99 W. Va. 201, 128 SE 83 (1925).*

For a case construing, in the light of prior state Code provisions (now W. Va. Code, § 11A-2-2), certain language of a predecessor of this subsection which is similar to language hereof, and holding that the city's right to a personal judgment was barred five years after the assessment was laid, see City of Elkins v. Stickley, 114 W. Va. 103, 170 SE 902 (1933).

For a case construing some similar language of a predecessor of this section, and holding that "a legal severance of property is not made by a mere easement over it," and that a sewer laid through an easement over a single lot under single ownership did not create separate lots abutting the sides of such easement, see City of Elkins v. Stickley, supra.

For state law, see W. Va. Code, § 8-18-1 et seq.

(89) The said city council is hereby given full right and authority to require any person or lot owner in said city to connect a sewer leading from his or her house or lot into any public sewer which is located in any public street or alley adjoining the same, and if such house or lot owner fails or refuses so to do after having been given reasonable notice, the said council may enter upon said lot and construct such sewers and may levy the actual cost thereof against the lot upon which the same is built and collect such cost from the owner of such lot in the same manner as city or state taxes are collected.

(70) And, provided, further, that in the case of the grading, regrading, paving, repaving, and surfacing old pavements, the cost of construction, including material and labor, grading, cuts and fills, shall be charged to the bounding and abutting property ratably, according to the extent of the several parcels of real estate adjacent thereto, and assessed and collected from the owners thereof as other assessments and taxes are collected, and the amount of such assessments against the several properties shall be ascertained by the apportionment of the total cost thereof upon any particular street or part of a street or alley so paved or improved, according to the relative frontage of each parcel to the entire extent of such work; and the council may also cause certificates of the several assessments so made, showing the separate parcels of property, the owner, amount of the assessment thereon, with such general description as will identify the property, to be prepared, certified and recorded in the deed of trust record in the office of the clerk of the county court [commission] of Randolph county, and such record shall constitute a lien upon such property in favor of the said city for the amount of such assessment and may be enforced in equity as other liens are enforced. The amount so assessed and for which such certificates are issued shall be payable in ten payments as follows: One-tenth of such amount shall be payable as soon as said assessments are laid; and a like one-tenth, together with interest on the whole remaining unpaid for one year, shall be paid on or before one year thereafter until all of such assessments are paid; providing [provided], that any abutting owner so liable for any portion of the costs of such improvement shall have the right at any time after the same is certified as aforesaid to the treasurer for collection to anticipate the payment of any and all such assessments, and shall be allowed to pay the face of any and all such assessments with interest at six per cent per annum only to the time of such payment.

(71) When such assessments or certificates are perfected, as aforesaid, the council may by resolution entered of record by it, sell, assign or transfer to any person or persons for cash all or any of the assessments or certificates, perfected as herein provided, and apply the proceeds received thereby to the cost of such improvements, providing that the city in transferring such certificates shall not be held as guarantor or in any way liable therefor, except upon the direct action of the council, expressed by resolution of record before sale.

(72) Said certificates shall be exempt from state, county, district and municipal taxes.

(73) When all assessments are paid, the treasurer shall issue a release of such lien which may be recorded in the office of the clerk of the county court [commission].

(74) But in case of grading, paving, or repaving, or otherwise permanently improving any street or alley, before the council shall direct the undertaking of such work, it shall enter an ordinance reciting the necessity thereof and the opinion and judgment of the council favoring such work, and shall cause

survey, profiles and estimates of the cost thereof to be made and filed with the council, and give notice to all parties affected thereby, by publication of notice for two successive weeks in some newspaper of general circulation in the city, describing in a general way the work to be undertaken and appointing a day after the completion of the publication of the said notice, for hearing before the council upon the advisability of undertaking said work, at which time all parties interested therein may appear, either in person or by agent or attorney and shall have access to the said surveys, plans, specifications, etc.; and upon such hearing the council may undertake the said work; provided, the same is favored by three-fifths vote of the members of said council, or may decline to undertake the said work.

(75) In case the council shall determine to undertake said work, it shall be carried on, completed and paid for as hereinbefore provided for; and in which case the certificates or liens acquired on failure of any property owner to pay his assessment and apportionment, such certificates may be issued and sold, or negotiated to the contractor doing the work, or to any other person if the council deems it expedient to do so; provided, the city, in issuing such certificates, shall not be held as guarantor or in any way liable for the payment thereof, except upon a direct action of the council expressed by resolution, of record, before such sale; provided, the city shall pay for street intersections and also engineering, supervision and inspection out of the city treasury.

(76) The council shall have the authority to pass all ordinances not repugnant to the Constitution [and] laws of the United States, and of this state, which shall be necessary or proper to carry into full effect and power, authority and capacity, the jurisdiction which is or shall be granted to or vested in the said city, or in the council, or in any officer or body of officers of said city, and to enforce any or all their ordinances by reasonable fines and penalties, and by imprisoning the offender or offenders, and upon failure to pay any fine or penalty imposed may compel the offender to labor without compensation at and upon any of the public works or improvements undertaken or to be undertaken by said city, or to labor at any work which the said council may lawfully employ [any such offender] upon at such a reasonable rate per diem as the council may fix, until any fine or fines and costs imposed upon any such offender by said city have been fully paid and discharged, after deducting reasonable charges of support while in the custody of the officers of the city; provided, however, that no fine shall be imposed exceeding one hundred dollars and costs, and that no person shall be imprisoned or compelled to labor as aforesaid for more than one hundred days for any one offense. And in all cases where a fine is imposed for an amount exceeding ten dollars and costs, or a person be imprisoned or compelled to labor as aforesaid for a term greater than ten days, an appeal may be taken from such decision upon the same terms and conditions that appeals are taken from the judgment of a justice of this state.

For constitutional provision abolishing office of justice of the peace as of January 1, 1977, see W. Va. Const., art. 8, § 15.

fines and penalties shall be imposed and recovered, and such imprisonment inflicted and enforced by and under the judgment of the mayor of said city; in case of his absence or inability to act, by the clerk of said city, or if he be unable to act, then by any member of the council to be appointed by the council for that purpose; and for his services in trying cases, whether civil, criminal or infractions of the ordinances of the city, the mayor shall be entitled to receive such fees as are paid to justices of the peace for similar services, but in cases of infractions of the ordinances of the city the mayor shall not be paid such fees unless they are collected from the defendant, and in all cases the chief of police shall be entitled to receive such fees as are paid to constables for similar services, except that for cases for the infraction of the ordinances of the city he shall not receive such fees unless collected from the defendant; and provided, further, that the fees for making any arrest shall be one dollar, to be paid to the officer making the arrest, whether such offender be the chief of police or other officer, if collected from the defendant, but not otherwise.

For 1974 Amendment to state Constitution providing, in pertinent part, that no "judge of a municipal police or mayor's court or any officer thereof" be compensated for his services on a fee basis, but only by salary, see W. Va. Const., art. 8, § 11.

An alternative method of making certain improvements.

(77) In addition to the foregoing powers, the council shall have the full right and power to provide by ordinance for establishing an alternative method for grading, paving, repaving and surfacing streets and alleys, within the city of Elkins, and also for laying sewers and sewer mains within and also without the city limits where necessary to afford adequate drainage facilities to promote the health of the city, whereby the full amount of the costs thereof shall be assessed and charged to adjacent and abutting property, either in case of lots or parts of lots, or to property not laid off in lots, within the city as well as lands and property not within the city limits, in cases where it is or may become necessary to afford such adequate drainage, ratably, according to the extent of continuity of such property.

For state law, see W. Va. Code, § 8-18-1 et seq.

(78) But this alternative method shall be adopted and enforced in cases only where a majority of the owners of such adjacent and abutting property petition therefor in writing.

(79) And then in such cases the council shall prepare plans, profiles, specifications and estimates of costs and appoint a time for hearing thereon, not less than twenty days after giving written notice to all parties affected thereby, but where owners of such property are not known or do not reside in the county of Randolph, such notice may be published in a newspaper of general circulation in the county, for two successive weeks before the hearing, at which hearing all persons affected by such proposed improvement may appear in person or by agent or attorney and be heard in favor of, or in opposition thereto.

(80) If the council shall determine to undertake such work they shall advertise for bids therefor according to said plans and specifications for four successive weeks in two newspapers of general circulation, and award the contract, if satisfactory, to the lowest and best bidder. Such contract shall provide for an alternative method of payment, that is to say, those who elect to do so may pay their proper share of the total cost when the work is finished and the final estimates and assessments are made, or give negotiable notes acceptable to the contractor; and as to the shares of those who do not settle as above provided, the council shall charge them to the property and make out proper assessment certificates showing in detail the property, the work, the name of the owner, amount of the payments, divided into ten equal annual payments, and when duly certified such certificates shall be recorded in the deed of trust records of Randolph county and when so recorded shall be and constitute a lien on such property from that date until paid for such share or assessment, together with the interest thereon from the date of the assessment. And the cash so paid shall go to contractor, and the notes and certificates shall be assigned and transferred to him by the mayor when authorized by order of council and such notes and certificates may be enforced by said contractor or his assignees in any court having jurisdiction thereof. And when payment in full or in part is made, proper releases shall be executed and recorded in the record of the release of liens.

(81) The council shall provide at public expense all engineering, plans, specifications and inspection, and reserve the right of supervision and inspection of all work and material, in progress, as well as final approval of all such work, and the council shall likewise pay the full cost of paving all street and alley intersections.

(82) No part of the proceeds or funds arising from any such improvement shall be applied to any other purpose, but all such proceeds and funds shall be used and applied to the identical job and improvement from which the same arose.

(83) All assessment certificates of deferred payments that may be issued hereunder shall be exempt from taxation.

(84) In contracting such improvements, the council may agree with the contractor to accept the method of payment provided for herein, that is to say, that such contractor, upon completion of the work, shall receive the cash payments, negotiable notes, if any, and the certificates and liens, to be assigned and delivered to him, in full payment and discharge of his claims against the city for such improvement. And upon acceptance and receipt thereof, the city shall not be liable as assignor or otherwise for any part of such contract or work.

For state law, see W. Va. Code, § 8-18-1 et seq.

(85) All acts and parts of acts inconsistent herewith are hereby repealed. (1901, ch. 151, § 28; 1905, ch. 6; 1911, ch. 81; 1915, (Muni. Chtr.), ch. 16; 1917, ch. 115; 1921, (Muni. Chtr.), ch. 8; 1927, (Muni. Chtr.), ch. 3.)

Sec. 28-(a). Authority to erect community building.

The council of the City of Elkins shall have power to erect a community municipal building or buildings for such purposes as shall be designated by the council. The council shall have power to borrow a sum or sums not exceeding in the aggregate one hundred thousand dollars from the reconstruction finance corporation or other source to be used to pay the cost of construction and of the land upon which the building shall be erected, and may execute a note or liens upon such land and building to secure payment of such loan or loans and may do any and all other things required by the reconstruction finance corporation or necessary and proper to obtain such loan or loans, to secure payment thereof and to build and maintain the building. The council shall make provision for the payment of such loan or loans from the income of the building but in no event shall it incur any indebtedness or issue any evidence of obligation imposing any liability upon the city or its taxpayers with respect thereto or impose any tax or assessment to provide for the payment of such loan or loans. (1933, 1st Ex. Sess., ch. 67.)

Sec. 29. Mayor's docket and what shall be contained therein; record of cases.

A well bound book, indexed, to be denominated the "Mayor's Docket," shall be kept in the office of the mayor in which shall be noted each case brought before or tried by him together with the proceedings therein, including a statement of the complaint, the warrant or summons, the return, the fact of appearance or nonappearance, the defence, the hearing, the judgment, the costs, and, in case the judgment be one of conviction, the action taken to enforce the same. The record of each case shall be signed by the mayor and the original papers thereof, if no appeal be taken, shall be kept together and preserved in his office. (1901, ch. 151, § 29.)

Sec. 30. Annual estimate of expenses and levy of taxes; statement of receipts and expenditures to be published annually.

The council shall cause to be made up annually and spread upon its minute book an accurate estimate of all sums which are or may become chargeable against the city and which ought to be paid within one year; and it shall order a levy at a meeting held by it in either the month of June or July of each year, of so much as will in its judgment be necessary to pay the same, such levy shall be upon all real and personal property therein subject to a state tax, and shall designate the same as the "general tax," and may include a poll tax of not exceeding two dollars each year upon each able-bodied man therein who is above the age of twenty-one years and not over fifty years of age; which poll tax shall be used exclusively upon the opening, improving and maintaining the roads, streets and alleys of the city, and shall designate the same as the "street tax"; provided, that such levy for the general tax shall not exceed one dollar on every one hundred dollars of assessed value of the property upon which the same is levied; and the said council may also impose such license tax upon dogs and

other animals as they may deem proper and collect the same from the owners of such animals as other taxes are collected and prescribe such rules, regulations and penalties governing the payment of such tax on animals as they may deem reasonable. At least once in each year the council shall cause to be made up and published in one or more of the newspapers published in the city an accurate statement of the revenue received from all sources and of all the expenditures upon all the different accounts for the preceding year. (1901, ch. 151, § 30.)

Editor's note.--W. Va. Const., art. 10, § 2, which authorized a capitation (poll) tax has been repealed; and art. 10, § 1 has been amended so as to limit the aggregate of taxes for any one year on personal property used for agricultural purposes and upon money and securities 50¢ per $100 of valuation; on realty occupied by its owner for a residence to $1 per $100 of valuation; and to $2 per $100 of valuation on all other realty within a municipality. In addition to these constitutional provisions, the general laws of the state have been amended since enactment of this section in 1901 so as to render it almost wholly obsolete.

For general law as to annual financial estimate and tax levies by municipalities, see W. Va. Code, §§ 11-8-9, 11-9-14. As to dog taxes, see W. Va. Code, § 19-20-2.

Sec. 31. City assessor--Powers and duties generally.

Editor's note.--The text of this section is omitted as obsolete. The city no longer has an assessor, as his functions have been taken over completely by the county assessor; see W. Va. Code, ch. 11, arts. 2 through 6. As to payment by county sheriff to municipal treasury of municipal taxes collected by him, see W. Va. Code, § 11A-1-15.

Sec. 32. Same--Assessment books.

Editor's note.--The text of this section is omitted for the reasons stated in the note under § 31 of this Charter.

Sec. 33. Lien for taxes, fines, etc., and enforcement thereof.

There shall be a lien on real estate within said city for city taxes assessed thereon, and for all fines and penalties assessed to or imposed upon the owners thereof, by the authorities of such city, including expenses for making side-

walks and streets and paving the same, and constructing sewers, and for furnishing water, electric lights or other public utility when furnished by said city, from the time the same are so assessed or imposed, which shall have priority over all other liens except taxes or dues due the United States and the lien for taxes due the state, county or district; and such lien may be enforced by the council in the same manner provided by law for the enforcement of a lien for county taxes, and any time after six months after such lien attaches the city may in its own corporate name proceed to the enforcement of said lien against the real estate chargeable therewith by a suit in equity. If any real estate within said city be returned delinquent for the non-payment of city taxes due thereon, a copy of such delinquent list shall be certified by the council to the auditor of this state and the same may be sold for city taxes, interest and commissions thereon in the same manner, at the same time, and by the same officers as real estate is sold for state taxes; and a return of such sales made to and a deed executed therefor, if not redeemed, in the same manner and with like effect, as the return of sales of real estate sold for state taxes are made and deeds therefor executed to purchasers. (1901, ch. 151, § 33; 1911, ch. 81.)

Editor's note.--The last sentence of this section is now obsolete; see W. Va. Code, § 11A-3-1 et seq.

Sec. 34. Duties, bond, etc., of city collector and treasurer.

It shall be the duty of the city collector and treasurer, when the extended copies of the assessor's books are completed, to receive a copy thereof, receipting to the council for the same, and it shall be his duty to collect from the parties the entire amount of the taxes with which they are severally charged therein, and may proceed to collect the same at any time after the first day of August, and may enforce payment thereof by levy upon the personal property and sale thereof, of the person so charged with taxes at any time after the first of October next after said taxes are assessed; said taxes shall be a lien upon the property upon which they are assessed from and after the time the assessor's books are completed, verified and returned to the city council, and shall write the word "paid" opposite the name of each person who pays the taxes assessed against him and shall also give to the person paying such taxes a receipt therefor; provided, however, that said assessor [collector] and treasurer may distrain at any time for any taxes assessed against a person who is about to remove or who has removed from said city after such taxes are assessed, and the books returned as aforesaid. He shall also receive such other moneys of the city as he is authorized by this act [Charter] to receive, and also all moneys ordered by the council to be paid to him, giving receipt therefor to the parties paying the same, and shall keep an accurate, itemized account of all moneys received by him; and his books shall at all times be open for the inspection of the mayor, council, city clerk, and to any taxpayer of the city. He shall pay out the money in his hands only upon the order of the council upon orders signed by the mayor and city clerk and keep an itemized statement of the money so paid out by him. He shall on or before the last meeting of the council in each year just before the expiration of the term of office of the mayor, and at such other times as the

council may require, present to the council a full and complete statement of all the moneys with which he is chargeable or that have been received by him and not previously accounted for, and shall at the same time, in like manner, furnish a complete statement, by separate items of all disbursements made by him during such period, with his vouchers evidencing the same. He shall receive all taxes upon licenses and receipt to the party paying the same by endorsement upon the permit granted by order of the council, or mayor as the case may be.

Editor's note.--The provisions of this subsection as to assessment of property for taxes and the collection of taxes are now obsolete, inasmuch as the county assessor and the sheriff perform the duties herein imposed upon the city collector and treasurer; see W. Va. Code, § 8-13-1, ch. 11, art. 1, and ch. 11A.

He shall receive upon all moneys coming into his hands and paid out by him as his compensation for receiving and disbursing the same such sum as may be fixed by the council, not to exceed five per cent thereof. He shall upon the expiration of his term of office turn over to the council all books and other property in his possession belonging to the city, except the money in his hands, which he shall turn over to his successor upon the order of the council as hereinbefore provided; and shall, before entering upon the duties of his office, execute a bond with good security payable to said city, in a penalty of not less than double the estimated amount of money that is liable to come into his hands each year during his term of office, conditioned that he will faithfully discharge the duties of his office and account for and pay over as required by law and the orders, ordinances, rules and regulations of the council of said city, all money which shall come into his hands, which bond shall be subject to the approval of the council. He shall be chargeable with all the city taxes, levies and assessments and money of the city which shall come into his hands and shall account therefor. (1901, ch. 151, § 34.)

Editor's note.--The city collector and treasurer no longer receives any percentage of city money collected by him.

Sec. 35. License ordinances and payment of tax thereon.

The council shall prescribe by ordinance the time and manner in which licenses of all kinds shall be applied for and granted, and shall require the payment of the tax thereon to the city collector and treasurer before the delivery thereof to the person applying therefor. (1901, ch. 151, § 35.)

Sec. 36. Provisions of law applicable to licenses and expiration date of certain licenses.

The provisions of the section 29 of chapter 32 of the Code of West Virginia shall be deemed applicable to licenses of a similar character to those therein

mentioned when granted by or under authority of the council of said city; licenses for the keeping of dogs, or other animals, shall also expire on the thirtieth day of April next after they are granted. (1901, ch. 151, § 36.)

Editor's note.--Chapter 32 of the state Code as of 1901 related to state licenses, and the subject matter thereof, as in effect at the time of adoption of the Official Code of West Virginia, 1931, was carried over into that Code as article 12 of Chapter 11, which article has since been repealed, and replaced by a new article 12 which related to state business franchise registration certificates. See, however, W. Va. Code, § 11-12-4 as to authority of municipalities to impose license taxes pursuant to W. Va. Code, § 8-13-4, up to the amount of state license tax in effect on January 1, 1970, "with like effect as if this article (art. 12, ch. 11) had not been enacted."

The provisions of this section as to dog taxes are completely obsolete, see W. Va. Code, § 15-20-2.

Sec. 37. Condemnation of real estate for public use.

The council shall have a right to institute and prosecute proceedings in the name of the city for condemnation of real estate for streets, alleys, roads, drains, sewers, market grounds, city prison, water works, electric light plant or other works, or purpose of public utility. Such proceedings shall conform to the provisions of chapter 42, [eminent domain] of the Code of West Virginia, and the expenses thereof shall be borne by the city, except in cases where it is proper under said chapter to charge such expenses or any part thereof against the defendant. (1901, ch. 151, § 37.)

For general law as to eminent domain, see W. Va. Code, ch. 54.

Sec. 38. Charter of South Elkins abolished.

The Charter of the Town of South Elkins is hereby abolished. (1901, ch. 151, § 38.)

Sec. 39. Ordinances, etc., not inconsistent and bonds, etc., remain in effect.

All the ordinances, by-laws, resolutions and rules of the city of Elkins in force on the day preceding the passage of this act [Charter], which are not inconsistent therewith, shall be and remain in full force over the whole of the territory embraced in the boundary of said city as established by this act, and the officers in office in the city of Elkins at the time this act takes effect shall

remain in office until their successors are elected, or appointed, and qualified under the provisions of this act; and after this act takes effect, shall have jurisdiction over the whole of the territory embraced in the boundary specified in this act; but nothing in this act shall be construed or held to in any way affect or impair any of the bonds or obligations of said city of Elkins issued or contracted prior to the passage of this act; on the contrary, all such bonds and obligations shall be and remain in full force and effect just as though this act had not been passed, except that the whole of the taxable property of persons residing within the corporate limits of said city as created by this act shall be subject to taxation to pay and discharge such bonds and obligations. (1901, ch. 151, § 39.)

Sec. 40. City to take over corporate assets and assume obligations of town of South Elkins.

The corporate authorities of the town of South Elkins shall, before July first, 1901, turn over to the corporate authorities of the city of Elkins all corporate assets, including money, taxes, license fees payable, and all other corporate property, to the council of the city of Elkins to be disposed of by it as corporate property now owned by said city of Elkins is disposed of; and if said town of South Elkins at the time this act [Charter] takes effect has any outstanding contracts or obligations proper for it to contract, including licenses granted, the said city of Elkins shall assume the same and carry the same into execution in manner, form and effect as contracted by said town of South Elkins. (1901, ch. 151, § 40.)

Sec. 41. Duties of council as to first election, etc.

The council in being in the city of Elkins at the time this act [Charter] shall take effect shall provide places for voting in the several wards in said city and appoint commissioners residing in each ward to hold and conduct the first election hereinbefore provided to be held, and shall pass all proper ordinances and orders to give this act full force and effect. (1901, ch. 151, § 41.)

Sec. 42. Former rights, powers, etc., of city undisturbed.

The said city shall succeed to all the rights, powers and responsibilities of the City of Elkins as they exist the day preceding the day on which this act [Charter] takes effect, and shall enjoy such rights, exercise such power and discharge such responsibilities in the same manner as the same should have been enjoyed, exercised or discharged if this act had not been passed. (1901, ch. 151, § 42.)

For a case holding that this section preserves to the city all of the rights, powers and responsibilities which it had prior to enactment of this Charter, (such rights, etc., being contained in the then W. Va. Code, ch. 47); and that by virtue of the lan-

guage of § 28 of that ch. 47 (now set out in W. Va. Code 1931, as amended, § 8-12-5, subsec. (15)), the city council is empowered to "make regulations guarding against danger or damage by fire," see Harvey v. City of Elkins, 65 W. Va. 305, 64 SE 247 (submitted 1907, decided 1909).

Sec. 43. Inconsistant ordinances and acts repealed.

All ordinances of the City of Elkins as they exist at the time of the passage of this act [Charter] which are inconsistent therewith are hereby abrogated, and all acts and parts of acts inconsistent with any of the provisions of this act are hereby repealed. (1901, ch. 151, § 43.)

Editor's note.--The Elkins Charter act was approved by the governor February 18, 1901, in effect ninety days from passage.

(f) The city shall make such reports, in such form and containing such information, as the state agency may, from time to time, require, and shall comply with such provisions as the state agency or as the federal agency, mentioned in subdivision (3) of subsection (a) of section 5-7-5 of the Code of West Virginia, may, from time to time, find necessary to ensure the correctness and veracity of such reports.

(g) The city agrees to pay into the contribution fund, as defined by section 5-7-6 of the Code of West Virginia, such amounts as are required to be paid by subsections (c) and (d) of section 5-7-5 of the Code of West Virginia.

(h) The "state agency" is authorized to terminate this plan in its entirety, if it finds that there has been a failure to comply substantially with any provisions contained in this plan or any provisions of article 1, chapter 5 of the Code of West Virginia, and necessary federal laws and regulations, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the state agency and consistent with applicable federal law. (11-29-60; 4-16-53.)

Sec. 2-6. City to be participating public employer; state employees' retirement system adopted.

The common council, having elected on July 1, 1961, by vote of three fifths of its members, to have the city become a participating public employer and thereby include its eligible officers and employees in the membership of the state employees' retirement system, hereby declares that the city shall continue to be a participating public employer and shall conform to all applicable provisions of sections 5-10-1 through 5-10-51 of the Code of West Virginia.

For state law as to municipalities becoming participating public employers within state public employees retirement system, see W. Va. Code, §§ 5-10-16, 8-22-1.

As to firemen's pension and relief fund, see §§ 8-22 to 8-25 of this Code. As to police pension and relief fund, see §§ 14-5 to 14-11.

Article II. The Common Council.

For charter provisions as to municipal authorities, their salaries, and composition of the common council, see Char., § 4. As to the qualifications of mayor and councilmen, see Char., § 6. As to election and term of mayor, see Char., § 8. As to election and term of councilmen, and filling vacancy in office of councilman, see Char., § 9. As to disqualification of councilmen, see Char., § 9. As to removal of elective and appointive officers

for malfeasance, etc., see Char., § 15. As to oath of officers, see Char., §§ 17, 23. As to when term of office begins, see Char., § 18. As to result of failure to qualify for office, see Char., § 19. As to duty of mayor to make recommendations to the council, see Char., § 20. As to exercise by the council of city's corporate powers, see Char., § 5. As to powers and duties of common council generally, see Char., §§ 15, 28, 35 and 37.

For state law as to composition of municipal governing bodies and the qualifications and election of mayor, councilmen and recorder, see W. Va. Code, § 8-5-7. As to oath of office, see W. Va. Code, § 8-5-8. As to terms of office, see W. Va. Code, § 8-5-9. As to filling vacancies in office, see W. Va. Code, § 8-5-10. As to compensation of officers, see W. Va. Code, § 8-5-12. As to powers and duties of council with respect to ordinances, see W. Va. Code, § 8-11-1 et seq. As to general and specific duties, etc., of common council, see W. Va. Code, § 8-12-1 et seq.

Sec. 2-7. Clerk of the council; records generally.

The city clerk shall be ex officio clerk of the common council and shall keep all records of the council, as required by the city Charter and general laws of the state, as well as by this Code and other ordinances, resolutions and orders of the common council; and he shall, in general, perform for the council such duties as are normally performed by recording and corresponding secretaries. (Code 19.2, ch. 8, § 3.)

For charter provisions that record of proceedings, ordinances, resolutions, etc., be properly kept and indexed, and open to inspection by persons interested, see Char., § 23. As to duty of city clerk to keep records of the common council, see Char., §§ 23, 27. As to requirement that, at each meeting of the council, the minutes of the last meeting be read, corrected and authenticated, see Char., § 24.

For state law as to records required to be kept by municipal governing bodies; and requirement for reading, correcting and authenticating minutes of meetings, see W. Va. Code, § 8-9-3. As to duty of municipal recorders (clerks) to keep the records of governing bodies, see W. Va. Code, § 8-10-3.

special meetings; and authority of members present to compel the attendance of absent members under reasonable penalties, see Char., § 26. As to the quorum, see Char., § 22. As to city clerk being acting mayor during absence or disability of mayor or when office of mayor is vacant, see Char., § 21.

For state law as to who presides at meetings of municipal governing bodies and what constitutes a quorum, see W. Va. Code, § 8-9-1. As to requirements for open meetings of governing bodies, with exceptions, see W. Va. Code, ch. 6, art. 9A.

Sec. 2-9. Rules.

(a) The common council may, by resolution, adopt such rules as may be deemed desirable for the conduct of its meetings, the transaction of its business and the official conduct of its members, and may include therein reasonable penalties for the violation thereof; but no such rule shall be inconsistent with the state law, the Charter or this Code. Such rules may include, among other subjects, the following:

(1) The appointment, jurisdiction and duties of standing and special committees of the council.

(2) Attendance at meetings of the council by members and by others.

For charter provisions as to authority of common council to compel attendance of its members at meetings, see Char., §§ 26, 28, subsec. (65).

(3) Investigations and hearings, the compulsory attendance thereat of witnesses and the production of books and papers thereat as evidence.

For state law as to authority of common council to investigate and inquire into all matters of concern to the city and its inhabitants, see W. Va. Code, § 8-12-5, subsec. (48). As to power of common council to compel attendance of witnesses and production of books and papers, see W. Va. Code, § 8-12-3, subsec. (c).

(4) Parliamentary procedure.

(5) The preservation of order at meetings.

(d) Order of recognition. If two or more persons desire to address the common council at the same time, the presiding officer shall recognize the person who first addressed the chair, and the other person shall at once be seated. (Code 1942, ch. 4, § 1, rules 25, 33 through 35.)

Sec. 2-12. Voting.

(a) Method. All votes taken in the common council, except for the election of city officers, shall be by yeas and nays; but, upon the demand of the mayor, any member made before such vote is taken, the roll shall be called and a record made by the city clerk of the vote of every member voting.

(b) Roll calls. All roll calls made for a vote in the common council shall be made alphabetically, and every member shall vote when his name is called, unless personally interested in the matter being voted upon or excused from voting by the council.

(c) Councilmen to elect city officers by ballot. The city officers who are appointed by the common council shall be elected by ballot, and no person shall be declared elected unless he receives a majority of the votes cast. (Code 1942, ch. 4, § 1, rules 14, 15, 32.)

For charter provision as to mayor voting in council only to break a tie, see Char., § 25. As to requirement for majority vote unless otherwise provided, see Char., § 26. As to recording of ayes and noes upon call of any member, see Char., § 24.

For state law prohibiting member of municipal governing body from voting on any subject on which he may be interested other than as a citizen, see W. Va. Code, § 8-9-1. As to requirement that yeas and nays be recorded upon call of any member, see W. Va. Code, § 8-9-3.

Sec. 2-13. Ordinance procedures—Generally.

(a) It shall not be necessary, except where otherwise provided by state law or by this Code, for the common council to publish in a newspaper any proposed ordinance prior to the adoption thereof or any enacted ordinance subsequent to the adoption thereof; and any and all ordinances shall be adopted in accordance with the following requirements, except where different or additional requirements are specified in other provisions of state law or this Code; in which event, such other different or additional requirements shall be applicable:

(1) A proposed ordinance shall be read by title at not fewer than two meetings of the common council, with at least one week intervening

public health, safety or morals, and by affirmative vote of two thirds of the members elected to the common council.

(2) When otherwise provided by state law.

The nature of any such emergency enactment shall be set out in full in the ordinance. (Code 1942, ch. 4, § 1, rules (22), (23).

For state law as to ordinances and ordinance procedures, see W. Va. Code, § 8-11-1 et seq. For state law basis of this section, see W. Va. Code, § 8-11-4.
As to effect of repeal or expiration of ordinance, see § 1-8 of this Code.

Sec. 2-14. Same--Attestation; record of ordinances.

Each ordinance, upon its final passage, shall be signed by the presiding officer of the common council and attested to by the city clerk, who shall then number it consecutively in relation to other ordinances, and record it in the record of ordinances.

Sec. 2-15. Same--Ordinances to repeal, amend or add to provisions of this Code, and records thereof.

(a) Each bill which proposes an ordinance to repeal, amend or add to any portion of this Code, and each bill which proposes an ordinance of a general and permanent nature, suitable for inclusion in this Code though constituting new subject matter not therein contained, shall be so drafted as to specify the specific section numbers, subsections, etc., of this Code which are to be repealed or amended and, with respect to additions and to new subject matter, as to provide appropriate chapter, article, section, etc., numbers therefor; and each amendment of and addition to this Code shall be set out in full, and appropriate chapter and article headings and section catchlines shall be included.

(b) Upon the adoption of an ordinance to repeal, amend or add to any portion of this Code or to include new subject matter in this Code, the city clerk shall separate the several chapters, articles, sections, etc., of such ordinance and enter them in their proper places in each file copy of this Code, and shall remove therefrom any portion so repealed or amended and, in the margin of each insertion in the file copies of this Code, he shall note and initial the date of passage, effective date and number of the amending or repealing ordinance.

(c) Items removed from the file copies of this Code, pursuant to subsection (b) of this section, shall be maintained by the city clerk in a separate, loose-leaf volume, arranged properly according to their respective chapters, articles, sections, etc., and each item so removed from the file copies of this

Duke Talbott, Mayor (03-31-11)
14 Graceland Hills
(304) 636-5889 (H)

Philip J. Graziani, Jr., City Clerk (12-31-10)
120 Robert E. Lee Avenue
(304) 637-8603 (H)

Linda L. Crosston, City Treasurer (09-30-09)
211 Central Street
(304) 636-1747 (H)

CITY COUNCIL MEMBERS

Ward

1 **Robert N. Beckwith** (03-31-13)
136 Vector Drive
(304) 636-6440 (H)
(304) 636-9170 (W)

2 **Hazel K. Burford** (03-31-11)
109 Southview Drive
(304) 636-4956 (H)

3 **Robert J. Malcolm** (03-31-11)
300 Wayne Avenue
(304) 636-4498 (H)

4 **Marilynn D. Cuonzo** (03-31-11)
160 Guy Street
(304) 636-5900 (H)

5 **James S. Bibey** (03-31-13)
210 Center Street
637-3713 (H)
338-4783 (W)

Robert A. Woolwine (03-31-11)
114 Riverview Drive
(304) 636-6609 (H)

Thomas Z. Hensil (03-31-13)
605 W. Main Street
(304) 636-4931 (H)

Carman L. Metheny (03-31-13)
100½ Hanley Street
(304) 636-0103 (H)

Nanci E. Bross-Fregonara (03-31-13)
210 Boundary Avenue
(304) 637-4710 (H)

Danny G. Satterfield (03-31-11)
114 Kerens Avenue
614-9965 (M)

OATH OF OFFICE

State of West Virginia }
County of Randolph }
City of Elkins }

I, **DUKE TALBOTT**, do solemnly swear that I will support the Constitution of the United States and the Constitution of this State and that I will truly, faithfully and impartially, to the best of my ability, discharge the duties of **MAYOR** of the City of Elkins, West Virginia so long as I may continue therein. So help me God.

Duke Talbott

DUKE TALBOTT

Subscribed and sworn to before me this 31st day of March 2009.

Robert E. Maxwell

Robert E. Maxwell
United States District Judge

OATH OF OFFICE

State of West Virginia }
County of Randolph }
City of Elkins }

To: **Philip J. Graziani, Jr.**

It is hereby certified that on December 18, 2008 Elkins Common Council adopted Resolution No. 147, appointing you Elkins City Clerk for a term of two years to expire December 31, 2010.

Angela L. Broschart, Deputy Clerk

I, **PHILIP J. GRAZIANI, JR.**, do solemnly swear that I will support the Constitution of the United States and the Constitution of this State, that I will faithfully and impartially, to the best of my ability, discharge the duties of **CLERK** of the City of Elkins, West Virginia so long as I may continue therein. So help me God.

Philip J. Graziani, Jr.

Subscribed and sworn to before me this 31st day of December 2008.

Angela L. Broschart, Deputy Clerk

401 Davis Avenue, Elkins, West Virginia 26241 Telephone: (304) 636-1414 - Fax: (304) 635-7973

OATH OF OFFICE

State of West Virginia }
County of Randolph }
City of Elkins }

To: **Linda L. Crosston**

It is hereby certified that on September 20, 2007 Elkins Common Council adopted Resolution 093, appointing you Elkins City Treasurer for a two-year term commencing October 1, 2007.

Philip J. Graziani, Jr., City Clerk

I, **LINDA L. CROSSTON**, do solemnly swear that I will support the Constitution of the United States and the Constitution of this State, that I will faithfully and impartially, to the best of my ability, discharge the duties of **TREASURER** of the City of Elkins, West Virginia so long as I may continue therein. So help me God.

Linda L. Crosston

Subscribed and sworn to before me.

Philip J. Graziani, City Clerk

401 Davis Avenue, Elkins, West Virginia 26241 Telephone: (304) 636-1414 - Fax: (304) 635-7973

OATH OF OFFICE

State of West Virginia }
County of Randolph }
City of Elkins }

I, **ROBERT N. BECKWITH**, do solemnly swear that I will support the Constitution of the United States and the Constitution of this State and that I will truly, faithfully and impartially, to the best of my ability, discharge the duties of **FIRST WARD COUNCILMAN** of the City of Elkins, West Virginia so long as I may continue therein. So help me God.

ROBERT N. BECKWITH

Subscribed and sworn to before me this 31st day of March 2009.

Philip J. Graziani, City Clerk

OATH OF OFFICE

State of West Virginia }
County of Randolph }
City of Elkins }

I, **ROBERT ARDEN WOOLWINE**, do solemnly swear that I will support the Constitution of the United States and the Constitution of this State and that I will truly, faithfully and impartially, to the best of my ability, discharge the duties of **FIRST WARD COUNCILMAN** of the City of Elkins, West Virginia so long as I may continue therein. So help me God.

ROBERT A. WOOLWINE

Subscribed and sworn to before me this 28th day of March 2007.

Philip J. Graziani, Jr., City Clerk

OATH OF OFFICE

State of West Virginia }
County of Randolph }
City of Elkins }

I, **THOMAS Z. HENSIL**, do solemnly swear that I will support the Constitution of the United States and the Constitution of this State and that I will truly, faithfully and impartially, to the best of my ability, discharge the duties of **SECOND WARD COUNCILMAN** of the City of Elkins, West Virginia so long as I may continue therein. So help me God.

Thomas Z. Hensil
THOMAS Z. HENSIL

Subscribed and sworn to before me this 31st day of March 2009.

Robert E. Maxwell
Robert E. Maxwell
United States District Judge

OATH OF OFFICE

State of West Virginia }
County of Randolph }
City of Elkins }

I, **HAZEL KUMP BURFORD**, do solemnly swear that I will support the Constitution of the United States and the Constitution of this State and that I will truly, faithfully and impartially, to the best of my ability, discharge the duties of **SECOND WARD COUNCILWOMAN** of the City of Elkins, West Virginia so long as I may continue therein. So help me God.

Hazel K. Burford
HAZEL K. BURFORD

Subscribed and sworn to before me this 28th day of March 2007.

Philip J. Graziani
Philip J. Graziani, Jr., City Clerk

OATH OF OFFICE

State of West Virginia }
County of Randolph }
City of Elkins }

I, **ROBERT JENNINGS MALCOLM**, do solemnly swear that I will support the Constitution of the United States and the Constitution of this State and that I will truly, faithfully and impartially, to the best of my ability, discharge the duties of **THIRD WARD COUNCILMAN** of the City of Elkins, West Virginia so long as I may continue therein. So help me God.

ROBERT J. MALCOLM

Subscribed and sworn to before me this 28th day of March 2007.

Philip J. Graziani, Jr., City Clerk

401 Davis Avenue, Elkins, West Virginia 26241 Telephone: (304) 636-1414 - Fax: (304) 636-7866

OATH OF OFFICE

State of West Virginia }
County of Randolph }
City of Elkins }

I, **CARMAN L. METHENY**, do solemnly swear that I will support the Constitution of the United States and the Constitution of this State and that I will truly, faithfully and impartially, to the best of my ability, discharge the duties of **THIRD WARD COUNCILMAN** of the City of Elkins, West Virginia so long as I may continue therein. So help me God.

Carman L. Metheny
CARMAN L. METHENY

Subscribed and sworn to before me this 31st day of March 2009.

Robert E. Maxwell
Robert E. Maxwell
United States District Judge

OATH OF OFFICE

State of West Virginia }
County of Randolph }
City of Elkins }

I, **NANCI E. BROSS-FREGONARA**, do solemnly swear that I will support the Constitution of the United States and the Constitution of this State and that I will truly, faithfully and impartially, to the best of my ability, discharge the duties of **FOURTH WARD COUNCILWOMAN** of the City of Elkins, West Virginia so long as I may continue therein. So help me God.

Nanci E. Bross-Fregonara
NANCI E. BROSS-FREGONARA

Subscribed and sworn to before me this 31st day of March 2009.

Robert E. Maxwell
Robert E. Maxwell
United States District Judge

OATH OF OFFICE

State of West Virginia }
County of Randolph }
City of Elkins }

I, **MARILYNN D. CUONZO,** do solemnly swear that I will support the Constitution of the United States and the Constitution of this State and that I will truly, faithfully and impartially, to the best of my ability, discharge the duties of **FOURTH WARD COUNCILWOMAN** of the City of Elkins, West Virginia so long as I may continue therein. So help me God.

Marilynn D. Cuonzo
MARILYNN D. CUONZO

Subscribed and sworn to before me this 11th day of May 2009.

Duke Talbott
Duke Talbott, Mayor

OATH OF OFFICE

State of West Virginia }
County of Randolph }
City of Elkins }

I, **JAMES S. BIBEY**, do solemnly swear that I will support the Constitution of the United States and the Constitution of this State and that I will truly, faithfully and impartially, to the best of my ability, discharge the duties of **FIFTH WARD COUNCILMAN** of the City of Elkins, West Virginia so long as I may continue therein. So help me God.

James S. Bibey
JAMES S. BIBEY

Subscribed and sworn to before me this 31st day of March 2009.

Philip J. Graziani
Philip J. Graziani, City Clerk

OATH OF OFFICE

State of West Virginia }
County of Randolph }
City of Elkins }

I, **DANNY G. SATTERFIELD**, do solemnly swear that I will support the Constitution of the United States and the Constitution of this State and that I will truly, faithfully and impartially, to the best of my ability, discharge the duties of **FIFTH WARD COUNCILMAN** of the City of Elkins, West Virginia so long as I may continue therein. So help me God.

DANNY G. SATTERFIELD

Subscribed and sworn to before me this 31st day of March 2009.

Robert E. Maxwell
United States District Judge

ORDINANCE NUMBER 057

AN ORDINANCE TO AMEND AND REENACT THE RATES, RULES AND REGULATIONS FOR FURNISHING SEWAGE AND SEWAGE DISPOSAL SERVICE AT ELKINS AND VICINITY, RANDOLPH COUNTY, WEST VIRGINIA BY INCREASING THE RATES CHARGED THEREFORE IN SCHEDULE NOS. 1, 2, 3 AND 4 OF THE SCHEDULE OF RATES

WHEREAS, Chapter 24, Article 2, Section 4 (b) of the West Virginia Code, effective July 1, 1981, as amended, gives to municipally operated public utilities the approval authority to set their own rates and charges, and;

WHEREAS, on February 6, 2006, the Common Council of the City of Elkins adopted an Ordinance increasing it rates for furnishing sewage and sewage disposal service in two phases in order to provide sufficient revenues to amortize the cost of capital improvements to its sewer system mandated by regulators and to provide working capital to pay the expenses of operations; and

WHEREAS, upon the filing of protests to the increased rates adopted February 6, 2006, the Public Service Commission established a proceeding for review of the City's increased sewer rates; and,

WHEREAS, the Public Service Commission of West Virginia, by a Final Order dated July 11, 2006, in Case No. 06-0209-S-MA, approved a two-step increase in the City's sewer rates based upon the Commission Staff's recommended revenue requirements and rate design; and

WHEREAS, step one of the Public Service Commission-approved sewer rates became effective July 21, 2006; and

WHEREAS, step two of the Public Service Commission-approved rates, designed to cover the increased debt service and operation and maintenance expenses associated with the City's sewer improvement construction project, and are not to become effective until issuance of a certificate of substantial completion of the improvement project; and

WHEREAS, bids received on the City's sewer improvement construction project are higher than those initially anticipated, resulting in an increase in the project cost; and

WHEREAS, in order to meet the increased cost of the sewer improvement project resulting from the higher bids, the Common Council of the City of Elkins deems it necessary to increase the rates and charges for the furnishing of services to treat and dispose of sewerage, said rates to become effective upon issuance of a certificate of substantial completion of the improvement project.

THEREFORE, THE COMMON COUNCIL OF THE CITY OF ELKINS, WEST VIRGINIA HEREBY ORDAINS:

The following rates, fees and charges for sewer service provided by it to customers throughout its territory served, are hereby fixed and determined as rates, fees and charges to be charged in lieu of those step two rates, fees and charges previously approved by the Public Service Commission of West Virginia in Case No. 06-0209-S-MA to become effective upon completion of the sewer improvement project.

THE FOLLOWING RATES ARE TO BECOME EFFECTIVE AFTER ISSUANCE OF CERTIFICATE OF SUBSTANTIAL COMPLETION OF SEWER IMPROVEMENT PROJECT
APPROVED IN PSC CASE NO. 06-0079-S-CN

SECTION ONE – RATES, RULES AND REGULATIONS

SCHEDULE NUMBER 1

APPLICABILITY

Applicable to entire territory served.

AVAILABILITY OF SERVICE

Available for domestic, commercial, and industrial sewer service

RATES

First 750,000 gallons used per quarter - $7.07 per 1,000 gallons.
Over 750,000 gallons used per quarter - $2.81 per 1,000 gallons.

MINIMUM CHARGE

No bill shall be rendered for less than $42.42 per quarter based upon 6,000 gallons treated.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, within twenty (20) days of the date of bill, ten percent (10%) will be added to the net current

amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

MONTHLY OR BI-MONTHLY PAYMENT BILLINGS

The above rates and charges may be adjusted to a monthly or bi-monthly basis, providing the adjustment results in no lower charges.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or up to a maximum of $25.00 will be imposed upon any customer whose check for payment is returned by the bank due to insufficient funds.

TAP FEE

The following charges are to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of $400.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

LEAK ADJUSTMENT

$0.46 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

SCHEDULE NUMBER 2

APPLICABILITY

Applicable to Teaberry Hills Subdivision.

AVAILABILITY OF SERVICE

Available for domestic service in un-metered housing projects or subdivisions.

FLAT RATE (Customers with non-metered water supply)

No bill shall be rendered for less than $95.45 per quarter.

DELAYED PAYMENT PENALTY

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

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or up to a maximum of $25.00 will be imposed upon any customer whose check for payment is returned by the bank due to insufficient funds.

TAP FEE

The following charges are to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of $400.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

LEAK ADJUSTMENT

$0.46 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

SCHEDULE NUMBER 3

APPLICABILITY

Applicable within and without the corporate limits of the City of Elkins.

AVAILABILITY OF SERVICE

Available to Midland Public Service District.

METERED RATES - (Based on metered water sold)

$2.386 per M gallons

APPLICABILITY

Applicable within and without the corporate limits of the City of Elkins.

AVAILABILITY OF SERVICE

Available to City of Elkins for Treatment of Backwash.

METERED RATES - (Based on metered water sold)

$1.682 per M gallons.

SCHEDULE NUMBER 3A
INDUSTRIAL WASTE

APPLICABILITY

Applicable within and without the corporate limits of City of Elkins.

AVAILABILITY OF SERVICE

Applicable where sewer customer obtains water wholly or partly from a source other than the Municipal Water Works of the City of Elkins.

Sewer user shall make application in writing, showing type of waste to be delivered to the sanitary sewer system of the City of Elkins, and shall not deliver said waste until written permission has been given by the Sanitary Board of the City of Elkins.

Sewer user shall provide, at the end of each calendar quarter, to the Sanitary Board of the City of Elkins, an officially signed notification showing the approximate quantity in gallons of waste delivered to the sanitary sewer system of the City of Elkins. Upon receipt of such notification billing shall be made applying the rates in Schedule Number 1.

SCHEDULE NUMBER 4

APPLICABILITY

Applicable outside the corporate limits of the City of Elkins.

AVAILABILITY OF SERVICE

Available to Leadsville Public Service.

METERED RATES (Based on metered water sold)

$2.689 per M gallons

SECTION TWO – EFFECTIVE DATE

The Rates and Charges provided herein shall be effective after the issuance of a certificate of substantial completion of the sewer upgrade project approved by the Public Service Commission in Case No. 06-0079-S-CN, unless permitted to be placed into effect at an earlier date by Order of the Public Service Commission of West Virginia.

SECTION THREE – SEPARABILITY; REPEAL OF CONFLICTING ORDINANCES

The provisions of this Ordinance are separable, and if any clause, provision or section hereof be held void or unenforceable by any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. Upon the effective date of the fees, rates and charges as herein set forth, all ordinance, resolutions, orders or part thereof in conflict with the provisions of this Ordinance are, to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, orders or parts thereof, the same shall remain in full force and effect.

SECTION FOUR – STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the City Clerk shall publish Notice of this Ordinance in *The Inter-Mountain*, being a newspaper published and of general circulation in Randolph County, West Virginia, as a Class II publication. The first publication shall be made at least ten (10) days prior to the date set for the public hearing on the ordinance and the second publication at least five (5) days before the meeting of the City Council at which a final reading and vote on the ordinance will be held. Said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council on the **19th** day of **October, 2006**, at **7:00 p.m.** and present protests, if any. At such hearing all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper on the premises.

Further, said Notice shall advise the public that a copy of this ordinance is available for public inspection.

Passed on First Reading October 3, 2006.

Passed on Second Reading October 19, 2006.

Passed on Third and Final Reading Following a Public Hearing on November 9, 2006.

CITY OF ELKINS, WEST VIRGINIA

Judith A. Guye

Judith A. Guye, Mayor

Attest:

Philip J. Grazziani

Philip J. Grazziani, City Clerk

Elkins City Council met in special session in the council chamber of city hall at 7:00 p.m. Thursday, October 3, 2006. Present were: Mayor Judith Ann Guye; Councilpersons: R. N. Beckwith, J. S. Bibey, V. T. Broughton, T. P. Ditty, H. R. Elbon, T. Z. Hensil, R. J. Malcolm, C. L. Metheny, K. L. Wilmoth and R. A. Woolwine; City Clerk P. J. Graziani, Jr., City Treasurer L. L. Crosston, City Attorney R. T. Busch, Police Captain J. E. Batdorf and Fire Chief T. W. Meader.

AGENDA ADJUSTMENTS

There were none.

PUBLIC COMMENT

Making reference to his September 21 comments concerning operations of the railroad depot building welcome center, Ed Griesel said his ownership of stock in the excursion railroad company was irrelevant to his involvement in the welcome center. Since the welcome center is not affiliated with the excursion railroad, there was no conflict of interest.

Dave Rao, 909_ S. Henry Avenue, made reference to an appearance he made at a September 21 executive session of city council. Subsequent to that appearance, the city attorney informed him by letter that a complaint he previously filed had been forwarded to the WV State Police for investigation. He intimated that one or more city officials were guilty of failure to perform official duties, as required by WV Code. Lastly, he said he was entitled to equal protection under the law.

CONSENT CALENDAR

Cm Woolwine, seconded by Cm Beckwith, MOVED THAT COUNCIL ACCEPT THE MINUTES OF THE REGULAR MEETING OF SEPTEMBER 7, 2006 AS PRESENTED. The motion carried.

UNFINISHED BUSINESS

There was none.

NEW BUSINESS

Cm Elbon, seconded by Cm Hensil, MOVED PROPOSED ORDINANCE 057, AMENDING AND REENACTING PHASE TWO OF THE PUBLIC SERVICE COMMISSION-APPROVED RATES FOR FURNISHING SEWAGE AND SEWAGE DISPOSAL SERVICE AT ELKINS AND VICINITY, BE BROUGHT FORTH, READ BY TITLE ONLY, AND PASSED ON FIRST READING. A roll call being requested, the clerk read the roll:

Beckwith - No Hensil - Yes
Bibey - Yes Malcolm - Yes
Broughton - No Metheny - Yes
Ditty - Yes Wilmoth - Yes
Elbon - Yes Woolwine - Yes

The motion carried. [Phase Two rates could be implemented in early 2008, upon certification of substantial completion of the project to upgrade the capacity of the wastewater treatment plant. The low contractor bid opened September 13 exceeded the engineers' estimate of cost by approximately $1.5 million. Proposed Ordinance 057 increases Phase Two rates in an amount sufficient to amortize the additional indebtedness, an increase of approximately a 5.8% increase.]

Cm Beckwith, seconded by Cm Bibey, MOVED THAT COUNCIL APPOINT RANDALL BILLER TO THE ELKINS SANITARY BOARD FOR A THREE-YEAR TERM TO EXPIRE DECEMBER 31, 2008. The motion carried.

Cm Hensil, seconded by Cm Malcolm, MOVED THAT COUNCIL APPOINT DAVID L. ICE TO THE ELKINS SANITARY BOARD FOR A THREE-YEAR TERM TO EXPIRE DECEMBER 31, 2007. The motion carried.

Cw Wilmoth, seconded by Cm Bibey, MOVED COUNCIL APPROVE EMPLOYEE TRAVEL, AS REFLECTED ON THE AGENDA. The motion carried.

Cm Ditty, seconded by Cw Wilmoth, MOVED COUNCIL AUTHORIZE THE MAYOR TO EXECUTE DOCUMENTS NECESSARY TO ACCEPT A ZEEWEED 1000 MEMBRANE TECHNOLOGY PILOT-SCALE DEMONSTRATION PROPOSAL. The motion carried. [The Zeeweed unit will be the third microfiltration system evaluated.]

COMMITTEE REPORTS

BUILDING

Building Permit Application 3079 was previously disapproved, because the construction proposed would have violated setback provisions of zoning law. However, upon appeal to the board of zoning appeal, a variance was granted.

Cm Malcolm, seconded by Cm Hensil, MOVED COUNCIL GRANT BUILDING PERMIT APPLICATION 3079, SINCE THE BOARD OF ZONING APPEALS GRANTED A VARIANCE. The motion carried.

The Committee received 10 building permit applications since the last meeting of council, 3112 thru 3121. Acting upon recommendation of the building inspector, the Committee approved all applications.

Cm Malcolm, seconded by Cm Metheny, MOVED THAT COUNCIL GRANT THE 10 PERMIT APPLICATIONS APPROVED BY THE COMMITTEE. The motion carried.

MUNICIPAL PROPERTY

Cm Metheny reported that repair parts for the fire department boiler were on order.

OTHER BUSINESS

Cm Broughton commended Ed Griesel on operations of the train depot welcome center.

Cm Beckwith said his vote against the rate tariff ordinance, necessary to obtain funding for the wastewater treatment plant upgrade project, did not mean that he was against the upgrade project itself.

The meeting adjourned at 7:25 p.m.

PROPOSED MINUTES
REGULAR COUNCIL MEETING OF OCTOBER 19, 2006

Elkins City Council met for a public hearing and a regular session in the council chamber of city hall at 7:01 p.m. Thursday, October 19, 2006. Present were: Mayor Judith Ann Guye; Councilpersons: R. N. Beckwith, J. S. Bibey, V. T. Broughton, T. P. Ditty, H. R. Elbon, T. Z. Hensil, R. J. Malcolm, C. L. Metheny, K. L. Wilmoth and R. A. Woolwine; City Clerk P. J. Graziani, Jr., City Treasurer L. L. Crosston, City Attorney R. T. Busch, Police Lieutenant H. R. White, III and Fire Chief T. W. Meader. Police Captain J. E. Batdorf was absent.

PUBLIC HEARING – SEWER RATE TARIFF

The mayor commenced a public hearing during which council members could receive and consider comments on Proposed Ordinance No. 057, amending the Sewer Rate Tariff. No person came forth to speak. The mayor closed the public hearing at 7:01 p.m.

AGENDA ADJUSTMENTS

1. Employee travel – three water fund employees to Morgantown for safety seminar training.
2. Building Permit Application No. 3124.

PUBLIC COMMENT

There was none.

CONSENT CALENDAR

Cm Metheny, seconded by Cm Bibey, MOVED THAT COUNCIL ACCEPT THE MINUTES OF THE SPECIAL MEETING OF OCTOBER 3 AS PRESENTED; however, the motion did not carry. [Councilmen Broughton and Beckwith contended that the minutes of the October 3 meeting should have reflected Cm Broughton's disagreement with a pronouncement of the presiding officer as to the conduct of the Public Comment portion of the meeting agenda. The presiding officer restricted interaction by individual council members with speakers making public comment to the full council. The clerk was instructed to insert a synopsis and submit the amended October 3 minutes for consideration at the meeting of November 2.]

UNFINISHED BUSINESS

Cm Elbon, seconded by Cm Malcolm, MOVED PROPOSED ORDINANCE 057, AMENDING AND REENACTING PHASE TWO OF THE PUBLIC SERVICE COMMISSION-APPROVED RATES FOR FURNISHING SEWAGE AND SEWAGE DISPOSAL SERVICE AT ELKINS AND VICINITY, BE BROUGHT FORTH, READ BY TITLE ONLY, AND PASSED ON SECOND AND FINAL READING. The motion carried.

The attorney had made available copies of the most current revision of the microwave tower lease agreement. The ad hoc committee was to meet after the council meeting to agree upon a final document the mayor could then execute.

NEW BUSINESS

Cw Wilmoth, seconded by Cm Hensil, MOVED COUNCIL APPROVE EMPLOYEE TRAVEL, AS REFLECTED ON
THE AGENDA. The motion carried. [Mike Barkley will travel to Morgantown for communications training; the municipal judges to Charleston for municipal court training and certification; two building officials to Sutton for WV Code officials training; and Patrolman Hebb to Flatwoods for Homeland Security Grant Program training.]

Cm Ditty, seconded by Cw Wilmoth, MOVED THAT COUNCIL APPROVE CREATION OF THE NEW EMPLOYMENT POSITION OF WATER WORKER I. The motion carried.

Cm Ditty, seconded by Cm Hensil, MOVED THAT COUNCIL APPROVE CREATION AND FUNDING OF ONE ADDITIONAL PERMANENT EMPLOYMENT POSITION IN THE WATER TRANSMISSION AND DISTRIBUTION DEPARTMENT. The motion carried. [The initial full-time hourly rate for the position will be $8.85. Assuming the position was filled for one-half of FY2007, the fully fringed six-month cost would exceed $15,000.]

Cw Wilmoth, seconded by Cm Hensil, MOVED COUNCIL APPROVE THE REQUEST OF THE CHURCH OF GOD AND FAMILY WORSHIP CENTER TO TEMPORARILY CLOSE A PORTION OF 14TH STREET DURING ITS HALLELUJAH HARVEST CELEBRATION. The motion carried.

Cm Beckwith, seconded by Cm Metheny, MOVED COUNCIL APPROVE THE REQUEST OF THE ELKINS HIGH SCHOOL 9TH GRADE FOR A POLICE ESCORT DURING THE HOMECOMING PARADE. The motion carried.

Cm Metheny, seconded by Cm Broughton, MOVED COUNCIL APPROVE THE REQUEST OF THE DOWNTOWN MERCHANT'S ASSOCIATION TO TEMPORARILY CLOSE A PORTION OF 3RD STREET DURING HALLOWEEN-RELATED ACTIVITIES. The motion carried.

Cm Elbon, seconded by Cm Metheny, MOVED COUNCIL AUTHORIZE THE MAYOR TO EXECUTE ANY AND ALL DOCUMENTATION RELEVANT TO THE PLANNING, DESIGN, ACQUISITION, INSTALLATION, BETTERMENT, IMPROVEMENT AND/OR FINANCING OF CLIENT-SERVER BASED FINANCIAL MANAGEMENT, UTILITY BILLING AND OTHER SOFTWARE OF AFFILIATED COMPUTER SERVICES, INC. (ACS) AS INITIALLY QUOTED JUNE 12, 2006. The motion carried.

Cm Elbon, seconded by Cm Hensil, MOVED COUNCIL AUTHORIZE THE MAYOR, UPON FINAL APPROVAL OF THE AD HOC COMMITTEE, TO EXECUTE ANY AND ALL DOCUMENTATION RELEVANT TO THE ACQUISITION, INSTALLATION, BETTERMENT, IMPROVEMENT AND/OR FINANCING OF PERSONAL COMPUTERS AT A COST NOT TO EXCEED FORTY THOUSAND ($40,000.00) DOLLARS. The motion carried.

Cm Hensil, seconded by Cm Metheny, MOVED PROPOSED ORDINANCE 058, VACATING AND ABANDONING A PARTIAL ALLEY RIGHT-OF-WAY ON 6TH STREET, BE BROUGHT FORTH, READ BY TITLE ONLY AND PASSED ON FIRST READING. The motion carried.

Cm Woolwine, seconded by Cm Hensil, MOVED COUNCIL ADOPT PROPOSED RESOLUTION 072, DEALING WITH THE CONTROL OF CATS AND DOGS. The motion carried.

Cm Beckwith, seconded by Cm Woolwine, MOVED COUNCIL AUTHORIZE THE MAYOR TO EXECUTE A SUPPLEMENTAL AGREEMENT WITH WEST VIRGINIA DEPARTMENT OF TRANSPORTATION TO OBTAIN ADDITIONAL LOCAL-MATCH FUNDING FOR THE LOWER GLENDALE PEDESTRIAN BRIDGE PROJECT. The motion carried. [The State Project Number is U342-Elk/in-2.00, and the Federal Project Number is TEA-OH22(001)E, Randolph County. Terms of the supplemental agreement provide for additional Department of Transportation funding of $176,000 and obligates the city to provide an additional $35,200 of local match. The Parks and Recreation Commission will be responsible for the local match requirement of the grant. As a result of the action, total project cost was increased to $428,200 and

local match requirement to $50,440. Contractor bids in excess of the engineer's estimate of cost and costs related to handicapped access were responsible for the increased funding requirements.]

COMMITTEE REPORTS

BUILDING

The Committee received 3 building permit applications since the last meeting of council, 3122 thru 3124. Acting upon recommendation of the building inspector, the Committee approved all applications. Cm Malcolm, seconded by Cm Beckwith, MOVED THAT COUNCIL GRANT THE 3 PERMIT APPLICATIONS APPROVED BY THE COMMITTEE. The motion carried.

PARKS

Cm Beckwith said new playground equipment will be installed by the end of October.

Pedestrian bridge pillars should be set in place before winter. The bridge itself should be completed and in operation by the spring of 2007.

The police department was commended for its efforts to make officers more visible in the various parks. The initiative has resulted in enhanced security. The same comments were expressed about visible police presence during the Forest Festival.

Cm Broughton commented on efforts of a recently formed group of teenagers and adults seeking to obtain a site for the use of skateboarders.

Cm Beckwith opined that vendors in the city park during the Forest Festival should offer goods complimentary to the theme of the event.

In response to an inquiry from Cm Ditty, Cm Beckwith said utilization priorities have not yet been finalized to allow for the allocation of available space in Lower Glendale Bottom.

PERSONNEL

Cw Wilmoth said interviews had been scheduled for the week of October 30 for operations manager applicants.

STREETS

Cm Hensil reported that the 10th Street Storm Water Separation Project was underway.

WATER

Cm Ditty announced that the 'listeners' (devices to indicate leakage in water transmission and distribution lines) had been installed and were in operation.

The mayor reported on a visit that she and some council members made of the site of the Upper Tygart Valley Watershed Partnership's impoundment project on Elkwater.

OTHER BUSINESS

Cm Beckwith discussed actions of the Enforcement Agency relevant to the structure at 107 Graham Street.

Mayor Guye said she had attended an initial meeting with the mayors of Buckhannon and Weston in an effort to identify areas where cooperation could be promoted between the jurisdictions.

The meeting adjourned at 8:25 p.m.

State of West Virginia, County of Randolph, ss.

LEGAL ADVERTISEMENT

LATE PUBLICATION

PUBLIC NOTICE OF PROPOSED ORDINANCE RELATING TO SEWER RATES, FEES AND CHARGES

Notice is hereby given that, on October 3, 2006, the CITY OF ELKINS caused to be read before its City Council, an Ordinance proposing fees, rates and charges in lieu of those rates previously approved by the Public Service Commission of West Virginia, for furnishing sewer service to customers in Randolph, West Virginia and is proposing the adoption of the same. The proposed ordinance is titled:

AN ORDINANCE TO AMEND AND REENACT THE RATES, RULES AND REGULATIONS FOR FURNISHING SEWAGE AND SEWAGE DISPOSAL SERVICE AT ELKINS AND VICINITY, RANDOLPH COUNTY, WEST VIRGINIA BY INCREASING THE RATES CHARGED THEREFORE IN SCHEDULE NOS. 1, 2, 3 AND 4 OF THE SCHEDULE OF RATES

ORDINANCE NUMBER 057

The City Council of the City of Elkins will have its final reading and vote on the ordinance on Thursday, November 9, 2006 at 7:00 p.m. in the City Council Chambers, 401 Davis Avenue, Elkins, West Virginia. The meeting will be open to the public and any interested parties may appear at the meeting and present protests, if any, with respect to the proposed Ordinance.

A copy of the proposed ordinance is available for public inspection at the offices of the City Clerk of the City of Elkins, 401 Davis Avenue, Elkins, West Virginia.

CITY OF ELKINS

10-7, 21, 28.

I, Donald W. Smith, General Manager of THE INTER-MOUNTAIN, a newspaper published at Elkins, in said county, do hereby certify that the annexed advertisement was published on the following dates:

Oct 7 Oct 21 Oct 28 _____

20 06 as required by law.

Given under my hand this 28th day of Oct 20 06

Donald Smith
General Manager

Printer's Fee: $ 127.15

Sub ne this 28th day of October, 20 06

Shirley A Moneau
Notary Public

My (15th day of April, 20 12

State of West Virginia, County of Randolph, ss.

I, Donald W. Smith, General Manager of THE INTER-MOUNTAIN, a newspaper published at Elkins, in said county, do hereby certify that the annexed advertisement was published on the following dates:

Oct 7 Oct 21 Oct 28 _____

20 06 as required by law.

Given under my hand this 28th day of Oct 20, 06

Donald Smith
General Manager

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
SHIRLEY A. MENEAR
P.O. BOX 1351
ELKINS, WV 26241
My commission expires April 15, 2012

Printer's Fee: $ 1083.30

Subscribed and sworn to before me this 28th day of October, 20, 06.

Shirley A Menear
Notary Public

My Commission Expires the 15th day of April, 20 12.

LEGAL ADVERTISEMENT

AN ORDINANCE TO AMEND AND REENACT THE RATES, RULES AND REGULATIONS FOR FURNISHING SEWAGE AND SEWAGE DISPOSAL SERVICE AT ELKINS AND VICINITY, RANDOLPH COUNTY, WEST VIRGINIA BY INCREASING THE RATES CHARGED THEREFORE IN SCHEDULE NOS. 1, 2, 3 AND 4 OF THE SCHEDULE OF RATES

ORDINANCE NUMBER 057

WHEREAS, Chapter 24, Article 2, Section 4 (5) of the West Virginia Code, effective July 1, 1981, as amended, gives to municipally operated public utilities the approval authority to set their own rates and charges; and;

WHEREAS, on February 6, 2006, the Common Council of the City of Elkins adopted an Ordinance increasing it rates for furnishing sewage and sewage disposal service in two phases in order to provide sufficient revenues to amortize the cost of capital improvements to its sewer system mandated by regulators and to provide working capital to pay the expenses of operations; and

WHEREAS, upon the filing of protests to the increased rates adopted February 6, 2006, the Public Service Commission established a proceeding for review of the City's increased sewer rates; and,

WHEREAS, the Public Service Commission of West Virginia, by a Final Order dated July 11, 2006, in Case No. 06-0209-S-MA, approved a two-step increase in the City's sewer rates based upon the Commission Staff's recommended revenue requirements and rate design; and

WHEREAS, step one of the Public Service Commission-approved sewer rates became effective July 21, 2006; and

WHEREAS, step two of the Public Service Commission-approved rates, designed to cover the increased debt service and operation and maintenance expenses associated with the City's sewer improvement construction project, and are not to become effective until issuance of a certificate of substantial completion of the improvement project; and

WHEREAS, bids received on the City's sewer improvement construction project are higher than those initially anticipated, resulting in an increase in the project cost; and

WHEREAS, in order to meet the increased cost of the sewer improvement project resulting from the higher bids, the Common Council of the City of Elkins deems it necessary to increase the rates and charges for the furnishing of services to treat and dispose of sewerage, said rates to become effective upon issuance of a certificate of substantial completion of the improvement project.

THEREFORE, THE COMMON COUNCIL OF THE CITY OF ELKINS, WEST VIRGINIA HEREBY ORDAINS:

The following rates, fees and charges for sewer service provided by it to customers throughout its territory served, are hereby fixed and determined as rates, fees and charges to be charged in lieu of those step two rates, fees and charges previously approved by the Public Service Commission of West Virginia in Case No. 06-0209-S-MA to become effective upon completion of the sewer improvement project.

THE FOLLOWING RATES ARE TO BECOME EFFECTIVE AFTER ISSUANCE OF CERTIFICATE OF SUBSTANTIAL COMPLETION OF SEWER IMPROVEMENT PROJECT.
APPROVED IN PSC CASE NO. 06-0079-S-CN

SECTION ONE – RATES, RULES AND REGULATIONS

SCHEDULE NUMBER 1

APPLICABILITY
Applicable to entire territory served.

AVAILABILITY OF SERVICE
Available for domestic, commercial, and industrial sewer service

RATES
First 750,000 gallons used per quarter - $7.07 per 1,000 gallons.
Over750,000 gallons used per quarter - $2.81 per 1,000 gallons.

MINIMUM CHARGE
No bill shall be rendered for less than $42.42 per quarter based upon 6,000 gallons treated.

DELAYED PAYMENT PENALTY
The above schedule is net. On all accounts not paid in full when due, within twenty (20) days of the date of bill, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

MONTHLY OR BI-MONTHLY PAYMENT BILLINGS
The above rates and charges may be adjusted to a monthly or bi-monthly basis, providing the adjustment results in no lower charges.

RETURNED CHECK CHARGE
A service charge equal to the actual bank fee assessed to the sewer utility or up to a maximum of $25.00 will be imposed upon any customer whose check for payment is returned by the bank due to insufficient funds.

TAP FEE
The following charges are to be made whenever the utility installs a new tap to serve an applicant.
A tap fee of $400.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

LEAK ADJUSTMENT
$0.46 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

SCHEDULE NUMBER 2

APPLICABILITY
Applicable to Teaberry Hills Subdivision.

AVAILABILITY OF SERVICE
Available for domestic service in un-metered housing projects or subdivisions.

FLAT RATE (Customers with non-metered water supply)
No bill shall be rendered for less than $95.45 per quarter.

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

RETURNED CHECK CHARGE
A service charge equal to the actual bank fee assessed to the sewer utility or up to a maximum of $25.00 will be imposed upon any customer whose check for payment is returned by the bank due to insufficient funds.

TAP FEE
The following charges are to be made whenever the utility installs a new tap to serve an applicant.
A tap fee of $400.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

LEAK ADJUSTMENT
$0.46 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

SCHEDULE NUMBER 3

APPLICABILITY
Applicable within and without the corporate limits of the City of Elkins.

AVAILABILITY OF SERVICE
Available to Midland Public Service District.

METERED RATES : (Based on metered water sold)
$2.386 per M gallons

APPLICABILITY
Applicable within and without the corporate limits of the City of Elkins.

AVAILABILITY OF SERVICE
Available to City of Elkins for Treatment of Backwash.

METERED RATES : (Based on metered water sold)
$1.682 per M gallons

SCHEDULE NUMBER 3A
INDUSTRIAL WASTE

APPLICABILITY
Applicable within and without the corporate limits of City of Elkins.

AVAILABILITY OF SERVICE
Applicable where sewer customer obtains water wholly or partly from a source other than the Municipal Water Works of the City of Elkins.

Sewer user shall make application in writing, showing type of waste to be delivered to the sanitary sewer system of the City of Elkins, and shall not deliver said waste until written permission has been given by the Sanitary Board of the City of Elkins.

Sewer user shall provide, at the end of each calendar quarter, to the Sanitary Board of the City of Elkins, an officially signed notification showing the approximate quantity in gallons of waste delivered to the sanitary sewer system of the City of Elkins. Upon receipt of such notification billing shall be made applying the rates in Schedule Number 1.

SCHEDULE NUMBER 4

APPLICABILITY
Applicable outside the corporate limits of the City of Elkins.

AVAILABILITY OF SERVICE
Available to Leadsville Public Service.

METERED RATES (Based on metered water sold)
$2.669 per M gallons

SECTION TWO – EFFECTIVE DATE

The Rates and Charges provided herein shall be effective after the issuance of a certificate of substantial completion of the sewer upgrade project approved by the Public Service Commission in Case No. 06-0079-S-CN, unless permitted to be placed into effect at an earlier date by Order of the Public Service Commission of West Virginia.

SECTION THREE – SEPARABILITY; REPEAL OF CONFLICTING ORDINANCES

The provisions of this Ordinance are separable, and if any clause, provision or section hereof be held void or unenforceable by any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. Upon the effective date of the fees, rates and charges as herein set forth, all ordinance, resolutions, orders or part thereof in conflict with the provisions of this Ordinance are, to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, orders or parts thereof, the same shall remain in full force and effect.

SECTION FOUR – STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the City Clerk shall publish Notice of this Ordinance in The Inter-Mountain, being a newspaper published and of general circulation in Randolph County, West Virginia, as a Class II publication. The first publication shall be made at least ten (10) days prior to the date set for the public hearing on the ordinance and the second publication at least five (5) days before the meeting of the City Council at which a final reading and vote on the ordinance will be held. Said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council on the 9th day of November, 2006, at 7:00 p.m. and present protests, if any. At such hearing all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper on the premises.

Further, said Notice shall advise the public that a copy of this ordinance is available for public inspection.

10-7, 21, 28

State of West Virginia, County of Randolph, ss.

I, Donald W. Smith, General Manager of THE INTER-MOUNTAIN, a newspaper published at Elkins, in said county, do hereby certify that the annexed advertisement was published on the following dates:

Nov. 14 Nov. 21 _____ _____

20 06 as required by law.

Given under my hand this 21st day of Nov. 20 06

Donald Smith
General Manager

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
SHIRLEY A. MENEAR
P.O. BOX 1351
ELKINS, WV 26241
My commission expires April 15, 2012

Printer's Fee: $ 264.80

Subscribed and sworn to before me this 21st day of November, 20 06

Shirley A Menear
Notary Public

My Commission Expires the 15th day of April, 20 12

(3) An

LEGAL ADVERTISEMENT

Tariff Form No. 12
(Tariff Rule 44)

PUBLIC NOTICE OF CHANGE IN RATES BY MUNICIPALITIES

NOTICE is hereby given that, due to higher than projected bid prices, the City Council of the City of Elkins has adopted, by ordinance on November 9, 2006, an increase in its rates, fees, and charges for furnishing sewer service to 3,114 customers in Randolph County.

The proposed increased rates and charges will become effective, unless otherwise ordered by the Public Service Commission, upon the issuance of a certificate of substantial completion of the City's sewer improvement construction project approved by the Public Service Commission September 13, 2006, and will produce approximately $110,000 annually in additional revenue, an increase of 5.8 percent over the Phase II rates that were approved by the Public Service Commission on July 11, 2006. The average monthly bill for the various classes of customers will be changed as follows

		($) INCREASE	INCREASE(%)
Residential (4,100 gallons per month)		1.80	5.8 percent
Commercial (8,000 gallons per month		3.12	5.8 percent
Industrial/Backwash (1,150,833 gallons per month)		105.88	5.8 percent
Resale			
Leadsville PSD (3,932,400 gallons per month)	578.06	5.8 percent	
Midland PSD (9,468,429 gallons per month)	1,240.36	5.8 percent	

Resale customers of the City of Elkins include Midland Public Service District and Leadsville Public Service District.

The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges are only a proposal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing. The Commission shall review and approve or modify the increased rates only upon the filing of a petition within thirty (30) days of the adoption of the ordinance changing said rates or charges, by:

(1) Any customer aggrieved by the changed rates or charges who presents to the Commission a petition signed by not less than twenty-five percent of the customers served by such municipally operated public utility; or

(2) Any customer who is served by a municipally operated public utility and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a petition alleging discrimination between customers within and without the municipal boundaries. Said petition shall be accompanied by evidence of discrimination; or

(3) Any customer or group of customers who are affected by said change in rates who reside within the municipal boundaries and who present a petition to the Commission alleging discrimination between said customer or group of customers and other customers of the municipal utility. Said petition shall be accompanied by evidence of discrimination.

All petitions should be addressed to the Executive Secretary, Public Service Commission of West Virginia, 201 Brooks Street, P.O. Box 812, Charleston, West Virginia 25323.

A complete copy of the proposed rates, as well as a representative of the utility to provide any information requested concerning it, is available to all customers, prospective customers, or their agents at any of the following offices of the utility.

City Clerk's Office
City of Elkins
401 Davis Avenue
Elkins, West Virginia

THE CITY OF ELKINS

RESOLUTION ON OPEN GOVERNMENTAL PROCEEDINGS RULES

Pursuant to Chapter 6, Article 9A, Section 3 of the West Virginia Code, the Council of The City of Elkins does hereby adopt the following rules to make available, in advance, the date, time, place and agenda of all regularly scheduled meetings of the Council, and the date, time, place and purpose of all special meetings of the Council to the public and news media (except in the case of an emergency requiring immediate action) as follows:

1. Regular Meetings. A notice shall be posted and maintained by the City Clerk at the front door or bulletin board of the City Hall of the date, time and place fixed and entered of record by Council for the holding of regularly scheduled meetings. In addition, a copy of the agenda for each regularly scheduled meeting shall be posted at the same location by the City Clerk not less than 72 hours before such regular meeting is to be held. If a particular regularly scheduled meeting is canceled or postponed, a notice of such cancellation or postponement shall be posted at the same location as soon as feasible after such cancellation or postponement has been determined.

2. Special Meetings. A notice shall be posted by the City Clerk at the front door or bulletin board of the City Hall not less than 72 hours before a specially scheduled meeting is to be held, stating the date, time, place and purpose for which such special meeting shall be held. If the special meeting is canceled, a notice of such cancellation shall be posted at the same location as soon as feasible after such cancellation has been determined.

These rules regarding notice of meetings shall replace any and all previous rules heretofore adopted by Council.

Adopted June 17, 2004.

By: Judith A. Guyer
Mayor

By: Philip J. Grazian
City Clerk

CERTIFICATION

I, Philip J. Graziani, Jr., duly appointed City Clerk of The City of Elkins do hereby certify that the foregoing is a true and accurate copy of a Resolution adopted by the City Council of The City of Elkins at a regular meeting of City Council held June 17, 2004, pursuant to proper notice, at which meeting a quorum was present and acting throughout.

Dated this June 18, 2004.

By: Philip J. Graziani
City Clerk

06/10/04
255620.00009

Article II. Sanitary Board.

For state law relating to municipal sanitary boards, see W. Va. Code, ch. 16, art. 13, especially §§ 16-13-18 and 16-13-18a.

Sec. 16-11. Established; composition; qualifications, appointment and term of members; vacancies.

There is hereby created a sanitary board of the city, which shall be composed of the mayor and two persons appointed by the common council, one of whom, during any construction period, must be a registered professional engineer, and the engineer member of the board need not be a resident of the city. After the construction of the plant has been completed, the engineer member may be succeeded by a person not an engineer. The appointed members of the board shall serve their terms subject to the will and pleasure of the common council. The appointees shall originally be appointed for terms of two and three years respectively and, upon the expiration of each term and each succeeding term, appointment of a successor shall be made in similar manner for a term of three years. Vacancies shall be filled for an unexpired term and such substitutions shall be made in the same manner as was the original appointment. (7-18-57, § 1.)

Sec. 16-12. Eligibility of city personnel.

No officer or employee of the city holding a paid or unpaid office or position shall be eligible to appointment on the sanitary board until at least one year from the expiration of the term of his public office or employment. (7-18-57, § 2.)

Sec. 16-13. Officers and bylaws.

The mayor shall be chairman of the sanitary board, which shall elect a vice-chairman from its members and shall designate a secretary and treasurer, though the secretary and treasurer may be one and the same person, who need not be members of the sanitary board. The vice-chairman, secretary and treasurer shall hold office, as such, at the will of the sanitary board. The sanitary board shall have power to establish bylaws, rules and regulations for its own government. (7-18-57, § 3.)

Sec. 16-14. Compensation of members and allowances for expenses; bond of treasurer.

Each member of the sanitary board shall receive such compensation for his services as the common council may, from time to time, prescribe, and shall be entitled to payment for his reasonable expenses incurred in the performance of his duties. The secretary and treasurer shall be paid such reasonable compensation for their services as the council may, from time to time, prescribe, and the treasurer shall give bond in such amount as the council may, at any time, require.

All compensation, as well as expenses incurred by the sanitary board, its officers and employees, shall be paid solely from funds provided under the authority of chapter 16, article 13 of the Code of West Virginia. (7-18-57, § 4.)

Sec. 16-15. Authority as to supervision and control of sewerage system.

The construction, acquisition, improvement, equipment, custody, operation and maintenance of all works for the collection, treatment and disposal of sewage within or without the corporate limits of the city, the collection of revenues therefrom for the services rendered thereby and the employment of all engineers, architects, inspectors, superintendents, managers, collectors, attorneys and other personnel, as, in the judgment of the sanitary board, may be necessary to the execution of its powers and duties, shall be under the supervision and control of the sanitary board. (7-18-57, § 5.)

Sec. 16-16. Statutory authority of board.

The sanitary board shall have, in addition to the powers enumerated herein, all other powers provided for such boards by chapter 16, article 13 of the Code of West Virginia. (7-18-57, § 6.)

Article III. Private Systems.

For charter provisions as to authority of common council to prevent injury or annoyance to the public or individuals from anything dangerous, offensive or unwholesome, see Char., § 28, subsec. (24).

For state law as to authority of city to prevent injury or annoyance to the public or to individuals from anything dangerous, offensive or unwholesome, see W. Va. Code, § 8-12-5, subsec. (13). As to authority of city to provide for the elimination of hazards to the public health and safety and to abate public nuisances, see W. Va. Code, § 8-12-5, subsec. (23).

Sec. 16-17. Transportation of contents of cesspool, etc.

No person shall at any time remove the contents of any cesspool or privy vault through, along or over any of the streets or public or private ways of the city, except between the hours of 10:00 P.M. and 4:00 A.M., nor shall such contents be removed at any time unless the vehicle to be used for such purpose is so constructed as to be watertight and securely covered, so that the odors therefrom cannot escape. (Code 1943, ch. 17, § 11.)

THE CITY OF ELKINS

Sewer Revenue Bonds, Series 2009 A
(West Virginia SRF Program); and
Sewer Revenue Bonds, Series 2009 B
(West Virginia SRF Program/ARRA)

PETITION OF SANITARY BOARD

The Sanitary Board of The City of Elkins (the "City") hereby petitions the Council of the City to enact an ordinance directing that sewerage revenue bonds of the City be issued pursuant to the provisions of Chapter 16, Article 13 of the West Virginia Code of 1931, as amended, such bonds to be in an amount not to exceed $4,000,000, for the purpose of paying the Sewer Revenue Bonds, Series 2008 A, dated May 16, 2008 in the original aggregate principal amount of $600,000 (the "Series 2008 A Bonds"), financing the costs of certain additions, betterments and improvements and acquisition and construction of certain improvements to the existing public sewerage system of the City, together with all necessary appurtenances, and the costs of issuance and related costs.

Directed this 15th day of June, 2009.

THE CITY OF ELKINS SANITARY BOARD

By: Duke Talbott
Its: Chairman

06.03.09
255620.00012

REGULAR COUNCIL MEETING
SEPTEMBER 3, 2009

Elkins City Council met in a regular session in the council chamber of city hall at 7:00 p.m. Thursday, September 3, 2009. Present were Mayor Duke Talbott; Councilpersons: R. N. Beckwith, N. E. Bross-Fregonara, M. D. Cuonzo, T. Z. Hensil, R. J. Malcolm, C. L. Metheny, D. G. Satterfield and R. A. Woolwine; City Clerk P. J. Graziani, City Treasurer L. L. Crosston, City Attorney R. C. Chenoweth, Fire Chief T. W. Meader, Police Captain J. E. Batdorf and Public Works Administrative Assistant P. A. Blosser. Councilpersons J. S. Bibey and H. K. Burford and Operations Manager R. P. Pingley were absent.

AGENDA ADJUSTMENTS

1. Resolution 201, appointing a city treasurer.
2. Responsibility for management and disposition of personal effects located at Kump House.
3. Resolution 202, authorizing acceptance of COPS Hiring Recovery Program (CHRP) grant award.
4. Resolution 203, authorizing acceptance of a grant award for the benefit of the Babe Ruth Baseball League.
5. Request for temporary street closure by the Elkins Area Bands Auxiliary.
6. Ordinance 107, annexing U.S. Route 33/250 West (Harrison Avenue) towards Crystal Springs.
7. Resolution 204, authorizing acceptance of a grant award for the benefit of the Elkins Depot Welcome Center.
8. Permanent employment status of Mickey L. Corley.
9. Request of the First Baptist Church to temporarily close an alley.

INFORMATIONAL PRESENTATION

Chelly Depp, president of the board of the Randolph County Convention and Visitors Bureau, delivered the Bureau's annual report. [The *Reviewed Financial Statement for the Fiscal Year Ended June 30, 2009* and other statistical and promotional information provided is on file in the city clerk's office.] The Bureau is housed in its own fully paid facility on N. Randolph Avenue. When asked to identify recurring themes in visitor comments, she said the lack of retail shopping opportunity on weekends was predominant.

PUBLIC COMMENT

Heather Biola, 12 Prospect Street, supported adoption of a motion to be considered that would allow the Kump House Endowment Trust to manage and dispose of specific items of personal property contained in Kump House, primarily personal effects and memorabilia of Mary Gamble Kump.

CONSENT CALENDAR

Cm Metheny, seconded by Cm Satterfield, **MOVED THAT COUNCIL ACCEPT THE MINUTES FOR THE REGULAR MEETING OF AUGUST 20, 2009 AS PRESENTED.** The motion carried.

Cm Metheny, seconded by Cw Cuonzo, **MOVED THAT COUNCIL ACCEPT THE MINUTES FOR THE SPECIAL MEETING OF AUGUST 27, 2009 AS PRESENTED.** The motion carried.

UNFINISHED BUSINESS

Cm Woolwine, seconded by Cm Hensil, **MOVED THAT ORDINANCE 106, ANNEXING THE PROPERTY OF ALLEGHENY POWER'S ELKINS SERVICE CENTER ON KENNEDY DRIVE, BE BROUGHT FORTH, READ BY TITLE ONLY AND PASSED ON SECOND AND FINAL READING.** The motion carried.

NEW BUSINESS

Cm Hensil, seconded by Cw Bross-Fregonara, **MOVED THAT COUNCIL ADOPT PROPOSED RESOLUTION 197, INCREASING THE FACE AMOUNT OF SEWER REVENUE BONDS, SERIES 2009 B BY $30,000.** The motion carried.

Cm Woolwine, seconded by Cm Hensil, **MOVED THAT COUNCIL ADOPT PROPOSED RESOLUTION 200, AUTHORIZING EXECUTION OF A CONTRACT WITH THE WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES TO OBTAIN *SAFE DRINKING WATER* GRANT FUNDS.** The motion carried.

Cw Cuonzo, seconded by Cm Metheny, **MOVED THAT COUNCIL ADOPT PROPOSED RESOLUTION 201, APPOINTING LINDA L. CROSSTON AS CITY TREASURER AND ESTABLISHING THE AMOUNT OF ANNUAL COMPENSATION.** The motion carried.

Cw Bross-Fregonara, seconded by Cm Satterfield, **MOVED THAT COUNCIL VEST PLENARY POWER AND AUTHORITY IN THE *KUMP HOUSE ENDOWMENT TRUST* TO MANAGE AND SELL THOSE ITEMS OF PERSONAL PROPERTY LOCATED WITHIN KUMP HOUSE THAT DO NOT PERTAIN TO THE MOST HISTORICALLY SIGNIFICANT PERIOD OF 1925-1945, WHEN HERMAN GUY KUMP BOTH LIVED IN THE HOUSE AND WAS ACTIVELY ENGAGED IN PUBLIC SERVICE. PROCEEDS OF SUCH SALES SHALL BE RETAINED BY THE *KUMP HOUSE ENDOWMENT TRUST* AND BE DEDICATED TO THE PRESERVATION OF KUMP HOUSE. HOWEVER, IF ANY SUCH ITEMS OF PERSONAL PROPERTY COULD BE USEFUL FOR SOME EDUCATIONAL PURPOSE THEY ARE TO BE RETAINED BY *KUMP HOUSE TRUST*.** The motion carried.

Cm Satterfield, seconded by Cw Bross-Fregonara, **MOVED THAT COUNCIL ADOPT PROPOSED RESOLUTION 202, AUTHORIZING ACCEPTANCE OF A *COPS HIRING AND RECOVERY PROGRAM* GRANT AWARD.** The motion carried.

Cm Beckwith, seconded by Cm Hensil, **MOVED THAT COUNCIL ADOPT PROPOSED RESOLUTION 203, AUTHORIZING EXECUTION OF DOCUMENTATION NECESSARY TO OBTAIN *GOVERNOR'S COMMUNITY PARTICIPATION PROGRAM* GRANT FUNDS INTENDED FOR THE BENEFIT OF THE ELKINS BABE RUTH LEAGUE.** The motion carried.

Cm Beckwith, seconded by Cm Metheny, **MOVED THAT COUNCIL GRANT THE REQUEST OF THE ELKINS AREA BAND AUXILIARY TO TEMPORARILY CLOSE SELECTED STREETS FROM 7:30 A.M. TO 10:45 P.M. ON SEPTEMBER 12, TO FACILITATE A TOURNAMENT OF BANDS COMPETITION.** The motion carried.

Cm Metheny, seconded by Cw Bross-Fregonara, **MOVED THAT ORDINANCE 107, ANNEXING U.S. ROUTE 33/250 WEST (HARRISON AVENUE), BE BROUGHT FORTH, READ BY TITLE ONLY AND PASSED ON FIRST READING.** The motion carried.

Cw Bross-Fregonara, seconded by Cm Satterfield, **MOVED THAT COUNCIL ADOPT PROPOSED RESOLUTION 204, AUTHORIZING EXECUTION OF DOCUMENTATION NECESSARY TO OBTAIN *GOVERNOR'S COMMUNITY PARTICIPATION PROGRAM* GRANT FUNDS INTENDED FOR THE BENEFIT OF THE ELKINS DEPORT WELCOME CENTER.** The motion carried.

Cm Metheny, seconded by Cm Satterfield, **MOVED THAT THE HOURLY RATE OF PAY FOR THE ASSISTANT SUPERVISOR OF WATER TRANSMISSION AND DISTRIBUTION BE ADJUSTED TO THE 85TH PERCENTILE OF THE WAGE RECOMMENDED FOR THE POSITION.** The motion carried. [The hourly rate for the incumbent will be increased by $0.17 per hour, retroactive to the date that permanent status in the position was granted by council.]

Cm Beckwith, seconded by Cm Metheny, **MOVED THAT COUNCIL GRANT THE REQUEST OF THE FIRST BAPTIST CHURCH TO TEMPORARILY CLOSE *CHURCH LANE* DURING THE *BAPFEST* CELEBRATION.** The motion carried. [The event will be on September 12 between the hours of 9 a.m. and 3 p.m.]

COMMITTEE REPORTS

BUILDING

The Committee received 17 building permit applications since the last meeting of council, 192 thru 208. Acting upon recommendation of the building inspector, the Committee approved all applications. Cm Malcolm, seconded by Cm Metheny, **MOVED THAT COUNCIL GRANT PERMITS FOR THE 17 APPLICATIONS APPROVED BY THE COMMITTEE.** The motion carried.

PERMIT	APPLICANT	LOCATION	DESCRIPTION	VALUE
192	Busic, Tyler	1507 Taylor Av	Complete Re-wire	$ 6,500
193	Kerr, William J.	215 Ferndale Dr	Re-roof	$ 5,626
194	Howell, Almira	126 Delaware Av	Addition (Bedroom)	$ 42,750
195	Williams, Michelle	219 Elm St	Replace Bathtub & Drywall	$ 1,000
196	Clark, William	118 Wilton Av	Re-roof	$ 3,500
197	Cutlip, Wilma	1707 Livingston Av	Ext. Porch, Add Rails & Steps	$ 1,000
198	Siewert, Terry	204 S Randolph Av	Install Furnace	$ 2,500
199	Lambert, Patricia	1736 S Davis Av	Re-roof	$ 1,000
200	Woodland Dev. Group	22 Central St	Remodel Kitchen, Bath, Rewire, Paint	$ 54,000
201	Furhman, William	121 Ellis Av	Addition (Master Bedroom)	$ 12,000
202	Snedegar, Jean	210 Summit St	Re-roof	$ 11,868
203	Terry, Justin	922 S Kerens Av	Siding & Re-roof	$ 5,000
204	Masten, Robert	413 Kerens Av	Replace Roof	$ 1,800
205	Snelson, Andrew	218 Graham St	Replace Roof	$ 7,573
206	Conklin, Tim	120 Sunset Dr	Replace Portion of Roof	$ 2,390
207	Cragg, Timothy	123 Guy St	Re-roof Metal	$ 5,577
208	Riddle, Charles	8 Cherry St	New Roof on Deck	$ 4,000

OPERATIONAL REPORT

Reproduced below is the report presented to the members by the operation manager.

Street Department
Street Department employees have completed three of the four sidewalk projects to be done under the in-place grant. Work on the sidewalks at Second Street, Fourth Street, Davis Avenue at the Darden house is finished. The concrete crew is currently working on the area in front of the Fire Hall.

The street sweeper is in operation and working a normal schedule.

In order to clear up any confusion that may exist, we've contacted the Department of Highways regarding their plans for North Randolph Avenue during Festival week. They've assured us that no work may be scheduled for that week under the terms of the contract, and normal two-way traffic will be maintained.

Waste Water Collection
Downtown Stormwater Separation project- Line installation is complete on Davis Avenue, Fourth and Fifth Streets, and the alley behind City Hall. The contractor has begun trench restoration and repaving work. A 2-inch layer of Base 2 asphalt was laid down on Fourth Street today, which should keep it in good shape until the wearing course is applied in the spring of next year.

Water Distribution
The Water Distribution department is nearing completion on most of their areas in the Baxter Street building. We anticipate that the move will occur in about two weeks.

Sanitation / Landfill
There will be no garbage pickup on Monday, September 7; instead, trash will be picked up Tuesday, September 8. Also, the Landfill will be closed on Saturday, September 5 and on Monday, September 7.

City Hall
Preston Higgins started this past Monday as Custodian. He replaces Allen Simmons, who retired last month.

Mayor Talbott has requested 1,000 hours of work from the *AmeriCorps* program. We met with Logan Smith, the program coordinator, this week to start the planning and scheduling for the work. The young people in this program are skilled in window repair and restoration, and we have a lot of windows here at City Hall needing attention, so we intend to put their talents to good use. The plan is for them to start in mid October, after the Forest Festival wraps up.

MAYOR'S COMMENTS AND OTHER BUSINESS

The mayor reported that the operations manager had nearly completed his operational evaluation of the city's enforcement agency.

The meeting adjourned at 8:10 p.m.

/s/ Duke Talbott, Mayor
/s/ Philip J. Graziani, City Clerk

REGULAR COUNCIL MEETING AND PUBLIC HEARING
JUNE 4, 2009

Elkins City Council met in a regular session in the council chamber of city hall at 7:04 p.m. Thursday, June 4, 2009. Present were Mayor Duke Talbott; Councilpersons: R. N. Beckwith, N. E. Bross-Fregonara, J. S. Bibey, H. K. Burford, M. D. Cuonzo, T. Z. Hensil, R. J. Malcolm, C. L. Metheny and R. A. Woolwine; Operations Manager R. P. Pingley; City Clerk P. J. Graziani, City Treasurer L. L. Crosston, City Attorney R. C. Chenoweth, Fire Chief T. W. Meader and Police Captain J. E. Batdorf. Councilman D. G. Satterfield was absent.

The meeting commenced with an invocation and the Pledge of Allegiance.

AGENDA ADJUSTMENTS

PUBLIC COMMENT

There was none.

CONSENT CALENDAR

Cm Metheny, seconded by Cm Bibey, **MOVED THAT COUNCIL ACCEPT THE MINUTES FOR THE REGULAR MEETING OF MAY 21, 2009 AS PRESENTED.** The motion carried.

UNFINISHED BUSINESS

Pursuant to advice of legal counsel, the mayor removed Ordinance 097 from consideration and pronounced the measure void. The city attorney perceived a technical defect in the current form of the measure that could have rendered it unable to withstand judicial review. Since a material change could not be made to an ordinance on final reading, there was no way to perfect the current measure. Mayor Talbott referred the subject matter of the proposal back to the rules and ordinance committee. When asked by Cw Bross-Fregonara if a perfected measure would be returned to the body for consideration on first reading, the mayor said that would depend on the recommendation of the rules and ordinance committee.

Cm Metheny, seconded by Cm Malcolm, **MOVED COUNCIL OFFICIALLY DESIGNATE UNNAMED ROAD 474, THE LANDFILL ACCESS ROAD, AS *JOE ROSS ROAD*.** The motion carried. [The recently deceased Joseph Ross was a former council member and chair of the Elkins Sanitation/Landfill Committee, and a member of both the Randolph County Solid Waste Authority and the West Virginia Board of Solid Waste Management.]

The mayor announced consideration of Ordinance 100, pertaining to the Elkins Enforcement Agency Board of Appeals; however, the measure died when no motion was made to enact it.

Cw Burford, seconded by Cw Cuonzo, **MOVED THAT COUNCIL GRANT THE REQUEST OF ELKINS SEWING CENTER TO TEMPORARILY CLOSE THAT PORTION OF 3RD STREET BETWEEN DAVIS AVENUE AND THE ALLEY DESIGNATED AS MARY'S LANE ON THURSDAY, JUNE 25 BETWEEN THE HOURS OF 8 A.M. AND 5 P.M. TO ACCOMMODATE A VISIT BY THE HUSQVARNA VIKING *SEW-MOBILE*.** The motion carried.

NEW BUSINESS

Pursuant to a legal advertisement in good form, a hearing commenced at 7:12 p.m. to hear and consider public comment on the proposal for issuance of Sewer Revenue Bonds, Series 2009 A and Sewer Revenue Bonds, Series 2009 B. The proceeds of the Bonds will be used (i) to pay the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system; (ii) funding the Series 2009 A Reserve Account; and (iii) to pay certain costs of issuance of the Bonds of this Series and related costs. The Bonds will be payable solely from revenues to be derived from the ownership and operation of the sewer system of the city. When no person rose to speak to the issues, the mayor adjourned the public hearing at 7:12 p.m.

Cm Woolwine, seconded by Cm Hensil, **MOVED THAT PROPOSED ORDINANCE 099, APPROVING OF AND AUTHORIZING THE ISSUANCE OF SEWER REVENUE BONDS, SERIES 2009 A, BE BROUGHT FORTH, READ BY TITLE ONLY AND PASSED ON THIRD AND FINAL READING.** The motion carried.

Cm Woolwine, seconded by Cm Metheny, **MOVED COUNCIL ADOPT RESOLUTION 178, THE SUPPLEMENTAL RESOLUTION PROVIDING FOR THE ISSUANCE OF THE BONDS.** The motion carried.

Cm Woolwine, seconded by Cm Hensil, **MOVED THAT COUNCIL ADOPT RESOLUTION 179, PERTAINING TO THE AUTOMATIC PAYMENT OF BONDS TO THE MUNICIPAL BOND COMMISSION.** The motion carried.

Cm Woolwine, seconded by Cw Burford, **MOVED THAT COUNCIL ADOPT PROPOSED RESOLUTION 180, APPROVING OF AND AUTHORIZING DRAW NO. 1 FROM PROCEEDS OF THE SEWER REVENUE BONDS, SERIES 2009 A.** The motion carried.

Cm Beckwith, seconded by Cm Bibey, **MOVED COUNCIL APPROVE EMPLOYEE TRAVEL REFLECTED ON THE AGENDA.** The motion carried. [Police officers will attend *2009 Law Enforcement Training* in Flatwoods.]

Consideration of an appointment to the Elkins-Randolph County Airport Authority was deferred.

Cw Cuonzo, seconded by Cw Bross-Fregonara, **MOVED COUNCIL APPROVE OF AND AUTHORIZE THE CREATION OF A NEW WASTEWATER TREATMENT PLANT EMPLOYMENT POSITION TITLED *COMBINED SEWER OVERFLOW TECHNICIAN*.** The motion carried.

Cm Hensil, seconded by Cm Woolwine, **MOVED THAT ORDINANCE 101, ANNEXING THE PROPERTY OF HEALTH FACILITIES, INCORPORATED'S DIRECT CARE FACILITY AT 720 BEVERLY PIKE, BE BROUGHT FORTH, READ BY TITLE ONLY AND PASSED ON FIRST READING.** The motion carried.

Cm Woolwine, seconded by Cm Metheny, **MOVED COUNCIL APPROVE OF AND ADOPT BY ROLL CALL VOTE PROPOSED RESOLUTION 181, BUDGET ADJUSTMENT NUMBER 1 FOR FISCAL YEAR 2008/2009.** A roll call vote being required, the clerk read the roll:

Beckwith	-	Yes	Hensil	-	Yes
Bibey	-	Yes	Malcolm	-	Yes
Bross-Fregonara	-	Yes	Metheny	-	Yes
Burford	-	Yes	Satterfield	-	Absent
Cuonzo	-	Yes	Woolwine	-	Yes

The motion carried.

RECEIPTS: (net each acct.)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	APPROVED AMOUNT	DEBIT (INCREASE)	CREDIT (DECREASE)	REVISED AMOUNT
304	2% City Utility Tax	29,000	15,500		44,500
306	Liquor Tax	88,000	12,000		100,000
308	Hotel Occupancy Tax	90,000	45,000		135,000
366	State Grants	5,000	36,000		41,000

NET INCREASE/(DECREASE) Revenues 431,730

EXPENDITURES: (net each account category)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	APPROVED AMOUNT	DEBIT (DECREASE)	CREDIT (INCREASE)	REVISED AMOUNT
413	Treasurer	146,720		35,390	182,110
425	Enforcement Agency	1,680		95,300	96,980
433	Custodial	82,679		24,517	107,196
436	Building Inspection	17,236	14		17,222
440	City Hall	117,200		122,700	239,900
700	Police	812,236		34,346	846,582
704	Police - Special Duty	87,200		13,150	100,350

NET INCREASE/(DECREASE) Expenditures 431,730

BUDGET REVISION REQUEST-SUPPLEMENT

ACCOUNT NUMBER	ACCOUNT CATEGORY	APPROVED AMOUNT	DEBIT (INCREASE)	CREDIT (DECREASE)	REVISED AMOUNT
352	Fire Protection Fees	320,050	17,000		337,050
369	Contributions-Oth Fd		246,750		246,750
376	Gaming Income		8,900		8,900
381	Reimbursements	5,200	6,500		11,700
383	Sale of Fixed Assets		18,000		18,000
386	Insurance Claims		7,000		7,000
321	Parking Violations	14,000	2,080		16,080
305	B&O Tax	1,153,150	7,500		1,160,650
320	Fines, Fees & Costs	98,000	6,000		104,000
328	Franchise Fees	65,000	3,500		68,500
			323,230		
				TOTAL PAGE 2	323,230

BUDGET REVISION REQUEST-SUPPLEMENT

ACCOUNT NUMBER	ACCOUNT CATEGORY	APPROVED AMOUNT	DEBIT (DECREASE)	CREDIT (INCREASE)	REVISED AMOUNT
725	Local Econom Devel Grt	-		17,000	17,000
727	Underage Drinking Grt	-		4,000	4,000
750	Streets	827,665		46,640	874,305
753	Snow Removal	7,800		2,700	10,500
754	Central Garage	196,556		23,405	219,961
805	Storm Sewer	-		650	650
901	Visitor's Bureau	45,000		34,094	79,094
999	Contingency	22,148	22,148		-
			22,148	128,489	
				TOTAL PAGE 3	106,341

Cm Beckwith, seconded by Cm Hensil, **MOVED COUNCIL GRANT PERMANENT EMPLOYMENT STATUS TO ADAM M. SHAFFER IN THE POSITION OF WATER TREATMENT PLANT OPERATOR-IN-TRAINING EFFECTIVE MAY 19, 2009.** The motion carried.

Cw Bross-Fregonara, seconded by Cw Burford, **MOVED COUNCIL APPROVE OF AND AUTHORIZE THE CREATION OF A NEW PUBLIC WORKS DEPARTMENT EMPLOYMENT POSITION TITLED *OPERATIONAL ASSISTANT*.** The motion carried.

Cm Hensil, seconded by Cw Burford, **MOVED COUNCIL APPROVE OF AND AUTHORIZE THE CREATION OF A NEW WATER TREATMENT PLANT EMPLOYMENT POSITION TITLED *MAINTENANCE TECHNICIAN*.** The motion carried.

Cw Bross-Fregonara, seconded by Cm Metheny, **MOVED THAT COUNCIL APPROVE OF AND ADOPT PROPOSED RESOLUTION 176, AUTHORIZING THE MAYOR TO APPLY FOR AND, IF AWARDED, EXECUTE ALL NECESSARY DOCUMENTATION TO OBTAIN A POOL OF *GOVERNOR'S SUMMER YOUTH PROGRAM* PARTICIPANTS TO PERFORM OPERATIONAL DUTIES DURING THE SUMMER SEASON.** The motion carried.

Cw Burford, seconded by Cm Malcolm, **MOVED THAT COUNCIL ADOPT RESOLUTION 177, ASSIGNING HIGHLAND MEADOWS SUBDIVISION TO THE SECOND WARD OF THE CITY.** The motion carried.

COMMITTEE REPORTS

BUILDING

The Committee received 8 building permit applications since the last meeting of council, 100 thru 107. Application 99 was void. Application 18 remained unconsidered. Acting upon recommendation of the building inspector, the Committee approved all applications. Cm Malcolm, seconded by Cm Metheny, **MOVED THAT COUNCIL GRANT BUILDING PERMITS FOR THE 8 APPLICATIONS APPROVED BY THE COMMITTEE.** The motion carried.

PERMIT	APPLICANT	LOCATION	DESCRIPTION	VALUE
99	Void			$ -
100	Howell, Teresa	102 Knapp St	Re-Roof	$ 6,000
101	Raines, James	158 Delaware Av	Handicap Ramp	$ 1,500
102	Hamrick, Danny	209 Ferndale Dr	Re-Roof, Repl. Roof Back/Front Porch	$ 18,137
103	Summerfield, Elizabeth	1305 S Kerens Av	Drywall, Replumb Kitchen, Floor Tile	$ 2,000
104	Woodford U. M. Church	113 First St	17 Window Coverings for Stained Glass	$ 15,057
105	Armentrout, Wilma	302 Robert E Lee Ave	Windows	$ 2,242
106	Smith Diamond Properties	216 Edgewater Dr4	New Duplex	$ 200,000
107	Smith Diamond Properties	218 Edgewater Dr	New Duplex	$ 200,000

RULES AND ORDINANCE

Cw Burford said at its July meeting the members would discuss what financial assistance the city could make available for the maintenance and upkeep of Kump House. The project coordinator, she said, had been making application for grant funds to defray the cost of major repairs.

Dr. Heather Biola, Ph.D. was appointed temporary acting coordinator of Kump House in August 2008, an uncompensated position. Cw Burford suggested thought be given to a renewal of the appointment.

SANITATION AND LANDFILL

Cm Metheny announced a pending trip to Kansas City to observe operation of an onsite landfill leachate treatment facility. The manufacturer will pay all associated costs.

OPERATIONAL REPORT

Reproduced below is the report presented to the members by the operation manager or his representative.

Water Plant
We have scheduled interviews with three manufacturers who submitted bids for the membrane equipment at the new water plant. This gives each manufacturer a chance to present their case and to answer any questions we may have. These interviews are scheduled for Tuesday June 9 and Wednesday June 10. Members of the Water Committee are aware of this, if any other Council members are interested in attending please let me know and I will get you the specific times for each presentation.

Street Department
As you all are no doubt aware, the traffic lights changeover has begun. The marking crew is scheduled to start the first of next week, with project completion expected by June 15th.

Waste Water Collection
The Waste Water department is scheduled to begin replacing an outfall line beside the Canfield building at the end of Railroad Ave. This line runs from a manhole on Railroad to CSO # 007 at the river. This line has been subject to groundwater infiltration, leading to dry-weather discharges at #007. The DEP and the EPA require us to take steps to eliminate these discharges. We believe replacing this line will eliminate the problem.

Sanitation / Landfill
The Elkins Landfill will be closed on Friday June 19th in observance of West Virginia Day. The Sanitation department will also be closed. Garbage scheduled for Friday pickup will instead be picked up Thursday.

Miscellaneous
Officials from the Federal Emergency Management Agency will be in Elkins tomorrow June 5th to present a preliminary version of the updated Flood Insurance Rate Maps, which have been furnished to us. This will begin a 30-day review period during which comments or changes to the proposed maps may be suggested. The meeting is from 9:00 to 11:00 am in the Courthouse Annex conference room. All interested parties are encouraged to attend.

MAYOR'S COMMENTS AND OTHER BUSINESS

The services of Appalachian Invasive Management have been retained by the U.S. Fish and Wildlife Service Partners for Fish and Wildlife Program to apply site specific spot herbicide in an attempt to impede or reverse the migration of invasive plant life. Of particular concern is Purple Loosestrife, a plant of European origin which has spread and degraded temperate North American wetlands since the early nineteenth century. Endangered local high elevation wetlands are Canaan Valley, Dolly Sods and Cranberry

Glades. Over the course of the summer season, Appalachian Invasive Management will, with owner permission, be accessing wetlands, fields and ditch lines to apply herbicide.

An official expression amicable greeting was received from Sohei Manabe, mayor of Oyamazaki, Kyoto Prefecture, Japan. Mayor Manabe was a recent visitor to the area.

Elkins Water Treatment Plant Operator Michael I. Barkley received the Perkins Boynton Award. Bestowed by the American Water Works Association, it recognizes outstanding operators of water treatment plants.

The Randolph County Commission issued its orders finalizing the annexations into the city of portions of Flood Control Road and U.S. Route 219 N. to Corridor H.

The mayor directed that each city department be represented at the operations manager's biweekly supervisor meetings.

The consensus of opinion was that the new traffic lights installed at the intersections of 1st, 2nd and 3rd Streets and Davis Avenue were an attractive improvement to the downtown area.

The mayor asked that at a future meeting the members adopt a resolution ordaining administrative compliance with a Grants Protocol he formulated.

The meeting adjourned at 8:28 p.m.

/s/ Duke Talbott, Mayor
/s/ Philip J. Graziani, City Clerk

CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of The City of Elkins and that such actions remain in full force and effect and have not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 18th day of June, 2009.

Philip J. Grazioni

Recorder

06.03.09
255620.00012

REGULAR COUNCIL MEETING
MAY 21, 2009

Elkins City Council met in a rescheduled regular session in the council chamber of city hall at 7:00 p.m. Thursday, May 21, 2009. Present were Mayor Duke Talbott; Councilpersons: R. N. Beckwith, N. E. Bross-Fregonara, J. S. Bibey, H. K. Burford, T. Z. Hensil, R. J. Malcolm, C. L. Metheny, D. G. Satterfield and R. A. Woolwine; City Clerk P. J. Graziani, City Treasurer L. L. Crosston, City Attorney R. C. Chenoweth, Fire Chief T. W. Meader and Police Lieutenant H. R. White. Councilwoman Cuonzo, Operations Manager R. P. Pingley and Police Captain J. E. Batdorf were absent.

The meeting commenced with an invocation and the Pledge of Allegiance.

AGENDA ADJUSTMENTS

There were none.

PUBLIC COMMENT

Randolph County Landlords Association President Richard Holland and several other landlords were unanimous in their opposition to a proposed rental registration/inspection ordinance. Numerous points were raised by the speakers: investment in residential rentals within the city would decline; license and inspection fees would increase cost of doing business, thus eroding profitability; landlords had a vested interest in proper property maintenance, it was in their own self-interest; the city had sufficient laws already, it didn't need new ones; other jurisdictions that enacted similar legislation were much larger than Elkins (*e.g.*, Beckley, Charles Town, Martinsburg, Morgantown and Huntington); Clarksburg voted down a similar proposal as unworkable; the measure was intended only as a generator of additional municipal revenue, so the incentive would be to find fault with units inspected; appointments for inspection would cause hardship, since each inspection would have to be coordinated with landlords, tenants and city officials; inspection fees would tend to trend upward over time; tenants would bypass landlords and contact city officials for problem resolution; disgruntled tenants would punish landlords by making frivolous complaints to city inspectors; existing building permitting procedure could be used to attain stated goals of proposal; the proposal put landlords on notice of existing problems, so now conscientious landlords could remedy any problems that might exist; many good landlords would suffer punishment along with the few bad landlords; numerous landlords expressed sentiment ranging from offense to outrage at be categorized along with 'slumlords' that maintained substandard housing.

Elkins Enforcement Agency member John Hemple spoke in favor of the proposal, saying he was motivated by concern as a citizen and property owner. He contended that "...serious life threatening problems..." existed in the city's inventory of residential rental units. Elkins had always been a progressive city, he said, citing the city's adoption of a building permitting process as early as the 1940's. The city should now take the lead in ensuring the safety of tenants. Landlords could pass along the cost of registration/inspection to their tenants. Fairmont and Wheeling had similar registration/inspection programs. Hemple produced pictures of substandard and dangerous conditions encountered in various rental units managed by six different landlords.

CONSENT CALENDAR

Cm Metheny, seconded by Cm Satterfield, **MOVED THAT COUNCIL ACCEPT THE MINUTES FOR THE REGULAR MEETING OF MAY 7, 2009 AS PRESENTED.** The motion carried.

UNFINISHED BUSINESS

No action was taken on Ordinance 097. An advertised public hearing will be scheduled for June 4, 2008. Final action could be taken subsequent to that hearing.

No action was taken to officially designate Unnamed Road 475, in Tax District 16, Map 107 Parcel 34.1, the landfill access road.

Cm Woolwine, seconded by Cm Hensil, **MOVED THAT PROPOSED ORDINANCE 099, APPROVING OF AND AUTHORIZING THE ISSUANCE OF SEWER REVENUE BONDS, SERIES 2009 A, BE BROUGHT FORTH, READ BY TITLE ONLY AND PASSED ON SECOND READING.** The motion carried. In response to Cm Metheny, the clerk said the term of the bonds was 20 years. [The bond proceeds, upon final adoption, will provide funding to underwrite the cost of the *Davis Avenue Stormwater Separation Project.*]

NEW BUSINESS

Cm Beckwith, seconded by Cm Satterfield, **MOVED COUNCIL APPROVE EMPLOYEE TRAVEL REFLECTED ON THE AGENDA.** The motion carried. [The deputy clerk and public works operational assistant will attend *Local Government P-Card Coordinator Training* in Morgantown.]

No appointment was made to the airport authority.

Consideration of Ordinance 100 was deferred. The proposal would make provision for an Elkins Enforcement Agency Board of Appeals.

No action was taken on the request of Elkins Sewing Center to temporarily close a portion of 3rd Street; instead, it was referred to the street committee for consideration at the June 3 meeting.

Cm Woolwine, seconded by Cm Metheny, **MOVED COUNCIL ACCEPT THE OFFER OF AIG INSURANCE TO SETTLE CLAIM 410-095348K, THE TOTAL LOSS OF A 2003 DODGE DURANGO, FOR $11,103.92.** The motion carried.

Cw Bross-Fregonara, seconded by Cm Hensil, **MOVED THAT COUNCIL ADOPT RESOLUTION 175, EXPRESSING SUPPORT FOR A GRANT APPLICATION TO BE SUBMITTED BY WOODLANDS DEVELOPMENT GROUP.** The motion carried.

COMMITTEE REPORTS

PARKS

Cm Beckwith said an inner-city track meet and fishing derby had been scheduled as summer activities.

West Virginia National Guard engineers would soon begin a 3-phase improvement program to level much of the acreage of Glendale Park. Scheduled to begin June 2, Phase One of the improvement project would affect the area to the left of the park entrance. Subsequent phases would center near the skatepark and soccer fields.

When the subject of grass mowing in the area of Steward Avenue and Gilmore Street was introduced, Cm Hensil suggested that consideration be given to acquiring a new brush hog for use by all city operational departments.

Vandalism damage had been done to the Glendale Park gate.

BUILDING

The Committee received 20 building permit applications since the last meeting of council, 79 thru 98. Application 18 remained unconsidered. Application 85 was disapproved for violation of setback requirements of zoning law. Acting upon recommendation of the building inspector, the Committee approved all other applications. Cm Malcolm, seconded by Cm Metheny, **MOVED THAT COUNCIL GRANT BUILDING PERMITS FOR THE 19 APPLICATIONS APPROVED BY THE COMMITTEE.** The motion carried.

PERMIT		APPLICANT	LOCATION	DESCRIPTION	VALUE
79		Wyatt, Terry	107 Evans Dr	Reroof	$ 6,281
80		Maxson, Kathleen	204 Hinkle St	3-D.H. Replacement Windows	$ 2,195
81		Webley, Howard	102 Grandview Av	Replacement Front Door	$ 3,793
82		Staud, Thomas	131 Elm St	Int. Remodeling-New Electrical Ser.	$ 15,000
83		Thomas, Floyd	115 South Gate Rd	Storage Building	$ 957
84		Huntington Bank ATM	324 Davis Av	Repair ATM Canopy	$ 3,000
85		Himes, Steve	102 Mountainview Dr	New Addition, Interior Remodeling	$ 73,000
86		Simons, Georgia	80 High St	Replace Front Porch	$ 1,500
87		Knutti, John	108 Edgewater Dr	Retaining Wall, Fishing Deck	$ 9,100
88		Whetsell, Barbara	216 Ferndale Dr	Re-roof	$ 9,500
89		Jones, John W.	203 Bridgewater Dr	Replace Deck & Roof Pt of Deck	$ 1,500
90		Cunningham, George	305 Tygart Ct	Re-roof over Part of Patio	$ 3,000
91		Ratliff, Virginia	305 Alexander Av	Replacing (9) Windows	$ 6,000
92		Lane, Mike	68 Pleasant Av	Carport	$ 4,000
93		Muhlestein, Lynn	203 Randolph Av	Repair Ceiling-Apt. #8	$ 5,000
94		City of Elkins-Wastewater	31 Jones Dr	New Structure	$ 15,000
95		Zurbach, Carolyn	203 Sylvester Dr	Siding on Back of House	$ 2,000
96		Edward Jones	111 Randolph Av	Moving Old Sign to New Location	$ 400
97		Irwin, Geneva	112 Valley Ct	Reroof	$ 8,500
98		New Beginnings Ministries	121 Davis St	Repair Roof, Interior Remodeling	$ 1,500

RULES AND ORDINANCE

Cw Burford said the rental registration/inspection ordinance would be discussed at the June 4 meeting.

SANITATION/LANDFILL

Cm Metheny said a request for proposals would be published for a new garbage truck.

STREETS

Relative to Randolph County Enhanced-911 addressing and mapping initiative, it was announced by Cm Satterfield that no changes would be made to the names of city streets.

City officials may receive the keys to Kump House as early as June 9. Heather Biola would attend the June 4 council meeting to request city funding for maintenance and upkeep of the property.

OPERATIONAL REPORT

The following information is reproduced from the report delivered.

Water Distribution
A planned repair of a leaking line to a fire hydrant on Fourth Street on Monday caused shutoffs to a few downtown businesses. Repairs were made, and the Boil-Water advisory was lifted on Tuesday morning. Not only was a necessary repair made, but this was a

chance for us to review and revise our Boil-Water advisory procedures. Just a reminder; we do have a 24-hour water quality hotline with updated information at 637-3582.

The Water department, working in concert with the Street department, has begun repairing some of the large patches in City streets caused by last winter's water leaks.

Street Department
The Street department has been removing the crosswalk markings at the downtown intersections affected by the traffic signal upgrade. We are obligated by the terms of the DOH contract to perform this work. The local District 8 Headquarters of the DOH has been very helpful in assisting us with advice and equipment. Once this is accomplished, the contractor is planning to send a marking crew in to work on these intersections.

Central Garage
Peggy [Blosser, the operational assistant,] has been working for the last few weeks on a Fleet Management program to help track all City vehicle and equipment. This will help ensure that all vehicles and equipment are serviced and maintained on the proper intervals, and will also help track repair and replacement costs. As of now we have all the inventory information entered into the program, and are updating usage and inspection data.

City Hall
As you may have noticed, the parking lot behind City Hall is getting a facelift. The J. F. Allen Company volunteered their time and donated stone to help us with this project. We greatly appreciate their assistance in this much-needed repair work.

Sanitation / Landfill
The Elkins Landfill will be closed on Monday May 25th in observance of Memorial Day. The Sanitation department will also be closed. Garbage scheduled for Monday pickup will instead be picked up Tuesday.

MAYOR'S COMMENTS AND OTHER BUSINESS

The Public Service Commission issued a Recommended Decision in Case No. 09-0051-S-CN approving of the Davis Avenue Stormwater Separation Project.

A drag race event at the airport was a resounding success attended by as many as two thousand local residents and visitors. Two additional racing events are in the planning stage.

Treasurer Crosston reported the successful installation of new business and occupation licensing and fire fee software upgrades in her office. Landfill and building permit software will be installed in June.

The mayor reminded committee chairs to adhere to timely agenda posting record keeping requirements of the Open Meetings Act.

Cw Bross-Fregonara suggested the chair implement a silent cell phone policy during council meetings.

The meeting adjourned at 8:38 p.m.

/s/ Duke Talbott, Mayor
/s/ Philip J. Graziani, City Clerk

REGULAR COUNCIL MEETING

MAY 7, 2009

Elkins City Council met in a rescheduled regular session in the council chamber of city hall at 7:02 p.m. Thursday, May 7, 2009. Present were Mayor Duke Talbott; Councilpersons: R. N. Beckwith, N. E. Bross-Fregonara, J. S. Bibey, H. K. Burford, T. Z. Hensil, R. J. Malcolm, C. L. Metheny, D. G. Satterfield and R. A. Woolwine; Operations Manager R. P. Pingley, City Clerk P. J. Graziani, City Treasurer L. L. Crosston, City Attorney R. C. Chenoweth, Fire Chief T. W. Meader and Police Captain J. E. Batdorf. [A vacancy created by the resignation of Fourth Ward Councilman Duke Talbott had not yet been filled.]
The meeting commenced with an invocation and the Pledge of Allegiance.

AGENDA ADJUSTMENTS

There were none.

PUBLIC COMMENT

There was none.

CONSENT CALENDAR

Cm Metheny, seconded by Cm Bibey, **MOVED THAT COUNCIL ACCEPT THE MINUTES FOR THE RESCHEDULED REGULAR MEETING OF APRIL 21, 2009 AS PRESENTED.** The motion carried .

UNFINISHED BUSINESS

Cw Burford, seconded by Cm Woolwine, **MOVED THAT THE MOTION CALLING FOR PASSAGE OF PROPOSED ORDINANCE 097 BE TAKEN FROM THE TABLE.** A roll call vote being requested, the clerk read the roll: Beckwith - Yes; Bibey - Yes; Bross-Fregonara - Yes; Burford - Yes; Hensil - Yes; Malcolm - No; Metheny - No; Satterfield - Yes; and Woolwine - Yes. The result of the roll call vote was 7 in favor and 2 opposed; therefore, the motion to take from the table carried . The motion now before the assembly was exactly as it was when laid on the table. The wording of the motion laid on the table at the meeting of April 9, 2009 read, "Cw Burford, seconded by Cm Woolwine, **MOVED THAT PROPOSED ORDINANCE 097, PROVIDING FOR THE ESTABLISHMENT OF A RENTAL REGISTRATION PROGRAM, BE BROUGHT FORTH, READ BY TITLE ONLY AND PASSED ON SECOND READING.** Significant discussion of the measure ensued. The attorney stated that a citizen's letter addressing certain aspects of the proposed measure had been reviewed but required no revision. Cw Burford said input had been received from the Randolph County Landlord Association. Cm Metheny said he felt the measure would punish the many [good landlords] along with the bad, and it would grant government the right of warrantless entry into private property. Cm Beckwith said he felt the measure created an option that tenants didn't currently have. Cm Metheny said government should not intrude in contractual agreements between landlords and tenants, saying dissatisfied tenants had legal redress in the courts. Cw Bross-Fregonara viewed residential rentals as a business like any other. What was the difference, she asked, between a health department inspection of restaurants to ensure the public safety and the city's inspection of rental units [to determine their fitness for human habitation]? Safe, clean and habitable [rental units] were a good thing, Cw Burford agreed. Government, Cm Metheny replied, was already too involved in the private lives of citizens. Cm Woolwine, seconded by Cm Bibey, **MOVED TO CALL THE PREVIOUS QUESTION.** Subsequent to a voice vote on the motion, the chair ruled the ayes attained the necessary ? majority . The chair then proceeded to the vote on the original motion. A roll call vote being requested, the clerk read the roll: Beckwith - Yes; Bibey - Yes; Bross-Fregonara - Yes; Burford - Yes; Hensil - Yes; Malcolm - No; Metheny - No; Satterfield - Yes; and Woolwine - Yes. The result of the roll call vote was 7 in favor and 2 opposed; therefore, the motion to pass the measure on second reading carried .
Cm Woolwine, seconded by Cm Beckwith, **MOVED THE MOTION DEALING WITH THE UTILITY SERVICES PARTNERS, INC. MARKETING AGREEMENT BE TAKEN FROM THE TABLE.** The motion to take from the table carried . The motion now before the assembly was exactly as it was when laid on the table. The wording of the motion laid on the table at the meeting of April 9, 2009 read, "Cm Hensil, seconded by Cm Beckwith, **MOVED COUNCIL APPROVE OF AND AUTHORIZE THE MAYOR TO EXECUTE A MARKETING AGREEMENT WITH UTILITY SERVICE PARTNERS, INC. DBA SERVICE LINE WARRANTIES OF WEST VIRGINIA AND AMERICA'S WATER HEATER RENTALS, LLC.** Albert J. Saussol, account executive for Utility Service Partners, Inc., appeared on behalf of the company. Points developed in the ensuing discussion indicated that competitors offered services similar to Utility Partners; an association with the city would not necessarily result in an unfair competitive advantage for Utility Partners; adoption of the measure would make options available that didn't currently exist; the program would be offered to residential users only; Utility Partners probably would not offer the service if the city declined to participate; involvement in the program would not result in cost to the city; the city would, instead, receive consideration in exchange for its involvement; only licensed professionals approved by Utility Partners would be used to effect emergency repairs; the company's exposure to cost associated with removing obstacles impeding repair work (i.e., sidewalks, landscaping, driveways, etc.) would be limited; the company would purchase a list of city customers to facilitate its marketing efforts; the greatest benefits of participation would accrue to those unable to afford the lump sum, out-of-pocket expense to effect major repairs; residents would not be contacted more than 2-3 times per year. A roll call vote being requested, the clerk read the roll: Beckwith - No; Bibey - No; Bross-Fregonara - No; Burford - No; Hensil - No; Malcolm - No; Metheny - No; Satterfield - No; and Woolwine - Yes. The result of the roll call vote was 1 in favor and 8 opposed; therefore, the motion to adopt the motion failed to carry .
No action was taken to officially designate Unnamed Road 475, in Tax District 16, Map 107 Parcel 34.1, the landfill access road.
No addressing and mapping recommendations were made. Cm Satterfield said a list problem street names had to be made.

Cm Satterfield, seconded by Cw Burford, **MOVED THAT PROPOSED ORDINANCE 098, REGARDING PERSONS WHO FAIL TO APPEAR IN ELKINS MUNICIPAL COURT, BE BROUGHT FORTH, READ BY TITLE ONLY, AND PASSED ON SECOND AND FINAL READING.** The motion carried .

Cw Bross-Fregonara noted that Duke Talbott commenced a 4-year term as councilman from Fourth Ward April 1, 2007. He resigned that office effective March 31, 2009. An appointment to fill the vacancy created by Councilman Talbott's resignation would be for the remainder of the term to which he was originally elected. That term would expire March 31, 2011. Two Fourth Ward residents expressed interest in appointment to fill the vacancy: Marilynn D. Cuonzo and Jimmy D. Hammond. Cw Bross-Fregonara, seconded by Cm Metheny, **MOVED THAT COUNCIL APPOINT MARILYNN D. CUONZO, RESIDENT OF 160 GUY STREET, TO FILL THE VACANCY IN THE FOURTH WARD COUNCIL SEAT CREATED BY THE RESIGNATION OF DUKE TALBOTT.** The motion carried .

NEW BUSINESS

Cm Bibey, seconded by Cm Metheny, **MOVED COUNCIL APPROVE OF AND AUTHORIZE THE SALE OF A SURPLUS 1981 INTERNATIONAL PUMPER FIRE TRUCK (VEHICLE IDENTIFICATION NUMBER 1HTCA2521GHA22518) TO THE WASHINGTON DISTRICT VOLUNTEER FIRE DEPARTMENT FOR A ONE-TIME PAYMENT OF $18,000.** The motion carried .

Cm Beckwith, seconded by Cm Satterfield, **MOVED COUNCIL APPROVE EMPLOYEE TRAVEL REFLECTED ON THE AGENDA.** The motion carried . [The water treatment plant supervisor will travel to Glade Springs Resort for the WV-American Water Works Association conference. The operations manager and operational assistant will travel to Flatwoods for a WV Rural Water Association training seminar.]

Cm Metheny, seconded by Cw Burford, **MOVED COUNCIL GRANT THE REQUEST OF THE RANDOLPH COUNTY CANCER SUPPORT GROUP FOR A PARADE PERMIT AND POLICE ESCORT IN CONJUNCTION WITH THE GROUP'S *ANNUAL 5K WALK AND 5 MILE RUN*.** The motion carried .

Cm Woolwine, seconded by Cm Hensil, **MOVED COUNCIL APPROVE OF AND AUTHORIZE CREATION OF A TEAM TO PARTICIPATE IN 2009 *RELAY FOR LIFE* EVENTS.** The motion carried .

Cm Woolwine, seconded by Cm Metheny, **MOVED THAT PROPOSED ORDINANCE 099, APPROVING OF AND AUTHORIZING THE ISSUANCE OF SEWER REVENUE BONDS, SERIES 2009 A, BE BROUGHT FORTH, READ BY TITLE ONLY AND PASSED ON FIRST READING.** The motion carried . [The bond proceeds, upon final adoption, will provide funding to underwrite the cost of the *Davis Avenue Stormwater Separation Project* .]

Cm Hensil, seconded by Cm Woolwine, **MOVED THAT COUNCIL ADOPT PROPOSED RESOLUTION 172, APPROVING INVOICES RELATING TO THE PROPOSED WATER PROJECT AND AUTHORIZING PAYMENT DRAWDOWN #20 THEREOF FROM FUNDS AVAILABLE FROM THE *WATERWORKS SYSTEM DESIGN BOND ANTICIPATION NOTES, SERIES 2007*** . The motion carried . [Chapman Technical Group will receive a disbursement of $83,781.25.]

Cw Burford, seconded by Cm Beckwith, **MOVED COUNCIL GRANT THE REQUEST OF FUDDLEE'S BAR AND GRILL TO TEMPORARILY CLOSE THAT PORTION OF DAVIS AVENUE BETWEEN 2 ND AND 3 RD STREETS ON SATURDAY, MAY 23 BETWEEN THE HOURS OF 12 NOON AND 9 P.M. FOR A VETERAN SUPPORT-RELATED POKER RUN.** The motion carried . [Council required that a fire lane be maintained, to allow the passage of emergency response vehicles.]

Cm Beckwith, seconded by Cm Hensil, **MOVED COUNCIL ADOPT PROPOSED RESOLUTION 173, APPROVING OF AND AUTHORIZING APPLICATION FOR *EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT* FUNDS, FOR THE USE OF THE POLICE DEPARTMENT.** [If approved, the formula grant could provide $36,838.]

Cm Satterfield, seconded by Cm Metheny, **MOVED COUNCIL ADOPT PROPOSED RESOLUTION 174, REQUESTING THAT THE DESIGNATION FOR THE AGGREGATES EXIT OF U.S. ROUTE 33 BE CHANGED TO *HARRISON AVENUE/CRYSTAL SPRINGS/ROUTE 92*.** The motion carried .

Cm Hensil, seconded by Cm Malcolm, **MOVED COUNCIL GRANT PERMANENT EMPLOYMENT STATUS TO ADAM M. SHAFFER IN THE POSITION OF WATER TREATMENT PLANT OPERATOR-IN-TRAINING EFFECTIVE MAY 19, 2009.** The motion carried .

COMMITTEE REPORTS

BUILDING

The Committee received 25 building permit applications since the last meeting of council, 54 thru 78. Application 18 remained unconsidered. Acting upon recommendation of the building inspector, the Committee approved all applications. Cm Malcolm, seconded by Cm Metheny, **MOVED THAT COUNCIL GRANT BUILDING PERMITS FOR THE 25 APPLICATIONS APPROVED BY THE COMMITTEE.** The motion carried .

PERMIT	APPLICANT	LOCATION	DESCRIPTION	VALUE
54	Tedford, Sidney	7 Kerens Hill	10x10 Deck 8x8 Shed Kit over Deck	$ 2,100
55	Varney, Chuck	143 Vector Av	Reroof & Hand Rail	$ 5,875
56	Denison, Michael	803 Lincoln Av	Reroof & Hand Rail	$ 1,500
57	Women's Aid in Crisis	Kerens Av	Converting (3) Garages into Apts.	$ 150,000
58	Wise, James	117 Evergreen Dr	Reroof	$ 1,700
59	Herron, Jr., Ronald	130 Riverview Dr	Reroof	$ 2,000
60	Harvey, Richard	102 White Oak Ln	Replace Deck	$ 3,000
61	Marks, Mabel	227 Diamond St	Reroof & Exterior Remodel	$ 24,000
62	Holiday Inn	50 Martin St	Add 5 Exterior Lights & Interior Sign	$ 3,900
63	Darby, Sam	1110 Harrison Av	Demolition of Car Wash	$ 5,000
64	Davis, James	102 South Gate Rd	Reroof	$ 3,200

65	Griesel, Ed	203 Davis Av	Awning	$ 1,900
66	Koch, Linda	1603 16th St	Reroof	$ 5,200
67	Bodkins, Tommie	206 Alexander Av	Siding & Stone Work on Front	$ 18,207
68	Davis & Elkins College	Old Elkins Tire, Station, Motel	Asbestos Abatement	$ 5,222
69	Fox, Nancy J.	37 Pleasant Av	Electric Box & Cable	$ 1,000
70	George, Roger	223 Lough St	Reroof	$ 9,400
71	Roberts, Pam	305 Marro Dr	Reroof Garage	$ 2,000
72	Hemple, John	4 Davis Av	Roof Repairs	$ 2,000
73	Welshonce, Jeff	121 Buffalo St	Replacing Windows	$ 10,500
74	Varchetto, Richard	15 Spruce St	New Structure	$ 70,000
75	First Church of Christ	306 Main St	Asbestos Abatement & Demolition	$ 3,900
76	G. Hinchman-GNC Mowing	135 S. Randolph Av	Sign	$ 250
77	C-Hope	101 Railroad Ave-Darden Mill	Exterior Restoration	$ 37,904
78	McCauley, Linda	16 2nd St	Repair Roof	$ 2,000

OPERATIONAL REPORT

The following information is reproduced from the report delivered by the operations manager.

Water Plant

We are in the process of evaluating bids received from the four membrane manufacturers that were invited to submit proposals. We are working on scheduling interviews with these four bidders for later this month.

Street Department

Spring cleanup is complete for this year. We picked up over 118 tons of trash and hauled it to the landfill. Total cost of cleanup was $18, 048.

Ticketing of parked cars on the street sweeper route will begin Monday May 11. We are working with the WV DOH on scheduling the cleanup of Randolph and Harrison Avenues. We're hoping to get started on this next week, weather permitting.

Wastewater

Bid opening for the Downtown Stormwater Separation Project was held Friday May 1.

We received bids from 12 contractors, ranging from $923,242 to $1,791,771. Low bidder was J. F. Allen Co. We would like to get this project underway by the end of June.

Wastewater Plant

The upgrades to the Wastewater Treatment Plant are working extremely well; the plant has been able to handle incoming flows during even the heaviest rains. We're sure the plant has on occasion handled over 10 million gallons per day. How much over 10 million we can't say; the effluent meter pegs out at 7,000 gallons per minute.

Miscellaneous

Plans for the Sidewalk Renovations project for the downtown area have been approved by the WV DOH. We expect to receive a notice to proceed in the next two weeks.

Operations division personnel are scheduled for 4-hour Defensive Driving classes on May 27. These classes are conducted by BrickStreet Insurance Company.

The downtown signal replacement project has been slowed by the rainy weather this month. The contractor should wrap up this project sometime in the early part of June.

MAYOR'S COMMENTS AND OTHER BUSINESS

The mayor announced his intention to promulgate a formalized grant protocol to which all departments would be expected to adhere.

The senior officer in charge of the police department will be formulating a long-range plan for operation of the police department.

At the mayor's request, the operations manager will review the organization of the enforcement agency, to determine how it could be better restructured.

A conference room, designated as the *Mayor's Conference Room,* has been established in Room 315 of city hall.

The mayor issued a proclamation observing Peace Officer's Memorial Day on May 15.

The meeting adjourned at 8:50 p.m.

/s/ Duke Talbott, Mayor

/s/ Philip J. Graziani, City Clerk

State of West Virginia, County of Randolph, ss.

I, Donald W. Smith, General Manager of THE INTER-MOUNTAIN, a newspaper published at Elkins, in said county, do hereby certify that the annexed advertisement was published on the following dates:

May 22 May 29 _____ _____

20 09 as required by law.

Given under my hand this 29th day of May, 20 09

Donald W. Smith
General Manager

Printer's Fee: $ 142.43

Sul re me this 29th day of May, 20 09

Lisa A. Jones
Notary Public

My 15th day of March, 20 17

NOTICE OF PUBLIC HEARING ON THE CITY OF ELKINS BOND ORDINANCE

A public hearing will be held on the following-entitled Ordinance at a regular meeting of the Council of The City of Elkins (the "City") to be held on Thursday, June 4, 2009, at 7:00 pm at The City of Elkins, City Hall, 401 Davis Avenue, Elkins, West Virginia, and at such hearing any person interested may appear before the City and present protests, and all protests and suggestions shall be heard by the City and it shall then take such actions as it shall deem proper in the premises upon an Ordinance entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF ELKINS AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF ELKINS OF NOT MORE THAN $2,000,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA SRF PROGRAM), AND NOT MORE THAN $2,000,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA SRF PROGRAM/ARRA); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING BOND PURCHASE AGREEMENTS RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

The above-quoted title of the Ordinance describes generally the contents thereof and the purposes of the Bonds contemplated thereby. The City contemplates the issuance of the Bonds described in the Ordinance. The proceeds of the Bonds will be used to (i) pay the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); (ii) fund the Series 2009 A Reserve Account; and (iii) pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The Bonds are payable solely from revenues to be derived from the ownership and operation of the system of the City. No taxes may at any time be levied for the payment of the Bonds or the interest thereon.

The above-entitled Ordinance was adopted by the Council of The City of Elkins on May 21, 2009. A certified copy of the above-entitled Ordinance is on file with the City for review by interested parties during regular office hours.

Following the public hearing, the City intends to enact the Ordinance upon final reading.

Dated: May 22, 2009

/s/ Judy Guye
Mayor

5-22, 29

State of West Virginia, County of Randolph, ss.

NOTICE OF PUBLIC
HEARING ON
THE CITY OF ELKINS BOND
ORDINANCE

A public hearing will be held by THE CITY OF ELKINS OF NOT MORE THAN $1,000,000 IN ORIGINAL PRINCIPAL AMOUNT OF SUCH BONDS, AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

The above-quoted title of the Ordinance describes generally the contents thereof and the purposes of

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
LISA A. JONES
RR 3, BOX 62
PARSONS, WV 26287
My commission expires March 15, 2017

I, Donald W. Smith, General Manager of THE INTER-MOUNTAIN, a newspaper published at Elkins, in said county, do hereby certify that the annexed advertisement was published on the following dates:

May 22 May 29 _____ _____

20 09 as required by law.

Given under my hand this 29th day of May, 20 09

Donald W. Smith
General Manager

Printer's Fee: $ 142.43

Subscribed and sworn to before me this 29th day of May, 20 09

Lisa A. Jones
Notary Public

My Commission Expires the 15th day of March, 20 17

WV MUNICIPAL BOND COMMISSION
1207 Quarrier Street
Suite 401
Charleston, WV 25301
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: 6/18/2009

ISSUE: The City of Elkins
Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program)

ADDRESS: 401 Davis Avenue, Elkins, West virginia 26241 COUNTY: Randolph

PURPOSE OF ISSUE:
New Money: X
Refunding:

REFUNDS ISSUE(S) DATED: NA

ISSUE DATE: 6/18/2009

CLOSING DATE: 6/18/2009

ISSUE AMOUNT: $883,280

RATE: 0%; Administrative Fee 1%

1ST DEBT SERVICE DUE: 12/1/2010

1ST PRINCIPAL DUE 12/1/2010

1ST DEBT SERVICE AMOUNT $7,361

PAYING AGENT: Municipal Bond Commission

BOND COUNSEL:
Firm: Steptoe & Johnson PLLC
Contact John Stump, Esquire
Phone: (304) 353.8196

UNDERWRITERS COUNSEL
Firm: Jackson Kelly, PLLC
Contact: Samme Gee, Esquire
Phone: (304) 340-1318

CLOSING BANK:
Bank: Citizens National Bank
Contact: Linda Smith
Phone: 304.636.4095

ESCROW TRUSTEE:
Firm:
Contact:
Phone:

KNOWLEDGEABLE ISSUER CONTACT
Contact: Duke Talbott
Position: Mayor
Phone: 304.636.1414

OTHER:
Agency: W.V. Department of Environmental Protection
Contact: Rosalile Brodersen
Position: Program Manager
Phone: (304) 926.0499 (ext. 1608)

DEPOSITS TO MBC AT CLOSE
By:
x Wire ($28,934)
x Check ($500)

Accrued Interest: $
Capitalized Interest: $
x Reserve Account: $ 28,934 + 510 = 29,444
Other: $

REFUNDS & TRANSFERS BY MBC AT CLOSE
By:
Wire
Check
IGT

To Escrow Trustee $
To Issuer $
To Cons. Invest. Fun $
To Other: $

NOTES: The Series 2009 A Bonds Reserve Account is funded with bond proceeds.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED:
TRANSFERS REQUIRED:

28A

WV MUNICIPAL BOND COMMISSION
1207 Quarrier Street
Suite 401
Charleston, WV 25301
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: 6/18/2009

ISSUE: The City of Elkins
Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA)

ADDRESS: 401 Davis Avenue, Elkins, West Virginia 26241 COUNTY: Randolph

PURPOSE OF ISSUE:
New Money: X
Refunding:

REFUNDS ISSUE(S) DATED: NA

ISSUE DATE: 6/18/2009

CLOSING DATE: 6/18/2009

ISSUE AMOUNT: $883,280

RATE: 0%; Administrative Fee 0%

1ST DEBT SERVICE DUE: 100% forgivable

1ST PRINCIPAL DUE 100% forgivable

1ST DEBT SERVICE AMOUNT 100% forgivable

PAYING AGENT: Municipal Bond Commission

BOND COUNSEL:
Firm: Steptoe & Johnson PLLC
Contact John Stump, Esquire
Phone: (304) 353.8196

UNDERWRITERS COUNSEL
Firm: Jackson Kelly, PLLC
Contact: Samme Gee, Esquire
Phone: (304) 340-1318

CLOSING BANK:
Bank: Citizens National Bank
Contact: Linda Smith
Phone: 304.636.4095

ESCROW TRUSTEE:
Firm:
Contact:
Phone:

KNOWLEDGEABLE ISSUER CONTACT
Contact: Duke Talbott
Position: Mayor
Phone: 304.636.1414

OTHER:
Agency: W.V. Department of Environmental Protection
Contact: Rosalile Brodersen
Position: Program Manager
Phone: (304) 926.0499 (ext. 1608)

DEPOSITS TO MBC AT CLOSE
By: ____ Wire ____ Check

____ Accrued Interest: $ ____
____ Capitalized Interest: $ ____
____ Reserve Account: $ ____
____ Other: $ ____

REFUNDS & TRANSFERS BY MBC AT CLOSE
By: ____ Wire ____ Check ____ IGT

____ To Escrow Trustee $ ____
____ To Issuer $ ____
____ To Cons. Invest. Fun $ ____
____ To Other: ____ $ ____

NOTES: The Series 2009 B Bonds are 100% forgivable. The Series 2009 B Bonds Reserve Account will not be funded

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED:
TRANSFERS REQUIRED:

28B

THE CITY OF ELKINS

Sewer Revenue Bonds, Series 2009 A
(West Virginia SRF Program) and
Sewer Revenue Bonds, Series 2009 B
(West Virginia SRF Program/ARRA)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

Citizens National Bank, Elkins, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Ordinance of The City of Elkins (the "Issuer") enacted by the Issuer on June 4, 2009, and a Supplemental Resolution adopted by the Issuer on June 4, 2009 (collectively, the "Bond Legislation"), authorizing issuance of the Issuer's Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program) and Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), each dated June 18, 2009, in the respective aggregate principal amounts of $868,030 and $868,030 (collectively, the "Bonds"), and agrees to serve as Depository Bank in connection with the Bonds, all as set forth in the Bond Legislation.

WITNESS my signature on this 18th day of June, 2009.

CITIZENS NATIONAL BANK

By: Linda Smith, Mrs. Banker
Its: Authorized Officer

06.04.09
255620.00012

CH5119987.1

THE CITY OF ELKINS

Sewer Revenue Bonds, Series 2009 A
(West Virginia SRF Program); and
Sewer Revenue Bonds, Series 2009 B
(West Virginia SRF Program/ARRA)

ACCEPTANCE OF DUTIES AS REGISTRAR

The Huntington National Bank, Charleston, West Virginia, hereby accepts appointment as Registrar in connection with The City of Elkins Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program) and Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), each dated June 18, 2009, in the respective aggregate principal amounts of $883,280 and $883,280 (collectively, the "Series 2009 Bonds"), and agrees to perform all duties of Registrar in connection with the Series 2009 Bonds, all as set forth in the Bond Legislation authorizing issuance of the Series 2009 Bonds.

WITNESS my signature on this 18th day of June, 2009.

THE HUNTINGTON NATIONAL BANK

By: _____
Its: Authorized Officer

06.04.09
255620.00012

THE CITY OF ELKINS

Sewer Revenue Bonds, Series 2009 A
(West Virginia SRF Program); and
Sewer Revenue Bonds, Series 2009 B
(West Virginia SRF Program/ARRA)

CERTIFICATE OF REGISTRATION OF BONDS

The Huntington National Bank, Charleston, West Virginia, as Registrar under the Bond Legislation and Registrar's Agreement providing for the above-captioned Bonds of The City of Elkins (the "Issuer"), hereby certifies that on the date hereof, the single, fully registered Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), of the Issuer, dated June 18, 2009, in the principal amount of $883,280, numbered AR-1, and the single, fully registered Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), of the Issuer, dated June 18, 2009, in the principal amount of $883,280, numbered BR-1, were registered as to principal only in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of the Registrar.

WITNESS my signature on this 18th day of June, 2009.

THE HUNTINGTON NATIONAL BANK

By: _____
Its: Authorized Officer

06.04.09
255620.00012

THE CITY OF ELKINS

Sewer Revenue Bonds, Series 2009 A
(West Virginia SRF Program); and
Sewer Revenue Bonds, Series 2009 B
(West Virginia SRF Program/ARRA)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 18th day of June, 2009, by and between THE CITY OF ELKINS, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its $883,280 principal amount of Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program) and $883,280 principal amount of Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), in fully registered form (collectively, the "Series 2009 Bonds"), pursuant to a Bond Ordinance of the Issuer duly enacted June 4, 2009, and a Supplemental Resolution of the Issuer duly adopted June 4, 2009 (collectively, the "Bond Legislation");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Bond Legislation, a copy of which is attached as EXHIBIT A hereto and incorporated herein by reference;

WHEREAS, the Bond Legislation provides for an appointment by the Issuer of a Registrar for the Series 2009 Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Bond Legislation and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Bond Legislation and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Series 2009 Bonds, all as set forth in the Bond Legislation, such duties including, among other things, the duties to authenticate, register and deliver the Series 2009 Bonds upon original

issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exemption of interest, if any, on the Series 2009 Bonds from federal income taxation, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar the compensation for services rendered as provided in the annexed schedule.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Bond Legislation with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Bond Legislation, the terms of the Bond Legislation shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Bond Legislation will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER:
The City of Elkins
401 Davis Avenue
Elkins, West Virginia 26241
Attention: Mayor

REGISTRAR:
The Huntington National Bank
One Huntington Square
Charleston, West Virginia 25301

8. The Registrar is hereby requested and authorized to authenticate and deliver the Series 2009 Bonds in accordance with the Bond Legislation.

IN WITNESS WHEREOF, the parties hereto have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

THE CITY OF ELKINS

By: _____
Its: Mayor

THE HUNTINGTON NATIONAL BANK

By: _____
Its: Authorized Officer

06.02.09
255620.00012

EXHIBIT A

Bond Legislation included in bond transcript as Documents No. 1 and No. 2
SCHEDULE OF COMPENSATION

(See Attached)

Private Financial Group
P.O. Box 633 - WE3013
Charleston, West Virginia 25322-0633

Huntington

STATEMENT OF REGISTRAR'S FEES
Invoice Date June 18, 2009

The City of Elkins
Account Number 6089001809

The City of Elkins
Sewer Revenue Bonds, Series 2009 A
C/o John C. Stump
Steptoe & Johnson, PLLC
P.O. Box 1588
Charleston, WV 25326-1588

SUMMARY OF ACCOUNT

****

FEE CALCULATION FOR June, 2009

****

TOTAL AMOUNT	$	500.00
TOTAL DUE	**$**	**500.00**

* FEE INVOICES ARE PAYABLE WITHIN 30 DAYS. IF PAYMENT *
* IS NOT RECEIVED, FEES WILL BE DEDUCTED FROM THE PLAN *
* .. MAIL CHECK TO: HUNTINGTON NATIONAL BANK, ATTN: BARRY. . *
* .. GRIFFITH, PO BOX 633, CHARLESTON, WV 25322-0633 . . . . . *

PLEASE INCLUDE A COPY OF THIS INVOICE WITH YOUR PAYMENT

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT
Barry Morgan Griffith at (304)348-5035

Private Financial Group
P.O. Box 633 - WE3013
Charleston, West Virginia 25322-0633

Huntington

STATEMENT OF REGISTRAR'S FEES
Invoice Date June 18, 2009

The City of Elkins
Account Number 6089001809

The City of Elkins
Sewer Revenue Bonds, Series 2009 B
C/o John C. Stump
Steptoe & Johnson, PLLC
P.O. Box 1588
Charleston, WV 25326-1588

SUMMARY OF ACCOUNT

****

FEE CALCULATION FOR June, 2009

****

TOTAL AMOUNT	$	500.00
TOTAL DUE	**$**	**500.00**

* FEE INVOICES ARE PAYABLE WITHIN 30 DAYS. IF PAYMENT *
* IS NOT RECEIVED, FEES WILL BE DEDUCTED FROM THE PLAN *
* .. MAIL CHECK TO: HUNTINGTON NATIONAL BANK, ATTN: BARRY. . *
* .. GRIFFITH, PO BOX 633, CHARLESTON, WV 25322-0633 . . . . . *

PLEASE INCLUDE A COPY OF THIS INVOICE WITH YOUR PAYMENT

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT
Barry Morgan Griffith at (304)348-5035

Ordinance No. 073

THE CITY OF ELKINS
SEWER REVENUE BONDS, SERIES 2008 A

CONFORMED BOND ORDINANCE

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THE CITY OF ELKINS

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF ELKINS AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $650,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2008 A; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; AND AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF ELKINS:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

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

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

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

B. The Issuer presently owns and operates a public sewerage system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain additions, betterments and improvements to the existing public sewerage system of the Issuer, consisting of construction

of a lift station, together with all appurtenant facilities (collectively, the "Project"), which constitute properties for the collection, transportation, treatment, purification, or disposal of liquid or solid wastes, residential sewage or industrial waste (the existing public sewerage system of the Issuer, the Project and any further additions, betterments and improvements thereto are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds, Series 2008 A, in the total aggregate principal amount of not more than $650,000 (the "Series 2008 A Bonds"), initially to be represented by a single bond, to permanently finance the costs of acquisition and construction of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Series 2008 A Bonds prior to and during construction or acquisition and for a period not exceeding 6 months after completion of construction of the Project; amounts which may be deposited in the Series 2008 A Bonds Reserve Account (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense; commitment fees; discount; initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2008 A Bonds and such other expenses as may be necessary or incidental to the financing herein authorized; the acquisition or construction of the Project and the placing of same in operation; and the performance of the things herein required or permitted, in connection with any thereof, provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2008 A Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

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

E. It is in the best interests of the Issuer that its Series 2008 A Bonds be sold to the Purchaser (as hereinafter defined) pursuant to this Bond Legislation

F. There will be outstanding obligations of the Issuer which will rank on a parity with the Series 2008 A Bonds as to liens, pledge, source of and security for payment, being the Issuer's: (i) Supplemental Subordinate Sewer Revenue Bonds, Series 1986 B (West Virginia Water Development Authority), dated April 28, 1986, issued in the original aggregate principal amount of $517,001 (the "Series 1986 B Bonds"); (ii) the Sewer Revenue Bonds, Series 1996 A, (West Virginia SRF Program) dated August 22, 1996, issued in the original aggregate principal amount of $300,000 (the "Series 1996 A Bonds"); (iii) the Sewer Refunding Revenue Bonds, Series 2004 A, dated June 18, 2004, issued in the original

aggregate principal amount of $1,022,000, (the "Series 2004 A Bonds"); and (iv) the Sewer Revenue Bonds, Series 2006 A, (West Virginia SRF Program) dated December 7, 2006, issued in the original aggregate principal amount of $8,588,400 (the "Series 2006 A Bonds) (collectively, the "Prior Bonds").

The Series 2008 A Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. Prior to the issuance of the Series 2008 A Bonds, the Issuer will obtain the written consent of the Holders of the Prior Bonds to the issuance of the Series 2008 A Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with all covenants of the Prior Bonds and Prior Ordinances.

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

H. The Issuer has complied with all requirements of West Virginia law relating to authorization of the acquisition and construction of the Project and the operation of the System and issuance of the Series 2008 A Bonds, or will have so complied prior to issuance of any thereof.

I. Pursuant to the Act, the Issuer has heretofore established a Sanitary Board, and the Sanitary Board has petitioned the Governing Body to issue the Series 2008 A Bonds for the purposes set forth herein.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2008 A Bonds by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Series 2008 A Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series, and by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

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

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

"Board" means the Sanitary Board of the Issuer.

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

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

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

"Bonds" means, collectively, the Series 2008 A Bonds, the Prior Bonds and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another ordinance of the Issuer.

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

"Closing Date" means the date upon which there is an exchange of the Series 2008 A Bonds for all or a portion of the proceeds of the Series 2008 A Bonds.

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

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

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

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

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

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

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

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

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

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

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

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

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

"Investment Property" means

(A) any security (within the meaning of Section 165(g)(2)(A) or (B) of the Code),

(B) any obligation,

(C) any annuity contract,

(D) any investment-type property, or

(E) in the case of a bond other than a private activity bond, any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan.

Except as provided in the following sentence, the term "Investment Property" does not include any tax-exempt bond. With respect to an issue other than an issue a part of which is a specified private activity bond (as defined in section 57(a)(5)© of the Code), the term "Investment Property" includes a specified private activity bond (as so defined).

"Issuer" means The City of Elkins, a municipal corporation and political subdivision of the State of West Virginia, in Randolph County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 2008 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 2008 A Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 2008 A Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

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

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

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the costs, fees and expenses of the Depository Bank, the Registrar and the Paying Agent (all as herein defined), other than those capitalized as part of the costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

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

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

"Paying Agent" means the Commission or other entity or authority designated as such for the Series 2008 A Bonds in the Supplemental Resolution.

"Prior Bonds" means, collectively, the Series 1986 B Bonds, Series 1996 A Bonds, Series 2004 A Bonds, and Series 2006 A Bonds.

"Prior Ordinances" means, collectively, the ordinances of the Issuer, including all amendments and supplements thereto, authorizing the issuance of the Prior Bonds.

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

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

"Purchaser" means the purchaser or purchasers of the Series 2008 A Bonds directly from the Issuer, designated as such in the Supplemental Resolution and its successors and assigns.

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

(a) Government Obligations;

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

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

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

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

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

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

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

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

"Recorder" means the Recorder of the Issuer.

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

"Registrar" means the Bond Registrar.

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

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

"Reserve Accounts" means, collectively, the respective reserve accounts established for the Series 2008 A Bonds and the Prior Bonds.

"Reserve Requirement" means, collectively, the respective amount required to be on deposit in any Reserve Account for the Prior Bonds and the Series 2008 A Bonds.

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

"Series 1986 B Bonds" means the Issuer's Supplemental Subordinate Sewer Revenue Bonds, Series 1986 B (West Virginia Water Development Authority), dated April 28, 1986, issued in the original aggregate principal amount of $517,001.

"Series 1996 A Bonds" means the Issuer's Sewer Revenue Bonds, Series 1996 A (West Virginia SRF Program), dated August 22, 1996, issued in the original aggregate principal amount of $300,000.

"Series 2004 A Bonds" means the Issuer's Sewer Refunding Revenue Bonds, Series 2004 A, dated June 18, 2004, issued in the original aggregate principal amount of $1,022,000.

"Series 2006 A Bonds" means the Issuer's Sewer Revenue Bonds, Series 2006 A (West Virginia SRF Program), dated December 7, 2006, issued in the original aggregate principal amount of $8,588,400.

"Series 2008 A Bonds" means Sewer Revenue Bonds, Series 2008 A of the Issuer, authorized by this Bond Legislation.

"Series 2008 A Bonds Construction Trust Fund" means the Series 2008 A Bonds Construction Trust Fund established by Section 5.01 hereof.

"Series 2008 A Bonds Reserve Account" means the Series 2008 A Bonds Reserve Account established by Section 5.02 hereof.

"Series 2008 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2008 A Bonds in the then current or any succeeding year.

"Series 2008 A Bonds Sinking Fund" means the Series 2008 A Bonds Sinking Fund established by Section 5.02 hereof.

"Sinking Funds" means, collectively, the respective sinking funds established for the Series 2008 A Bonds and the Prior Bonds.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the," refers specifically to the supplemental resolution authorizing the sale of the Series 2008 A Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2008 A Bonds, and not so included may be included in another Supplemental Resolution.

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

"System" means, collectively, the complete existing municipal sewage treatment and collection system of the Issuer, as presently existing in its entirety or any integral part thereof, and shall include the Project and any and all additions, betterments and

improvements thereto hereafter acquired or constructed for the System from any sources whatsoever, both within and without the Issuer.

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

Additional terms and phrases are defined in this Ordinance as they are used. Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of not to exceed $650,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2008 A Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project.

The cost of the Project is estimated not to exceed $650,000, of which $650,000 will be obtained from proceeds of the Series 2008 A Bonds.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS

Section 3.01. Authorization of Bonds. For the purposes of funding a reserve account for the Series 2008 A Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the negotiable Series 2008 A Bonds of the Issuer. The Series 2008 A Bonds shall be issued as a single bond, designated "Sewer Revenue Bond, Series 2008 A", in the principal amount of not more than $650,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2008 A Bonds remaining after funding of the Series 2008 A Bonds Reserve Account (if funded from Bond proceeds) and capitalizing interest on the Series 2008 A Bonds, if any, shall be deposited in or credited to the Series 2008 A Bonds Construction Trust Fund established by Section 5.01 hereof and applied as set forth in Article VI hereof.

Section 3.02. Terms of Bonds. The Series 2008 A Bonds shall be issued in such principal amounts; shall bear interest at such rate or rates, not exceeding the then legal maximum, payable on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution. The Series 2008 A Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 2008 A Bonds shall be paid by check or draft of the Paying Agent or its agent, mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Purchaser is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 2008 A Bonds shall initially be issued in the form of a single bond, fully registered to the Purchaser, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 2008 A Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 2008 A Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Purchaser shall not be obligated to pay any expenses of such exchange.

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

Section 3.03. Execution of Bonds. The Series 2008 A Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the City Clerk. In case any one or more of the officers who shall have signed or sealed the Series 2008 A Bonds shall cease to be such officer of the Issuer before the Series 2008 A Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 2008 A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of the authorization of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 2008 A Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 hereof shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Series 2008 A Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2008 A Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting the Series 2008 A Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 2008 A Bonds remain outstanding, the Issuer, through the Bond Registrar as its agent, shall keep and maintain books for the registration and transfer of the Series 2008 A Bonds.

The registered Series 2008 A Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly

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

In all cases in which the privilege of exchanging Series 2008 A Bonds or transferring the registered Series 2008 A Bonds are exercised, all Series 2008 A Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 2008 A Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Series 2008 A Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Series 2008 A Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 2008 A Bonds or, in the case of any proposed redemption of Series 2008 A Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2008 A Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 2008 A Bonds shall not, in any event, be or constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No Holder or Holders of the Series 2008 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2008 A Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues; Lien Positions with respect to Prior Bonds. The payment of the debt service of all Series 2008 A Bonds shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived

from the operation of the System, on a parity with the lien on the Net Revenues in favor of the Holders of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 2008 A Bonds and the Prior Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as the same become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2008 A Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2008 A Bonds to the original purchasers upon receipt of the documents set forth below:

A. If other than the Purchaser, a list of the names in which the Series 2008 A Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;

B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2008 A Bonds to the Purchaser;

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

D. The unqualified approving opinion of bond counsel on the Series 2008 A Bonds.

Section 3.10. Sale of Bonds. The Series 2008 A Bonds shall be sold to the Purchaser, pursuant to this Bond Legislation.

Section 3.11. Form of Bonds. The text of the Series 2008 A Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF SERIES 2008 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF ELKINS
SEWER REVENUE BONDS, SERIES 2008 A

No. AR-____ $_____

KNOW ALL MEN BY THESE PRESENTS: This ____ day of March, 2008, that The City of Elkins, a municipal corporation and political subdivision of the State of West Virginia in Randolph County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the sources and in the manner hereinafter set forth, to the order of:

THE HUNTINGTON NATIONAL BANK

or registered assigns (the "Registered Owner"), the principal 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 together with interest only payable monthly on the outstanding principal amounts beginning _____, 2008 to and including _____, 2009 and principal and interest payments of $_____ payable monthly beginning _____, 2009 to and including _____, 2019 at the rates per annum set forth as follows:

A. Interest on this Bond shall be payable at the rate of _____% per annum (hereinafter sometimes called the "Tax-Exempt Rate").

a. Notwithstanding any other provision herein, in the event the interest on this Bond is declared to be includible in gross income for federal income tax purposes by the Internal Revenue Service ("Determination of Taxability"), interest on this Note shall be payable at the rate of ____% per annum (hereinafter sometimes called the "Taxable Rate"). Interest at the Taxable Rate shall commence to accrue on the date of Determination of Taxability and such interest rate shall be charged retroactively and prospectively for all periods in which interest paid on this Note is asserted, declared or determined to be includible in gross income for federal income tax purposes, and shall continue until the entire principal of and interest on this Note are paid, notwithstanding that the entire principal amount of this Note may

have been paid in full prior to the Determination of Taxability. Any interest being past due on this Note by reason of such increase shall become immediately due and payable.

The principal of and interest on this Note are payable in any coin or currency which on the date of payment thereof is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia as Paying Agent.

This Bond may be redeemed prior to its stated date of maturity in whole or in part with no prepayment penalty.

This Bond is issued (I) to pay the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing public sewerage system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), a Bond Ordinance duly enacted by the Issuer on _____, 2008, and a Supplemental Resolution duly adopted by the Issuer on _____, 2008 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S: (I) SUPPLEMENTAL SUBORDINATE SEWER REVENUE BONDS, SERIES 1986 B, DATED APRIL 28, 1986, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $517,001 (THE "SERIES 1986 B BONDS"); (II) SEWER REVENUE BONDS, SERIES 1996 A, DATED AUGUST 22, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $300,000 (THE "SERIES 1996 A BONDS"); (III) SEWER REFUNDING REVENUE BOND, SERIES 2004 A, DATED JUNE 18, 2004, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,022,000, (THE "SERIES 2004 A BONDS"); AND (IV) SEWER REVENUE BONDS, SERIES 2006 A, DATED DECEMBER 7, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $8,588,400 (THE "SERIES 2006 A BONDS") (COLLECTIVELY, THE "PRIOR BONDS").

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

"Series 2008 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2008 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Prior Bonds; provided however, that so long as there exists in the Series 2008 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with or junior to the Bonds, including the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

This Bond is, under the Act, exempt from all taxation by the State of West

Virginia, or any county, municipality, political subdivision or agency thereof, except inheritance, estate and transfer taxes.

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

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

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, THE CITY OF ELKINS has caused this Bond to be signed by its Mayor, and its corporate seal to be hereunto affixed and attested by its City Clerk, and has caused this Bond to be dated the day and year first written above

[SEAL]

_____
Mayor

ATTEST:

_____
City Clerk

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2008 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 2008.

THE HUNTINGTON NATIONAL BANK,
as Registrar

_____
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

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

TOTAL $_____

(Form of)

ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

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

(1) Revenue Fund (established by the Prior Ordinances);

(2) Renewal and Replacement Fund (established by the Prior Ordinances);

(3) Rebate Fund (established by the Prior Ordinances); and

(4) Series 2008 A Bonds Construction Trust Fund.

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

(1) Series 1986 B Bonds Sinking Fund (established by Prior Ordinance);

(2) Series 1986 B Bonds Reserve Account (established by Prior Ordinance);

(3) Series 1996 A Bonds Sinking Fund (established by Prior Ordinance);

(4) Series 1996 A Bonds Reserve Account (established by Prior Ordinance);

(5) Series 2004 A Bonds Sinking Fund (established by Prior Ordinance);

(6) Series 2004 A Bonds Reserve Account (established by Prior Ordinance);

(7) Series 2006 A Bonds Sinking Fund (established by Prior Ordinance);

(8) Series 2006 A Bonds Reserve Account (established by Prior Ordinance);

(9) Series 2008 A Bonds Sinking Fund; and

(10) Series 2008 A Bonds Reserve Account.

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

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

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit (i) to the Commission the amounts required by the Prior Ordinances to pay interest on, if any, the Prior Bonds; and (ii) to the Commission commencing the first date of payment of interest on the Series 2008 A Bonds the required amount of interest coming due on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit (i) to the Commission the amounts required by the Prior Ordinances to the principal of the Prior Bonds; and (ii) commencing the first date of payment of principal of the Series 2008 A Bonds, to the Commission the required amount of principal coming due on such date.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) the amount required by the Prior Ordinances for deposit in the respective Reserve

Accounts of the Prior Bonds; and (ii) commencing 3 months prior to the first date of payment of principal of the Series 2008 A Bonds, if not fully funded upon issuance of the Series 2008 A Bonds, for deposit in the Series 2008 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2008 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2008 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2008 A Bonds Reserve Requirement.

(5) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund, an amount equal to 2 ½ % of the Gross Revenues each month (as previously set forth in the Prior Ordinances and not in addition thereto), exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, repairs, improvements or extensions to the System; provided, that any deficiencies in any Reserve Account (except to the extent such deficiency exists because the required payments into such accounts have not, as of the date of determination of a deficiency, funded such accounts to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

Monies in the Series 2008 A Bonds Sinking Fund and the Series 2008 A Bonds Reserve Account shall be used only for the purposes of paying principal of and interest, if any, on the Series 2008 A Bonds as the same shall come due and for no other purpose.

All investment earnings on monies in the Series 2008 A Bonds Sinking Fund and the Series 2008 A Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2008 A Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2008 A Bonds and

then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 2008 A Bonds Reserve Account which result in a reduction in the balance of the Series 2008 A Bonds Reserve Account to below the Series 2008 A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full in the priority as set forth above.

As and when additional Bonds ranking on a parity with the Series 2008 A Bonds are issued, provision shall be made for additional payments into the respective sinking fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve account in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the Series 2008 A Bonds Reserve Account therein when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2008 A Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

Principal, interest or reserve payments, whether for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Prior Bonds and the Series 2008 A Bonds, in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2008 A Bonds Reserve Account created hereunder, and all required amounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

Monies in the Series 2008 A Bonds Sinking Fund and the Series 2008 A Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2008 A Bonds Sinking Fund and the Series 2008 A Bonds Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2008 A Bonds under the conditions and restrictions set forth herein.

B. The Issuer shall, on the first day of each month (if the first day is not a business day, then the first business day of each month), deposit with the Commission the required reserve account payments with respect to the Series 2008 A Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation.

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

D. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay their respective charges and fees then due.

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

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; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03 and the relevant provisions of the Prior Ordinances, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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

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

ARTICLE VI

BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the monies received from the sale of the Series 2008 A Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2008 A Bonds, there shall be deposited with the Commission in the Series 2008 A Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 2008 A Bonds Reserve Account.

B. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2008 A Bonds, such monies shall be deposited with the Depository Bank in the 2008 A Bonds Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 6.02 hereof, and until expended, are hereby pledged as additional security for the Series 2008 A Bonds.

Section 6.02. Disbursements From the Series 2008 A Bonds Construction Trust Fund. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Series 2008 A Bonds Construction Trust Fund shall be made only after submission to the Purchaser of written approved from the Issuer.

Pending such application, monies in the Series 2008 A Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2008 A Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 2008 A Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2008 A Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2008 A Bonds shall not be nor constitute a corporate indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any Series 2008 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2008 A Bonds or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Positions with Respect to Prior Bonds. The payment of the debt service of the Series 2008 A Bonds shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the System, on a parity with the lien on the Net Revenues in favor of the Holders of the Prior Bonds. The Net Revenues in an amount sufficient to pay the principal of and interest, if any, on the Prior Bonds and the Series 2008 A Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. Such rates and charges shall be sufficient to comply with the requirements of the Loan Agreement. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth and approved and described in the sewer rate ordinance of the Issuer enacted November 9, 2006, which rates are incorporated herein by reference as a part hereof.

So long as the Series 2008 A Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take

all such actions necessary to provide funds sufficient to produce the required sums set forth in the Bond Legislation and in compliance with the Loan Agreement. In the event the schedule of rates and charges initially established for the System in connection with the Series 2008 A Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement.

Section 7.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of or encumber the System, or any part thereof, except as provided in the Prior Ordinances.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2008 A Bonds and the Prior Bonds. All obligations issued by the Issuer after the issuance of the Series 2008 A Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Series 2008 A Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts established by this Bond Legislation have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2008 A Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 2008 A Bonds and the interest, if any, thereon in this Bond Legislation, or upon the System or any part thereof.

Section 7.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinances shall be applicable.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2008 A Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of design, acquisition or construction of additions, extensions, betterments or

improvements to the System or refunding any outstanding Bonds, or both such purposes.

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

(1) The Bonds then Outstanding;

(2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Bond Legislation then Outstanding; and

(3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from the improvements to be financed by such Parity Bonds and any increase in rates adopted by the Issuer and approved by the Public Service Commission of West Virginia, the period for appeal of which has expired prior to the date of issuance of such additional parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of an Independent Certified Public Accountant, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer, the period for appeal of which has 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 construction or acquisition of such extensions or improvements, if any, to the System that are to be financed by such Parity Bonds.

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. Bonds

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

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior lien of the Series 2008 A Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 2008 A Bonds.

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

Any certifications requiring computations establishing that debt service coverage is sufficient to support the issuance of parity Additional Bonds or that requisite debt service savings are available to support the issuance of refunding bonds shall, in all cases, be evidenced by a certificate of an Independent Certified Public Accountant.

No additional bonds, notes, certificates, contracts or any other obligations shall be issued by the City unless no Event of Default shall have occurred and be continuing with respect to the Bonds.

Section 7.08. Books: Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project.

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

The accounting system for the System shall follow current generally accepted

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

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants (and to the extent legally required, in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto), and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 2008 A Bonds.

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

Section 7.09. Rates. Prior to the issuance of the Series 2008 A Bonds, equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (I) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2008 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with or junior to the Series 2008 A Bonds, including the Prior Bonds; provided that, in the event the amounts equal to or in excess of the reserve requirements are on deposit respectively in the Series 2008 A Bonds Reserve Account and any Reserve Accounts for obligations on a parity with or junior to the Series 2008 A Bonds, including the Prior Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the

maximum amount required in any year for payment of principal of and interest, if any, on the Series 2008 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with or junior to the Series 2008 A Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinance described in Section 7.04 hereof.

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year.

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

The Issuer shall provide and maintain competent and adequate engineering services 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.

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

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

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

shut off the services of the System, and any services and facilities of the water system, if so owned by the Issuer, to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services of either system until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law. If the water facilities are not owned by the Issuer, the Issuer shall enter into a termination agreement with the water provider of such water, subject to any required approval of such agreement by the Public Service Commission of West Virginia and all rules, regulations and orders of the Public Service Commission of West Virginia.

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

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 2008 A Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the prime contractor and all subcontractors as their respective interests

may appear, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Issuer, the contractors and subcontractors, as their interests may appear.

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

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

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

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

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

B. The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100%

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

The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project. The Issuer shall verify such insurance prior to commencement of construction. Such insurance shall be made payable to the order of the Issuer, the prime contractor and all subcontractors, as their interests may appear.

Section 7.16. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30-day notice of the availability of the System, pay the rates and charges established therefor.

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

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

The Issuer has obtained all permits required by State and federal laws for the acquisition and construction of the Project.

Section 7.18. Compliance with Law. The Issuer shall perform, satisfy and

comply with all the terms and conditions of the Act.

The Issuer shall also comply with all applicable laws, rules and regulations issued by the State, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System. The Issuer will provide the Purchaser, 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).

Section 7.19. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. PRIVATE BUSINESS USE LIMITATION. The Issuer shall assure that (I) not in excess of 10% of the Net Proceeds of the Series 2008 A Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Series 2008 A Bonds during the term thereof is, under the terms of the Series 2008 A Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the Series 2008 A Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Series 2008 A Bonds during the term thereof is, under the terms of the Series 2008 A Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Series 2008 A Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project, or if the Series 2008 A Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such Private Business Use is related, all of the foregoing to be determined in accordance with the Code.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of the lesser of 5% or $5,000,000 of the Net Proceeds of the Series 2008 A Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 2008 A Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

D. INFORMATION RETURN. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 2008 A Bonds and the interest thereon, including, without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer will take any and all actions that may be required of it so that the interest on the Series 2008 A Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions the result of which would adversely affect such exclusion.

Section 7.20. Reserved

Section 7.21. Contracts. The Issuer shall, simultaneously with the delivery of the Series 2008 A Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

Section 7.22. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2008 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 2008 A Bonds, and shall be on a parity with the statutory mortgage lien in favor of the Holders of the Prior Bonds.

ARTICLE VIII

INVESTMENT OF FUNDS; NON ARBITRAGE

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

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

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year (or more often if reasonably requested by the Issuer), a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2008 A Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest on the Series 2008 A Bonds from gross income for federal income tax purposes.

Section 8.02. Arbitrage and Tax Exemption. The Issuer covenants that (I) it shall not take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Series 2008 A Bonds which would cause the Series 2008 A Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Series 2008 A Bonds) so that the interest on the Series 2008 A Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 8.03. Tax Certificate and Rebate. The Issuer shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of the Series 2008 A Bonds. In addition, the Issuer covenants to comply with all Regulations from time to time in effect and applicable to the Series 2008 A Bonds as may be necessary in order to fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of this Bond Legislation.

The Issuer covenants to calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, unless otherwise agreed by the Purchaser, the Issuer shall deposit, or cause to be deposited, in the Rebate Fund such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder and shall be used only for payment of rebatable arbitrage to the United States. The Issuer shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States in the time and at the address prescribed by the Regulations as the same may be from time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefor. In addition, the Issuer shall cooperate with the Purchaser in preparing rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Purchaser at the expense of the Issuer. The Issuer may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer may deem appropriate in order to assure compliance with this Section 8.03. The Issuer shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 8.03 in accordance with the requirements of Section 148(f) of the Code and such Regulations. In the event the Issuer fails to make such rebates as required, the Issuer shall pay the required rebate amount, any and all penalties and other amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, and take any other actions necessary, in order to maintain the exclusion of interest on the Series 2008 A Bonds from gross income for federal

income tax purposes.

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

The Issuer shall submit to the Purchaser within 15 days following the end of each Bond Year a certified copy of its rebate calculation and certificate with respect thereto or, if the Issuer qualifies for the small governmental issue exception to rebate, or any other exception thereto, then the Issuer shall submit to the Purchaser a certificate stating that it is exempt from such rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the Series 2008 A Bonds subject to rebate. The Issuer shall also furnish to the Purchaser, at any time, such additional information relating to rebate as may be reasonably requested by the Purchaser including information with respect to earnings on all funds constituting "gross proceeds" of the Series 2008 A Bonds (as such term "gross proceeds" is defined in the Code).

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2008 A Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest, if any, on the Series 2008 A Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 2008 A Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2008 A Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Depository Bank, the Registrar, the Paying Agent or any other Paying Agent or a Holder of a Bond; or

(3) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America; or

(4) If default occurs with respect to the Prior Bonds or the Prior Ordinances.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (I) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds; (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Holders of the Series 2008 A Bonds shall be on a parity with the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond

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

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

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

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

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

making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

PAYMENT OF BONDS

Section 10.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid to the Holders of the Series 2008 A Bonds, the principal of and interest due or to become due thereon, if any, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2008 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2008 A Bonds from gross income for federal income tax purposes.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2008 A Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2008 A Bonds, no material modification or amendment of this Ordinance, or of any ordinance, resolution or order amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2008 A Bonds, shall be made without the consent in writing of the Registered Owners of the Series 2008 A Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest, if any, thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein pledged therefor without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 2008 A Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest, if any, on the Series 2008 A Bonds from gross income of the holders thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Series 2008 A Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution or the Series 2008 A Bonds.

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

Section 11.05. Conflicting Provisions Repealed. Except for the Prior Ordinances, all ordinances, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed; provided that, in the event of any conflict between this Ordinance and the Prior Ordinances, the Prior

Ordinances shall control (unless less restrictive), so long as the Prior Bonds are Outstanding.

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

Section 11.07. Appointment. The Issuer does hereby appoint, designate and approve the hiring of Steptoe & Johnson, Clarksburg, West Virginia, as bond counsel to the Issuer in connection with the issuance by the Issuer of the Series 2008 A Bonds.

Section 11.08. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in *The Inter Mountain*, a newspaper published and of general circulation in The City of Elkins, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Series 2008 A Bonds, and that any person interested may appear before the Governing Body upon a date certain, not less than ten days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

Section 11.09. Effective Date. This Ordinance shall take effect immediately following the public hearing and final reading hereof.

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Passed on First Reading:	-	February 21, 2008
Passed on Second Reading:	-	March 6, 2008
Passed on Final Reading Following Public Hearing:	-	March 20, 2008

Judith A. Guy

Mayor

CERTIFICATION

Certified a true copy of a Conformed Ordinance duly enacted by the Council of The City of Elkins on the 20th day of March, 2008 as supplemented by Supplemental Resolution on the 15th day of May, 2008.

Dated: May 16, 2008.

[SEAL]

Philip J. Grozjonii
City Clerk

04.28.08
255620.00016

THE CITY OF ELKINS

Sewer Revenue Bonds, Series 2008 A

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 2008 A OF THE CITY OF ELKINS; AND THE SALE AND DELIVERY OF SUCH BONDS TO THE HUNTINGTON NATIONAL BANK; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; GRANTING AUTHORITY TO SANITARY BOARD TO APPROVE REMAINING DRAWS; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the council (the "Governing Body") of The City of Elkins (the "Issuer") has duly and officially adopted and enacted a bond ordinance, effective March 20, 2008 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF ELKINS AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $650,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2008 A; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Bond Ordinance provides for the issuance of Sewer Revenue Bonds, Series 2008 A, of the Issuer (the "Bonds" or the "Series 2008 A Bonds"), in an aggregate principal amount not to exceed $650,000, all in accordance with Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and in the Bond Ordinance it is provided that the exact principal amount, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

WHEREAS, it is deemed necessary for the Issuer to issue its Sewer Revenue Bonds, Series 2008 A (the "Bonds") in an aggregate principal amount of not more than $650,000, to finance the costs of acquisition and construction of the Project and costs of issuance of the Bonds and related costs;

WHEREAS, the Bonds are proposed to be purchased by The Huntington National Bank, Elkins, West Virginia (the "Purchaser"); and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the exact principal amount, the date, the maturity date, the redemption provision, the interest rate, the interest and principal payment dates and the sale price of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

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

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewer Revenue Bonds, Series 2008 A, of the Issuer, originally represented by a single Bond, numbered AR-1, in the principal amount of $600,000. The Series 2008 A Bonds shall be dated the date of delivery thereof, shall finally mature May 5, 2019, and shall bear interest at the rate of 5.25% per annum. Interest only payments on the Series 2008 A Bonds shall be payable monthly, commencing June 5, 2008, to and including May 5, 2009. Principal of and interest payments of $6,459.10 on the Series 2008 A Bonds shall be payable monthly commencing June 5, 2009, to and including May 5, 2019. The Series 2008 A Bonds may be prepaid at any time without penalty.

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

Section 3. The Bonds shall be sold to The Huntington National Bank, Elkins, West Virginia, and shall be registered in the name of such bank. The price of the Bonds shall be 100% of par value, there being no accrued interest accrued thereon.

Section 4. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, West Virginia, to serve as Paying Agent for the Bonds under the Bond Ordinance.

Section 5. The Issuer does hereby appoint and designate the The Huntington National Bank, West Virginia, to serve as Registrar and Depository Bank for the Bonds under the Bond Ordinance.

Section 6. Series 2008 A Bonds proceeds in the amount of $-0- shall be deposited in the Series 2008 A Bonds Sinking Fund as capitalized interest.

Section 7. Series 2008 A Bonds proceeds in the amount of $-0- shall be deposited in the Series 2008 A Bonds Reserve Account.

Section 8. The balance of the proceeds of the Series 2008 A Bonds shall be deposited in or credited to the Series 2008 A Bond Construction Trust Fund as received from time to time for payment of the costs of the Project, including, without limitation, costs of issuance of the Bonds and related costs.

Section 9. The Mayor and the City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered on or about May 16, 2008, to the Purchaser.

Section 10. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 11. The Issuer does hereby approve and authorize all contracts relating to the financing, acquisition and construction of the Project.

Section 12. The Issuer hereby determines to invest all monies in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such monies to be invested in such repurchase agreements or time accounts until further directed in writing by the Issuer. Monies in the Series 2008 A Bonds Reserve Account shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 13. The Issuer hereby appoints and designates the Sanitary Board, and the Authorized Officers thereof, as its agent (i) for the review and approval of all invoices

for the Project to be paid from the proceeds of the Series 2008 A Bonds; (ii) for the approval of all remaining draws of the proceeds of the Series 2008 A Bonds; and (iii) to act on and execute documents on behalf of the Issuer for any and all federal and state actions as they relate to the planning, design and/or construction of the Project.

Section 14. The Issuer hereby approves the Conformed Bond Ordinance attached hereto as Exhibit A.

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

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Adopted this 15th day of May, 2008.

THE CITY OF ELKINS

By: Judith A. Hunze
Its: Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of The City of Elkins on the 15th day of May, 2008.

Dated: May 16, 2008.

[SEAL]

Philip J. Grozjani
City Clerk

04.28.08
255620.00016

EXHIBIT A

CONFORMED BOND ORDINANCE

See Tab 1 of Transcript

SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF ELKINS
SEWER REVENUE BONDS, SERIES 2008 A

No. AR-1 $600,000

KNOW ALL MEN BY THESE PRESENTS: This 16th day of May, 2008, that The City of Elkins, a municipal corporation and political subdivision of the State of West Virginia in Randolph County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the sources and in the manner hereinafter set forth, to the order of:

THE HUNTINGTON NATIONAL BANK

or registered assigns (the "Registered Owner"), the principal sum of SIX HUNDRED THOUSAND DOLLARS ($600,000) or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference together with interest only payable monthly on the outstanding principal amounts beginning June 5, 2008 to and including May 5, 2009 and principal and interest payments of $6,459.10 payable monthly beginning June 5, 2009 to and including May 5, 2019 at the rates per annum set forth as follows:

A. Interest on this Bond shall be payable at the rate of 5.25% per annum (hereinafter sometimes called the "Tax-Exempt Rate").

B. Notwithstanding any other provision herein, in the event the interest on this Bond is declared to be includible in gross income for federal income tax purposes by the Internal Revenue Service ("Determination of Taxability"), interest on this Bond shall be payable at the rate of 8.0% per annum (hereinafter sometimes called the "Taxable Rate"). Interest at the Taxable Rate shall commence to accrue on the date of Determination of Taxability and such interest rate shall be charged retroactively and prospectively for all periods in which interest paid on this Bond is asserted, declared or determined to be includible in gross income for federal income tax purposes, and shall continue until the entire principal of and interest on this Bond are paid, notwithstanding that the entire principal amount of this Bond may have been paid in full prior to the Determination of Taxability.

Any interest being past due on this Bond by reason of such increase shall become immediately due and payable.

The principal of and interest on this Bond are payable in any coin or currency which on the date of payment thereof is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia as Paying Agent.

This Bond may be redeemed prior to its stated date of maturity in whole or in part with no prepayment penalty.

This Bond is issued (i) to pay the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"), and (ii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing public sewerage system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), a Bond Ordinance duly enacted by the Issuer on March 20, 2008, and a Supplemental Resolution duly adopted by the Issuer on May 15, 2008 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S (I) SUPPLEMENTAL SUBORDINATE SEWER REVENUE BONDS, SERIES 1986 B, DATED APRIL 28, 1986, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $517,001 (THE "SERIES 1986 B BONDS"); (II) SEWER REVENUE BONDS, SERIES 1996 A, DATED AUGUST 22, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $300,000 (THE "SERIES 1996 A BONDS"); (III) SEWER REFUNDING REVENUE BOND, SERIES 2004 A, DATED JUNE 18, 2004, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,022,000 (THE "SERIES 2004 A BONDS"), AND (IV) SEWER REVENUE BONDS, SERIES 2006 A, DATED DECEMBER 7, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $8,588,400 (THE "SERIES 2006 A BONDS") (COLLECTIVELY, THE "PRIOR BONDS").

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

"Series 2008 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2008 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Prior Bonds, provided however, that so long as there exists in the Series 2008 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with or junior to the Bonds, including the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

This Bond is, under the Act, exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision or agency thereof, except inheritance, estate and transfer taxes.

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

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

[Remainder of Page Intentionally Blank]

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

[SEAL]

Judith A. Guy
Mayor

SPECIMEN

ATTEST:

Philip J. Grazioni
City Clerk

SPECIMEN

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2008 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: May 16, 2008

THE HUNTINGTON NATIONAL BANK,
as Registrar

SPECIMEN

Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	$ 8,000	May 16, 2008	(19)	$	
(2)	$		(20)	$	
(3)	$		(21)	$	
(4)	$		(22)	$	
(5)	$		(23)	$	
(6)	$		(24)	$	
(7)	$		(25)	$	
(8)	$		(26)	$	
(9)	$		(27)	$	
(10)	$		(28)	$	
(11)	$		(29)	$	
(12)	$		(30)	$	
(13)	$		(31)	$	
(14)	$		(32)	$	
(15)	$		(33)	$	
(16)	$		(34)	$	
(17)	$		(35)	$	
(18)	$		(36)	$	

TOTAL $

(Form of)

ASSIGNMENT

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

Dated: _____, 20__.

_____

In the presence of:

_____

THE CITY OF ELKINS
SEWER REVENUE BONDS, SERIES 2006 A
(WEST VIRGINIA SRF PROGRAM)

BOND ORDINANCE

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THE CITY OF ELKINS

ORDINANCE AUTHORIZING THE REFUNDING OF THE OUTSTANDING SEWERAGE SYSTEM REFUNDING BOND ANTICIPATION NOTES, SERIES 2006; AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF ELKINS AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $8,588,400 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2006 A (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AND AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF ELKINS:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

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

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

B. The Issuer presently owns and operates a public sewerage system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain additions, betterments and improvements to the existing public sewerage system of the Issuer, consisting of upgrading the existing City of Elkins wastewater treatment plant to a 4.99 mgd treatment facility through the replacement of the existing screens and grit removal equipment; addition of a new septage discharge lift station; addition of a new pretreatment building; addition of two (2) new blowers and a splitter box and upgrade of the existing splitter boxes at the existing oxidation ditch; addition of a new third clarifier and baffles to the existing clarifiers in addition to a new scum pump station; addition of a new post aeration aerator; improvements to the existing ultraviolet disinfection system; addition of a new RAS/WAS lift station; addition of a new sludge decant tank; replacement of the existing two (2) sludge filter belt presses; and expansion of the existing laboratory, together with all appurtenant facilities (collectively, the "Project"), which constitute properties for the collection, transportation, treatment, purification, or disposal of liquid or solid wastes, residential sewage or industrial waste (the existing public sewerage system of the Issuer, the Project and any further additions, betterments and improvements thereto are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The Issuer has heretofore temporarily financed the design of the Project by the issuance of the Sewerage System Refunding Bond Anticipation Notes, Series 2006, dated September 8, 2006, issued in the original aggregate principal amount of $250,000 of which $250,000 principal amount remains outstanding (the "Prior Notes").

D. The Prior Notes were issued pursuant to an ordinance of the Issuer enacted on September 7, 2006 (the "Prior Notes Ordinance").

E. It is deemed necessary and desirable for the Issuer to refund the Prior Notes to effect the release and termination of certain restrictions, conditions and limitations imposed in the Prior Notes Ordinance.

F. The Issuer intends (i) to refund the Prior Notes and (ii) to permanently finance the costs of acquisition and construction of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority (the "Authority"), in connection with the West Virginia Water Pollution Control Revolving Fund Program (the "SRF Program"), which the Authority administers pursuant to the Act.

G. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds, Series 2006 A (West Virginia SRF Program), in the total aggregate principal amount of not more than $8,588,400 (the "Series 2006 A Bonds"), initially to be represented by a

single bond, to permanently finance the costs of acquisition and construction of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor and eligible under the SRF Program; the costs of refunding the Prior Notes; interest upon the Series 2006 A Bonds prior to and during construction or acquisition and for a period not exceeding 6 months after completion of construction of the Project; amounts which may be deposited in the Series 2006 A Bonds Reserve Account (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense; commitment fees; fees and expenses of the Authority, including the SRF Administrative Fee (as hereafter defined); discount; initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2006 A Bonds and such other expenses as may be necessary or incidental to the financing herein authorized; the acquisition or construction of the Project and the placing of same in operation; and the performance of the things herein required or permitted, in connection with any thereof, provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2006 A Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

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

I. It is in the best interests of the Issuer that its Series 2006 A Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement by and among the Issuer, the Authority and the West Virginia Department of Environmental Protection (the "DEP"), in form satisfactory to the Issuer, the Authority, and the DEP (the "Loan Agreement"), to be approved hereby if not previously approved by resolution of the Issuer.

J. Upon payment of the Prior Notes, there will be outstanding obligations of the Issuer which will rank on a parity with the Series 2006 A Bonds as to liens, pledge, source of and security for payment, being the Issuer's Subordinate Sewer Revenue Bonds, Series 1986 B (West Virginia Water Development Authority), dated April 28, 1986, issued in the original aggregate principal amount of $517,001 (the "Series 1986 B Bonds"); the Sewer Revenue Bonds, Series 1996 A, (West Virginia SRF Program) dated August 22, 1996, issued in the original aggregate principal amount of $300,000 (the "Series 1996 A Bonds"); and the Sewer Refunding Revenue Bonds, Series 2004 A, dated June 18, 2004, issued in the original aggregate principal amount of $1,022,000, (the "Series 2004 A Bonds" and collectively with the Series 1986 B Bonds and the Series 1996 A Bonds, the "Prior Bonds").

The Series 2006 A Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects.

Prior to the issuance of the Series 2006 A Bonds, the Issuer will, to the extent required by the Prior Ordinances, obtain the written consent of the Holders of the Prior Bonds to the issuance of the Series 2006 A Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with all covenants of the Prior Bonds and Prior Ordinances.

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

L. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the acquisition and construction of the Project and the operation of the System and issuance of the Series 2006 A Bonds, or will have so complied prior to issuance of any thereof, including, among other things and without limitation, the approval of the Project and the financing thereof by the West Virginia Infrastructure and Jobs Development Council and the obtaining of a certificate of public convenience and necessity from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 2006 A Bonds or such final order will not be subject to appeal.

M. Pursuant to the Act, the Issuer has heretofore established a Sanitary Board, and the Sanitary Board has petitioned the Governing Body to issue the Series 2006 A Bonds for the purposes set forth herein.

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

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2006 A Bonds by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Series 2006 A Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series, and by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

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

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2006 A Bonds, or any other agency, board or department of the State of West Virginia that succeeds to the functions of the Authority, acting in its administrative capacity and upon authorization from the DEP under the Act.

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

"Board" means the Sanitary Board of the Issuer.

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

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

"Loan Agreement" means the Loan Agreement heretofore entered into, or to be entered into, by and among the Issuer, the Authority and the DEP, providing for the purchase of the Series 2006 A Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by the Supplemental Resolution.

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

"Bonds" means, collectively, the Series 2006 A Bonds, the Prior Bonds and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another ordinance of the Issuer.

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

"Closing Date" means the date upon which there is an exchange of the Series 2006 A Bonds for all or a portion of the proceeds of the Series 2006 A Bonds from the Authority and the DEP.

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

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

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

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

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

"DEP" means the West Virginia Department of Environmental Protection, or any other agency, board or department of the State that succeeds to the functions of the DEP.

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

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

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

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

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

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

capital assets (including Qualified Investments, as hereinafter defined, purchased pursuant to Article 8.01 hereof) or any Tap Fees, as hereinafter defined.

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

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

"Investment Property" means

(A) any security (within the meaning of Section 165(g)(2)(A) or (B) of the Code),

(B) any obligation,

(C) any annuity contract,

(D) any investment-type property, or

(E) in the case of a bond other than a private activity bond, any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan.

Except as provided in the following sentence, the term "Investment Property" does not include any tax-exempt bond. With respect to an issue other than an issue a part of which is a specified private activity bond (as defined in section 57(a)(5)(C) of the Code), the term "Investment Property" includes a specified private activity bond (as so defined).

"Issuer" means The City of Elkins, a municipal corporation and political subdivision of the State of West Virginia, in Randolph County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 2006 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 2006 A Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 2006 A Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

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

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

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the costs, the SRF Administrative Fee, fees and expenses of the Authority, fiscal agents, the Depository Bank, the Registrar and the Paying Agent (all as herein defined), other than those capitalized as part of the costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

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

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

"Paying Agent" means the Commission or other entity or authority designated as such for the Series 2006 A Bonds in the Supplemental Resolution.

"Prior Notes" means the Issuer's Sewerage System Refunding Bond Anticipation Notes, Series 2006, described in Section 1.02C hereof.

"Prior Notes Ordinance" means the ordinance authorizing issuance of the Sewerage System Refunding Bond Anticipation Notes, Series 2006.

"Prior Bonds" means, collectively, the Issuer's (i) Subordinate Sewer Revenue Bonds, Series 1986 B, dated April 28, 1986, issued in the original aggregate principal amount of $517,001; (ii) Sewer Revenue Bonds, Series 1996 A, dated August 22, 1996, issued in the original aggregate principal amount of $300,000; and (iii) Sewer Refunding Revenue Bonds, Series 2004 A, dated June 18, 2004, issued in the original aggregate principal amount of $1,022,000.

"Prior Ordinances" means, collectively, the ordinances of the Issuer, including all amendments and supplements thereto, authorizing the issuance of the Prior Bonds.

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

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

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

(a) Government Obligations;

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

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

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

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC or

Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

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

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

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

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

"Recorder" means the Recorder of the Issuer.

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

"Registrar" means the Bond Registrar.

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

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

"Reserve Accounts" means, collectively, the respective reserve accounts established for the Series 2006 A Bonds and the Prior Bonds.

"Reserve Requirement" means, collectively, the respective amount required to be on deposit in any Reserve Account for the Prior Bonds and the Series 2006 A Bonds.

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

"Series 1986 B Bonds" means the Issuer's Subordinate Sewer Revenue Bonds, Series 1986 B (West Virginia Water Development Authority), described in Section 1.02J hereof.

"Series 1996 A Bonds" means the Issuer's Sewer Revenue Bonds, Series 1996 A, described in Section 1.02J hereof.

"Series 2004 A Bonds" means the Issuer's Sewer Refunding Revenue Bonds, Series 2004 A, described in Section 1.02J hereof.

"Series 2006 A Bonds" means Sewer Revenue Bonds, Series 2006 A (West Virginia SRF Program), of the Issuer, authorized by this Bond Legislation.

"Series 2006 A Bonds Construction Trust Fund" means the Series 2006 A Bonds Construction Trust Fund established by Section 5.01 hereof.

"Series 2006 A Bonds Reserve Account" means the Series 2006 A Bonds Reserve Account established by Section 5.02 hereof.

"Series 2006 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2006 A Bonds in the then current or any succeeding year.

"Series 2006 A Bonds Sinking Fund" means the Series 2006 A Bonds Sinking Fund established by Section 5.02 hereof.

"Sinking Funds" means, collectively, the respective sinking funds established for the Prior Bonds and the Series 2006 A Bonds.

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

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

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

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the," refers specifically to the supplemental resolution authorizing the sale of the Series 2006 A Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2006 A Bonds, and not so included may be included in another Supplemental Resolution.

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

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

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

Additional terms and phrases are defined in this Ordinance as they are used. Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT AND REFUNDING OF THE PRIOR NOTES

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, including the refunding of the Prior Notes, at an estimated cost of not to exceed $8,588,400, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2006 A Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the DEP and the Authority.

The cost of the Project, including the refunding of the Prior Notes, is estimated not to exceed $8,588,400, of which $8,588,400 will be obtained from proceeds of the Series 2006 A Bonds.

Section 2.02. Authorization of Refunding of the Prior Notes. There is hereby authorized and ordered the payment in full of the entire outstanding principal of and all accrued interest on the Prior Notes on the Closing Date. The cost of the refunding will be obtained from the proceeds of the Series 2006 A Bonds. Upon payment in full of the Prior Notes, the pledge of funds in favor of the holders of the Prior Notes imposed by the Prior Notes Ordinance and the monies in the funds and accounts created by the Prior Notes Ordinance pledged to the payment of the Prior Notes are hereby ordered terminated, discharged and released.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF BOND PURCHASE AGREEMENT

Section 3.01. Authorization of Bonds. For the purposes of funding a reserve account for the Series 2006 A Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the negotiable Series 2006 A Bonds of the Issuer. The Series 2006 A Bonds shall be issued as a single bond, designated "Sewer Revenue Bond, Series 2006 A (West Virginia SRF Program)", in the principal amount of not more than $8,588,400, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2006 A Bonds remaining after funding of the Series 2006 A Bonds Reserve Account (if funded from Bond proceeds) and capitalizing interest on the Series 2006 A Bonds, if any, shall be deposited in or credited to the Series 2006 A Bonds Construction Trust Fund established by Section 5.01 hereof and applied as set forth in Article VI hereof.

Section 3.02. Terms of Bonds. The Series 2006 A Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the Loan Agreement. The Series 2006 A Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest, if any, on the Series 2006 A Bonds shall be paid by check or draft of the Paying Agent or its agent, mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 2006 A Bonds shall initially be issued in the form of a single bond, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 2006 A Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 2006 A Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

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

Section 3.03. Execution of Bonds. The Series 2006 A Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Recorder. In case any one or more of the officers who shall have signed or sealed the Series 2006 A Bonds shall cease to be such officer of the Issuer before the Series 2006 A Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 2006 A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of the authorization of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 2006 A Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 hereof shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Series 2006 A Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2006 A Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting the Series 2006 A Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 2006 A Bonds remain outstanding, the Issuer, through the Bond Registrar as its agent, shall keep and maintain books for the registration and transfer of the Series 2006 A Bonds.

The registered Series 2006 A Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly

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

In all cases in which the privilege of exchanging Series 2006 A Bonds or transferring the registered Series 2006 A Bonds are exercised, all Series 2006 A Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 2006 A Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Series 2006 A Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Series 2006 A Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 2006 A Bonds or, in the case of any proposed redemption of Series 2006 A Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2006 A Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 2006 A Bonds shall not, in any event, be or constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No Holder or Holders of the Series 2006 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2006 A Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues; Lien Positions with respect to Prior Bonds. The payment of the debt service of all Series 2006 A Bonds shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived

from the operation of the System, on a parity with the lien on the Net Revenues in favor of the Holders of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 2006 A Bonds and the Prior Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as the same become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2006 A Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2006 A Bonds to the original purchasers upon receipt of the documents set forth below:

A. If other than the Authority, a list of the names in which the Series 2006 A Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;

B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2006 A Bonds to the original purchasers;

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

D. An executed copy of the Loan Agreement; and

E. The unqualified approving opinion of bond counsel on the Series 2006 A Bonds.

Section 3.10. Form of Bonds. The text of the Series 2006 A Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF SERIES 2006 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF ELKINS
SEWER REVENUE BONDS,
SERIES 2006 A
(WEST VIRGINIA SRF PROGRAM)

No. AR-____ $_____

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF ELKINS, a municipal corporation and political subdivision of the State of West Virginia in Randolph County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of _____ DOLLARS ($_____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1,200____, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The interest and SRF Administrative fee (as defined in the hereinafter describe Bond Legislation) on this Bond shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____, 20___, as set forth on EXHIBIT B attached hereto.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement (the "Bond Purchase Agreement") by and among the Issuer, the Authority and the DEP, dated _____, 2006.

This Bond is issued (i) to provide funds for the refunding of the Issuer's Sewerage System Refunding Bond Anticipation Notes, Series 2006, dated September 8, 2006, issued in the original aggregate principal amount of $250,000 of which $250,000 principal amount remains outstanding (the "Prior Notes"); (ii) to pay the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); [(iii) to fully fund the Series 2006 A Bonds Reserve Account;] and (iv) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing public sewerage system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on _____, 2006, and a Supplemental Resolution duly adopted by the Issuer on _____, 2006 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S SUBORDINATE SEWER REVENUE BONDS, SERIES 1986 B, DATED APRIL 28, 1986, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $517,001 (THE "SERIES 1986 B BONDS"); THE ISSUER'S SEWER REVENUE BONDS, SERIES 1996 A, DATED AUGUST 22, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $300,000 (THE "SERIES 1996 A BONDS"); AND THE ISSUER'S SEWER REFUNDING REVENUE BOND, SERIES 2004 A, DATED JUNE 18, 2004, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,022,000, (THE "SERIES 2004 A BONDS") (COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the Holders of the Prior Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2006 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2006 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the

use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Prior Bonds; provided however, that so long as there exists in the Series 2006 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with or junior to the Bonds, including the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

This Bond is, under the Act, exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision or agency thereof, except inheritance, estate and transfer taxes.

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

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

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

IN WITNESS WHEREOF, THE CITY OF ELKINS has caused this Bond to be signed by its Mayor, and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated _____, 2006.

[SEAL]

_____
Mayor

ATTEST:

_____
Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2006 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 2006.

THE HUNTINGTON NATIONAL BANK,
as Registrar

_____
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

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

TOTAL $_____

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreement. The Series 2006 A Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous ordinance or resolution, the Mayor is specifically authorized and directed to execute the Loan Agreement in the form attached hereto as "Exhibit A" and made a part hereof, and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed. The Loan Agreement, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Bond Legislation.

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

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

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

(1) Revenue Fund (established by the Prior Ordinances);

(2) Renewal and Replacement Fund (established by the Prior Ordinances);

(3) Cost of Issuance Fund (established by the Prior Ordinances);

(4) Rebate Fund (established by the Prior Ordinances); and

(5) Series 2006 A Bonds Construction Trust Fund.

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

(1) Series 2006 A Bonds Sinking Fund; and

(2) Within the Series 2006 A Bonds Sinking Fund, the Series 2006 A Bonds Reserve Account.

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

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

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit (i) to the Commission the amounts required by the Prior Ordinances to pay interest on, if any, the Prior Bonds; and (ii) commencing 3 months prior to the first date of payment of interest on the Series 2006 A Bonds, for deposit in the Series 2006 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of interest which will mature and become due on the Series 2006 A Bonds on the next ensuing quarterly interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2006 A Bonds Sinking Fund and the next quarterly interest payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly interest payment date, the required amount of interest coming due on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit (i) to the Commission the amounts required by the Prior Ordinances to the principal of the Prior Bonds; and (ii) commencing 3 months prior to the first date of payment of principal of the Series 2006 A Bonds, for deposit in the Series 2006 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2006 A Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2006 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) the amount required by the Prior Ordinances for deposit in the respective Reserve Accounts of the Prior Bonds; and (ii) commencing 3 months

prior to the first date of payment of principal of the Series 2006 A Bonds, if not fully funded upon issuance of the Series 2006 A Bonds, for deposit in the Series 2006 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2006 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2006 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2006 A Bonds Reserve Requirement.

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

Monies in the Series 2006 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2006 A Bonds as the same shall become due. Monies in the Series 2006 A Bonds Reserve Account shall be used only for the purposes of paying principal of and interest, if any, on the Series 2006 A Bonds as the same shall come due, when other monies in the Series 2006 A Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on monies in the Series 2006 A Bonds Sinking Fund and the Series 2006 A Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2006 A Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied

in full, first to the next ensuing interest payment, if any, due on the Series 2006 A Bonds and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 2006 A Bonds Reserve Account which result in a reduction in the balance of the Series 2006 A Bonds Reserve Account to below the Series 2006 A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full in the priority as set forth above.

As and when additional Bonds ranking on a parity with the Series 2006 A Bonds are issued, provision shall be made for additional payments into the respective sinking fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve account in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the Series 2006 A Bonds Sinking Fund or into the Series 2006 A Bonds Reserve Account therein when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2006 A Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

Principal, interest or reserve payments, whether for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Prior Bonds and the Series 2006 A Bonds, in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2006 A Bonds Sinking Fund and the Series 2006 A Bonds Reserve Account created hereunder, and all required amounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Authority at anytime, the Issuer shall make the necessary arrangements whereby required payments into the Series 2006 A Bonds Sinking Fund and the Series 2006 A Bonds Reserve Account shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Monies in the Series 2006 A Bonds Sinking Fund and the Series 2006 A Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2006 A Bonds Sinking Fund, including the Series 2006 A Bonds Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2006 A Bonds under the conditions and restrictions set forth herein.

B. The Issuer shall, on the first day of each month (if the first day is not a business day, then the first business day of each month), deposit with the Commission the required interest, if any, principal and reserve account payments with respect to the Series 2006 A Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. The Issuer shall, on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission, the SRF Administrative Fee as set forth in the Schedule Y attached to the Loan Agreement.

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

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

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

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

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

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

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

J. All Tap Fees shall be deposited by the Issuer, as received, in the Series 2006 A Bonds Construction Trust Fund, and following completion of the Project, shall be deposited in the Revenue Fund and may be used for any lawful purpose of the System.

ARTICLE VI

BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the monies received from the sale of the Series 2006 A Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2006 A Bonds, there shall first be deposited in the Notes Payment Fund the amount set forth in the Supplemental Resolution to pay in full the entire outstanding principal of and all accrued interest on the Prior Notes

B. Next, from the proceeds of the Series 2006 A Bonds, there shall first be deposited with the Commission in the Series 2006 A Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest.

C. Next, from the proceeds of the Series 2006 A Bonds, there shall be deposited with the Commission in the Series 2006 A Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 2006 A Bonds Reserve Account.

D. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2006 A Bonds, such monies shall be deposited with the Depository Bank in the 2006 A Bonds Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 6.02 hereof, and until expended, are hereby pledged as additional security for the Series 2006 A Bonds.

E. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2006 A Bonds shall be expended as directed by the DEP.

Section 6.02. Disbursements From the Series 2006 A Bonds Construction Trust Fund. On or before the Closing Date, the Issuer shall have delivered to the Authority and the DEP a report listing the specific purposes for which the proceeds of the Series 2006 A Bonds will be expended and the disbursement procedures of such proceeds, including an estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Series 2006 A Bonds Construction Trust Fund shall be made only after submission to, and approved from, the Authority and the DEP of the following:

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

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

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

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

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

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

Pending such application, monies in the Series 2006 A Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2006 A Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 2006 A Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2006 A Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2006 A Bonds shall not be nor constitute a corporate indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any Series 2006 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2006 A Bonds or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Positions with Respect to Prior Bonds. The payment of the debt service of the Series 2006 A Bonds shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the System, on a parity with the lien on the Net Revenues in favor of the Holders of the Prior Bonds. The Net Revenues in an amount sufficient to pay the principal of and interest, if any, on the Prior Bonds and the Series 2006 A Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. Such rates and charges shall be sufficient to comply with the requirements of the Loan Agreement. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth and approved and described in the sewer rate ordinance of the Issuer enacted October 19, 2006, which rates are incorporated herein by reference as a part hereof.

So long as the Series 2006 A Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take

all such actions necessary to provide funds sufficient to produce the required sums set forth in the Bond Legislation and in compliance with the Loan Agreement. In the event the schedule of rates and charges initially established for the System in connection with the Series 2006 A Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement.

Section 7.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of or encumber the System, or any part thereof, except as provided in the Prior Ordinances. Additionally, so long as the Series 2006 A Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority and the DEP, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2006 A Bonds, immediately be remitted to the Commission for deposit in the Series 2006 A Bonds Sinking Fund, and, with the written permission of the Authority or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the Series 2006 A Bonds. Any balance remaining after the payment of the Bonds and the interest, if any, thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

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

the Issuer to the Commission for deposit in the Sinking Funds for prepayment of the Bonds. The payment of such proceeds into the Renewal and Replacement Fund and the Sinking Funds shall not reduce the amounts required to be paid into such funds by other provisions of this Bond Legislation.

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

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2006 A Bonds and the Prior Bonds. All obligations issued by the Issuer after the issuance of the Series 2006 A Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Series 2006 A Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts established by this Bond Legislation have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2006 A Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 2006 A Bonds and the interest, if any, thereon in this Bond Legislation, or upon the System or any part thereof.

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

Section 7.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinances shall be applicable. Additionally, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2006 A Bonds pursuant to this Bond Legislation,

without the prior written consent of the Authority and the DEP under the conditions and in the manner herein provided (unless less restrictive than the provisions of the Prior Ordinances).

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2006 A Bonds.

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

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

(1) The Bonds then Outstanding;

(2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Bond Legislation then Outstanding; and

(3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from the improvements to be financed by such Parity Bonds and any increase in rates adopted by the Issuer and approved by the Public Service Commission of West Virginia, the period for appeal of which has expired prior to the date of issuance of such additional parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of an Independent Certified Public Accountant, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer, the period for appeal of which has 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 construction or acquisition of such extensions or improvements, if any, to the System that are to be financed by such Parity Bonds.

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

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior lien of the Series 2006 A Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 2006 A Bonds.

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

Any certifications requiring computations establishing that debt service coverage is sufficient to support the issuance of parity Additional Bonds or that requisite debt service savings are available to support the issuance of refunding bonds shall, in all cases, be evidenced by a certificate of an Independent Certified Public Accountant.

No additional bonds, notes, certificates, contracts or any other obligations shall be issued by the City unless no Event of Default shall have occurred and be continuing with respect to the Bonds.

Section 7.08. Books; Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Authority and the DEP

or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Authority and the DEP such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

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

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

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

The Issuer shall file with the Authority and the DEP, or any other original purchaser of the Series 2006 A Bonds, and shall mail in each year to any Holder or Holders of the Series 2006 A Bonds, requesting the same, an annual report containing the following:

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

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

(C) The amount of any Bonds, notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto, to the extent legally required, and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 2006 A Bonds and shall submit said report to the Authority and the DEP, or any other original purchaser of the Series 2006 A Bonds. Such audit report submitted to the Authority and the DEP shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the Loan Agreement and this Bond Legislation and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

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

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

Section 7.09. Rates. Prior to the issuance of the Series 2006 A Bonds, equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with

other revenues of the System (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2006 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with or junior to the Series 2006 A Bonds, including the Prior Bonds; provided that, in the event the amounts equal to or in excess of the reserve requirements are on deposit respectively in the Series 2006 A Bonds Reserve Account and any Reserve Accounts for obligations on a parity with or junior to the Series 2006 A Bonds, including the Prior Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2006 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with or junior to the Series 2006 A Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinance described in Section 7.04 hereof.

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

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

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

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the Authority and the DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority and the DEP and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

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

The Issuer 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 shall at all times provide operation and maintenance of the System in compliance with all state and federal standards.

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

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

Section 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted

or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

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

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

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 2006 A Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the

System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the contractors and subcontractors, as their interests may appear.

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

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

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

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

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

B. The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Issuer shall verify such bonds prior to commencement of construction.

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

Section 7.16. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30-day notice of the availability of the System, pay the rates and charges established therefor.

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

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

The Issuer has obtained all permits required by State and federal laws for the acquisition and construction of the Project, all orders and approvals from the Public Service Commission of West Virginia and the West Virginia Infrastructure and Jobs Development Council necessary for the acquisition and construction of the Project and the operation of the System and has obtained all approvals for the issuance of the Series 2006 A Bonds required by State law, with all appeal periods having expired without successful appeal.

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

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

Section 7.19. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. PRIVATE BUSINESS USE LIMITATION. The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Series 2006 A Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Series 2006 A Bonds during the term thereof is, under the terms of the Series 2006 A Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the Series 2006 A Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Series 2006 A Bonds during the term thereof is, under the terms of the Series 2006 A Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or

to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Series 2006 A Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project, or if the Series 2006 A Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such Private Business Use is related, all of the foregoing to be determined in accordance with the Code.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of the lesser of 5% or $5,000,000 of the Net Proceeds of the Series 2006 A Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 2006 A Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

D. INFORMATION RETURN. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 2006 A Bonds and the interest thereon, including, without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer will take any and all actions that may be required of it (including, without limitation, those deemed necessary by the Authority) so that the interest on the Series 2006 A Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including, without limitation, those deemed necessary by the Authority), the result of which would adversely affect such exclusion.

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

Section 7.21. Contracts; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2006 A Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the DEP for written approval. The Issuer shall obtain the written approval of the DEP before expending any

proceeds of the Series 2006 A Bonds held in "contingency" as set forth in the Schedule attached to the Certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the DEP before expending any proceeds of the Series 2006 A Bonds made available due to bid or construction or project underruns.

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

Section 7.22. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2006 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 2006 A Bonds, and shall be on a parity with the statutory mortgage lien in favor of the Holders of the Prior Bonds.

ARTICLE VIII

INVESTMENT OF FUNDS; NON ARBITRAGE

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

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

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year (or more often if reasonably requested by the Issuer), a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2006 A Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest on the Series 2006 A Bonds from gross income for federal income tax purposes.

Section 8.02. Arbitrage and Tax Exemption. The Issuer covenants that (i) it shall not take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Series 2006 A Bonds which would cause the Series 2006 A Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Series 2006 A Bonds) so that the interest on the Series 2006 A Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 8.03. Tax Certificate and Rebate. The Issuer shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of the Series 2006 A Bonds. In addition, the Issuer covenants to comply with all Regulations from time to time in effect and applicable to the Series 2006 A Bonds as may be necessary in order to fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of this Bond Legislation.

The Issuer covenants to calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, unless otherwise agreed by the Authority, the Issuer shall deposit, or cause to be deposited, in the Rebate Fund such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder and shall be used only for payment of rebatable arbitrage to the United States. The Issuer shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States in the time and at the address prescribed by the Regulations as the same may be from time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefor. In addition, the Issuer shall cooperate with the Authority in preparing rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the Issuer. The Issuer may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer may deem appropriate in order to assure compliance with this Section 8.03. The Issuer shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 8.03 in accordance with the requirements of Section 148(f) of the Code and such Regulations. In the event the Issuer fails to make such rebates as required, the Issuer shall pay the required rebate amount, any and all penalties and other amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, and take any other actions necessary, in order to

maintain the exclusion of interest on the Series 2006 A Bonds from gross income for federal income tax purposes.

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

The Issuer shall submit to the Authority within 15 days following the end of each Bond Year a certified copy of its rebate calculation and certificate with respect thereto or, if the Issuer qualifies for the small governmental issue exception to rebate, or any other exception thereto, then the Issuer shall submit to the Authority a certificate stating that it is exempt from such rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the Series 2006 A Bonds subject to rebate. The Issuer shall also furnish to the Authority, at any time, such additional information relating to rebate as may be reasonably requested by the Authority including information with respect to earnings on all funds constituting "gross proceeds" of the Series 2006 A Bonds (as such term "gross proceeds" is defined in the Code).

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2006 A Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest, if any, on the Series 2006 A Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 2006 A Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2006 A Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Registrar, the Paying Agent or any other Paying Agent or a Holder of a Bond; or

(3) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America; or

(4) If default occurs with respect to the Prior Bonds or the Prior Ordinances.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds; (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Holders of the Series 2006 A Bonds shall be on a parity with the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds, any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

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

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

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

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

protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

PAYMENT OF BONDS

Section 10.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid to the Holders of the Series 2006 A Bonds, the principal of and interest due or to become due thereon, if any, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2006 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2006 A Bonds from gross income for federal income tax purposes.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2006 A Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2006 A Bonds, no material modification or amendment of this Ordinance, or of any ordinance, resolution or order amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2006 A Bonds, shall be made without the consent in writing of the Registered Owners of the Series 2006 A Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest, if any, thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein pledged therefor without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 2006 A Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest, if any, on the Series 2006 A Bonds from gross income of the holders thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Series 2006 A Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution or the Series 2006 A Bonds.

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

Section 11.05. Conflicting Provisions Repealed. Except for the Prior Ordinances, all ordinances, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed; provided

that, in the event of any conflict between this Ordinance and the Prior Ordinances, the Prior Ordinances shall control (unless less restrictive), so long as the Prior Bonds are Outstanding.

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

Section 11.07. Appointment. The Issuer does hereby appoint, designate and approve the hiring of Steptoe & Johnson, Clarksburg, West Virginia, as bond counsel to the Issuer in connection with the issuance by the Issuer of the Series 2006 A Bonds.

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

Section 11.09. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in *The Elkins News*, a newspaper published and of general circulation in The City of Elkins, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Series 2006 A Bonds, and that any person interested may appear before the Governing Body upon a date certain, not less than ten days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

Passed on First Reading:	-	November 2, 2006
Passed on Second Reading:	-	November 16, 2006
Passed on Final Reading Following Public Hearing:	-	December 7, 2006

Judith A. Kruger

Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of The City of Elkins on the 7th day of December, 2006.

Dated: December 12, 2006.

[SEAL]

Philip J. Grozjanic
Recorder

10.06.06
255620.00008

EXHIBIT A

Loan Agreement included in bond transcript as Document 3.

THE CITY OF ELKINS

Sewer Revenue Bonds, Series 2006 A
(West Virginia SRF Program)

SUPPLEMENTAL RESOLUTION NO. 076

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 2006 A (WEST VIRGINIA SRF PROGRAM), OF THE CITY OF ELKINS; APPROVING AND RATIFYING THE BOND PURCHASE AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; GRANTING AUTHORITY TO SANITARY BOARD TO APPROVE REMAINING DRAWS; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the council (the "Governing Body") of The City of Elkins (the "Issuer") has duly and officially adopted and enacted a bond ordinance, effective December 7, 2006 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE REFUNDING OF THE OUTSTANDING SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2001, AND ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF ELKINS AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $8,588,400 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2006 A (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS

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

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

WHEREAS, the Bond Ordinance provides for the issuance of Sewer Revenue Bonds, Series 2006 A (West Virginia SRF Program), of the Issuer (the "Bonds" or the "Series 2006 A Bonds"), in an aggregate principal amount not to exceed $8,588,400, and has authorized the execution and delivery of the bond purchase agreement relating to the Series 2006 A Bonds, including all schedules and exhibits attached thereto, by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP") (the "Loan Agreement"), all in accordance with Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and in the Bond Ordinance it is provided that the form of the Loan Agreement and the exact principal amount, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

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

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

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

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

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewer Revenue Bonds, Series 2006 A (West Virginia SRF Program), of the Issuer, originally represented by a single Bond, numbered AR-1, in the principal amount of $8,588,400. The

Series 2006 A Bonds shall be dated the date of delivery thereof, shall finally mature September 1, 2028, and shall bear interest at the rate of 2% per annum. The principal of and interest on the Series 2006 A Bonds shall be payable quarterly, on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2008, and maturing September 1, 2028, and in the amounts as set forth in the "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Series 2006 A Bonds. The Series 2006 A Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Series 2006 A Bonds. The Issuer does hereby approve and shall pay the SRF Administrative Fee equal to 1% of the principal amount of the Series 2006 A Bonds set forth in the "Schedule Y" attached to the Loan Agreement.

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

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

Section 4. The Issuer does hereby appoint and designate The Huntington National Bank, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Bonds under the Bond Ordinance and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

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

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

Section 7. Series 2006 A Bonds proceeds shall be paid $98,644.93 to pay in full the entire outstanding principal of and all interest accrued on the Prior Notes on the Closing Date.

Section 8. Series 2006 A Bonds proceeds in the amount of $-0- shall be deposited in the Series 2006 A Bonds Sinking Fund, as capitalized interest.

Section 9. Series 2006 A Bonds proceeds in the amount of $522,074.76 shall be deposited in the Series 2006 A Bonds Reserve Account.

Section 10. The balance of the proceeds of the Series 2006 A Bonds shall be deposited in or credited to the Series 2006 A Bond Construction Trust Fund as received from the DEP from time to time for payment of the costs of the Project, including, without limitation, costs of issuance of the Bonds and related costs.

Section 11. The Mayor and the City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered on or about December 12, 2006, to the Authority pursuant to the Loan Agreement.

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

Section 13. The Issuer does hereby approve and authorize all contracts relating to the financing, acquisition and construction of the Project.

Section 14. The Issuer hereby determines to invest all monies in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such monies to be invested in such repurchase agreements or time accounts until further directed in writing by the Issuer. Monies in the Series 2006 A Bonds Sinking Fund and the Series 2006 A Bonds Reserve Account shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 15. The Issuer hereby appoints and designates the Sanitary Board, and the Authorized Officers thereof, as its agent (i) for the review and approval of all invoices for the Project to be paid from the proceeds of the Series 2006 A Bonds; (ii) for the approval of all remaining draws of the proceeds of the Series 2006 A Bonds; (iii) to take any and all actions necessary to apply for and obtain a commitment from the DEP, specifically including, but not limited to, any administrative loan documents required by DEP; and (iv) to act on and execute documents on behalf of the Issuer for any and all federal and state actions as they relate to the planning, design and/or construction of the Project.

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

Adopted this 7th day of December, 2006.

CITY OF ELKINS

By: Judith A. Gerge
Its: Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the City of Elkins on the 7th day of December, 2006.

Dated: December 7, 2006.

[SEAL]

Philip G. Grazioni
City Clerk

11.30.06
255620.00008

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF ELKINS
SEWER REVENUE BONDS,
SERIES 2006 A
(WEST VIRGINIA SRF PROGRAM)

SPECIMEN

No. AR-1

$8,588,400

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF ELKINS, a municipal corporation and political subdivision of the State of West Virginia in Randolph 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 EIGHT MILLION FIVE HUNDRED EIGHTY-EIGHT THOUSAND FOUR HUNDRED DOLLARS ($8,588,400), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2008, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The interest and SRF Administrative fee (as defined in the hereinafter describe Bond Legislation) on this Bond shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2008, as set forth on EXHIBIT B attached hereto.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement (the "Bond Purchase Agreement") by and among the Issuer, the Authority and the DEP, dated December 12, 2006.

This Bond is issued (i) to provide funds for the refunding of the Issuer's Sewerage System Refunding Bond Anticipation Notes, Series 2006, dated September 8, 2006, issued in the original aggregate principal amount of $250,000 of which $250,000 principal amount remains outstanding (the "Prior Notes"); (ii) to pay the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (iii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing public sewerage system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the

Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on December 7, 2006, and a Supplemental Resolution duly adopted by the Issuer on December 7, 2006 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S SUBORDINATE SEWER REVENUE BONDS, SERIES 1986 B, DATED APRIL 28, 1986, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $517,001 (THE "SERIES 1986 B BONDS"); THE ISSUER'S SEWER REVENUE BONDS, SERIES 1996 A, DATED AUGUST 22, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $300,000 (THE "SERIES 1996 A BONDS"); AND THE ISSUER'S SEWER REFUNDING REVENUE BOND, SERIES 2004 A, DATED JUNE 18, 2004, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,022,000, (THE "SERIES 2004 A BONDS") (COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the Holders of the Prior Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2006 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2006 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Prior Bonds; provided however, that so long as there exists in the Series 2006 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with or junior to the Bonds, including the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

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

This Bond is, under the Act, exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision or agency thereof, except inheritance, estate and transfer taxes.

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

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

IN WITNESS WHEREOF, THE CITY OF ELKINS has caused this Bond to be signed by its Mayor, and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated December 12, 2006.

[SEAL]

Mayor

SPECIMEN

SPECIMEN

ATTEST:

Recorder

SPECIMEN

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2006 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: December 12, 2006.

THE HUNTINGTON NATIONAL BANK,
as Registrar

SPECIMEN

Authorized Officer

SPECIMEN

EXHIBIT A

RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	$1,203,088	December 12, 2006	(19)	$	
(2)	$		(20)	$	
(3)	$		(21)	$	
(4)	$		(22)	$	
(5)	$		(23)	$	
(6)	$		(24)	$	
(7)	$		(25)	$	
(8)	$		(26)	$	
(9)	$		(27)	$	
(10)	$		(28)	$	
(11)	$		(29)	$	
(12)	$		(30)	$	
(13)	$		(31)	$	
(14)	$		(32)	$	
(15)	$		(33)	$	
(16)	$		(34)	$	
(17)	$		(35)	$	
(18)	$		(36)	$	

TOTAL $_____

EXHIBIT B

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
03/01/2007	-	-	-	-
06/01/2007	-	-	-	-
09/01/2007	-	-	-	-
12/01/2007	-	-	-	-
03/01/2008	-	-	-	-
06/01/2008	-	-	-	-
09/01/2008	-	-	-	-
12/01/2008	87,576.00	2.000%	42,942.00	130,518.00
03/01/2009	88,014.00	2.000%	42,504.12	130,518.12
06/01/2009	88,454.00	2.000%	42,064.05	130,518.05
09/01/2009	88,896.00	2.000%	41,621.78	130,517.78
12/01/2009	89,341.00	2.000%	41,177.30	130,518.30
03/01/2010	89,788.00	2.000%	40,730.60	130,518.60
06/01/2010	90,237.00	2.000%	40,281.66	130,518.66
09/01/2010	90,688.00	2.000%	39,830.47	130,518.47
12/01/2010	91,141.00	2.000%	39,377.03	130,518.03
03/01/2011	91,597.00	2.000%	38,921.33	130,518.33
06/01/2011	92,055.00	2.000%	38,463.34	130,518.34
09/01/2011	92,515.00	2.000%	38,003.07	130,518.07
12/01/2011	92,978.00	2.000%	37,540.49	130,518.49
03/01/2012	93,443.00	2.000%	37,075.60	130,518.60
06/01/2012	93,910.00	2.000%	36,608.39	130,518.39
09/01/2012	94,379.00	2.000%	36,138.84	130,517.84
12/01/2012	94,851.00	2.000%	35,666.94	130,517.94
03/01/2013	95,326.00	2.000%	35,192.69	130,518.69
06/01/2013	95,802.00	2.000%	34,716.06	130,518.06
09/01/2013	96,281.00	2.000%	34,237.05	130,518.05
12/01/2013	96,763.00	2.000%	33,755.64	130,518.64
03/01/2014	97,246.00	2.000%	33,271.83	130,517.83
06/01/2014	97,733.00	2.000%	32,785.60	130,518.60
09/01/2014	98,221.00	2.000%	32,296.93	130,517.93
12/01/2014	98,712.00	2.000%	31,805.83	130,517.83
03/01/2015	99,206.00	2.000%	31,312.27	130,518.27
06/01/2015	99,702.00	2.000%	30,816.24	130,518.24
09/01/2015	100,200.00	2.000%	30,317.73	130,517.73
12/01/2015	100,701.00	2.000%	29,816.73	130,517.73
03/01/2016	101,205.00	2.000%	29,313.22	130,518.22
06/01/2016	101,711.00	2.000%	28,807.20	130,518.20
09/01/2016	102,220.00	2.000%	28,298.64	130,518.64
12/01/2016	102,731.00	2.000%	27,787.54	130,518.54
03/01/2017	103,244.00	2.000%	27,273.89	130,517.89
06/01/2017	103,761.00	2.000%	26,757.67	130,518.67
09/01/2017	104,279.00	2.000%	26,238.86	130,517.86
12/01/2017	104,801.00	2.000%	25,717.47	130,518.47

Date	Principal	Coupon	Interest	Total P+I
03/01/2018	105,325.00	2.000%	25,193.46	130,518.46
06/01/2018	105,851.00	2.000%	24,666.84	130,517.84
09/01/2018	106,381.00	2.000%	24,137.58	130,518.58
12/01/2018	106,913.00	2.000%	23,605.68	130,518.68
03/01/2019	107,447.00	2.000%	23,071.11	130,518.11
06/01/2019	107,984.00	2.000%	22,533.88	130,517.88
09/01/2019	108,524.00	2.000%	21,993.96	130,517.96
12/01/2019	109,067.00	2.000%	21,451.34	130,518.34
03/01/2020	109,612.00	2.000%	20,906.00	130,518.00
06/01/2020	110,160.00	2.000%	20,357.94	130,517.94
09/01/2020	110,711.00	2.000%	19,807.14	130,518.14
12/01/2020	111,265.00	2.000%	19,253.59	130,518.59
03/01/2021	111,821.00	2.000%	18,697.26	130,518.26
06/01/2021	112,380.00	2.000%	18,138.16	130,518.16
09/01/2021	112,942.00	2.000%	17,576.26	130,518.26
12/01/2021	113,507.00	2.000%	17,011.55	130,518.55
03/01/2022	114,074.00	2.000%	16,444.01	130,518.01
06/01/2022	114,645.00	2.000%	15,873.64	130,518.64
09/01/2022	115,218.00	2.000%	15,300.42	130,518.42
12/01/2022	115,794.00	2.000%	14,724.33	130,518.33
03/01/2023	116,373.00	2.000%	14,145.36	130,518.36
06/01/2023	116,955.00	2.000%	13,563.49	130,518.49
09/01/2023	117,539.00	2.000%	12,978.72	130,517.72
12/01/2023	118,127.00	2.000%	12,391.02	130,518.02
03/01/2024	118,718.00	2.000%	11,800.39	130,518.39
06/01/2024	119,311.00	2.000%	11,206.80	130,517.80
09/01/2024	119,908.00	2.000%	10,610.24	130,518.24
12/01/2024	120,508.00	2.000%	10,010.70	130,518.70
03/01/2025	121,110.00	2.000%	9,408.16	130,518.16
06/01/2025	121,716.00	2.000%	8,802.61	130,518.61
09/01/2025	122,324.00	2.000%	8,194.03	130,518.03
12/01/2025	122,936.00	2.000%	7,582.41	130,518.41
03/01/2026	123,550.00	2.000%	6,967.73	130,517.73
06/01/2026	124,168.00	2.000%	6,349.98	130,517.98
09/01/2026	124,789.00	2.000%	5,729.14	130,518.14
12/01/2026	125,413.00	2.000%	5,105.20	130;518.20
03/01/2027	126,040.00	2.000%	4,478.13	130,518.13
06/01/2027	126,670.00	2.000%	3,847.93	130,517.93
09/01/2027	127,304.00	2.000%	3,214.58	130,518.58
12/01/2027	127,940.00	2.000%	2,578.06	130,518.06
03/01/2028	128,580.00	2.000%	1,938.36	130,518.36
06/01/2028	129,223.00	2.000%	1,295.46	130,518.46
09/01/2028	129,869.00	2.000%	649.35	130,518.35
Total	$8,588,400.00	-	$1,853,058.10	$10,441,458.10

***Plus $11,581.62 one-percent Administrative Fee paid quarterly. Total fee over life of loan is $926,529.60.**

(Form of)

ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

12/11/06
255620.00008

CH860450.1

ORDINANCE NO. 014
THE CITY OF ELKINS
SEWER REFUNDING REVENUE BONDS, SERIES 2004 A

BOND ORDINANCE

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THE CITY OF ELKINS

AN ORDINANCE AUTHORIZING THE REFUNDING OF THE SEWER REFUNDING REVENUE BONDS, SERIES 2001 A, OF THE CITY OF ELKINS; THE ISSUANCE OF SEWER REFUNDING REVENUE BONDS, SERIES 2004 A, OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN $1,200,000, THE PROCEEDS OF WHICH, TOGETHER WITH OTHER FUNDS OF THE CITY, SHALL BE EXPENDED FOR SUCH REFUNDING AND TO PAY COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS RELATING THERETO; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF ELKINS:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

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

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

A. The City of Elkins (the "City") is a municipal corporation and political subdivision of the State of West Virginia in Randolph County of said State and the City presently owns and operates a public sewerage system.

B. In accordance with Section 18 of the Act, the System is under the supervision and control of the Elkins Sanitary Board (the "Sanitary Board").

C. The acquisition and construction of the System were financed or refinanced in part by the proceeds of prior bond issues of the City, of which there are currently outstanding the following: (i) the Subordinate Sewer Revenue Bonds, Series 1986 B, dated April 28, 1986, issued in the original aggregate principal amount of $517,001 (the "Series 1986 B Bonds"); (ii) the Sewer Revenue Bonds, Series 1996 A, dated August 22, 1996, issued in the original aggregate principal amount of $300,000 (the "Series 1996 A Bonds"); and (iii) the Sewer Refunding Revenue Bonds, Series 2001 A, dated September 13, 2001, issued in the original aggregate principal amount of $1,121,222, (the "Series 2001 A Bonds"). The Series 1986 B Bonds, Series 1996 A Bonds and Series 2001 A Bonds are secured by a parity first lien on the net revenues of the System.

D. Pursuant to Section 22c of the Act, the City is authorized and empowered to issue refunding revenue bonds for the purpose of refunding, paying or discharging all or any part of its outstanding revenue bonds, including interest thereon.

E. The City has received a proposal from Branch Banking & Trust Co., Charleston (the "Original Purchaser"), to refund the Series 2001 A Bonds for the purpose of achieving interest cost savings.

F. Based upon the assumed principal amount, maturity schedule and interest rates for the Series 2004 A Bonds presented to the City by the Original Purchaser, the Series 2004 A Bonds show a net present value debt service savings to the City after deducting all expenses of the refunding and the costs of issuing the Series 2004 A Bonds and such refunding is in the best interest of the City. It is therefore deemed necessary and desirable that the City issue its Sewer Refunding Revenue Bonds, Series 2004 A (the "Series 2004 A Bonds"), in the maximum total aggregate principal amount of not more than $1,200,000 for the purpose of refunding the Series 2001 A Bonds.

G. The City shall not sell the Series 2004 A Bonds without setting forth in the Supplemental Resolution the determination regarding net present value savings set forth in paragraph F above, based upon the actual principal amount, maturity schedule and interest rates for the Series 2004 A Bonds, and the City shall not issue the Series 2004 A Bonds without having obtained from an Independent Certified Public Accountant a certification that the amount of savings stated to be achieved by the refunding shall in fact be saved, based upon their review, comparison and analysis of the net interest cost in dollars of the Series 2004 A Bonds and the net interest cost in dollars of the Series 2001 A Bonds.

H. The Sanitary Board has petitioned the Council to issue Bonds for the purposes set forth herein.

I. Subject to the determination and certification required by paragraph G above, it is in the best interests of the City, and the residents thereof, that the City refund

the Series 2001 A Bonds in their entirety with proceeds of the Series 2004 A Bonds and other funds of the City, issue the Series 2004 A Bonds and pledge the Net Revenues of the System for payment thereof on a parity with the Series 1986 B Bonds and the Series 1996 A Bonds.

J. The City has met the coverage requirements for issuance of parity bonds set forth in the Series 1986 B Bonds and the Series 1996 A Bonds and the ordinances authorizing issuance of the Series 1986 B Bonds and the Series 1996 A Bonds, and has substantially complied with all other parity requirements, except to the extent that noncompliance with any such other parity requirements is not of a material nature. Prior to the issuance of the Series 2004 A Bonds, the City will obtain the written consent of the Holders of the Series 1986 B Bonds and the Series 1996 A Bonds. Other than the Series 2004 A Bonds, the Series 1986 B Bonds and the Series 1996 A Bonds, following the refunding contemplated herein, there will be no outstanding bonds or obligations of the City which are secured by revenues or assets of the System.

K. The estimated revenues to be derived in each year from the operation of the System after the refunding and defeasance of the Series 2001 A Bonds will be sufficient to pay all Operating Expenses of the System and the principal of and interest on the Series 1986 B Bonds, the Series 1996 A Bonds and the Series 2004 A Bonds and to make all other payments provided for in this Ordinance.

L. All things necessary to make the Series 2004 A Bonds, when authenticated by the Registrar and issued as in this Ordinance provided, the valid, binding and legal special obligations of the City according to the import thereof, and to validly pledge and assign those funds pledged hereby to the payment of the principal of and interest on the Series 2004 A Bonds, will be timely done and timely performed.

M. The Series 2004 A Bonds and the Certificate of Authentication and Registration to be endorsed thereon are to be in substantially the forms set forth in EXHIBIT A - BOND FORM attached hereto and incorporated herein by reference, with necessary and appropriate variations, omissions and insertions as permitted or required by this Ordinance or a Supplemental Resolution or as deemed necessary by the Registrar or the City.

N. The City is a governmental unit with general taxing powers.

O. The Series 2004 A Bonds are not private activity bonds as defined in the Code.

P. Ninety-five percent (95%) or more of the net proceeds (as defined with respect to the Code) of the Series 2004 A Bonds will be issued for local governmental activities of the City.

Q. The City shall not permit at any time any of the proceeds of the Series 2004 A Bonds or other funds of the City to be used directly or indirectly in any manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Code.

R. The City will file all statements, instruments and returns necessary to assure the tax-exempt status of the Bonds.

S. The Bonds will not be federally guaranteed within the meaning of Section 149(b) of the Code.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of Series 2004 A Bonds by those who shall be the Bondholders of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the City and such Bondholders, and the covenants and agreements herein set forth to be performed by the City shall be for the equal benefit, protection and security of the Bondholders of any and all of such Series 2004 A Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Definitions. All capitalized terms used in this Ordinance and not otherwise defined in the recitals or in the text hereof shall have the meanings specified below, unless the context expressly requires otherwise:

"Act" or "Refunding Act" means Chapter 16, Article 13 of the West Virginia Code of 1931, as amended and in effect on the date of delivery of the Series 2004 A Bonds.

"Authority" means the West Virginia Water Development Authority, the original purchaser of the Series 1986 B Bonds and the Series 1996 A Bonds, or its successor.

"Authorized Officer" means the Mayor of the City or any other officer of the City specifically designated by resolution of the City Council.

"Board" or "Sanitary Board" means the Elkins Sanitary Board.

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

"Bond Counsel" shall mean any law firm having a national reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal

bonds, appointed by the City, and shall initially mean Steptoe & Johnson PLLC, Charleston, West Virginia.

"Bondholder," "Holder of the Bonds," "Owner of the Bonds" or any similar term means any person who shall be the registered owner of any outstanding Bond, and shall initially mean the Original Purchaser.

"Bond Register" means the books of the City maintained by the Registrar for the registration and transfer of Bonds.

"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, or such other period as shall be determined by the City, except that the first Bond Year shall begin on the Closing Date.

"Bonds" means, collectively, the Series 2004 A Bonds, the Series 1986 B Bonds, the Series 1996 A Bonds and any additional parity Bonds hereafter issued within the terms, restrictions and conditions contained herein.

"Business Day" means any day other than a Saturday, Sunday or a day on which national banking associations or West Virginia banking corporations are authorized by law to remain closed.

"Certificate of Authentication and Registration" means the Certificate of Authentication and Registration on the Series 2004 A Bonds, in substantially the form set forth in EXHIBIT A - BOND FORM hereto.

"City" means The City of Elkins, a municipal corporation of the State of West Virginia, and, where appropriate, the City Council and/or Sanitary Board of the City.

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

"Closing Date" means the date upon which there is an exchange of the Series 2004 A Bonds for the proceeds representing the original purchase price thereof.

"Code" shall mean the Internal Revenue Code of 1986, as amended and supplemented from time to time, and Regulations thereunder.

"Costs of Issuance" shall mean those costs of issuing the Series 2004 A Bonds, including, but not limited to, legal, accounting, fiscal agent fees and expenses and fees in connection therewith.

"Costs of Issuance Fund" means the Costs of Issuance Fund created by Section 4.01 hereof.

"Depository Bank" means the bank or banks to be designated as such in the Supplemental Resolution, and any other bank or national banking association located in the State of West Virginia, eligible under the laws of the State of West Virginia to receive deposits of state and municipal funds and insured by the FDIC that may hereafter be appointed by the City as Depository Bank.

"Event of Default" means any occurrence or event specified in Section 7.01.

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

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

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

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

"Gross Revenues" 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 Accountant" means any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the City to prepare an independent annual or special audit of the accounts of the System

or for any purpose except keeping the accounts of the System in the normal operation of its business and affairs.

"Net Proceeds" means the face amount of the Series 2004 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 2004 A Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 2004 A Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

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

"Nonpurpose Investment" means any investment property which is acquired with the gross proceeds of the Series 2004 A Bonds and is not acquired in order to carry out the governmental purpose of the Series 2004 A Bonds.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the costs, fees and expenses of the Authority, fiscal agents, the Depository Bank, the Registrar and the Paying Agent (all as herein defined), other than those capitalized as part of the costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Ordinance" means this Ordinance and all resolutions and ordinances supplemental hereto or amendatory hereof.

"1986 Ordinance" means collectively, the ordinance and supplemental resolution of the City, duly enacted March 13, 1986, authorizing the Series 1986 B Bonds.

"1996 Ordinance" means collectively, the ordinance and the supplemental resolution of the City, duly enacted August 1, 1996, authorizing the Series 1996 A Bonds.

"2001 Ordinance" means collectively, the ordinance and the supplemental resolution of the City, duly enacted September 10, 2001, authorizing the Series 2001 A Bonds.

"Original Purchaser" means Branch Banking & Trust Company, Charleston, West Virginia, as the purchasers of the Series 2004 A Bonds directly from the City, or, if the City and such Original Purchaser do not agree to the purchase of the Series 2004 A Bonds with interest rates and other terms allowable under the Act, such other person or persons, firm or firms, bank or banks, corporation or corporations or such other entity or entities as shall purchase the Series 2004 A Bonds directly from the City, as determined by a resolution supplemental hereto; provided, that the Original Purchaser and the City shall agree to the purchase of the Series 2004 A Bonds, as hereinafter defined, including the exact principal amount thereof and interest rate or rates thereon as fixed by said supplemental resolution to be adopted by the City at the time of approval of such sale of said Series 2004 A Bonds.

"Outstanding," when used with reference to the Series 2004 A Bonds and as of any particular date, describes all Bonds theretofore and thereupon being issued and delivered except (a) any Bond canceled by the registrar for such Bond at or prior to said date; (b) any Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity, shall be held in trust under this Ordinance and set aside for such payment (whether upon or prior to maturity); (c) any Bond deemed to have been paid as provided by Section 9.01; and (d) with respect to determining the number or percentage of Bondholders or Bonds for the purpose of consents, notices and the like, any Bond registered to the City.

"Paying Agent" means the Registrar or other entity designated as such for the Series 2004 A Bonds in the Supplemental Resolution, and any successor thereto appointed in accordance with Section 8.12 hereof.

"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.

"Prior Bonds" means, collectively, the Series 1986 B Bonds and the Series 1996 A Bonds.

"Prior Ordinances" means, collectively, the ordinances of the City enacted on March 13, 1986 and August 1, 1996, respectively, as supplemented, authorizing the issuance of the Series 1986 B Bonds and the Series 1996 A Bonds.

"Purchase Price," for the purpose of computation of the Yield of the Series 2004 A Bonds, has the same meaning as the term "issue price" in Sections 1273(b) and 1274 of the Code, and, in general, means the initial offering price of the Series 2004 A Bonds to the public (not including bond houses and brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers), at which price a substantial amount of the Series 2004 A Bonds of each maturity is sold or, if the Series 2004 A Bonds are privately placed, the price paid by the first buyer of the Series 2004 A Bonds or the acquisition cost of the first buyer. "Purchase Price," for purposes of computing Yield of Nonpurpose Investments, means the fair market value of the Nonpurpose Investments on the date of use of Gross Proceeds of the Series 2004 A Bonds for acquisition thereof, or if later, on the date that Investment Property constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the Series 2004 A Bonds.

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

(a) Government Obligations;

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

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

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

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC, shall

be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

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

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

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

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

"Record Date" means the day of the month which shall be so stated in the Series 2004 A Bonds, regardless of whether such day is a Saturday, Sunday or legal holiday.

"Redemption Date" means the date fixed for redemption of any Bonds of the City called for redemption.

"Redemption Price" means the price at which any Bonds of the City may be called for redemption and includes the principal of and interest on such Bonds to be redeemed, plus the interest and premium, if any, required to be paid to effect such redemption.

"Registrar" means the bank to be designated in the Supplemental Resolution as the Registrar for the Series 2004 A Bonds, and any successor thereto appointed in accordance with Section 8.08 hereof.

"Regulations" means temporary and permanent regulations promulgated under the Code, and includes applicable regulations promulgated under the Internal Revenue Code of 1954.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund created by the 2001 Ordinance and continued hereby.

"Revenue Fund" means the Revenue Fund created by the 1986 Ordinance and continued hereby.

"Series 1986 B Bonds" means the City's Sewer Revenue Bonds, Series 1986 B, dated April 28, 1986, issued in the original aggregate principal amount of $517,001.

"Series 1996 A Bonds" means the City's Sewer Revenue Bonds, Series 1996 A (West Virginia SRF Program), dated August 22, 1996, issued in the original aggregate principal amount of $300,000.

"Series 2001 A Bonds" means the City's Sewer Refunding Revenue Bonds, Series 2001 A, dated September 13, 2001, issued in the aggregate principal amount of $1,121,222.

"Series 2004 A Bonds" means the Sewer Refunding Revenue Bonds, Series 2004 A, of the City, originally authorized to be issued pursuant to this Ordinance.

"Series 2004 A Bonds Reserve Account" means the Series 2004 A Bonds Reserve Account created by Section 4.02 hereof.

"Series 2004 A Bonds Reserve Requirement" means, as of any date of calculation, the lesser of (i) 10% of the original stated principal amount of the Series 2004 A Bonds; (ii) the maximum amount of principal and interest which will become due on the Series 2004 A Bonds in any year; or (iii) 125% of the average amount of principal and interest which will become due on the Series 2004 A Bonds.

"Series 2004 A Bonds Sinking Fund" means the Series 2004 A Bonds Sinking Fund created by Section 4.02 hereof.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution, ordinance or order amendatory hereof or supplemental hereto and, when preceded by the article "the," refers specifically to the Supplemental Resolution to be adopted by the City following enactment of this Ordinance, setting forth the final amounts, maturities, interest rates and other terms of the Series 2004 A Bonds and authorizing the sale of the Series 2004 A Bonds to the Original Purchaser; provided, that any provision intended to be included in the Supplemental Resolution and not so included may be contained in any other Supplemental Resolution.

"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 City, including, without limitation, the Renewal and Replacement Fund and any reserve accounts.

"System" means the complete existing public sewerage system now owned by the City, consisting of a sewage treatment and collection system and shall include any further extensions, additions, betterments and improvements thereto hereafter acquired or constructed for said sewer system from any sources whatsoever, both within and without the City.

Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations and vice versa; and words importing the masculine gender shall include the feminine and neuter genders and vice versa.

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

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

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

ARTICLE II

AUTHORIZATION OF REFUNDING

Section 2.01. Authorization of Refunding. All Series 2001 A Bonds Outstanding as of the date of issuance of the Series 2004 A Bonds are hereby ordered to be refunded and the pledge of Net Revenues in favor of the Holders of the Series 2001 A Bonds imposed by the 2001 Ordinance, the moneys in the funds and accounts created by the 2001 Ordinance pledged to payment of the Series 2001 A Bonds, and any other funds pledged by the 2001 Ordinance to payment of the Series 2001 A Bonds are hereby ordered terminated, discharged and released upon the payment to the Bond Commission for deposit in the Series 2001 A Bonds Sinking Fund from the proceeds of the Series 2004 A Bonds and from other moneys available therefor, of the following: (a) an amount equal to the fiscal and paying agent charges to become due and payable in connection with the Series 2001 A Bonds; and (b) an amount to provide for the payment of the principal of and interest on the Series 2001 A Bonds, plus the redemption premium, if any, as of May 27, 2004. Contemporaneously with the deposit of the proceeds of the Series 2004 A Bonds and other moneys into the Series 2001 A Bonds Sinking Fund, the amounts on deposit in the sinking fund, including the reserve account therein, created and maintained on behalf of the Series 2001 A Bonds shall be released from the lien created by the 2001 Ordinance and deposited, to the extent not already deposited therein, in the Series 2001 A Bonds Sinking Fund, the Series 2004 A Bonds Reserve Account or such other fund or account as shall be set forth in the Supplemental Resolution and invested as provided therein.

ARTICLE III

THE BONDS

Section 3.01. Form and Payment of Bonds. No Bond shall be issued pursuant to this Ordinance except as provided in this Article III. Any Bonds issued pursuant to this Ordinance after the issuance of the Series 2004 A Bonds, as hereinafter provided, may be issued only as fully registered Bonds without coupons, in the denomination of $100,000 or any integral multiple thereof for any year of maturity. All Bonds shall be dated as of the date provided in a Supplemental Resolution applicable to such series. Bonds shall bear interest from the interest payment date next preceding the date of authentication or, if authenticated after the Record Date but prior to the applicable interest payment date or on such interest payment date, from such interest payment date or, if no interest on such Bonds has been paid, from the date thereof; provided however, that, if, as shown by the records of the Registrar, interest on such Bonds shall be in default, Bonds issued in exchange for Bonds surrendered for transfer or exchange shall bear interest from the date to which interest has been paid in full on the initial Bonds surrendered.

The principal of and the premium, if any, on the Series 2004 A Bonds shall be payable in any coin or currency which, on the respective date of such payment, is legal tender for the payment of public and private debts under the laws of the United States of America upon surrender at the principal office of the Paying Agent. Interest on the Bonds shall be paid by check or draft made payable and mailed to the Holder thereof at his address as it appears in the Bond Register at the close of business on the Record Date, or, if requested, in the case of a Bondholder of $500,000 or more of the Bonds, by wire transfer to a domestic bank account specified in writing at least 5 days prior to such interest payment date by such Bondholder.

In the event any Bond is redeemed in part, such bond shall be surrendered to and canceled by the Registrar, and the City shall execute, and the Registrar shall authenticate and deliver to the Holder thereof, another Bond in the principal amount of said Bond then Outstanding.

Section 3.02. Execution of Bonds. The Series 2004 A Bonds shall be executed in the name of the City by the Mayor, by his or her manual or facsimile signature, and the seal of the City shall be affixed thereto or imprinted thereon and attested by the City Clerk by his or her manual or facsimile signature; provided, that, all such signatures and the seal may be by facsimile. 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 City 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 had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the City by such person as at the actual time of the execution of such Bonds shall hold the proper office in the City, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.03. Authentication and Registration. No 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 form set forth in EXHIBIT A - BOND FORM attached hereto and incorporated herein by reference with respect to the Series 2004 A Bonds, shall have been duly manually executed by the Registrar. Any such manually 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 Registrar if signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.04. Negotiability and Registration. Subject to the requirements for transfer set forth below, the Series 2004 A 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 Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as any of the Series 2004 A Bonds remains Outstanding, the Registrar shall keep and maintain books for the registration and transfer of the Bonds. Bonds shall be transferable only by transfer of registration upon the Bond Register by the registered owner thereof in person or by his attorney or legal representative duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or such duly authorized attorney or legal representative. Upon transfer of a Bond, there shall be issued at the option of the Holder or the transferee another Bond or Bonds of the aggregate principal amount equal to the unpaid amount of the transferred Bond and of the same series, interest rate and maturity of said transferred Bond.

Upon surrender thereof at the office of the Registrar with a written instrument of transfer satisfactory to the Registrar and duly executed by the registered owner or his attorney or legal representative duly authorized in writing, Bonds may at the option of the

Holder thereof be exchanged for an equal aggregate principal amount of Bonds of the same series, maturity and interest rate, in any authorized denominations.

In all cases in which the privilege of transferring or exchanging a Series 2004 A Bond is exercised, Bonds shall be delivered in accordance with the provisions of this Ordinance. All Bonds surrendered in any such transfer or exchange shall forthwith be canceled by the Registrar. Transfers of Bonds, the initial exchange of Bonds and exchanges of Bonds in the event of partial redemption of fully registered Bonds shall be made by the Registrar without charge to the Holder or the transferee thereof, except as provided below. For other exchanges of Bonds, the Registrar may impose a service charge. For every such transfer or exchange of bonds, the Registrar may make a charge sufficient to reimburse its office for any tax or other governmental charge required to be paid with respect to such transfer or exchange, and such tax or governmental charge, and such service charge for exchange other than the initial exchange or in the event of partial redemption, shall be paid by the person requesting such transfer or exchange as a condition precedent to the exercise of the privilege of making such transfer or exchange. The Registrar shall not be obliged to make any such transfer or exchange of Bonds that have been called for redemption.

Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2004 A Bond shall become mutilated or be destroyed, stolen or lost, the City may execute, in its discretion, and the Registrar shall authenticate, register and deliver any new Bond of like series, maturity and principal amount as the Bond, so mutilated, destroyed, stolen or lost, in exchange and 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 the City and the Registrar proof of his ownership thereof and that said Bond has been destroyed, stolen or lost and satisfactory indemnity and complying with such other reasonable regulations and conditions as the City or the Registrar may prescribe and paying such expenses as the City or the Registrar may incur. The name of the Bondholder listed in the Bond Register shall constitute proof of ownership. All Bonds so surrendered shall be submitted to and canceled by the Registrar, and evidence of such cancellation shall be given to the City. If such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the City, by and through the Registrar, may pay the same, upon being indemnified as aforesaid, and, if such Bond be lost, stolen or destroyed, without surrender therefor.

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

Section 3.06. [RESERVED]

Section 3.07. Notice of Redemption. Unless waived by any Holder of the Series 2004 A Bonds to be redeemed, official notice of any redemption shall be given by the Registrar on behalf of the City by mailing a copy of an official redemption notice by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the registered owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such registered owner to the Bond Registrar.

If funds sufficient to redeem all Bonds called for optional redemption have not been deposited with the Paying Agent at the time of mailing any notice of optional redemption, such notice shall also state that such optional redemption is subject to the deposit of such moneys with the Paying Agent on or before the Redemption Date. If such moneys are not so deposited, the Registrar shall notify all holders of Bonds called for redemption of such fact.

Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the City shall default in the payment of the Redemption Price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Registrar at the Redemption Price. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the registered owner a new Bond or Bonds of the same maturity in the amount of the unredeemed principal of such Bond. All Bonds which have been redeemed shall be canceled and destroyed by the Bond Registrar and shall not be reissued.

Failure to receive such notice or any defect therein or in the mailing thereof shall not affect the validity of proceedings for the redemption of Bonds, and failure to mail or otherwise send such notice shall not affect the validity of proceedings for the redemption of any portion of Bonds for which there was no such failure.

Section 3.08. Persons Treated as Owners. The City, the Registrar and any agent of the City or the Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of the principal of, and interest on, such Bond and for all other purposes, whether or not such Bond is overdue.

Section 3.09. Temporary Bonds. Until Bonds of any series in definitive form are ready for delivery, the City may execute and the Registrar shall authenticate, register, if applicable, and deliver, subject to the same provisions, limitations and conditions

set forth in this Article III, one or more printed, lithographed or typewritten Bonds in temporary form, substantially in the form of the definitive Bonds of such series, with appropriate omissions, variations and insertions, and in authorized denominations. Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the lien and benefit created under this Ordinance. Upon the presentation and surrender of any Bond or Bonds in temporary form, the City shall, without unreasonable delay, prepare, execute and deliver to the Registrar, and the Registrar shall authenticate, register, if applicable, and deliver, in exchange therefor, a Bond or Bonds in definitive form. Such exchange shall be made by the Registrar without making any charge therefor to the Holder of such Bond in temporary form.

Section 3.10. Authorization of Bonds. For the purposes of paying a portion of the costs of refunding all of the Series 2001 A Bonds of the City, funding the Series 2004 A Bonds Reserve Account and paying costs in connection therewith, and paying certain costs of acquisition and construction of certain improvements and additions to the System, there shall be issued, in one or more series, the Series 2004 A Bonds of the City, in an aggregate principal amount of not more than $1,200,000. The Series 2004 A Bonds shall be designated "Sewer Refunding Revenue Bonds, Series 2004 A" and shall be issued in fully registered form, in denominations of $100,000 or larger. The Series 2004 A Bonds shall be numbered from AR-1 consecutively upward. The Series 2004 A Bonds shall be dated; shall be in such aggregate principal amount; shall bear interest at such rate or rates, not exceeding the then legally permissible rate, payable at such times; shall mature on such dates and in such amounts; shall be subject to such mandatory and optional redemption provisions; and shall have such other terms, all as the City shall prescribe herein and in the Supplemental Resolution.

Section 3.11. Registration. The Series 2004 A Bonds shall initially be issued in the form of one fully-registered bond for the aggregate principal amount of the Series 2004 A Bonds of each maturity, registered in the name of the Original Purchaser.

Section 3.12. Delivery of Bonds. The City shall execute and deliver the Series 2004 A Bonds to the Registrar, and the Registrar shall authenticate, register and deliver the Series 2004 A Bonds to the Original Purchaser upon receipt of the documents set forth below:

(A) A list of the names in which the Series 2004 A Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Registrar may reasonably require;

(B) A request and authorization to the Registrar on behalf of the City, signed by an Authorized Officer, to authenticate and deliver the Series 2004 A Bonds to the Original Purchaser;

(C) Copies of this Ordinance and the Supplemental Resolution certified by the City Clerk;

(D) The unqualified approving opinion upon the Series 2004 A Bonds by Bond Counsel; and

(E) A copy of such other documents, certifications and verifications as the Original Purchaser may reasonably require.

Section 3.13. Form of Bonds. The definitive Series 2004 A Bonds shall be in substantially the form set forth in EXHIBIT A - BOND FORM attached hereto and incorporated herein by reference, with such necessary and appropriate omissions, insertions and variations as are approved by those officers executing such Series 2004 A Bonds on behalf of the City and execution thereof by such officers shall constitute conclusive evidence of such approval, and the definitive Series 2004 A Bonds shall have the form of the opinion of Steptoe & Johnson PLLC, as Bond Counsel, attached thereto or printed on the reverse thereof.

Section 3.14. Disposition of Proceeds of Bonds. Upon the issuance and delivery of the Series 2004 A Bonds, the City shall forthwith deposit the proceeds thereof as follows:

A. All interest accrued on the Series 2004 A Bonds from the date thereof to the date of delivery thereof, if any, shall be deposited in the Series 2004 A Bonds Sinking Fund and applied to payment of interest on the Series 2004 A Bonds at the first interest payment date.

B. Proceeds of the Series 2004 A Bonds which, together with other moneys or securities deposited therein and the earnings thereon, shall be sufficient to accomplish the refunding and defeasance of the Series 2001 A Bonds (which amount shall be set forth in the Supplemental Resolution) shall be deposited in the Series 2001 A Bonds Sinking Fund.

C. Proceeds of the Series 2004 A Bonds equal to the Series 2004 A Bonds Reserve Requirement shall be remitted to the Bond Commission for deposit in the Series 2004 A Bonds Reserve Account; provided that, to the extent the Series 2004 A Bonds Reserve Requirement is satisfied in whole or in part from proceeds of any fund or account established for the Series 2001 A Bonds pursuant to the 2001 Ordinance, proceeds of the Series 2004 A Bonds shall be deposited in the Series 2004 A Bonds Reserve Account only to the extent needed to satisfy the balance of the Series 2004 A Bonds Reserve Requirement.

D. Proceeds of the Series 2004 A Bonds which shall be sufficient to pay all costs of issuance shall be deposited with the Depository Bank in the Costs of Issuance Fund and shall be drawn out, used and applied by the City solely to pay costs of issuance of the Series 2004 A Bonds and miscellaneous costs of refunding the Series 2001 Bonds at the written direction of the City. All such costs of issuance shall be paid within 60 days of the Closing Date. Moneys not to be applied immediately to pay such costs of issuance and refunding may be invested in accordance with this Ordinance, subject however, to applicable yield restrictions as may be in effect under the Code. If for any reason such proceeds, or any part thereof, are not necessary for, or are not applied to such purpose within 6 months after the Closing Date, such unapplied proceeds shall be transferred by the City to the Construction Fund.

E. The balance of any proceeds of the Series 2004 A Bonds and any moneys in any fund or account established for the Series 2001 A Bonds pursuant to the 2001 Ordinance, not used for any of the purposes set forth above, shall be deposited in the Construction Fund and shall be drawn out, used and applied by the City solely to pay the costs of acquisition and construction of certain improvements and extensions to the System (the "Project"). All such costs of the Project shall be paid within 6 months of the Closing Date. Moneys not to be applied immediately to pay such costs of the Project may be invested in accordance with this Ordinance, subject however, to applicable yield restrictions as may be in effect under the Code. All such proceeds shall constitute a trust fund for such purposes, and there hereby is created a lien upon such moneys until so applied in favor of the Holders of the Series 2004 A Bonds.

Section 3.15. Designation of Bonds as "Qualified Tax-Exempt Obligations". The City hereby designates the Series 2004 A Bonds as "qualified tax-exempt obligations" for purposes of Section 265(b)(3)(B) of the Code and covenants that the Series 2004 A Bonds do not constitute private activity bonds as defined in Section 141 of the Code, and that not more than $10,000,000 aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Code) from gross income for federal income tax purposes (excluding, however, obligations issued to currently refund any obligation of the City to the extent the amount of the refunding obligation does not exceed the amount of the refunded obligation and private activity bonds, as defined in Section 141 of the Code, other than qualified 501(c)(3) bonds as defined in Section 145 of the Code), including the Series 2004 A Bonds, have been or shall be issued by the City, including all subordinate entities of the City, during the calendar year 2004.

ARTICLE IV

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 4.01. Establishment of Funds and Accounts with Depository Bank. Pursuant to this Article IV, the following special funds or accounts are hereby created with (or continued if previously established), and shall be held by, the Depository Bank, segregated and apart from all other funds or accounts of the Depository Bank and the City and from each other:

(1) Revenue Fund (established by the 1986 Ordinance);

(2) Renewal and Replacement Fund (established by the 1986 Ordinance);

(3) Construction Fund;

(4) Costs of Issuance Fund; and

(5) Rebate Fund.

Section 4.02. Establishment of Funds and Accounts with Bond Commission. Pursuant to this Article IV, the following special funds or accounts are hereby created with (or continued if previously established), and shall be held by, the Bond Commission, separate and apart from all other funds or accounts of the Bond Commission and the City and from each other:

(1) Series 2004 A Bonds Sinking Fund; and

(2) Within the Series 2004 A Bonds Sinking Fund, the Series 2004 A Bonds Reserve Account.

Section 4.03. System Revenues and Application Thereof. So long as any of the Bonds shall be Outstanding and unpaid, the City covenants as follows:

A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt by the City in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Ordinance and shall be kept separate and distinct from all other funds of the City and the Depository Bank and used only for the purposes and in the manner herein provided.

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

(2) The City shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Bond Commission (i) the amounts required by the Prior Ordinances to pay the interest, if any, on and the principal of the Prior Bonds; (ii) commencing one month prior to the first interest payment date on the Series 2004 A Bonds, for deposit in the Series 2004 A Bonds Sinking Fund, a sum equal to the amount of interest which will become due on the Series 2004 A Bonds on the next ensuing monthly interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2004 A Bonds Sinking Fund and the next ensuing monthly interest payment date is less than or greater than 1 month, then such monthly payment shall be increased or decreased proportionately to provide, 1 month prior to the next ensuing interest payment date, the required amount of interest coming due on such date; and provided further that amounts required to be transferred from the Revenue Fund and deposited in the Series 2004 A Bonds Sinking Fund shall be reduced by the amount of any earnings credited to the Series 2004 A Bonds Sinking Fund; and (iii) commencing 1 month prior to the first principal payment date of the Series 2004 A Bonds, for deposit in the Series 2004 A Bonds Sinking Fund, a sum equal to the amount of principal which will mature and become due on the Series 2004 A Bonds on the next ensuing monthly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2004 A Bonds Sinking Fund and the next ensuing monthly principal payment date is less than or greater than 1 month, then such monthly payment shall be increased or decreased proportionately to provide, 1 month prior to the next ensuing monthly principal payment date, the required amount of principal coming due on such date, and provided further, that the amount of such deposits shall be reduced by the amount of any earnings credited to the Series 2004 A Bonds Sinking Fund and not previously credited pursuant to the preceding paragraph.

(3) The City shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Bond Commission (i) the amount required by the Prior

Ordinances for deposit in the respective Reserve Accounts for the Prior Bonds; and (ii) for deposit in the Series 2004 A Bonds Reserve Account, an amount sufficient to remedy any decrease in value of the Series 2004 A Bonds Reserve Account below the Series 2004 A Bonds Reserve Requirement or any withdrawal from the Series 2004 A Bonds Reserve Account, beginning with the first full calendar month following the date on which (a) the valuation of investments in the Series 2004 A Bonds Reserve Account results in a determination that the amount of moneys and the value of the Qualified Investments deposited to the credit of the Series 2004 A Bonds Reserve Account is less than the Series 2004 A Bonds Reserve Requirement, or (b) any amount is withdrawn from the Series 2004 A Bonds Reserve Account for deposit into the Series 2004 A Bonds Sinking Fund. To the extent Net Revenues and any other legally available funds are available therefor, the amount so deposited shall be used to restore the amount of moneys on deposit in the Series 2004 A Bonds Reserve Account to an amount equal to the Series 2004 A Bonds Reserve Requirement to the full extent that such Net Revenues are available; provided, that no payments shall be required to be made into the Series 2004 A Bonds Reserve Account whenever and as long as the amount deposited therein shall be equal to the Series 2004 A Bonds Reserve Requirement.

(4) The City shall next, from the moneys remaining in the Revenue Fund (as previously set forth in the Prior Ordinances and not in addition thereto), on the first day of each month, transfer to the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month, 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 City or of the Depository Bank and shall be invested and reinvested in Qualified Investments. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in any Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required) shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Series 2004 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 2004 A Bonds as the same shall become due, whether by maturity or redemption prior to maturity. Amounts in the Series 2004 A Bonds Reserve Account shall be used only for the purpose of making payments of principal of and interest on the Series 2004 A Bonds when due, when amounts in the Series 2004 A Bonds Sinking Fund are insufficient therefor and for no other purpose.

The City shall not be required to make any further payments into the Series 2004 A Bonds Sinking Fund or the Series 2004 A Bonds Reserve Account when the aggregate amount of funds therein are at least equal to the aggregate principal amount of Series 2004 A Bonds issued pursuant to this Ordinance then Outstanding, plus the amount of interest due or thereafter to become due on the Series 2004 A Bonds then Outstanding.

As and when additional Bonds ranking on a parity with the Series 2004 A Bonds are issued, provision shall be made for additional payments into the respective sinking fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at or before maturity and to accumulate a balance in the respective reserve account in an amount equal to the maximum amount of principal and interest which will become due in any year for account of such additional parity Bonds.

The payments into the Series 2004 A Bonds Sinking Fund shall be made on the first day of each month, except that, when the first day of any month shall be a Saturday, 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 Bond Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Ordinance.

The City shall restore any withdrawals from the Series 2004 A Bonds Reserve Account which have the effect of reducing the assets therein below the Series 2004 A Bonds Reserve Requirement from the first Net Revenues available after all required payments have been made in full in the order set forth above.

Principal, interest or reserve payments, whether for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Series 1986 B Bonds, the Series 1996 A Bonds and the Series 2004 A Bonds, in accordance with the respective principal amounts then Outstanding.

The Bond Commission is hereby designated as the fiscal agent for the administration of the Series 2004 A Bonds Sinking Fund and the Series 2004 A Bonds Reserve Account created hereunder, and all amounts required for said accounts shall be remitted to the Bond Commission from the Revenue Fund by the City at the times provided herein.

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

C. The City shall remit from the Revenue Fund to the Bond Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Bond Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay any charges and fees then due.

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

E. If on any monthly payment date the Net Revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 4.03, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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

ARTICLE V

INVESTMENTS; NON-ARBITRAGE; REBATES OF EXCESS INVESTMENT EARNINGS

Section 5.01. Investments. The City shall invest and reinvest, and shall instruct the Bond Commission and the Depository Bank to invest and reinvest, any moneys held as a part of the funds and accounts created by this Ordinance in 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 provided below, 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 City 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 City may make any and all investments permitted by this section through the bond department of the Depository Bank. The Depository Bank shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The following specific provisions shall apply with respect to any investments made under this section:

(A) Qualified Investments acquired for the Series 2004 A Bonds Reserve Account shall mature or be subject to retirement at the option of the holder within not more than 5 years from the date of such investment.

(B) The City shall, or shall cause the Bond Commission to semiannually transfer from the Series 2004 A Bonds Reserve Account to the Series 2004 A Bonds Sinking Fund, any earnings on the moneys deposited therein and any other funds in excess of the requirement therefor; provided, however, that there shall at all times remain on deposit in the Series 2004 A Bonds Reserve Account an amount at least equal to the Series 2004 A Bonds Reserve Requirement.

(C) In computing the amount in any fund or account, Qualified Investments shall be valued at the lower of the cost or the market price, exclusive of accrued interest. Valuation of all funds and accounts shall occur annually, except in the event of a withdrawal from the Series 2004 A Bonds Reserve Account, whereupon it shall be valued immediately after such withdrawal. If amounts on deposit in the Series 2004 A Bonds Reserve Account shall, at any time, be less than the applicable requirement therefor, such deficiency shall be made up from the first available Net Revenues in the order set forth in Section 4.03 hereof.

(D) All amounts representing accrued and capitalized interest shall be held by the Bond Commission, pledged solely to the payment of interest on the Series 2004 A Bonds and invested only in Government Obligations maturing at such times and in such amounts as are necessary to match the interest payments to which they are pledged.

(E) Notwithstanding the foregoing, all moneys deposited in the Series 2004 A Bonds Sinking Fund may be invested by the Bond Commission in the West Virginia "consolidated fund" managed by the West Virginia State Investment Management Board pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended.

Section 5.02. Arbitrage. The City covenants that (i) it will restrict the use of the proceeds of the Series 2004 A Bonds in such manner and to such extent as may be necessary, so that the Series 2004 A Bonds will not constitute "arbitrage bonds" under Section 148 of the Code and Regulations prescribed thereunder, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Series 2004 A Bonds) so that the interest on the Series 2004 A Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 5.03. Tax Certificate and Rebate. A. The City shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of the Series 2004 A Bonds. In addition, the City covenants to comply with all Regulations from time to time in effect and applicable to the Series 2004 A Bonds as may be necessary in order to fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations,

regardless of whether such actions may be contrary to any of the provisions of this Ordinance.

B. The City shall calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, the City shall deposit, or cause to be deposited, in the Rebate Fund such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder and used only for payment of rebatable arbitrage to the United States. The City shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the City to be used for any lawful purpose of the System. The City shall remit payments to the United States in the time and at the address prescribed by the Regulations as the same may be from time to time in effect, with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the City shall assure that such payments are made by the City to the United States, on a timely basis, from any funds lawfully available therefor. The City at its expense, may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the City may deem appropriate in order to assure compliance with this Section 5.03. The City shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 5.03 in accordance with the requirements of Section 148(f) of the Code and such Regulations. In the event the City fails to make such rebates as required, the City shall pay any and all penalties and the required amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, in order to maintain the exclusion of interest on the Series 2004 A Bonds from gross income for federal income tax purposes.

ARTICLE VI

ADDITIONAL COVENANTS OF THE CITY

Section 6.01. Covenants Binding and Irrevocable. All the covenants, agreements and provisions of this Ordinance shall be and constitute valid and legally binding covenants of the City and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2004 A Bonds, as prescribed by Article VII. In addition to the other covenants, agreements and provisions of this Ordinance, the City hereby covenants and agrees with the Holders of the Series 2004 A Bonds, as hereinafter provided in this Article VI. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2004 A Bonds, or the interest thereon, are Outstanding and unpaid.

Section 6.02. Bonds not to be Indebtedness of the City. The Series 2004 A Bonds shall not be or constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter limitation of indebtedness but shall be payable solely from the Net Revenues of the System, the moneys in the Series 2004 A Bonds Sinking Fund and the Series 2004 A Bonds Reserve Account therein, and the unexpended proceeds of the Series 2004 A Bonds, all as herein provided. No Holder or Holders of the Series 2004 A Bonds issued hereunder shall ever have the right to compel the exercise of the taxing power of the City, if any, to pay the Series 2004 A Bonds or the interest thereon.

Section 6.03. Bonds Secured by Parity Pledge of Net Revenues and Moneys in Sinking Fund. The payment of the debt service of all of the Series 2004 A Bonds issued hereunder shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System, on a parity with the lien on the Net Revenues in favor of the Holders of the Series 1986 B Bonds and the Series 1996 A Bonds. The Net Revenues derived from the System, in an amount sufficient to pay the interest on and principal of the Series 2004 A Bonds herein authorized, and to make the payments into the Series 2004 A Bonds Sinking Fund, including the Series 2004 A Bonds Reserve Account therein, and all other payments provided for in this Ordinance, are hereby irrevocably pledged in the manner provided in this Ordinance to the payment of the interest on and principal of the Series 2004 A Bonds herein authorized as the same become due and for the other purposes provided in this Ordinance.

Section 6.04. Rates. Equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the City Clerk, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System

sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the City hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Series 2004 A Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 2004 A Bonds, including the Series 1986 B Bonds and the Series 1996 A Bonds.

Section 6.05. Operation and Maintenance. The City will operate and maintain the System as a revenue-producing utility in good condition and in compliance with all federal and state requirements and standards.

Section 6.06. Sale of the System. So long as the Series 1986 B Bonds and the Series 1996 A Bonds are outstanding, the City shall not sell, mortgage, lease or otherwise dispose of the System, or any part thereof, except as provided in the Ordinances authorizing the Series 1986 B Bonds and the Series 1996 A Bonds. Additionally, so long as the Series 2004 A Bonds are outstanding and 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 all the Bonds Outstanding, or to effectively defease this Ordinance in accordance with Article IX hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2004 A Bonds, immediately be remitted to the Bond Commission for deposit in the Series 2004 A Bonds Sinking Fund, and the City shall direct the Bond Commission to apply such proceeds to the payment of principal of and interest on the Series 2004 A Bonds. Any balance remaining after the payment of the Series 2004 A Bonds and interest thereon shall be remitted to the City by the Bond Commission unless necessary for the payment of other obligations of the City payable out of the revenues of the System.

The foregoing provision notwithstanding, the City 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 City 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 City shall first, 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 with the written consent of the Authority, be remitted by the City to the Bond Commission for deposit in the Sinking Funds and shall be applied only to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the par value thereof plus 3% of such par value or otherwise. Such 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 City if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of $50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of over 50% in amount of the Bonds then Outstanding and the Consulting Engineers. The City shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 6.07. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. The City shall not issue any obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2004 A Bonds. All obligations issued by the City after the issuance of the Series 2004 A Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for payment from such revenues and in all other respects, to the Series 2004 A Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the City shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2004 A Bonds, and the interest thereon, if any, upon any or all of the income and revenues of the System pledged for payment of the

Series 2004 A Bonds and the interest thereon, if any, in this Ordinance, or upon the System or any part thereof.

Section 6.08. Additional Parity Bonds. So long as the Series 1986 B Bonds and the Series 1996 A Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Ordinances authorizing the Series 1986 B Bonds and the Series 1996 A Bonds shall be applicable. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2004 A Bonds pursuant to this Ordinance, except under the conditions and in the manner herein provided (unless less restrictive than the provisions of the Ordinances authorizing the Series 1986 B Bonds and the Series 1996 A Bonds).

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2004 A Bonds.

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

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

City and approved by the Public Service Commission of West Virginia, the period for appeal of which has expired prior to the date of issuance of such additional parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of an Independent Certified Public Accountant, on account of increased rates, rentals, fees and charges for the System adopted by the City, the period for appeal of which has expired prior to issuance of such Parity Bonds.

Not later than simultaneously with the delivery of such Parity Bonds, the City shall have entered into written contracts for the immediate construction or acquisition of such extensions or improvements, if any, to the System that are to be financed by such Parity Bonds.

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

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on revenues of the System is subject to the prior and superior liens of the Series 2004 A Bonds on such revenues. The City shall not issue any obligations whatsoever payable from revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 2004 A Bonds.

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

Any certifications requiring computations establishing that debt service coverage is sufficient to support the issuance of parity Additional Bonds or that requisite debt service

savings are available to support the issuance of refunding bonds shall, in all cases, be evidenced by a certificate of an Independent Certified Public Accountant.

No additional bonds, notes, certificates, contracts or any other obligations shall be issued by the City unless no Event of Default shall have occurred and be continuing with respect to the Bonds.

Section 6.09. Insurance and Bonds. The City hereby covenants and agrees, that so long as the Bonds remain Outstanding, the City will, as an Operating Expense, procure, carry and maintain insurance and bonds and worker's compensation coverage with a reputable insurance carrier or carriers or bonding company or companies covering the following risks and in the following amounts:

A. FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the City will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged and destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund.

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

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

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

E. BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the City.

F. FIDELITY BONDS will be provided as to every officer, member and employee of the City or the Governing Body having custody of the revenues or of any other funds of the System, in an amount at least equal to the total funds in the custody of any such person at any one time.

Section 6.10. No Free Services. The City will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and, in the event the City or any department, agency, instrumentality, officer or employee thereof shall avail himself or themselves of the facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the City and any such department, agency, instrumentality, officer or employee. The revenues so received shall be deemed to be revenues derived from the operation of the System and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 6.11. Enforcement of Collections. The City 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, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid and to the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, all delinquent rates, rentals and other changes, if not paid, when due, shall become a lien on the premises served by the System. The City further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services and facilities of the System and any services and facilities of the waterworks system, if so owned by the City, to all delinquent users of services and facilities of the System and will not restore such services of the System (or waterworks system) until all billing for charges for the services and facilities of the System, plus reasonable interest penalty charges for the restoration of service, has been fully paid. If the waterworks system is not owned by the City, the City shall enter into a termination agreement with the water provider, subject to any required approval of such agreement by the Public Service

Commission of West Virginia and all rules, regulations and orders of the Public Service Commission of West Virginia.

Section 6.12. No Competing Franchise. To the extent legally allowable, the City 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 6.13. Books and Records. The City will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds shall have the right at all reasonable times to inspect the System, and all parts thereof, and all records, accounts and data of the City relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles, to the extent allowable under and in accordance with the rules and regulations of the Public Service Commission of West Virginia and the Act. Separate control accounting records shall be maintained by the City. 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 City. The City 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 City shall be reported to such agent of the City as it shall direct.

The City shall file with any Bondholder requesting the same, an annual report within 30 days following the date of receipt of the final audit containing a balance sheet, statement of revenues, expenses, and changes in retained earnings, and statement of cash flows, as prescribed by generally accepted accounting principles.

The City shall also file with any Bondholder requesting the same, an annual report containing the following:

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

(B) A statement of account balances in all funds and accounts provided for herein and status of said funds.

The City shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by an Independent Certified Public Accountant in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto, to the extent legally required, and shall mail upon request, and

make available generally, the report of said Independent Certified Public Accountant, or a summary thereof, to any Holder or Holders of Bonds issued pursuant to this Ordinance and shall file said report with the Original Purchaser.

Section 6.14. Operating Budget. The City shall annually, at least 45 days preceding the beginning of each Fiscal Year, or at such earlier date, prepare and adopt by resolution a detailed budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a registered professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System; and no such increased expenditures shall be made until the City shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of such a registered professional engineer that such increased expenditures are necessary for the continued operation of the System. The City shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to any Bondholder who requests the same and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Bondholder or anyone acting for and in behalf of such Bondholder who requests the same.

Section 6.15. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the City and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Division of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Division 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 City and a public nuisance which shall be abated to the extent permitted by law and as promptly as possible by proceedings in a court of competent jurisdiction.

Section 6.16. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2004 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 2004 A Bonds, and shall be on a parity with the statutory mortgage lien in favor of the Holders of the Series 1986 B Bonds and the Series 1996 A Bonds.

Section 6.17. Tax Covenants. The City hereby further covenants and agrees as follows:

A. PRIVATE BUSINESS USE LIMITATION. The City shall assure that (i) not in excess of 10% of the Net Proceeds of the Series 2004 A Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Series 2004 A Bonds during the term thereof is, under the terms of the Series 2004 A Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the City, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) in the event that both (A) in excess of 5% of the Net Proceeds of the Series 2004 A Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Series 2004 A Bonds during the term thereof is, under the terms of the Series 2004 A Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the City, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Series 2004 A Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the System, or if the Series 2004 A Bonds are for the purpose of financing more than one project, a portion of the System, and shall not exceed the proceeds used for the governmental use of that portion of the System to which such Private Business Use is related.

B. PRIVATE LOAN LIMITATION. The City shall assure that not in excess of the lesser of 5% of the Net Proceeds of the Series 2004 A Bonds or $5,000,000 are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 2004 A Bonds to be directly or indirectly "federally guaranteed" within the meaning of Section 149(b) of the Code and Regulations promulgated thereunder.

D. INFORMATION RETURN. The City will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 2004 A Bonds and the interest thereon, including without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The City will take all actions that may be required of it so that the interest on the Series 2004 A Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

ARTICLE VII

DEFAULTS AND REMEDIES

Section 7.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2004 A Bonds:

(A) If default occurs in the due and punctual payment of the principal of or interest on the Series 2004 A Bonds;

(B) If default occurs in the City's observance of any of the covenants, agreements or conditions on its part in this Ordinance or any Supplemental Resolution or in the Series 2004 A Bonds contained, and such default shall have continued for a period of 30 days after written notice specifying such default and requiring the same to be remedied shall have been given to the City by any Bondholder;

(C) If the City files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America; or

(D) If default occurs with respect to the Series 1986 B Bonds and the Series 1996 A Bonds or the Ordinances authorizing the Series 1986 B Bonds and the Series 1996 A Bonds.

The City must cure any covenant default within 30 days after notice of the default, and failure to pay principal of or interest on the Bonds shall be an immediate event of default.

Section 7.02. Enforcement. Upon the happening and continuance of any Event of Default, any Bondholder may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his rights and, in particular:

(A) Bring suit for any unpaid principal or interest then due;

(B) By mandamus or other appropriate proceeding enforce all rights of the Bondholders, including the right to require the City to perform its duties under the Act and this Ordinance;

(C) Bring suit upon the Bonds;

(D) By action at law or bill in equity require the City to account as if it were the trustee of an express trust for the Bondholders; and

(E) By action or bill in equity enjoin any acts in violation of this Ordinance or the rights of the Bondholders.

No remedy by the terms of this Ordinance conferred upon or reserved to the Bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Bondholders hereunder or now or hereafter existing at law or by statute. All rights and remedies of the Holders of the Series 2004 A Bonds shall be on a parity with those of the Holders of the Series 1986 B Bonds and the Series 1996 A Bonds.

No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or Event of Default hereunder by the Bondholders shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereto.

Section 7.03. Appointment of Receiver. If there be any Event of Default existing and continuing, 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 City, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the principal of and interest on the Bonds, 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 this 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 the System and shall hold, operate, maintain, manage and control such facilities, and each and every part thereof, and in the name of the City exercise all the rights and powers of the City with respect to said facilities as the City itself might do.

Whenever all that is due upon the Bonds issued pursuant to this Ordinance and interest thereon and under any covenants of this Ordinance for reserve, sinking or other funds and accounts 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 City upon the entry of an order of the court to that effect. Upon any subsequent default, any Bondholder 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 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 City and for the joint protection and benefit of the City and the Holders of the Bonds issued pursuant to this Ordinance. 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 City and the Bondholders, and the curing and making good of any default under the provisions of this Ordinance, and the title to and ownership of said System shall remain in the City, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage or otherwise dispose of any assets of the System.

Section 7.04. Restoration of City and Bondholder. In case any Bondholder shall have proceeded to enforce any right under this Ordinance by the appointment of a receiver, by entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the City and such Bondholder shall be restored to their former positions and rights hereunder, and all rights and remedies of such Bondholder shall continue as if no such proceedings had been taken.

ARTICLE VIII

REGISTRAR AND PAYING AGENT

Section 8.01. Appointment of Registrar. The Registrar for the Series 2004 A Bonds shall be appointed pursuant to the Supplemental Resolution. The City is hereby authorized and directed to enter into an agreement with the Registrar, the substantial form of which agreement is to be approved by Supplemental Resolution.

Section 8.02. Responsibilities of Registrar. The recitals of fact in the Series 2004 A Bonds shall be taken as statements of the City, and the Registrar shall not be responsible for their accuracy. The Registrar shall not be deemed to make any representation as to, and shall not incur any liability on account of, the validity of the execution of any Series 2004 A Bonds by the City. Notwithstanding the foregoing, the Registrar shall be responsible for any representation in its Certificate of Authentication on the Series 2004 A Bonds. The Registrar and any successor thereto shall agree to perform all the duties and responsibilities spelled out in this Ordinance and any other duties and responsibilities incident thereto, all as provided by said agreement described in Section 8.01.

Section 8.03. Evidence on Which Registrar May Act. Except as otherwise provided by Section 10.02, the Registrar shall be protected in acting upon any notice, ordinance, request, consent, order, certificate, opinion or other document believed by it to be genuine and to have been signed or presented by the proper party or parties. Whenever the Registrar shall deem it necessary or desirable that a fact or matter be proved or established prior to taking or suffering any action, such fact or matter, unless other evidence is specifically prescribed, may be deemed to be conclusively proved and established by a certificate of an Authorized Officer of the City, but in its discretion the Registrar may instead accept other evidence of such fact or matter.

Section 8.04. Compensation and Expenses. The City shall pay to the Registrar from time to time reasonable compensation for all services, including the transfer of registration of Bonds, the first exchange of Bonds and the exchange of Bonds in the event of partial redemption, incurred in the performance of its duties hereunder.

Section 8.05. Certain Permitted Acts. The Registrar may become the owner of or may deal in Series 2004 A Bonds as fully and with the same rights it would have if it were not Registrar. To the extent permitted by law, the Registrar may act as depository for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bondholders or effect or aid in any reorganization growing out of the enforcement of the Series 2004 A Bonds or this

Ordinance, whether or not any such committee shall represent the Holders of a majority in principal amount of the Series 2004 A Bonds Outstanding.

Section 8.06. Resignation of Registrar. The Registrar may at any time resign and be discharged of its duties and obligations under this Ordinance by giving not less than 60 days' written notice to the City and mailing such notice to each Bondholder specifying the date when such resignation shall take effect, within 20 days after the giving of such written notice. A copy of such notice shall also be mailed to each owner of a fully registered Bond or a coupon Bond registered as to principal (other than to bearer). Such resignation shall take effect upon the day specified in such notice unless a successor shall have been previously appointed by the City or bondholders, in which event such resignation shall take effect immediately.

Section 8.07. Removal. The Registrar may be removed at any time by the City or by the Holders of a majority in principal amount of the Series 2004 A Bonds then Outstanding by an instrument or concurrent instruments in writing signed and duly acknowledged by the City or by such Bondholders or their attorneys duly authorized in writing and delivered to the City, as the case may be. Copies of each such instrument shall be delivered by the City to the Registrar.

Section 8.08. Appointment of Successor. In case at any time the Registrar shall resign or shall be removed or shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or if a receiver, liquidator or conservator of the Registrar or of its property shall be appointed, or if any public officer or court shall take charge or control of the Registrar or of its property or affairs, a successor may be appointed by the Holders of a majority in principal amount of the Series 2004 A Bonds then Outstanding by an instrument or concurrent instruments in writing signed by such Bondholders or their attorneys duly authorized in writing and delivered to the City and such successor Registrar, notification thereof being given to the predecessor Registrar. Pending such appointment, the City shall forthwith appoint a Registrar to fill such vacancy until a successor Registrar shall be appointed by such Bondholders. The City shall mail to each Bondholder notice of any such appointment within 20 days after the effective date of such appointment. A copy of such notice shall also be mailed to each owner of a fully registered Bond or a coupon Bond registered as to principal (other than to bearer). Any successor Registrar appointed by the City shall, immediately and without further act, be superseded by a Registrar appointed by such Bondholders. If in a proper case no appointment of a successor Registrar shall be made within 45 days after the Registrar shall have given to the City written notice of resignation or after the occurrence of any other event requiring such appointment, the Registrar or any Bondholder may apply to any court of competent jurisdiction to appoint a successor. Any Registrar appointed under the provisions of this section shall be a bank, trust company or national banking association authorized to perform the duties imposed upon it by this Ordinance.

Section 8.09. Transfer of Rights and Property to Successor. Any predecessor Registrar or Paying Agent shall pay over, assign and deliver any moneys, books and records held by it to its successor.

Section 8.10. Merger or Consolidation. Any company into which the Registrar may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party, or any company to which the Registrar or any public officer or court may sell or transfer all or substantially all of its corporate trust business, shall be the successor to such Registrar without the execution or filing of any paper or the performance of any further act; provided, however, that such company shall be a bank, trust company or national banking association meeting the requirements set forth in Section 8.08.

Section 8.11. Adoption of Authentication. In case any of the Series 2004 A Bonds shall have been authenticated but not delivered, any successor Registrar may adopt a Certificate of Authentication and Registration executed by any predecessor Registrar and deliver such Bonds so authenticated, and, in case any Series 2004 A Bonds shall have been prepared but not authenticated, any successor Registrar may authenticate such Bonds in the name of the predecessor Registrar or in its own name.

Section 8.12. Paying Agent. The Bond Commission shall serve as the Paying Agent. Any alternate Paying Agent must be a bank, trust company or national banking association authorized to perform the duties imposed upon it by this Ordinance. Such alternate Paying Agent shall signify its acceptance of the duties and obligations imposed upon it pursuant hereto by executing and delivering to the City a written acceptance thereof.

Each Paying Agent shall be entitled to payment and reimbursement for reasonable fees for its services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by such Paying Agent in connection with such services solely from moneys available therefor.

Any bank, trust company or national banking association with or into which any Paying Agent may be merged or consolidated, or to which the assets and business of such Paying Agent may be sold, shall be deemed the successor of such Paying Agent for the purposes of this Ordinance. If the position of Paying Agent shall become vacant for any reason, the City shall, within 30 days thereafter, appoint a bank, trust company or national banking association located in the same city as such Paying Agent to fill such vacancy; provided, however, that, if the City shall fail to appoint such Paying Agent within said period, the Bond Commission, a court of competent jurisdiction or a majority of the Bondholders may make such appointment.

The Paying Agent shall enjoy the same protective provisions in the performance of its duties hereunder as are specified in this Article VIII with respect to the Registrar, insofar as such provisions may be applicable.

Notice of the appointment of successor or additional Paying Agents or fiscal agents shall be given in the same manner as provided by Section 8.08 hereof with respect to the appointment of a successor Registrar.

All moneys received by the Paying Agent shall, until used or applied as provided in this Ordinance, be held in trust for the purposes for which they were received.

ARTICLE IX

DEFEASANCE; DISCHARGE OF PLEDGE OF ORDINANCE

Section 9.01. Defeasance; Discharge of Pledge of Ordinance. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 2004 A Bonds the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Ordinance, then this Ordinance and the pledges of the Net Revenues and other moneys and securities pledged hereunder, and all covenants, agreements and other obligations of the City on behalf of the Holders of the Series 2004 A Bonds made hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied, except as may be necessary to assure the exclusion of interest on the Series 2004 A Bonds from gross income for federal income tax purposes.

The Series 2004 A Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due the respective principal of and interest on the Series 2004 A Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 2004 A Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Bond Commission or an escrow trustee either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Bond Commission or said escrow trustee at the same or earlier time shall be sufficient, to pay when due the principal of, any redemption premium on and interest due and to become due on the Series 2004 A Bonds on and prior to the maturity date thereof, or if the City irrevocably determines to redeem any of the Series 2004 A Bonds prior to the maturity thereof, on and prior to said Redemption Date. Neither securities nor moneys deposited with the Bond Commission or an escrow trustee pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and interest on the Series 2004 A Bonds; provided, that any cash received from such principal, redemption premium, if any, and interest payments on such securities deposited with the Bond Commission or said escrow trustee, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal of and redemption premium, if any, and interest to become due on the Series 2004 A Bonds on and prior to such maturity or Redemption Dates thereof, and interest earned from such reinvestments shall be paid over to the City as received by the Bond Commission or said escrow trustee, free and clear of any trust, lien or pledge. For the purpose of this section,

securities shall mean and include only Government Obligations, as such term is limited by the provisions in Section 1.01 hereof or such additional securities as shall be set forth in the Supplemental Resolution.

ARTICLE X

MISCELLANEOUS

Section 10.01. Amendment of Ordinance. Prior to issuance of the Series 2004 A Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2004 A Bonds, this Ordinance and any Supplemental Resolution may be amended or modified without the consent of any Bondholder or other person, so long as such amendment or modification is not materially adverse to any Bondholder, as determined by an opinion of Bond Counsel. No materially adverse amendment or modification to this Ordinance, or of any Supplemental Resolution, may be made without the written consent of the Holders of 60% in aggregate principal amount of the Series 2004 A Bonds then Outstanding and affected thereby, which must be filed with the City before any such modification or amendment may be made. No such modification or amendment shall extend the maturity of or reduce the interest rate on, or otherwise alter the terms of payment of the principal of or interest on, any Series 2004 A Bond without the express written consent of the Holder of each Series 2004 A Bond so affected, nor reduce the percentage of Series 2004 A Bonds required for consent to any such modification or amendment.

Section 10.02. Evidence of Signatures of Bondholders and Ownership of Bonds. Any request, consent, revocation of consent or other instrument which this Ordinance may require or permit to be signed and executed by Bondholders may be in one or more instruments of similar tenor, and shall be signed or executed by such Bondholders in person or by their attorneys duly authorized in writing. Proof of the execution of any such instrument, or of an instrument appointing or authorizing any such attorney, shall be sufficient for any purpose of this Ordinance if made in the following manner, or in any other manner satisfactory to the City or the Registrar, as the case may be, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable:

A. The fact and date of the execution by any Bondholder or his attorney of any such instrument may be proved (i) by the certificate of a notary public or other officer authorized to take acknowledgments of deeds to be recorded in the jurisdiction in which he purports to act that the person signing such instrument acknowledged to him the execution thereof, or by the affidavit of a witness of such execution, duly sworn to before such a notary public or other officer or (ii) by the certificate, which need not be acknowledged or verified, of an officer of a bank, a trust company or a financial firm or corporation satisfactory to the City or the Registrar, as the case may be, that the person signing such instrument acknowledged to such bank, trust company, firm or corporation the execution thereof.

B. The authority of a person or persons to execute any such instrument on behalf of a corporate Bondholder may be established without further proof if such instrument is signed by a person purporting to be the president or treasurer or a vice-president or an assistant treasurer of such corporation with a corporate seal affixed, and is attested by a person purporting to be its secretary or assistant secretary.

C. The amount of fully registered Bonds held by a person executing any instrument as a Bondholder, the date of his holding such Bonds and the numbers and other identification thereof, shall be confirmed by the Bond Register.

Any request, consent or other instrument executed by the Holder of any Bond shall bind all future Holders and owners of such Bond in respect of anything done or suffered to be done hereunder by the City or the Registrar in accordance therewith.

Section 10.03. Preservation and Inspection of Documents. To the extent allowable under law, all reports, certificates, statements and other documents received by the Registrar under the provisions of this Ordinance shall be retained in its possession and shall be available at all reasonable times for the inspection of the City or any Bondholder, and their agents and their representatives, but any such reports, certificates, statements or other documents may, at the election of the Registrar, be destroyed or otherwise disposed of at any time after such date as the pledge created by this Ordinance shall be discharged as provided in Section 9.01.

Section 10.04. Cancellation of Bonds. All Bonds purchased or paid shall, if surrendered to the City, be canceled and delivered to the Registrar, or, if surrendered to the Registrar, be canceled by it. No such Bonds shall be deemed Outstanding under this Ordinance and no Bonds shall be issued in lieu thereof. All such Bonds shall be canceled and upon order of the City shall be destroyed, and a certificate evidencing such destruction shall be delivered to the City.

Section 10.05. Failure to Present Bonds. Anything in this Ordinance to the contrary notwithstanding, any moneys held by the Bond Commission or a Paying Agent in trust for the payment and discharge of any of the Bonds which remain unclaimed for 1 year after the date on which such Bonds have become due and payable, whether by maturity or upon call for redemption, shall at the written request of the City be paid by the Bond Commission or said Paying Agent to the City as its absolute property and free from trust, and the Bond Commission or said Paying Agent shall thereupon be released and discharged with respect thereto, and the Holders of such Bonds shall look only to the City for the payment of such Bonds; provided, however, that, before making any such payment to the City, the Registrar, if so advised by the Bond Commission, or said Paying Agent shall send to the Holder, at the address listed on the Bond Register, by certified mail, a notice that such moneys remain unclaimed and that, after a date named in said notice, which date shall be not

less than 30 days after the date of such notice is mailed, the balance of such moneys then unclaimed will be returned to the City.

Section 10.06. Notices, Demands and Requests. Unless otherwise expressly provided, all notices, demands and requests to be given or made hereunder to or by the City, the Registrar, the Paying Agent, the Depository Bank or the Original Purchaser shall be in writing and shall be properly made if sent by United States mail, postage prepaid, and addressed as follows or if hand-delivered to the individual to whom such notice, demand or request is required to be directed as indicated below:

CITY

The City of Elkins
City Hall
401 Davis Avenue
Elkins, West Virginia 26241
Attention: Mayor

REGISTRAR AND DEPOSITORY BANK

Branch Banking & Trust Co.
501 Tennessee Avenue
Charleston, WV 25302
Attention: Russell R. Akers, Jr.

PAYING AGENT

West Virginia Municipal Bond Commission
8 Capitol Street
Suite 500
Charleston, WV 25301

ORIGINAL PURCHASER

Branch Banking & Trust Co.
501 Tennessee Avenue
Charleston, WV 25302
Attention: Russell R. Akers, Jr.

Any party listed above may change such address listed for it at any time upon written notice of change sent by United States mail, postage prepaid, to the other parties.

Section 10.07. No Personal Liability. No member of the City or officer or employee of the City shall be individually or personally liable for the payment of the

principal of or the interest on any Bond, but nothing herein contained shall relieve any such member, official or employee from the performance of any official duty provided by law or this Ordinance.

Section 10.08. Law Applicable. The laws of the State shall govern the construction of this Ordinance and of all Bonds issued hereunder.

Section 10.09. Parties Interested Herein. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or give to, any person or corporation, other than the City, the Registrar, the Paying Agent, the Holders of the Series 2004 A Bonds and the Original Purchaser, any right, remedy or claim under or by reason of this Ordinance. All the covenants, stipulations, promises and agreements contained in this Ordinance by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Registrar, the Paying Agent, the Holders of the Series 2004 A Bonds and the Original Purchaser.

Section 10.10. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance.

Section 10.11. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 10.12. Conflicting Provisions Repealed. All orders, Ordinances or parts thereof in conflict with the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed; provided that, in the event of any conflict between this Ordinance and the Ordinances authorizing the Series 2001 B Bonds and the Series 1996 A Bonds, the Ordinances authorizing the Series 2001 B Bonds and the Series 1996 A Bonds shall control, unless less restrictive, so long as the Series 2001 B Bonds and the Series 1996 A Bonds are Outstanding.

Section 10.13. Covenant of Due Procedure, Etc. The City 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, City Clerk and members of the Governing Body were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 10.14. Effective Date. This Ordinance shall take effect immediately upon enactment.

Section 10.15. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in, The Inter-Mountain, a newspaper of general circulation in The City of Elkins, no newspaper being published therein, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Bonds, and that any person interested may appear before the Governing Body upon a date certain, not less than ten days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

Passed on First Reading:	-	April 20, 2004
Passed on Second Reading:	-	May 6, 2004
Passed on Final Reading Following Public Hearing:	-	May 20, 2004

Enacted this 20th day of May, 2004.

By: Judith A. Burge
Mayor

CERTIFICATION

The undersigned, being the duly qualified, elected and acting City Clerk of The City of Elkins, does hereby certify that the foregoing Ordinance was duly adopted and enacted by the City Council of The City of Elkins following a public hearing thereon at a regular meeting duly held, pursuant to proper notice thereof, at 7:00 p.m. on May 20, 2004, at the City Hall, 401 Davis Avenue, Elkins, West Virginia, a quorum being present and acting throughout, and which Ordinance has not been repealed, rescinded, modified, amended or revoked and is a true, correct and complete copy thereof.

Dated: June 18, 2004.

Philip J. Grozzino

City Clerk

EXHIBIT A - BOND FORM

No. AR-_____ $_____

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF ELKINS
(WEST VIRGINIA)
SEWER REFUNDING REVENUE BOND,
SERIES 2004 A

INTEREST RATE	MATURITY DATE	BOND DATE

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF ELKINS, a municipal corporation and political subdivision of the State of West Virginia in Randolph County of said State (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Bondholder specified above, or registered assigns (the "Bondholder"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount on the dates and in the amounts set forth on the Debt Service Schedule attached hereto as Exhibit A, and incorporated herein by reference. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Ordinance.

Principal of and Interest accruing on this Bond shall be payable by check or draft mailed by _____, _____, West Virginia, as paying agent (in such capacity, the "Paying Agent"), to the Bondholder hereof as of the applicable Record Date (each _____ 15 and _____ 15) or, in the event of a default in the payment of Bonds, that special record date to be fixed by the hereinafter named Registrar by notice given to the Bondholders not less than 10 days prior to said special record date at the address of such Bondholder as it appears on the registration books of the City maintained by _____, _____, West Virginia, as registrar (in such capacity, the "Registrar").

This Bond is one of an issue of a series of bonds, in the aggregate principal amount of $_____ designated "The City of Elkins (West Virginia) Sewer Refunding Revenue Bonds, Series 2004 A" (the "Bonds"), of like tenor and effect, except as to number, denomination, date of maturity and interest rate, dated _____ 1, 2004, the proceeds of which are to be used, together with other funds of the City, (i) to current refund all of the Sewer Revenue Bonds, Series 2001 A, dated September 13, 2001, of the City outstanding in the total aggregate principal amount of $_____ (the "Series 2001 A Bonds"), which were issued to currently refund previous bonds issued to finance a portion of the cost of acquisition and construction of the public sewerage system of the City (the "System"); (ii) to fund a reserve account for the Bonds; (iii) to pay certain costs of issuance of the Bonds and related costs; and (iv) to pay the costs of acquisition and construction of certain additions, betterments and improvements to the System. The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance duly enacted by the City on _____, 2004, and supplemented by a supplemental Resolution duly adopted by the City on _____, 2004 (hereinafter collectively referred to as the "Ordinance"), and is subject to all the terms and conditions of the Ordinance. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance. Reference is hereby made to the Ordinance, as the same may be amended and supplemented from time to time, for a description of the rights, limitations of rights, obligations, duties and immunities of the City, the Registrar, the Paying Agent, the Bondholders of the Bonds and the Bondholders of any subsequently issued additional bonds. Executed counterparts or certified copies of the Ordinance are on file at the office of the City.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE FOLLOWING OUTSTANDING SEWER REVENUE BONDS OF THE CITY:

(i) SEWER REVENUE BONDS, SERIES 1986 B, DATED APRIL 24, 1986, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $517,001 (THE "SERIES 1986 B BONDS"); AND

(ii) SEWER REVENUE BONDS, SERIES 1996 A (WEST VIRGINIA SRF PROGRAM), DATED AUGUST 22, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $300,000 (THE "SERIES 1996 A BONDS").

At the option f the City, the Bonds may be prepaid, in whole, at any time, upon 30 days' written notic to the Registered Owner, at the price of 101% of the principal amount thereof to be prepai plus interest accrued thereon to the date fixed for prepayment.

This Bond is ble only from and secured by a pledge of the Net Revenues (as defined in the Ordinance be derived from the operation of the System, on a parity with the pledge of Net Revenue in favor of the holders of the Series 1986 B Bonds and the Series 1996 A Bonds, and from moneys in the reserve account created under the Ordinance for the Bonds (the "Series 2 4 A Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Net Revenue all be sufficient to pay the principal of and interest on all bonds which may be issued pur to the Act and shall be set aside as a special fund hereby pledged for such purpose. Bond does not constitute a corporate indebtedness of the City within the meaning of any itutional or statutory provisions or limitations, nor shall the City be obligated to pay me, except from said special fund provided from the Net Revenues, the moneys i e Series 2004 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pur nant to the Ordinance, the City has covenanted and agreed to establish and maintain just equitable rates and charges for the use of the System and the services rendered thereby, ich shall be sufficient, together with other revenues of the System, to provide for the mable expenses of operation, repair and maintenance of the System, and to leave a bal each year equal to at least 115% of the maximum amount payable in any year for ipal of and interest, if any, on the Bonds and all other obligations secured by a n or payable from such revenues prior to or on a parity with the Bonds, including the Se s 1986 B Bonds and the Series 1996 A Bonds.

All moneys d from the sale of this Bond shall be applied solely to refund the Series 2001 A Bonds. reserve account for the Bonds, pay costs of acquisition and construction of certain addi betterments and improvements to the System and pay costs of issuance hereof, and all be, and hereby is, created and granted a lien upon such moneys, until so applied. or of the registered owner of this Bond.

IT IS HER CERTIFIED, RECITED AND DECLARED that all acts, conditions and things rem to exist, happen and be performed precedent to and in the issuance of this Bond do ave happened and have been performed in due time, form and manner as required , and that the amount of this Bond, together with all other obligations of said City, t exceed any limit prescribed by the Constitution or statutes of the State of West Virg d that a sufficient amount of the Net Revenues of the System has been pledged to and be set aside into said special fund by said City for the prompt payment of the principal interest on the Bonds of which this Bond is one.

This Bond, the provisions of the Act is and has all the qualities and incidents of, a negotiable ment under the Uniform Commercial Code of the State of West Virginia, but may ferred only upon the surrender hereof at the office of the Registrar and otherwise ded by the Ordinance.

This Bond is, under the Act, exempt from taxation by the State of West Virginia, and the other taxing bodies of the State.

This Bond has been designated a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended.

This Bond shall not be entitled to any benefit under the Ordinance, or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon shall have been signed by the Registrar.

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

IN WITNESS WHEREOF, The City of Elkins (WEST VIRGINIA) has caused this Bond to be signed by its Mayor, and its corporate seal to be imprinted hereon and attested by its City Clerk, and has caused this Bond to be dated as of the Bond Date specified above.

[SEAL]

By: (Manual or Facsimile Signature)
Mayor

ATTEST:

By: (Manual or Facsimile Signature)
City Clerk

$1,022,000
The City of Elkins
Sewer Refunding Revenue Bonds, Series 2004 A

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE CITY OF ELKINS SEWER REFUNDING REVENUE BONDS, SERIES 2004 A; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS TO DAVIS TRUST COMPANY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Council (the "Governing Body") of The City of Elkins (the "Issuer") has duly and officially enacted an Ordinance on May 20, 2004 (the "Ordinance"), entitled:

AN ORDINANCE AUTHORIZING THE REFUNDING OF THE SEWER REFUNDING REVENUE BONDS, SERIES 2001 A, OF THE CITY OF ELKINS; THE ISSUANCE OF SEWER REFUNDING REVENUE BONDS, SERIES 2004 A, OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN $1,200,000, THE PROCEEDS OF WHICH, TOGETHER WITH OTHER FUNDS OF THE CITY, SHALL BE EXPENDED FOR SUCH REFUNDING AND TO PAY COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS RELATING THERETO; AUTHORIZING THE SALE

AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS.

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

WHEREAS, the Ordinance provides for the refunding of the Issuer's Sewer Refunding Revenue Bonds, Series 2001 A, dated September 13, 2001 (the "Series 2001 A Bonds"), and the issuance of the Sewer Refunding Revenue Bonds, Series 2004 A, of the Issuer, in an aggregate principal amount not to exceed $1,200,000 (the "Series 2004 A Bonds" or the "Bonds"), for the purposes of paying a portion of the costs of such refunding, funding a reserve account for the Series 2001 A Bonds, and paying the costs of issuance thereof, all in accordance with Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"); and in the Ordinance it is provided that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds should be established by a supplemental resolution, and that other matters relating to the Bonds be herein provided for;

WHEREAS, as set forth in the Ordinance, the Bonds were initially proposed to be purchased by Branch Banking & Trust Company, Charleston, West Virginia, but are now to be purchased by Davis Trust Company, Elkins, West Virginia (the "Original Purchaser"), pursuant to a Commitment Letter dated May 18, 2004; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for.

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

Section 1. Pursuant to the Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewer Refunding Revenue Bonds, Series 2004 A, of the Issuer, originally represented by a single bond, numbered AR-1, in the original principal amount of $1,022,000. The Bonds shall be dated the date of delivery, shall finally mature March 1, 2019, and shall bear interest at the rate

of 4.25% per annum, provided that, in the event the Bonds are determined to be taxable by the Internal Revenue Service, the interest shall be at the rate of 7.0% per annum. The principal of and interest on the Bonds shall be payable on the first day of each month, commencing July 1, 2004, in the amounts set forth in the "Debt Service Schedule" incorporated in and made a part of the Bonds. The Bonds may be prepaid in whole on any scheduled payment date, upon 30 days' written notice to the Registered Owner, at the price of 101% of the principal amount thereof to be prepaid, plus interest accrued thereon to the date fixed for prepayment.

Section 2. The Bonds shall be sold to Davis Trust Company, Elkins, West Virginia and all references in the Ordinance to "Branch Banking & Trust Company" shall be deleted, and substituted therefor shall be "Davis Trust Company." The Bonds shall be registered in the name of Davis Trust Company. The price of the Bonds shall be $1,022,000 (100% of par value), there being no interest accrued thereon.

Section 3. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Ordinance.

Section 4. The Registrar Agreement by and between the Issuer and the Registrar designated herein, to be dated as of the date of delivery of the Series 2004 A Bonds, substantially in the form submitted to this meeting, shall be and the same is hereby approved. The Mayor shall execute and deliver the Registrar Agreement with such changes, insertions and omissions as may be approved by the Mayor. The execution of the Registrar Agreement by the Mayor shall be conclusive evidence of any approval required by this Section.

Section 5. The Issuer hereby appoints and designates Davis Trust Company, Elkins, West Virginia, to serve as Registrar (the "Registrar") for the Bonds under the Ordinance and approves and accepts the Registrar to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved.

Section 6. The Issuer hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent (the "Paying Agent") for the Bonds under the Ordinance and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved.

Section 7 The Issuer hereby appoints and designates Davis Trust Company, Elkins, West Virginia, to serve as Depository Bank under the Ordinance.

Section 8. The firm of Steptoe & Johnson PLLC, Charleston, West Virginia, is hereby appointed bond counsel to the Issuer in connection with the issuance of the Series 2004 A Bonds.

Section 9. Proceeds of the Bonds which, together with other moneys of the Issuer in the Series 2001 A Bonds Sinking Fund and the Series 2001 A Bonds Reserve Account, shall be sufficient to pay the outstanding principal of , and interest on, the Series 2001 A Bonds as of June 18, 2004, shall be deposited with the Commission.

Section 10. Moneys currently on deposit in the Reserve Account for the Series 2001 A Bonds in an amount sufficient to fully fund the Series 2004 A Bonds Reserve Account shall be deposited with the Paying Agent in the Series 2004 A Bonds Reserve Account.

Section 11. The remaining proceeds of the Bonds shall be deposited with the Depository Bank in the Costs of Issuance Fund for payment of the costs of issuance of the Bonds. All costs of issuance shall be paid within 60 days from the date of delivery of the Bonds. Following payment of all costs of issuance, any remaining proceeds of the Bonds shall be deposited in the Construction Fund and applied solely to capital improvements for the System or for payment of the next interest and principal due on the Bonds and shall be fully expended within six months from the date of delivery of the Bonds.

Section 12. The Issuer hereby approves the costs of issuance of the Series 2004 A Bonds and authorizes the payment of the same.

Section 13. Based upon the actual principal amount, maturity schedule and interest rates for the Series 2004 A Bonds, it is hereby determined that the Series 2004 A Bonds show a net savings to the Issuer after deducting all expenses of the refunding. Prior to delivery of the Series 2004 A Bonds, the Issuer shall have obtained from Tetrick, Bartlett & Co., Certified Public Accountants, or such other independent certified public accountant acceptable to the Mayor, a certification that the amount of savings stated to be achieved by the refunding shall in fact be correct, based upon their review, comparison and analysis of the net interest cost in dollars of the Series 2004 A Bonds and the net interest cost in dollars of the Series 2001 A Bonds. The Mayor is hereby authorized and directed to employ Tetrick, Bartlett & Co., Certified Public Accountants, Clarksburg, West Virginia, or such other independent certified public accountant satisfactory to Bond Counsel, to supply the certification required herein and to take other actions required in connection with the refunding.

Section 14. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Ordinance approved and provided for, to the end that the Bonds may be delivered to the Original Purchaser on or about June 18, 2004.

Section 15. The prepayment and refunding of the Series 2001 A Bonds and the financing thereof in part with proceeds of the Bonds will result in present value debt service

savings for the Issuer, are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 16. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder or under any predecessor thereto (the "Code"), by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions necessary to comply with the Code and the Regulations to be promulgated thereunder.

Section 17. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this June 17, 2004,

By: /s/ Judith A. Guye
Mayor

By: /s/ Philip J. Grazaini
City Clerk

CERTIFICATION

The undersigned, being the duly qualified, elected and acting City Clerk of The City of Elkins, does hereby certify that the foregoing Supplemental Resolution was duly adopted by the City Council of The City of Elkins at a regular meeting duly held, pursuant to proper notice thereof, on June 17, 2004, a quorum being present and acting throughout, and which Supplemental Resolution has not been repealed, rescinded, modified, amended or revoked and is a true, correct and complete copy thereof as of this June 18, 2004.

By: /s/ Philip J. Graziani
City Clerk

06/10/04
255620.00009

NOTE AND BOND ORDINANCE

CITY OF ELKINS, WEST VIRGINIA

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NOTE AND BOND ORDINANCE

Introduced in Council

February 6, 1986

Introduced by

Margaret Hutton

Passed by Council

February 20, 1986

An Ordinance authorizing the acquisition and construction of certain extensions, additions, betterments and improvements to the existing public sewerage facilities of the City of Elkins; authorizing the issuance of not more than $1,200,000 in aggregate principal amount of Sewer Revenue Bonds, Series 1986, and not more than $600,000 in aggregate principal amount of Supplemental Subordinate Sewer Revenue Bonds, Series 1986, of said City of Elkins to be used, along with other funds and moneys of, or available to, the City of Elkins which may be lawfully expended for such purposes, to finance the cost of such acquisition and construction, and if determined by supplemental resolution to fund reserve accounts for such bonds and to pay other costs in connection therewith; authorizing the issuance of not more than $5,000,000 in aggregate principal amount of City of Elkins Sewerage System Grant Anticipation Notes, Series 1986; authorizing an irrevocable line of credit in an amount not to exceed $1,000,000 to provide funds for such acquisition and construction to the extent grant proceeds or other funds are not available therefor, and authorizing an agreement with respect to said line of credit; providing for the rights and remedies of and security for the owners of such bonds; and adopting other provisions related thereto.

Be It Ordained by the City Council of the City of Elkins, West Virginia:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority of this Ordinance. This Ordinance is enacted pursuant to the provisions of Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended (the "Act"), and other applicable provisions of law.

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

A. The City of Elkins, West Virginia (the "City"), now owns a public sewage treatment system (the "System"), consisting of a sewage treatment plant or plants and some or all of collecting, intercepting and outlet sewers, lateral sewers, drains, force mains, conduits, pumping stations, ejector stations and all other appurtenances, extensions, additions and improvements necessary, appropriate, useful, convenient or incidental for the collection, treatment and disposal in a sanitary manner of sewage and industrial wastes.

B. It is deemed necessary and desirable for the health, welfare and safety of the inhabitants of the City that there be constructed certain extensions, additions, betterments and improvements to the System (the "Project") at an estimated cost of $6,340,423, in accordance with the plans and specifications prepared and revised by Kelley, Gidley, Blair and Wolfe, Consulting Engineers, Charleston, West Virginia (the "Consulting Engineers"), which plans and specifications are on file with the City, and which Project is generally described in Exhibit A attached hereto and by this reference made a part hereof and has an estimated useful life in excess of forty (40) years.

C. The Sanitary Board of the City has presented a petition to the City for enactment of this Note and Bond Ordinance.

D. The estimated revenues to be derived in each year after the enactment of this Ordinance from the operation of said System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on the Original Bonds and all sinking fund and other payments provided for in this Ordinance.

E. It is deemed necessary for the City to issue its Original Bonds to finance the costs of acquisition and construction of the extensions, additions, betterments and improvements to the System herein described and contemporaneously therewith, or as soon as practicable thereafter, to issue its Sewerage System Grant Anticipation Notes, Series 1986 or enter into the agreement with respect to the Line of Credit, both as hereinafter defined, whichever is determined by supplemental resolution to best serve the City's interest. Said costs shall be deemed to include the cost of the acquisition of any real property involved; the cost of the construction of said extensions, additions, betterments and improvements to the System and any other expenses necessary, incidental, desirable or appurtenant to the acquisition and construction of such extensions, additions, betterments and improvements to the System; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; expenses for fiscal or other

agents in connection with the issuance of the Original Bonds; interest on the Primary Bonds prior to, during and for 6 months after completion of construction of the Project; and such other expenses as may be necessary or desirable to said acquisition and construction of the extensions, additions, betterments and improvements to the System authorized by this Ordinance and the financing authorized by this Ordinance.

F. It is in the best interests of the City that its Original Bonds be sold to the Authority pursuant to the terms and provisions of the WDA Loan Agreements to be entered into between the City and the Authority, in form satisfactory to the City and the Authority.

G. There are not outstanding any obligations of the City which will rank prior to or on a parity with the Original Bonds and the Notes as to lien and source of and security for payment.

H. The City has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Original Bonds and the Notes, or will have so complied prior to issuance of any thereof, including, among other things, the obtaining of a Certificate of Convenience and Necessity from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired.

Section 1.03. Ordinance Constitutes Contract. In consideration of the acceptance of the Original Bonds and such other bonds authorized to be issued hereunder by those who shall own the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the City and such Bondholders, and the covenants and agreements herein set forth to be performed by said City shall be for the equal benefit, protection and security of the legal owners of any and all of such Primary Bonds and of such Supplemental Bonds, as the case maybe, all of which Primary Bonds and Supplemental Bonds, respectively, shall be of equal rank and without preference, priority or distinction between any one Primary Bond and any other Primary Bonds or between any one Supplemental Bond and any other Supplemental Bond, as the case may be, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

A. "Act" shall mean Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended and in effect on the date of enactment of this Ordinance.

B. "Authority" shall mean the West Virginia Water Development Authority, which is expected to be the original purchaser of the Original Bonds, or any other agency of the State of West Virginia that succeeds to the function of the Authority.

C. "Authorized Officer" means the Mayor of the City or any acting Mayor duly appointed by the Council.

D. "Bond Construction Trust Fund" shall mean the fund created by Section 5.02 hereof.

E. "Bondholder" or "Owner of the Bonds" or "Owner" or any similar term shall mean any person who shall be the registered owner of any outstanding Bond or Supplemental Bond, as the case may be.

F. "Bonds" shall mean collectively, the Primary Bonds and the Supplemental Bonds, both as hereinafter defined.

G. "City" shall mean the City of Elkins, 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.

H. "Clerk" or "City Clerk" means the Clerk of the City.

I. "Commission" shall mean the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia which succeeds to the functions of the Commission.

J. "Consulting Engineers" shall mean Kelley, Gidley, Blair & Wolfe, Consulting Engineers, Charleston, West Virginia, or any engineer or firm of engineers which shall at any time hereafter be retained by the City as Consulting Engineers for the System as hereinafter defined.

K. "Cost of Project" shall mean those costs described in Section 1.02(E) hereof to be a part of the cost of the acquisition and construction of the Project, as hereinafter defined.

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

M. "Credit Line Note" means the note authorized by Section 7.02 hereof to evidence any draw under the Line of Credit, as hereinafter defined.

N. "Depository Bank" shall mean the bank designated as such in the Supplemental Resolution, as hereinafter defined, and its successors and assigns.

O. "Eligible Costs" means Costs of the Project which are reimbursable in full on a dollar-for-dollar basis from EPA Grant Receipts, the total of which are equal in amount to the EPA Grant.

P. "EPA" means the United States Environmental Protection Agency or any successor to the functions of the EPA.

Q. "EPA Grant" or "Grant" means the grant from the EPA pursuant to the commitment therefor.

R. "Event of Default" means any occurrence or event specified in Section 10.01.

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

T. "Fiscal Year" shall mean each twelve month period beginning on July 1 and ending on the succeeding June 30.

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

V. "Grant Agreement" means a written commitment for the payment of the EPA Grant specifying the amount of such grant, the terms and conditions upon which such grant is made and the date or dates or event or events upon which grant is to be paid to the City.

W. "Grant Receipts" means all moneys received by the City on account of the Grant after the date of issuance of the Notes.

X. "Gross Revenues" shall mean the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt

payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that "Gross Revenues" 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, and for the furnishing by the City of miscellaneous service.

Y. "Indenture" or "Trust Indenture" means the Trust Indenture between the City and the Trustee relating to the Notes, as hereinafter defined, if issued, and all supplements or amendments thereto.

Z. "Independent Accountants" shall mean any firm of certified public accountants which shall be retained by the City as independent accountants for the System.

AA. "Line of Credit" means the irrevocable line of credit in an amount not to exceed $1,000,000 to be approved by the Supplemental Resolution.

BB. "Line of Credit Agreement" means the agreement establishing the Line of Credit, said agreement to be an exhibit to the Supplemental Resolution.

CC. "Loan Agreement" shall mean the Loan Agreement between the Authority and the City, in substantially the form attached as Exhibit B hereto and incorporated herein by reference, providing for the purchase of the Primary Bonds from the City by the Authority.

DD. "Mayor" shall mean the Mayor of the City.

EE. "Net Revenues" shall mean the balance of the Gross Revenues remaining after deduction of Operating Expenses, as hereafter defined.

FF. "Noteholder", "Holder of the Notes", or "Holder of the GANs" or any similar term means any person who shall be the registered owner of any outstanding Note or Notes as hereinafter defined.

GG. "Notes" or "GAN" means the not more than $5,000,000 in aggregate principal amount of Sewerage System Grant Anticipation Notes, Series 1986, originally authorized hereby, and unless the context clearly indicates otherwise, the terms "Notes" or "GAN" includes any refunding Notes or GAN of the City.

HH. "Notes Capitalized Interest Account" means the account established in the Indenture.

II. "Notes Construction Trust Fund" means the Notes Construction Trust Fund established in the Indenture.

JJ. "Notes Cost of Issuance Account" means the Notes Cost of Issuance Account within the Notes Construction Trust Fund established in the Indenture.

KK. "Notes Debt Service Fund" means the Notes Debt Service Fund established in the Indenture.

LL. "Note Registrar" means the bank to be designated as such in the Supplemental Resolution and its successors and assigns.

MM. "Operating Expenses" shall mean the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, fees and expenses of the Authority, fiscal agents, the Registrar and Paying Agent (both as hereinafter defined), other than those capitalized as part of the Costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Primary Bonds or the principal of the Supplemental 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.

NN. "Operation and Maintenance Fund" means the Operation and Maintenance Fund established by Section 4.01 hereof.

OO. "Original Bonds" or "Bonds originally authorized hereby" or similar phrases shall mean, collectively, the Primary Bonds and the Supplemental Bonds, issued for the purpose of paying a portion of the Costs of the Project and for such other purposes permitted hereby and authorized by a resolution supplemental hereto.

PP. "Original Notes Purchaser" means the person, partnership or corporation named in a resolution supplemental hereto.

QQ. "Outstanding," when used with reference to the Original Bonds, whether Primary or Supplemental Bonds, and as of any particular date, describes all such Bonds theretofore

and thereupon being delivered being authenticated and delivered except (i) any such Bond cancelled by the Registrar, at or prior to said date; (ii) any such Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity of any such Bonds, shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any such Bond deemed to have been paid as provided in Section 8.05 hereof; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any such Bond registered to the City.

RR. "Parity Bonds" shall mean additional Bonds issued under the provisions and within the limitations prescribed by Section 8.08 hereof, payable from Net Revenues on a parity with the Primary Bonds.

SS. "Parity Supplemental Bonds" shall mean additional Bonds issued under the provisions and whether the limitations prescribed by Section 8.08 hereof, payable from Net Revenues on a parity with the Supplemental Bonds.

TT. "Paying Agent" shall mean the bank or banks designated as such in a resolution supplemental hereto.

UU. "Primary Bonds" shall mean the not more than $1,200,000 in aggregate principal amount of Sewer Revenue Bonds, Series 1986, originally authorized by this Ordinance and any pari passu additional Bonds hereafter issued within the terms, restrictions and conditions contained herein.

VV. "Program" shall mean the Authority's loan program, under which the Authority purchases the water development revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of water development revenue bonds of the Authority.

WW. "Project" shall mean the extensions, additions, betterments and improvements described in Exhibit A attached hereto to the existing public sewage treatment system of the City.

XX. "PSC" means the Public Service Commission of West Virginia or any other agency of the State that succeeds to the functions of the PSC.

YY. "Qualified Investments" shall mean and include any of the following:

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or

certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations.

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

(d) 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;

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

(f) 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 said repurchase agreements, and <u>provided further</u> 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 State Board of Investments pursuant to Article 6, Chapter 12 of the Code of West Virginia, 1931, as amended, provided that investments by such fund (or portion thereof) on behalf of the City may only be in Qualified Investments other than the those described in this paragraph (g); and

(h) Tax-exempt securities.

ZZ. "Rebate Deposit" shall mean the excess of - (A) the aggregate amount earned for the period from the date of issue of the Bonds to the computation date on all obligations in which any moneys in the funds and accounts described in these instructions are invested (the "Nonpurpose Obligations"), over - (B) the amount that would have been earned for such period if the yield on the Nonpurpose Obligations had been equal to the yield of the Primary Bonds.

Aa. "Rebate Fund" means the trust fund created pursuant to Section 4.01(5) hereof.

Bb. "Rebate Income Account" means the trust account established within the Rebate Fund pursuant to Section 4.01(5)(b) hereof.

Cc. "Rebate Principal Account" means the trust account established within the Rebate Fund pursuant to Section 4.01(5)(a) hereof.

Dd. "Registrar" shall mean the bank designated as such in a resolution supplemental hereto.

Ee. "Renewal and Replacement Fund" shall mean the depreciation fund created by Section 4.01 hereof.

Ff. "Reserve Account" shall mean the account in the Sinking Fund, as hereinafter defined, created by Section 4.02 hereof.

Gg. "Reserve Account Requirement" shall mean the maximum amount of principal and interest which will mature and come due on the Primary Bonds in any succeeding Fiscal Year.

Hh. "Revenue Fund" shall mean the revenue fund created by Section 4.01(A) hereof.

Ii. "Sanitary Board" means the Sanitary Board of the City established by ordinance duly enacted by this City and successors to the function thereof.

Jj. "Sinking Fund" shall mean the fund created by Section 4.02 hereof.

Kk. "State" shall mean the State of West Virginia.

Ll. "Supplemental Bonds" shall mean the not more than $600,000 in aggregate principal amount of Supplemental Subordinate Sewer Revenue Bonds, Series 1986, originally authorized by this Ordinance and any pari passu additional Bonds hereinafter issued within the terms, resolutions and conditions contained herein.

Mm. "Supplemental Loan Agreement" shall mean the Supplemental Loan Agreement between the Authority and the City, in substantially the form attached as Exhibit C hereto and incorporated herein by reference, providing for the purchase of the Supplemental Bonds from the City by the Authority.

Nn. "Supplemental Bonds Reserve Account" means the account established in the Supplemental Sinking Fund pursuant to Section 4.02 hereof.

Oo. "Supplemental Reserve Requirement" shall means as of any date of calculation, the maximum amount of principal which will become due on the Supplemental Bonds in any succeeding Fiscal Year.

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

Qq. "Supplemental Sinking Fund" means the Supplemental fund established by Section 4.02 hereof.

Rr. "System" shall mean the complete existing public sewerage system now owned by the City, consisting of a sewage treatment system, and shall include any extensions, additions, betterments and improvements thereto hereafter acquired or constructed for said sewer system from any sources whatsoever, both within and without said City.

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

Tt. "WDA Loan Agreements" shall mean, collectively, the Loan Agreement and the Supplemental Loan Agreement.

Uu. Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations. Words importing the masculine gender include all other genders.

Vv. 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 general accepted accounting principles.

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

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

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 acquisition and construction of the Project in accordance with plans and specifications therefor prepared by the Consulting Engineers.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS

Section 3.01. Authorization and Terms of Original Bonds. For the purpose of financing a portion of the costs of the acquisition and construction of the Project not otherwise provided for, there shall be issued the Original Bonds of the City. The Original Bonds shall be issued in two issues, to be designated, respectively, "Sewer Revenue Bonds, Series 1986" in an aggregate principal amount of not more than $1,200,000, and "Supplemental Subordinate Sewer Revenue Bonds, Series 1986," in the aggregate principal amount of not more than $600,000. The Original Bonds shall be dated as of the date of delivery thereof, shall mature on October 1 in such years, not exceeding forty (40) years after the date of issuance; and in such amounts as shall be set out in Schedule X to the WDA Loan Agreements, respectively. The Primary Bonds shall bear interest at the rate of 9.75 percent per annum, payable semiannually, on April 1 and October 1 of each year, beginning on the first interest payment date following issuance and delivery of the Original Bonds. The Supplemental Bonds bear no interest. The Original Bonds shall contain such other terms, provisions, conditions and limitations, all as provided by this Ordinance and the WDA Loan Agreements and as the Council of the City shall prescribe by resolution (or by supplemental or amendatory ordinance of said Council as said Council shall determine) adopted in connection with the sale of such Original Bonds.

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 its appears on the books of the Registrar, provided, that so long as the Authority is the owner thereof, interest on the Primary Bonds may be paid by wire transfer or other methods satisfactory to the City, the Paying Agent and the Authority.

Unless otherwise provided by the Supplemental Resolution, the Original Bonds shall be issued in the form of a single bond for each issue, fully registered to the Authority, with a payment record attached, representing the aggregate principal amount of each issue, and shall mature in principal installments, all as provided in the WDA Loan Agreements and said Supplemental Resolution. Bonds shall be exchangeable at the option and expense of the Owner for other fully registered Bonds 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 a said Supplemental Resolution and shall bear interest from such date.

Section 3.02. Execution of Bonds. Said Bonds shall be executed in the name of the City by the Mayor, and the seal of the City 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 City before the Bonds so signed and sealed have been sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the City by such person as at the actual time of the execution of such Bonds shall hold the proper office in the City, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.03. Authentication and Registration. No 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 form set forth in Section 3.08 shall have been duly manually executed by the Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered, if applicable, and delivered under this Ordinance. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Registrar if manually signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.04. Negotiability Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Bonds shall be, and have all of the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive owner, 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 of West Virginia, and each successive owner shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value in the manner provided hereinafter in the form of said Bonds.

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

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

In all cases in which the privilege of exchanging Bonds or transferring Bonds are exercised, Bonds shall be delivered in accordance with the provisions of this Ordinance. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Registrar. For every such exchange or transfer of Bonds, the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Registrar incurred in connection therewith, which sum or sums shall be paid by the City. The Registrar shall not be obliged to make any such exchange or transfer of Bonds during the 15

days preceding an interest payment date on the Bonds, or in the case of any proposed redemption of Bonds or, next preceding the date of the selection of Bonds to be redeemed.

Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bonds shall become mutilated or be destroyed, stolen or lost, the City may in its discretion issue and deliver a new Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bonds, upon surrender and cancellation of such mutilated Bonds, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Owner's furnishing the City proof of his ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the City may prescribe and paying such expenses as the City may incur. All Bonds so surrendered shall be cancelled by the Registrar and held for the account of the City. If such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the City may pay the same, upon being indemnified as aforesaid, and, if such Bond be lost, stolen, or destroyed, without surrender therefor.

Any such duplicate Bonds issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the City, whether or not the lost, stolen or destroyed Bonds be at any time found by any one, 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 Primary Bonds or Supplemental Bonds, as the case may be, issued hereunder.

Section 3.06. Bonds not to be Indebtedness of the City. The Bonds shall not, in any event, be or constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No Owner or Owners of any of the Bonds shall ever have the right to compel the exercise of the taxing power of the City to pay the Bonds or any interest thereon.

Section 3.07. Primary Bonds Secured by Pledge of Net Revenues; Supplemental Bonds to be Junior and Subordinate to Primary Bonds. The payment of the debt service of all the Primary Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System. The payment of the debt service of all the Supplemental Bonds shall also be secured forthwith equally and ratably with each other by a lien on the Net Revenues derived from the System, but junior and subordinate to the lien on such Net Revenue in favor of the Owners of the Primary Bonds. 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 funds and the reserve accounts therein and in the Renewal and Replacement Fund hereinafter established, are hereby irrevocably pledged to the payment of the principal of and any interest on the Bonds as the same become due.

Section 3.08. Form of Bonds. The text of the Primary Bonds and Supplemental Bonds shall be of substantially the following tenor, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Ordinance or any subsequent resolution or ordinance adopted or enacted prior to the issuance thereof.

[FORM OF THE PRIMARY BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF RANDOLPH
CITY OF ELKINS
SEWER REVENUE BOND,
SERIES 1986

No. R-_____ $_____

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF ELKINS, a municipal corporation of the State of West Virginia in Randolph County of said State (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to West Virginia Water Development Authority (the "Authority "), or registered assigns, the sum of _____ ($_____), in installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference, with interest on each installment at the rate per annum set forth on said Exhibit A.

The interest rate on each installment shall run from the date of this Bond until payment of such installment, and such interest shall be payable on the 1st day of April, and the 1st day of October in each year beginning _____ 1, 198__. 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 principal corporate trust office of _____, _____, West Virginia, as register and paying agent

(the "Registrar"). The interest on this Bond is payable by check or draft mailed to the Payee at the address as it appears on the books of the Register on the 15the day of the month preceding an interest payment date or by such other method as shall be mutually agreeable so long as the Authority is registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part at any time, but only with the express written consent of the Authority and as otherwise provided by the Loan Agreement, dated as _____, between the City and the Authority.

This Bond is issued (i) to pay costs of acquisition and construction of certain improvements, additions, extensions and betterments to the existing public sewerage system of the City (the "Project"), (ii) [to fund a reserve account therefor; 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 West Virginia Code of 1931, as amended (the "Act"), an Ordinance duly enacted by the City on the _____ day of _____, 1986, and a Supplemental Resolution adopted by the City on the _____ day of _____, 1986 (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 issued contemporaneously with the Supplemental Subordinate Sewer Revenue Bonds, Series 1986 of the City (the "Supplemental Bonds"), issued in the aggregate principal amount of $_____, which Supplemental Bonds are junior and subordinate with respect to liens and sources of and security for payment of the Bonds of this issue.

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues (as defined in the Ordinance) to be derived from the operation of the System, moneys in the Reserve Account created under the Ordinance and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations, nor shall the City 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 City 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 on all obligations on a parity 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 the Bonds and any bonds on a parity therewith in any succeeding fiscal year, such percentage may be reduced to 110%. The City 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.

This Bond is transferable, as provided in the Ordinance, only upon the books of the Registrar, kept for that purpose at the office of the Registrar by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing.

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 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 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 City, 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 City for the prompt payment of the principal of and interest on this Bond.

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

IN WITNESS WHEREOF, the CITY OF ELKINS has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Clerk, and has caused this Bond to be dated _____, 1986.

[SEAL]

_____
Mayor

ATTEST:

_____
Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above.

_____
as Registrar

By _____
Its Authorized Officer

Dated: _____

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

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

_____

_____

_____

_____

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

Dated: _____, _____.

_____

In the presence of:

_____

[FORM OF THE SUPPLEMENTAL BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF RANDOLPH
CITY OF ELKINS
SUPPLEMENTAL SUBORDINATE
SEWER REVENUE BOND,
SERIES 1986

No. SR-_____ $_____

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF ELKINS, a municipal corporation of the State of West Virginia in Randolph County of said State, (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to West Virginia Water Development Authority (the "Authority"), or respected assigns, the sum of _____ ($_____), in installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference.

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 principal corporate trust office of _____, _____, West Virginia, as register and paying agent (the "Registrar"). This Bond bears no interest.

This Bond may be redeemed prior to its stated date of maturity in whole or in part at any time, but only with the express written consent of the Authority.

This Bond is issued (i) to pay costs of acquisition and construction of certain improvements, additions, extensions and betterments to the existing public sewerage system of the City (the "Project"), and (ii) [to fund a reserve account therefor; 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 West Virginia Code of 1931, as amended (the "Act"), an Ordinance duly enacted by the City on the _____ day of _____, 1986, and a Supplemental Resolution adopted by the City on the _____ day of _____, 1986 (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 issued contemporaneously with the Sewer Revenue Bonds, Series 1986, of the City (the "Primary Bonds") issued in the aggregate principal amount of $_____, which Primary Bonds rank prior with respect to liens and sources of and security for payment to the Bonds of this issue.

This Bond is payable only from and secured by a pledge of a second lien on the Net Revenues (as defined in the Ordinance) to be derived from the operation of the System, moneys in the Reserve Account created under the Ordinance and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations, nor shall the City be obligated to pay the same 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 City 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 on all obligations on a parity or prior to the Bonds, provided however, that so long as there exists in the Reserve Account an amount equal to the maximum amount of principal which will become due on the Bonds and any bonds on a parity therewith in any succeeding fiscal year, and in the reserve account for the Primary Bonds an amount equal to the requirement therefor, such percentage may be reduced to 110%. The City 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.

This Bond is transferable, as provided in the Ordinance, only upon the books of the Registrar, kept for that purpose at the office of the Registrar by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing.

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 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 owner of this Bond; provided that such lien on moneys deposited in the Bond Construction Trust Fund created by the Ordinance shall be subordinate to that of the Primary Bonds.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the City, 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 City for the prompt payment of the principal this Bond.

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

IN WITNESS WHEREOF, the CITY OF ELKINS has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Clerk, and has caused this Bond to be dated _____, 1986.

[SEAL]

_____
Mayor

ATTEST:

_____
Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Supplemental Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above.

_____
as Registrar

By _____
Its Authorized Officer

Date: _____

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

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

_____

_____

_____

_____

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

Dated: _____, _____.

_____

In the presence of:

_____

Section 3.09. Sale of Original Bonds; Execution of WDA Loan Agreements. The Original Bonds shall be sold to the Authority, pursuant to the respective terms and conditions of the WDA Loan Agreements. As a ratification of the resolution of Council authorizing execution of the WDA Loan Agreements, the Mayor is specifically authorized and directed to execute the WDA Loan Agreements and the Clerk is directed to affix the seal of the City, attest the same and deliver the WDA Loan Agreements to the Authority. The WDA Loan Agreements are specifically incorporated into this Ordinance.

ARTICLE IV

SYSTEM REVENUES AND APPLICATION THEREOF

Section 4.01. 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:

(1) Revenue Fund;

(2) Operation and Maintenance Fund;

(3) Renewal and Replacement Fund;

(4) Bond Construction Trust Fund; and

(5) Rebate Fund;

(a) Within the Rebate Fund, the Rebate Principal Account, and

(b) Within the Rebate Fund, the Rebate Income Account.

Section 4.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby established with the Commission:

(1) Sinking Fund;

(a) Within the Sinking Fund, the Reserve Account.

(2) Supplemental Sinking Fund;

(a) Within the Supplemental Sinking Fund the Supplemental Bonds Reserve Account.

Section 4.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Ordinance and shall be kept separate and distinct from all other funds of the City and the Depository Bank and used only for the purposes and in the manner therein provided.

(1) The City shall, each month, transfer from the Revenue Fund and deposit in the Operation and Maintenance Fund an amount sufficient to pay current Operating Expenses of the System.

(2) Thereafter, from the money remaining in the Revenue Fund, the City shall next, on the first day of each month, commencing seven months prior to the first date of payment of interest on the Primary Bonds from Net Revenues, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on said Primary Bonds on the next ensuing semiannual interest payment date, with a credit to the deposit preceding the interest payment for any amounts already on deposit therein.

(3) The City shall also, on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Primary 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 1/12th of the amount of principal which will mature and become due on said Primary Bonds on the next ensuing principal payment date, with a credit to the deposit preceding the principal payment for any amounts already on deposit therein and not credited pursuant to paragraph (2) above.

(4) The City shall also, on the first day of each month, commencing 13 months prior to the first date of payment of principal 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 1/120th 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. If the City deposits the Reserve Requirement in the Reserve Account when the Primary Bonds are issued and delivered, then no monthly deposits are required unless the Reserve Account is drawn upon an contains less than the Reserve Requirement.

Moneys in the Sinking Fund shall be used only for the purposes of paying principal of and interest on the Primary 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 Primary Bonds, as the same shall come due, when other moneys in the Sinking Fund are insufficient therefor, and for no other purpose. All investment earnings on moneys in the Reserve Account shall be transferred, not less than once each year, to the Bond Construction Trust Fund prior to completion of the Project and thereafter, to the Sinking Fund.

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

(5) The City shall not be required to make any further payments into the Sinking Fund or into the Reserve Account therein when the aggregate amount of funds in said Sinking Fund and said Reserve Account is at least equal to the aggregate principal amount of and interest on the Primary Bonds issued pursuant to this Ordinance then Outstanding.

(6) From the moneys remaining in the Revenue Fund, the City shall next, on the first day of each month, commencing the month succeeding the first full calendar month after completion of the Project, transfer to the Renewal and Replacement Fund a sum equal to 2-1/2% of the Gross Revenues each month, exclusive of payments for account of the Reserve Account in the Sinking Fund. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the City or of the Depository Bank and shall be invested and reinvested in accordance with Article IX hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, or improvements or extensions to the System; provided, that any deficiency in the Reserve Account [except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required by Subsection 4.03(A)(5)] shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

(7) The City shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Supplemental Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Supplemental Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Supplemental Bonds on the next ensuing principal payment date, with a credit to the deposit preceding the principal payment for any amounts already on deposit therein.

(8) The City shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal of the Supplemental Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Supplemental Reserve Account, an amount equal to 1/120th of the Supplemental Reserve Requirement; provided, that no further payments shall be made into the Supplemental Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Supplemental Reserve Requirement. If the City deposits the Supplemental Reserve Requirement in the Supplemental Reserve Account when the Supplemental Bonds are issued and delivered, then no monthly deposits are required unless the Supplemental Reserve Account is drawn upon and contains less than the Supplemental Reserve Requirement.

Moneys in the Supplemental Sinking Fund shall be used only for the purposes of paying principal of the Supplemental Bonds as the same shall become due. Moneys in the Supplemental Reserve Account in the Supplemental Sinking Fund shall be used only for the purpose of paying principal of the Supplemental Bonds, as the same shall come due, when other moneys in the Supplemental Sinking Fund are insufficient therefor, and for no other purpose. All investment earnings on moneys in the Supplemental Reserve Account shall be transferred, no less than once each year, to the Bond Construction Trust Fund prior to completion of the Project, and thereafter to the Supplemental Sinking Fund.

Any withdrawals from the Supplemental Reserve Account which result in a reduction in the balance of the Supplemental Reserve Account to below the Supplemental Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments prescribed above have been made in full.

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

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

The payments into the respective 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.

Moneys in the respective Reserve Accounts shall be invested and reinvested by the Commission in accordance with Article Nine hereof.

The respective Sinking Funds, including the respective Reserve Accounts therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the respective Bonds and any additional Bonds ranking on a parity with either thereof 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 respective Sinking Funds, including the Reserve Accounts 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 City.

D. The City shall remit from the Revenue Fund to 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 and the Paying Agent fees then due.

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

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 City 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 Systems.

Section 4.04. Excess Bond Proceeds. The City shall place any excess proceeds from Bonds not required by the Project in the Reserve Account.

Section 4.05. Rebate Fund. The City shall make or cause to be made the calculation(s) required by the Tax Reform Act and shall support such calculations with a letter from Independent Accountants verifying the accuracy of such calculations. The City shall direct the Depository Bank to make deposits and disbursements from the Rebate Fund in accordance with the Tax Reform Act and to invest the Rebate Fund pursuant to said Tax Reform Act and direction from the City and direct the Depository Bank to deposit income from such investments immediately upon receipt thereof in the Rebate Income Account. The immediately preceding sentence of this Ordinance and Sections 4.06 and 4.07 hereof may be superseded or amended by a resolution supplemental hereto adopted by the City and accompanied by an opinion of nationally recognized bond counsel addressed to the City to the effect that said supplemental resolution will not cause the interest on the Bonds to become taxable to the recipient thereof.

Section 4.06. Rebate Deposits. The City shall annually make or cause to be made the computation of the Rebate Deposit. If a deposit to the Rebate Principal Account is required as a result of such computation, the City shall notify the Depository Bank within fifteen (15) days of the end of the bond year that a payment is required and make such deposit. If a withdrawal from the Rebate Principal Account is permitted as a result of such computation, the City shall direct the Depository Bank to deposit the amount withdrawn in the Rebate Principal Account in the Revenue Fund for the benefit of the City. Records of the determinations required by this Section must be retained by the City until six (6) years after the Bonds are no longer outstanding.

Section 4.07. Rebate Disbursements. Not later than thirty (30) days after the end of the fifth Bond Year (five (5) years and thirty (30) days after the date of issuance) and every five (5) years thereafter, the City shall pay to the United States ninety percent (90%) of the amount required to be on deposit in the Rebate Principal Account as of such payment date and ninety percent (90%) of the amount on deposit in the Rebate Income Account as of such payment date. Not later than thirty (30) days after the final retirement of the Bonds, the

City shall direct the Depositing Bank to pay to the United States one hundred percent (100%) of the balance remaining in the Rebate Principal Account and the Rebate Income Account. Each payment required to be paid to the United States pursuant to this Section shall be filed with the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255. The City shall provide with such direction a copy of the form originally filed with respect to the Bonds and a statement summarizing the determination of the amount to be paid to the United States.

ARTICLE V

APPLICATION OF ORIGINAL BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 5.01. Application of Original Bond Proceeds. The moneys received from the sale of any or all of the Original Bonds shall be deposited by the City in the Bond Construction Trust Fund or as set forth in the Supplemental Resolution.

Section 5.02. Bond Construction Trust Fund; Capitalized Interest Account. There is hereby created and established with the Depository Bank a special fund to be known as the "City of Elkins Bond Construction Trust Fund," which fund shall be kept separate and apart from all other funds of the City and used and applied by the City solely for the payment of the Costs of the Projects, and for no other purposes whatsoever. Unless alternative provisions are made in the Supplemental Resolution, the moneys in said fund shall be secured at all times by the deposit in such bank, as security, of direct obligations of the United States of America having a fair market value at least equal to the balance in said fund in excess of the amount insured by the FDIC. Any moneys not needed immediately for said purposes may, with the consent of the Consulting Engineers, be invested in Qualified Investments having maturities of not more than one year. If for any reason such proceeds, or any part thereof, are not necessary for, or are not applied to, such purposes, then such unapplied proceeds shall be deposited by the City in the Sinking Funds established pursuant to this Ordinance and shall be used only as provided herein for said fund or as provided by supplemental resolution. All such proceeds shall constitute a trust fund for such purposes, and there is hereby created a lien upon such moneys until so applied in favor of the owners of the Original Bonds with the lien on behalf of the Supplemental Bond being subordinate to that of the Primary Bond.

Expenditures or disbursements from said Bond Construction Trust Fund, except for legal, fiscal and engineering expenses and expenses in connection with the issuance and sale of the Original Bonds, shall be made only

after such expenditures or disbursements shall have been approved in writing by the Sanitary Board and the Consulting Engineers.

ARTICLE VI

NOTES

Section 6.01. Authorization and General Terms. To the extent practicable and in order to pay certain Costs of the Project pending receipt of the Grant Receipts, the City shall issue and sell its Notes in the aggregate principal amount of not to exceed $5,000,000. The Notes shall bear interest from the date or dates, at such rate or rates, payable on such dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the Indenture and the Supplemental Resolution.

Section 6.02. Terms of and Security for Notes; Trust Indenture. The Notes shall be issued in fully registered form, in the denomination of $5,000 or any integral multiple thereof, with such terms and secured in the manner set forth in the Indenture to be approved by a Supplemental Resolution.

Section 6.03. Notes are Special Obligations. The Notes shall be special obligations of the City payable as to principal and interest solely from the respective sources described in the Granting Clauses and Article III of the Indenture. The Notes do not and shall not constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations. The general funds of the City are not liable, and neither the full faith and credit nor the taxing power of the City is pledged for the payment of the Notes. The Noteholders shall never have the right to compel the forfeiture of any property of the City. The Notes shall not be a debt of the City, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the City or upon any of its income, receipts or revenues except as set forth in the Indenture.

Section 6.04. Letters of Credit. As additional security for the Notes, the City may obtain a letter or letters of credit from a bank or banks, pursuant to which such bank or banks would agree to pay to the Trustee, upon presentation by the Trustee of certain certificates, the sum or sums set forth therein but not to exceed $1,000,000 in the aggregate. In the event of a draw under any such letter of credit, the City shall issue its refunding notes to the bank issuing such letter of credit. Any such letter of credit shall be authorized and shall have such terms as shall be set forth in a resolution supplemental hereto.

ARTICLE VII

LINE OF CREDIT

Section 7.01. Authorization of Line of Credit. As an alternative method of providing funds for the acquisition and construction of the Project to the extent grant proceeds and other funds are not available therefor, the Mayor of the City is hereby authorized and directed to arrange for a Line of Credit in an amount not to exceed $1,000,000. The amount and terms of the Line of Credit shall be approved by a resolution supplemental hereto.

Section 7.02. Authorization of Credit Line Note. For the purpose of evidencing any draw upon the Line of Credit and thus, of financing a portion of the cost of acquisition and construction of the Project, there shall be issued the Credit Line Note of the City in an amount and upon such terms as set forth in a resolution supplemental hereto. The Credit Line Note shall be issued in single, fully registered form and shall be dated as of the date of delivery thereof. There shall be attached to the Credit Line Note a Record of Advances and Payments, upon which the date and principal amount of any draw upon the Line of Credit, the date and amount of any payment of principal of the Credit Line Note and the amount of the Credit Line Note outstanding after either of said transactions shall be recorded. Anything to the contrary herein, in the Line of Credit Agreement or therein notwithstanding, the Credit Line Note shall evidence only the outstanding indebtedness recorded on the Record of Advances and Payments attached thereto, and interest shall accrue only on the amount if each advance from the actual date thereof as listed on said Record of Advances and Payments. Each such advance shall bear interest, payable monthly, at a rate set forth in a supplemental resolution but not to exceed 12 percent per annum. Interest shall cease to accrue on the amount of the Credit Line Note outstanding, or portions thereof, as the same are paid, as reflected by said Record of Advances and Payments. The Credit Line Note shall mature thirty (30) months from the date thereof. The Credit Line Note shall be subject to such further terms as shall be provided by the Line of Credit Agreement. Notwithstanding the foregoing, the terms of the Credit Line Note, other than the principal amount thereof, may be modified by resolution supplemental and amendatory hereto, subject to the limits of the Act.

The Credit Line Note shall be payable as to principal upon surrender at the principal office of a registrar, designated in a resolution supplemental hereto, in any coin or currency which on the date of payment of principal is legal tender for the payment of public and private debts under the

laws of the United States of America; provided, that any partial payment or principal prior to the final maturity of the Credit Line Note shall be recorded on the Record of Advances and Payments attached to the Credit Line Note, and the Credit Line Note shall be returned to the Owner. Interest on the Credit Line Note shall be paid by check or draft mailed to the Owner thereof at the address as it appears on the books of said registrar; provided, that, at the option of the Owner, such payment may be made by wire transfer or such other method as shall be agreeable to the Owner, the City, the Commission and said registrar.

Section 7.03. Execution of Credit Line Note. The Credit Line Note shall be executed in the name of the City by the signature of its Mayor, and the seal of the City shall be affixed thereto and attested by the signature of the City Clerk. Any Credit Line Note may be signed and sealed on behalf of the City by such person as at the actual time of the execution of such Credit Line Note shall hold the proper office of the City, although at the date of such Credit Line Note such person may not have held such office or may not have been so authorized.

Section 7.04. Negotiability, Transfer and Registration. Subject to the restrictions on transfer set forth below, the Credit Line Note shall be and have all of the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State, and each successive Owner, in accepting the Credit Line Note, shall be conclusively deemed to have agreed that said Credit Line Note shall be incontestable in the hands of a bona fide holder for value.

So long as the Credit Line Note or any portion thereof remains Outstanding, the registrar shall keep and maintain books for the registration and transfer of the Credit Line Note. The Credit Line Note shall be transferable only upon the books of the City which shall be kept for that purpose at the office of the registrar (in such capacity and in the capacities of authenticating agent and paying agent as hereinafter provided, the "Registrar") by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney. Upon the transfer of the Credit Line Note, there shall be issued at the option of the Owner or the transferee another Credit Line Note or Notes of the aggregate stated principal amount equal to the stated principal amount of such transferred Credit Line Note not paid as reflected on the Record of Advances and Payments attached thereto and outstanding in the aggregate principal amount equal to the advanced but unpaid amount of the transferred Note as reflected on the Record of Advances and Payments attached thereto.

In all cases in which the privilege of transferring the Credit Line Note is exercised, Credit Line Notes shall only be issued in accordance with the provisions of this Ordinance and the Supplemental Resolution. All Credit Line Notes surrendered in any such transfers shall forthwith be cancelled by the Registrar. For every such transfer of Credit Line Notes, the Registrar may make a change sufficient to reimburse its office for any tax, fee or other governmental charge required to be paid with respect to such transfer and the cost of preparing each Credit Line Note upon each transfer, and any other expenses of the Registrar incurred in connection therewith, which sum or sums shall be paid by the person requesting such transfer as a condition precedent to the exercise of the privilege of making such transfer. The Registrar shall not be obliged to make any such transfer of Credit Line Notes during the ten (10) days preceding an interest payment date on the Credit Line Notes or after notice of any prepayment of the Credit Line Notes has been given.

Section 7.05. Form of Credit Line Note. The text of the Credit Line Note shall be in substantially the form attached as Exhibit II to the Line of Credit Agreement, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Ordinance or any supplemental resolution or ordinance adopted or enacted prior to the issuance thereof. The Credit Line Note shall not become valid until authenticated by the Registrar.

ARTICLE VIII

ADDITIONAL COVENANTS OF THE CITY

Section 8.01. General Covenants of the City. All the covenants, agreements and provisions of this Ordinance shall be and constitute valid and legally binding covenants of the City and shall be enforceable in any court of competent jurisdiction by any owner or owners of the Bonds. In addition to the other covenants, agreements and provisions of this Ordinance, the City hereby covenants and agrees with the owners of the Bonds as hereinafter provided in this Article VIII. 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 8.02. Bonds Not To Be Indebtedness of the City. The Bonds shall not be or constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter limitation of indebtedness but shall be payable solely from the revenues of the System, or from the respective Reserve Account, as herein provided. No owner or owners of any Bonds

issued hereunder shall ever have the right to compel the exercise of the taxing power of the City to pay said Bonds or the interest thereon.

Section 8.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of all of the Primary Bonds issued hereunder shall be secured forthwith equally and ratably by a lien on the Net Revenues derived from the operation of the System, and payment of the debt service of the Supplemental Bonds issued hereunder shall be secured forthwith equally and relatively by a lien on said Net Revenues, but such lien shall be junior and subordinate to the lien on said Net Revenues in favor of the owners of the Primary Bonds, to the extent necessary to make the payments required under Section 4.03 of this Ordinance. The Net Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bonds herein authorized, and to make the payments into the respective Sinking Funds, including the Reserve Accounts therein, and all other payments provided for in this Ordinance, are hereby irrevocably pledged in the manner provided in this Ordinance to the payment of the principal of and any interest on the Bonds herein authorized as the same become due and for the other purposes provided in this Ordinance.

Section 8.04. Rates. Prior to issuance of the Original Bonds, 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 to 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 City 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 Bonds to finance the issuance of the Bonds 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 City 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 Primary Bonds and the Supplemental Bonds; 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 an amount at least equal to the Supplemental Reserve Requirement is on deposit in the Supplemental Reserve Account, 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 Bonds.

Section 8.05. Completion, Operation and Maintenance. The City will expeditiously complete the Project 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.

Section 8.06. Sale of the System. The System may be sold, mortgaged, leased, or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient fully to pay or redeem at or prior to maturity all the Bonds outstanding. The proceeds from such sale, mortgage, lease or other disposition of the System shall immediately be remitted to the Commission for deposit in the appropriate Sinking Funds, and the City shall direct the Commission to apply such proceeds to the payment of principal and any interest at maturity of 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 City by the Commission unless necessary for the payment of other obligations of the City payable out of the revenues of the System.

The foregoing provision notwithstanding, the City shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor is not in excess of ten thousand dollars ($10,000), the City shall, in writing, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Council may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property shall be in excess of $10,000 but not in excess of $50,000, the Council shall first, in writing, determine with the written approval of the

Consulting Engineer that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the City Council may then, if it be so advised, by resolution duly adopted, approve and concur in such finding and 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, in excess of $10,000 and not in excess of $50,000, shall be remitted by the City to the Commission for deposit in the appropriate Sinking Funds and shall be applied only to the redemption of Bonds of the last maturities then outstanding or to the purchase of Bonds of the last maturities then outstanding at prices not greater than the redemption price of such Bonds. Such payments of such proceeds into the Sinking Fund 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 City if the proceeds to be derived therefrom shall be in excess of fifty thousand dollars ($50,000) and insufficient to pay or redeem prior to maturity all the 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 City shall prepare the form of such approval and consent for execution by the then owners of the Bonds, for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 8.07. Issuance of Other Obligations Payable out of Revenues and General Covenant Against Encumbrances. The City shall not issue any other obligations whatsoever, except pari passu additional Bonds provided for in Section 8.08 hereof, 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 Supplemental Bonds or, if no Supplemental Bonds are outstanding, with the Primary Bonds; provided, however, that additional Parity Bonds may be issued as provided in Section 8.08 hereafter. All obligations hereafter issued by the City payable from the revenues of the System, except such additional Parity Bonds, shall contain an express statement that such obligations are junior and subordinate as to lien on and source of and security for payment from such revenues and in all other respects, to the Bonds to the extent such are outstanding; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the respective Reserve Accounts and the Renewal and Replacement Fund at the time of the issuance of such subordinate obligations have been made and are current.

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

Section 8.08. Parity Bonds. 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 so long as any Supplemental Bonds are outstanding. No Parity Bonds shall be issued except for the purpose of financing the costs of the acquisition or 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 City Clerk a written statement by Independent Accountants, based upon the necessary investigation and certification by the Consulting Engineer, 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 source in any succeeding year on the following:

(1) The Original 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 City, 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 Engineer, which shall be filed in the office of the City 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 Engineer and the Independent Accountants as stated in a certificate jointly made and signed by the Consulting Engineer and the Independent Accountants, on account of increased rates, rentals, fees and charges for the System enacted by the City, 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 City shall have entered into written contracts for the immediate acquisition or 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 Primary Bonds and the owners of any Parity Bonds and the owners of the Supplemental Bonds and the Parity Supplemental Bonds subsequently issued from time to time within the limitations of and in compliance with this Section. All the Primary Bonds, regardless of the time or times of their issuance, and all the Supplemental 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 Primary Bond over any other or any Supplemental Bond over any other. The City 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.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior lien of the outstanding Primary Bonds and Supplemental Bonds on such revenues.

Parity Bonds shall be not 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 as required to the date of delivery of the Parity Bonds.

Notwithstanding the foregoing, the City 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 anything to the contrary in this Section 8.08 notwithstanding, Parity Bonds may be authorized and issued by the City pursuant to a Supplemental Resolution solely to complete the Project as described in the City's Program application to the Authority 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 Project; provided, however, that, prior to the issuance of such Parity Bonds under the provisions of this paragraph, the Consulting Engineers shall file with the City 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 construction costs to complete the Project, and the maturities of any such Parity Bonds shall be in years and amounts suggested by the Authority.

As long as any Supplemental Bonds are outstanding, the City may issue Parity Supplemental Bonds upon satisfaction of the tests set forth above and taking into consideration all debt service requirements on all bonds superior to the Supplemental Bonds, the Supplemental Bonds and including the proposed Parity Supplemental Bonds.

Section 8.09. Insurance. The City 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. In time of war, the City 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 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 City 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 City shall carry such other insurance as is required by the Authority.

Section 8.10. Consulting Engineers. The City may retain recognized, qualified independent Consulting Engineers on an annual basis to supervise generally the operation, maintenance and repair of the System and to report annually to the City in writing their recommendations and comments as to the System.

Section 8.11. Services Rendered to the City. The City will not render or cause to be rendered any free services of any nature by its System; and, in the event the City or any department, agency, instrumentality, officer or employee of the City 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 City and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the City 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 8.12. Enforcement of Collections. The City 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, 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 City 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 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 8.13. No Competing Franchise. To the extent allowable by law, the City 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 8.14. Books and Records. The City will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the City, 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 this 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 City 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 City. 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 City. The City 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 City shall be reported to such agent of the City as the Council shall direct.

The City shall file with the Consulting Engineer and the Authority, 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 and Net Revenues derived from the System.

B. A balance sheet statement showing all deposits in all the funds and accounts provided for in this Ordinance, and the status of all said funds.

The City shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Accountants, 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 the Authority. The report of said audit shall include a statement that the City is in compliance with the terms and provisions of the WDA Loan Agreements and this Ordinance.

Section 8.15. Initial Schedule of Rates. The rates, fees and other charges for the use of the services and facilities of the System established under an ordinance of the City enacted on or before the date of the adoption or enactment of a resolution or ordinance adopted or enacted in connection with the sale of the Bonds as provided herein shall constitute the initial schedule of rates for said System for purposes of this Ordinance.

Section 8.16. Operating Budget. The Board shall annually, at least forty-five (45) days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed budget of the estimated expenditures for operation and maintenance of the System during the succeeding Fiscal Year. 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 City Council shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of ten percent (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 City shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to any Bondholder who requests in writing that copies of all such budgets and resolutions be furnished him or her, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Bondholder or anyone acting for and in behalf of such Bondholder.

Section 8.17. Connection. To the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, prospective users of the System shall be required to connect thereto.

Section 8.18. Covenant to Amend Ordinance. The City shall amend this Ordinance by a resolution supplemental hereto to comply with the Tax Reform Act, as enacted by the Congress of the United States and signed by the President, if terms of the law as enacted conflict with the terms hereof. The Council

of the City hereby retains the specific authority to amend this Ordinance or supplement it by resolution prior to the sale of the Bonds to comply with related federal legislation. In its determination to amend or supplement this Ordinance, the City may rely on the opinion of nationally recognized bond counsel.

Section 8.19. Essential Governmental Function Bonds. The City shall use the Bond proceeds solely for the Project and such Project will be solely operated as govermental function. The City shall not allow ten percent (10%) or more of the gross proceeds of the Bonds to be used either directly or indirectly in any trade or business carried on by any person other than a governmental unit and shall not take any other action which would make the Bonds nonessential function bonds within the meaning of the Tax Reform Act. This covenant may be amended by a resolution supplemental hereto if the Tax Reform Act is not enacted by the Congress of the United States or if the Council receives an opinion of nationally recognized bond counsel to the effect that such covenant is not required to maintain the tax-exempt status of the Bonds.

Section 8.20. Expenditure of Bond Proceeds. The City shall expend five percent (5%) of the proceeds of the Bonds within thirty (30) days from the date of issuance of the Bonds and shall expend all remaining proceeds (other than reasonable bond reserves) within the earlier of the substantial completion of the Project or three (3) years of the date of issuance of the Bonds.

Section 8.21. Bond Reporting Requirements. The City shall make and file such reports as required by the Tax Reform Act or such other federal legislation as is enacted by the Congress of the United States.

ARTICLE IX

INVESTMENT OF FUNDS

Section 9.01. 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, or such other bank or national banking association holding such fund or account, as the case may be, at the direction of the City 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 specified restrictions and provisions set forth in this Section 9.01 and in Sections 9.03 and 9.04.

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. The Commission 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 of such liquidation. Such other bank or national banking association 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.

Section 9.02. Restrictions as to Arbitrage Bonds. 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 to acquire any securities or obligations the acquisition of which would cause any Bond to be an "arbitrage bond" as defined in Section 103(c)(2) of the Internal Revenue Code of 1954, as amended, and as set forth in the Tax Reform Act or the rules and regulations promulgated pursuant thereto, and the Mayor of the City shall deliver his certificate, based upon this covenant, with regard thereto to the purchaser of the Original Bonds.

Section 9.03. Restriction of Yield on Bond Proceeds. The City shall restrict the investment yield on all Bond proceeds designated for acquisition of tangible property as set forth in the Certificate as to Non-Arbitrage, including land, buildings, equipment and furnishings, to the Bond yield beginning thirty (30) days from the date the Bonds are issued. The City shall restrict the investment yield on all Bond proceeds designated for construction of the Project as set forth in the Certificate as to Non-Arbitrage to the earliest of (a) substantial completion of the Project; (b) expenditure of funds from any source equal to the Bond proceeds; (c) three (3) years after date of issuance of the bonds; or (d) three (3) years after commencement of construction. For the purposes of this Section, yield does not include cost of issuance expenses or any discount. After the temporary periods set forth above all proceeds must be yield restricted. The yield on funds placed in the Renewal and Replacement Fund must be restricted if the fund exceeds fifteen percent (15%) of the bond issue or if the fund contains nonpurpose obligations with a yield in excess of one hundred fifty percent (150%) of the principal and

interest due during the bond year. This Section may be amended by a resolution supplemental hereto if the Tax Reform Act is not enacted by the Congress of the United States or if the Council receives an opinion of nationally recognized bond counsel to the effect that such covenant is not required to maintain the tax-exempt status of the Bonds.

Section 9.04. Investment Restrictions. The City shall not invest the proceeds of the Bonds in any account, certificate or fund which is either directly or indirectly guaranteed by the United States of America and which deposit would violate the provisions of the Tax Reform Act. The City may invest the funds in the Sinking Fund and the Renewal and Replacement Fund in federally insured deposits or accounts. This covenant may be amended by a resolution supplemental hereto if the Tax Reform Act is not enacted by the Congress of the United States or if the Council receives an opinion of nationally recognized bond counsel to the effect that such covenant is not required to maintain the tax-exempt status of the Bonds.

ARTICLE X

DEFAULT AND REMEDIES

Section 10.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Primary Bonds or the Supplemental Bonds as the case maybe:

(A) If default occurs in the due and punctual payment of the principal of or interest on any such Bonds; or

(B) If default occurs in the City's observance of any of the covenants, agreements or conditions on its part relating to such Bonds set forth in this Ordinance, any supplemental resolution, or in such Bonds, and such default shall have continued for a period of 30 days after the City shall have been given written notice of such default by any bank or banking association holding any fund or account hereunder or a owner of such Bonds; or

(C) If the City files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

Section 10.02. Remedies. Upon the happening and continuance of any Event of Default with respect to any Primary Bonds or Supplemental Bonds, as the case may be, any Registered Owner of such Bond may exercise any available remedy and bring

any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such registered Owners including the right to require the City to perform its duties under the Act and the 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 such Bonds, (iv) by action at law or bill in equity require the City to account as if it were the trustee of an express trust for the registered owners of such Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Ordinance with respect to such Bonds, or the rights of such registered Owners.

Section 10.03. Appointment of Receiver. Any Bondholder may, by proper legal action, compel the performance of the duties of the City 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 Primary 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 this Ordinance other than as to such payment and such default shall continue for a period of thirty (30) days after written notice to the City 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 City, 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 this 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, maintain, manage and control such facilities, and each and every part thereof, and in the name of the City exercise all the rights and powers of the City with respect to said facilities as the City itself might do.

Whenever all that is due upon the Bonds issued pursuant to this Ordinance 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 City upon the entry of an order of the court to that effect. Upon any subsequent default, any owner of Bonds issued pursuant to this Ordinance shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her, 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 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 City and for the joint protection and benefit of the City and owners of Bonds issued pursuant to this Ordinance. 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 City and Bondholders, and the curing and making good of any default under the provisions of this Ordinance, and the title to and ownership of said System shall remain in the City, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage or otherwise dispose of any assets of the System. The provisions of this section shall be subject to the senior rights of the Primary Bonds over the Supplemental Bonds.

ARTICLE XI

DEFEASANCE

Section 11.01. Defeasance of Primary Bonds. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the owners of all Primary Bonds the principal thereof, and redemption premium, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Ordinance, then with respect to the Primary Bonds only, the pledge of Net Revenues and any other moneys and

securities pledged under this Ordinance and all covenants, agreements and other obligations of the City to the Bondholders of the Primary Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Primary 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 of and interest on the Primary Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section. All Primary Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the affect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agents, 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 and interest due and to become due on said Primary Bonds on and prior to 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 purposes other than, and shall be held in trust for, the payment of the principal of and redemption premium, if applicable, on and interest on said Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal of and redemption premium, if applicable, on and interest to become due on said Primary Bonds on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the City, as received by the Commission, free and clear of any trust, lien or pledge. For the purpose of this Section, securities shall mean and include only Government Obligations.

Section 11.02. Defeasance of Supplemental Bonds. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the respective Owners of all Supplemental Bonds, the principal thereof, at the times and in the manner stipulated therein and in this Ordinance, then with respect to the Supplemental Bonds only, the pledge of Net Revenues and other moneys and securities pledged under this Ordinance and all covenants, agreements and other obligations of the City to the registered Owners of the Supplemental Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Supplemental Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of 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 such Supplemental Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Supplemental 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 said Supplemental Bonds on and prior to 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 said Supplemental 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 said Supplemental Bonds on and prior to the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the City as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

ARTICLE XII

MISCELLANEOUS

Section 12.01. Modification or Amendment. No material modification or amendment of this Ordinance or of any ordinance or resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of Bondholders shall be made without the consent in writing of the owners of two-thirds (2/3) or more in principal amount of the Bonds then outstanding and to be affected by said modification; provided, however, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the City to pay such principal and

interest out of the revenues of the System without the consent of the owner thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of Bonds required for consent to the above permitted amendments or modifications.

Section 12.02. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance.

Section 12.03. Repeal of Conflicting Ordinances. All ordinances, resolutions and orders, or parts thereof, in conflict with this Ordinance are to the extent of such conflict repealed.

Section 12.04. Covenant of Due Procedure. The City 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 final enactment and passage of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the City Clerk and members of City Council were at all times when any actions in connection with this Ordinance occurred, and are, duly in office and duly qualified for such office.

Section 12.05. Effective Date. This Ordinance shall take effect after passage, public hearing and otherwise in the manner prescribed by law.

First Reading: February 6, 1986

Second Reading and Passage: February 20, 1986

Public Hearing: March 13, 1986

CITY OF ELKINS, WEST VIRGINIA

By: _____
Mayor

[SEAL]

_____
Clerk

EXHIBIT A

Project Description

The Project consists of the construction of a 2.3 MGD oxidation ditch; construction of a new pump station at the existing treatment plant site to pump wastewater to the new facility; renovation of the Glendale station that currently pumps wastewater flow to the existing plant to increase reliability; renovation of 14 regulator/diversion manholes to reduce the inflow into the System; and upgrading the pump stations in the System as well as related construction activity.

Supplemental Resolution

Introduced in Council: April 17, 1986

Adopted by Council: April 17, 1986

Introduced by:

Councilwoman Margaret Hutton

SUPPLEMENTAL RESOLUTION PROVIDING AS TO DATES, MATURITIES, INTEREST RATES, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES, AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1986, AND SUPPLEMENTAL SUBORDINATE SEWER REVENUE BONDS, SERIES 1986, OF THE CITY OF ELKINS; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Common Council of the City of Elkins, West Virginia (the "City") has duly and officially enacted an Ordinance on February 20, 1986, effective March 13, 1986 (the "Ordinance"), entitled:

> An Ordinance authorizing the acquisition and construction of certain extensions, additions, betterments and improvements to the existing public sewerage facilities of the City of Elkins; authorizing the issuance of not more than $1,200,000 in aggregate principal amount of Sewer Revenue Bonds, Series 1986, and not more than $600,000 in aggregate principal amount of Supplemental Subordinate Sewer Revenue Bonds, Series 1986, of said City of Elkins to be used, along with other funds and moneys of, or available to, the City of Elkins which may be lawfully expended for such purposes, to finance the cost of such acquisition and construction and if determined by supplemental resolution, to fund reserve accounts for such bonds and to pay other costs in connection therewith; authorizing the issuance of not more than $5,000,000 in aggregate principal amount of City of Elkins

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Sewerage System Grant Anticipation Notes, Series 1986; authorizing an irrevocable line of credit in an amount not to exceed $1,000,000 to provide funds for such acquisition and construction to the extent grant proceeds or other funds are not available therefor, and authorizing an agreement with respect to said line of credit; providing for the rights and remedies of and security for the owners of such bonds; and adopting other provisions related thereto.

WHEREAS, the Ordinance provides for the issuance of Sewer Revenue Bonds, Series 1986 (the "Primary Bonds"), and the Supplemental Subordinate Sewer Revenue Bonds, Series 1986 (the "Supplemental Bonds") (collectively herein the "Bonds") of the City of Elkins (the "City") in aggregate principal amounts not to exceed $1,200,000 and $600,000 respectively, all in accordance with Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended, (the "Act"), and the terms of the Loan Agreement and Supplemental Loan Agreement (the "Loan Agreement") entered into between the City and the West Virginia Water Development Authority (the "Authority"), and in the Ordinance it is provided that the dates, interest rates, maturities, sale prices and other terms of the Bonds should be established by a supplemental resolution and that other matters relating to the Bonds be herein provided for;

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

WHEREAS, the Council of the City of Elkins (the "Council") 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; and that other matters relating to the Bonds be herein provided for.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF ELKINS:

Section 1. Pursuant to the Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewer Revenue Bonds, Series 1986, in the aggregate principal amount of $1,037,970 (the "Primary Bonds"), and the Supplemental Subordinate Sewer Revenue Bonds, Series 1986 (the "Supplemental Bonds") in the aggregate principal amount of $517,001, all in the form set forth below and in the Ordinance:

(A) The Primary Bonds of the City shall be originally issued in the form of a single Bond, numbered R-1, in the principal amount of $1,037,970. The Primary Bonds shall be dated the date of delivery thereof, shall bear interest at the rate of 9.75% per annum, payable semiannually on April 1 and October 1 of each year, first interest payable October 1, 1986, shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium, if any, and subject to the other requirements provided in the Loan Agreement, as long as the Authority shall be the registered owner of the Primary Bonds, and shall be payable in installments of principal on October 1

of each of the years from 1986 through 2025, inclusive, and in the amounts as set forth in "Schedule X," attached to the Loan Agreement and incorporated therein by reference.

(B) The Supplemental Bonds of the City shall be originally issued in the form of a single Bond, numbered SR-1, in the principal amount of $517,001. The Supplemental Bonds shall be dated the date of delivery thereof, shall be interest free, shall be subject to redemption upon the written consent of the Authority as long as the Authority shall be the registered owner of the Supplemental Bonds, and shall be payable in installments of principal on October 1 of each of the years from 1986 through 2025, inclusive, and in the amounts as set forth in "Schedule X," attached to the Loan Agreement and incorporated therein by reference.

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 and the Supplemental Loan Agreement, including the "Schedule X" attached to each, copies of which are incorporated herein by reference, and the execution and delivery by the Mayor of the Loan Agreement and the Supplemental Loan Agreement, and the performance of the

obligations contained therein, on behalf of the City have been and are hereby authorized, approved and directed. The price of the Bonds shall be 100% of par value.

Section 4. The City hereby appoints and designates Citizens National Bank of Elkins, Elkins, West Virginia, as the Depository Bank, as provided in the Ordinance.

Section 5. The City hereby appoints and designates Kanawha Valley Bank, N.A., Charleston, West Virginia, as Registrar and Paying Agent for the Bonds and reserves the right to appoint such other bank or other entity or entities as the City may approve by supplemental resolution with the approval of the Authority and notice to said Kanawha Valley Bank, N.A.

Section 6. The City hereby authorizes and directs the Mayor and Clerk to enter into a line of credit agreement not to exceed $1,000,000 with a banking corporation or association and to take any and all action necessary to insure that funds are available to make payments pending the EPA grant revenues.

Section 7. The City hereby directs that no proceeds of the Bonds be placed in the Reserve Accounts created under the Ordinance and directs that the Reserve Accounts be funded from net revenues as provided in the Ordinance.

Section 8. 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 on or about April 28, 1986, to the Authority pursuant to the Loan Agreement and the Supplemental Loan Agreement.

Section 9. 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 10. This Supplemental Resolution shall be effective immediately upon adoption.

CITY OF ELKINS

Mayor

[SEAL]

Clerk

WEST VIRGINIA
Water Development Authority
Celebrating 35 Years of Service 1974 - 2009

June 18, 2009

THE CITY OF ELKINS

Sewer Revenue Bonds, Series 2009 A
(West Virginia SRF Program); and
Sewer Revenue Bonds, Series 2009 B
(West Virginia SRF Program/ARRA)

TO WHOM IT MAY CONCERN:

In reliance upon the certificate of Tetrick and Bartlett, independent certified public accountants, and an opinion of Steptoe & Johnson PLLC, as bond counsel, that the coverage and parity tests have been met, the undersigned duly authorized representative of the West Virginia Water Development Authority (the "WDA"), the registered owner of the Series 1986 B Bonds, Series 1996 A Bonds and Series 2006 A Bonds, hereinafter defined and described, hereby consents to the issuance of the Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program) and the Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA) (collectively, the "Series 2009 Bonds"), in the respective aggregate principal amounts of $883,280 and $883,280, by The City of Elkins (the "Issuer"), under the terms of the ordinance authorizing the Series 2009 Bonds, on a parity, with respect to liens, pledge and source of and security for payment, with the Issuer's outstanding (i) Subordinate Sewer Revenue Bonds, Series 1986 B (West Virginia Water Development Authority), dated April 28, 1986, issued in the original aggregate principal amount of $517,001 (the "Series 1986 B Bonds"); (ii) Sewer Revenue Bonds, Series 1996 A (West Virginia SRF Program), dated August 12, 1996, issued in the original aggregate principal amount of $300,000 (the "Series 1996 A Bonds"); (iii) Sewer Refunding Revenue Bond, Series 2004 A, dated June 18, 2004, issued in the original aggregate principal amount of $1,022,000 (the "Series 2004 A Bonds"); and (iv) Sewer Revenue Bonds, Series 2006 A (West Virginia SRF Program), dated December 12, 2006, issued in the original aggregate principal amount of $8,588,400 (the "Series 2006 A Bonds") (collectively, the "Prior Bonds").

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

Carol A. Cummings
Authorized Representative

06.04.09
255620.00012

CH5121230.1

180 Association Drive, Charleston, WV 25311-1217
phone (304) 558-3612 / fax (304) 558-0299
www.wvwda.org

ACORD CERTIFICATE OF LIABILITY INSURANCE

INSURED COPY

DATE (MM/DD/YY) 06/15/09

Serial # A12060

PRODUCER

WV BOARD OF RISK & INSURANCE MGT.
90 MACCORKLE AVE. SW, SUITE 203
SOUTH CHARLESTON, WV 25303

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED

City of Elkins
401 Davis Avenue
Elkins WV 26241

INSURER A: NATIONAL UNION FIRE CO OF PITTSBURGH, PA
INSURER B:
INSURER C:
INSURER D:
INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS MADE [X] OCCUR X WRONGFUL ACT X PROFESSIONAL GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC		07/01/2008	07/01/2009	EACH OCCURRENCE FIRE DAMAGE (Any one fire) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 100,000 $ 0 $ INCLUDED $ N/A $ N/A
A	AUTOMOBILE LIABILITY ANY AUTO X ALL OWNED AUTOS X SCHEDULED AUTOS X HIRED AUTOS X NON-OWNED AUTOS		07/01/2008	07/01/2009	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
	GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT OTHER THAN AUTO ONLY: EA ACC AGG	$ $ $
	EXCESS LIABILITY OCCUR CLAIMS MADE DEDUCTIBLE RETENTION $				EACH OCCURRENCE AGGREGATE	$ $ $ $ $
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY STOPGAP*		07/01/2008	07/01/2009	WC STATU-TORY LIMITS OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $
B	OTHER					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

SUBJECT TO THE PROVISIONS, CONDITIONS, AND EXCLUSIONS OF THE POLICIES LISTED ABOVE, IT IS AGREED THAT THE CERTIFICATE HOLDER IS AN " ADDITIONAL INSURED" WITH RESPECTS TO:

CERTIFICATE HOLDER

ADDITIONAL INSURED; INSURER LETTER: _____

West Virginia Water Development Authority
180 Association Drive
Charleston WV 26311

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

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STEPTOE & JOHNSON PLLC
ATTORNEYS AT LAW

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

Writer's Contact Information

CLOSING MEMORANDUM

To: **Financing Team**

From: **John C. Stump, Esquire**

Date: **June 18, 2009**

Re: **The City of Elkins Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), Sewer Revenue Bonds Series 2009 B (West Virginia SRF Program/ARRA)**

---

1. DISBURSEMENTS TO THE CITY OF ELKINS

Payor:	West Virginia Department of Environmental Protection
Source:	Series 2009 A Bonds Proceeds
Amount:	$43,397
Form:	Wire Transfer
Payee:	The City of Elkins, 401 Davis Avenue, Elkins, WV 26241
Bank:	Citizens National Bank
Routing #:	051501150
Account #:	0067113
Contact:	Linda Smith, 304.636.4095
Account:	Series 2009 Bonds Construction Trust Fund

2. DISBURSEMENTS TO THE HUNTINGTON NATIONAL BANK

Payor:	West Virginia Department of Environmental Protection
Amount:	$594,325
Form:	Wire
Payee:	The City of Elkins
Bank:	Huntington National Bank
ABA:	044000024
Loans in Process:	15804-777777
For the Benefit of:	City of Elkins WV
Account #:	8001539164 42/34
Contact:	Randall Underwood, 304.636.3400
Purpose:	Pay the Series 2008 A Bonds

Clarksburg, WV • Charleston, WV • Morgantown, WV • Martinsburg, WV • Wheeling, WV
Huntington, WV • Columbus, OH

TERRALEX®

3. DISBURSEMENTS TO MUNICIPAL BOND COMMISSION:

Payor:	West Virginia Department of Environmental Protection
Source:	Series 2009 A Bonds Proceeds
Amount:	$ 28,934
Form:	Wire
Payee:	The City of Elkins
ABA No:	051503394
Account No:	5270517317
Bank:	BB&T for the benefit of Municipal Bond Commission
Contact:	Sara Boardman
Account:	Series 2009 A Bonds Reserve Account

06.04.09
255620.00012

RESOLUTION OF THE CITY OF ELKINS APPROVING INVOICES RELATING TO CONSTRUCTION AND OTHER SERVICES FOR THE PROPOSED SEWER PROJECT AND AUTHORIZING PAYMENT THEREOF,

WHEREAS, The City of Elkins, has reviewed the invoices attached hereto and incorporated herein by reference relation to the construction of the Sewer Project funded by the Department of Environmental Protection and find as follows:

a) That none of the items for which payment is proposed to be made has formed the basis for any disbursement theretofore made.

b) That each item for which the payment is proposed to be paid is or was necessary in connection with the Project and constitutes a Cost of the project.

c) That each of such costs has been otherwise properly incurred.

d) That the payment for each of the items proposed is due and owing.

NOW, THEREFOR, BE IT RESOLVED The City of Elkins by as follows: There is hereby authorized and directed the payment of the attached invoices as follows:

Vendor	Total	SRF
Huntington Bank (payoff 2008 A Bonds)	594,324.29	594,324.29
Steptoe & Johnson (Bond Counsel)	25,000.00	25,000.00
Huntington Bank (registrar)	1,000.00	1,000.00
Municipal Bond Commission (Reserves on 2009 A)	28,934.00	28,934.00
City of Elkins (Payments on 2008 A Bonds)	17,398.02	17,398.02
Total	666,656.31	666,656.31

ADOPTED BY The City of Elkins, at the meeting held on the 4th day of June, 2009

By: Duke Talbott

Its: Mayor

255620.00012

DEP PAYMENT REQUISITION FORM

Rev 04/07/09

1. LOAN RECIPIENT/VENDOR:

NAME: The City of Elkins

ADDRESS:

401 Davis Avenue, Elkins WV 26241

FEIN: 55-6000170

DUNS: 077496040

2. SRF #: C-544380-2

3. INVOICE NUMBE 1

4. PERIOD COVERED BY THIS REQUEST (MO/DAY/YR)

FROM: (MO/DAY/YR) 12-1-07

TO: (MO/DAY/YR) 6/1/'09

5. % OF PHYSICAL CONSTRUCTION COMPLETION

CLASSIFICATION	A) APPROVED BUDGET	B) PREVIOUS APPROVED	C) THIS REQUEST	D) TOTAL COLUMNS B&C	E) AGENCY USE ONLY SRF	E) AGENCY USE ONLY ARRA
1) CONSTRUCTION	923,242		0	0		
2) EQUIPMENT	0		0	0		
3) ENGINEERING						
a. Planning	15,000		0	0		
b. Design	30,000		0	0		
c. Const Basic	35,000		0	0		
d. Spec Services	0		0	0		
e. Inspection	0		0	0		
4) LEGAL	10,000		0	0		
5) ACCOUNTING	0		0	0		
6) ADMINISTRATIVE	10,000		0	0		
7) CONTINGENCY	46,162		0	0		
8) LOAN REPAYMENT	594,324		594,324	594,324	594,324	
9) Int Financing	17,398		17,398	17,398	17,398	
9) RESERVE FUND	28,934		28,934	28,934	28,934	
10) CLOSING COSTS	26,000		26,000	26,000	26,000	
11) SUBTOTAL	1,736,060		666,656	666,656	666,656	
12) LESS PREVIOUSLY PAID					Ø	
13) INVOICE AMOUNT					666,656	

14) Denise Talbott 6/9/09

AUTHORIZED SIGNATURE DATE

TYPED OR PRINTED NAME AND TITLE

15) PERSON PREPARING FORM SIGNATURE DATE

TYPED OR PRINTED NAME AND TITLE

AGENCY USE ONLY:

THIS REQUEST APPROVED BY: WV DEPARTMENT OF ENVIRONMENTAL PROTECTION

6/10/09 6/11/09

RF - 91

west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, West Virginia 25304-2345
(304) 926-0495
(304) 926-0496 fax

Joe Manchin III, Governor
Stephanie R. Timmermeyer, Cabinet Secretary
www.wvdep.org

November 15, 2006

HON. JUDITH A. GUYE
ELKINS CITY OF
CITY HALL, 401 DAVIS AVE
ELKINS, WV 26241

CERTIFIED RETURN RECEIPT REQUESTED

Dear Permittee:

Enclosed please find WV/NPDES Permit Number WV0020028 dated November 15, 2006.

The Division wishes to address the specific issues raised in the comment letter submitted on behalf of the City of Elkins by Steptoe and Johnson on Spetember 8, 2006 and additional recommendations requested by the USEPA by its email received on September 21, 2006. We also wish to address the issues as discussed in the meeting on September 26, 2006. We wish to address your comments in the same order they were provided.

Comment No. 1 : Request to correct mailing address of the City

The change was made as requested.

Comment No. 2 : Request to change description of existing treatment facility

The changes were made as requested.

Comment No. 3 : Request to eliminate Combined Sewer Outlet C010 from the permit.

The agency has verified that Outlet C010 has been permanently sealed and is no longer capable of discharging from this outlet. Therefore, C010 has been removed from the permit as requested.

Comment No. 4 : Request to amend BOD5 permit limitations for existing treatment plant effluent.

A review of the current BOD5 permit limitations contained in the draft permit shows that these are the same limitations presently found in the City's current permit. Also, a review of previous data supplied on the permittee's discharge monitoring reports shows that the limitations as provided are acheivable. The agency is certainly willing to provide you with all calculations used as the basis for this limitation. Therefore, no changes have been made upon this request.

Comment No. 5 : Request to amend NH3-N permit limitations for existing treatment plant effluent.

Please see our response to Comment 4 above. Therefore, no changes have been made upon this request.

Comment No. 6 : Request to remove WQBELs for metal pollutant parameters.

The WQBELs developed for this draft permit were developed without regard to landfill leachate or any other indirect industrial user provided for in the permit. The permit limitations developed for the metal pollutants were based upon the reasonable potential assessment of the existing treatment plant's discharge, the hardness of the receiving stream, and the extremely low 7Q10 flow of the receiving stream. The effluent limitations are not developed based upon industrial users at all, however, the limitations placed on the industrial users is a direct result of the WQBELs developed. The agency realizes that there needs to be a thorough review of possible remedies to the extremely stringent limitations for the metal pollutants. We certainly would review all possible solutions presented by the permittee. Therefore, no changes have been made upon this request.

Comment No. 7 : Request for possible remedies to the WQBELs for metal pollutant parameters.

Please see our response to Comment 6 above.

Comment No. 8 : Request for possible remedies to the WQBELs for metal pollutant parameters.

Please see our response to Comment 6 above.

Comment No. 9 : Request to relax monitoring frequency from monthly to quarterly for metal parameters with WQBELs

The long-term WQBEL limitations for the metals pollutant parameters are developed as monthly average limitations. In order to properly evaluate compliance with a monthly average limit, a monthly sampling frequency is required. Therefore, no changes have been made upon this request.

Comment No. 10 : Request for schedule of compliance in order to develop a plan of action going forward to deal with the WQBELs as provided in the draft permit.

This agency will consider a schedule of compliance or some enforceable action to deal with WQBELs. The agency will need further information concerning this request before making permit changes or providing a requested schedule. Therefore, no changes have presently been made upon this request

Comment No. 11 : Request that 24 hour composite sampling be an option to the eight hour composite currently in the draft permit

The sample type requirements contained in Section A.001 of this permit are a minimum requirement that eight (8) hour composite sampling be done. Should the permittee wish to do there samples using 24 hour composite type, the agency does not have any problem with that option. Nothing in the permit as it currently is written would prohibit doing 24 hour composite sampling for those specific parameters. The permittee simply needs to state that 24 hour composites were done when completing the DMRs. Therefore, no changes were made upon this request.

Comment No. 12 : Request the deletion of Stormwater Outlet 002 and the additional requirements addressing Outlet 002 from the permit.

The permit writer used the drawings of the wastewater treatment plant site and its future upgrading provided by the permittee to this agency and had discussions with the treatment plant operator before placing stormwater requirements in this draft permit. The opinion of the permit writer is that there are drop inlets draining areas of the treatment facility site that are being conveyed to Stormwater Outlet No. 002 for

discharge and that these inlets are within the areas where industrial activities take place. We are asking the permittee to run some sampling of this outlet and to provide results in order to make a determination of whether pollutants are being carried from the plant area to the receiving stream. The language in the draft permit does allows for the cessation of sampling upon providing four consecutive samples that meet benchmark values identified in the permit. Therefore, no changes were made on this request.

Comment No. 13 : Request to modify or delete the pretreatment requirements for the water treatment plant backwash identified in the draft permit as IU15

The permit writer is aware that the permittee is working towards obtaining coverage of this discharge under a general WV/NPDES permit for a direct discharge for the water treatment facility. Until that coverage is provided and as long as this discharge remains in the wastewater collection system, the requirements in this draft permit must remain. Therefore, no changes have been made upon this request at this time. However, upon coverage of this discharge under the general permit, the agency will delete IU15 from the permit. We have added Section C.31 of this permit to address your request.

Comment No. 14 : Request to amend construction commencement date of compliance schedule.

This change has been made as per your request.

Comment No. 15 : Request to address changes to C.8 of permit upon completion of the plant upgrade and increase in the rated design flow to 4.99 MGD

These changes have been made per your request.

Comment No. 16 : Request concerning 8 or 24 composite sample types for calculating percent removal of BOD5 and TSS

Changes have been made per your request.

Comment No. 17 : Request to include rated flow after completion of plant upgrade to the definition of Section C.11.e

Changes have been made to Section C.11 per your request. Additionally, the permit writer is fully aware that upon completion of the plant upgrade, there may be a weakening in the WWTP's influent concentration strength. However, the agency believes that there is also a corresponding lowering in the effluent concentration being discharged during these times. The agency does not believe that any changes are necessary at this time concerning percent removal issues but would certainly entertain modification requests should future data shows that percent removal compliance is an issue. Therefore, no other changes have been made.

Comment No. 18 : Section C.16 of the permit requirements concerning sampling of toxic metal pollutant parameters.

Any necessary changes can certainly be addressed if adequate data is provided. No changes have been made on this request at this time.

Comment No. 19 : Request to be able to accept septage during wet-weather periods upon the completion of the treatment plant upgrade

Changes have been made to Section C.18.a of the permit to address your request.

This permit is subject to the following terms and conditions :
The information submitted on and with Permit Application No. WV0020028 dated the 8th day of December 2005, and the information submitted on and with Permit Modification Application No. WV0020028-D dated the 12th day of May 2005, and the plans and specifications for the Elkin's WWTP upgrade and expansion (SRF Project No. 544382) that were approved by the Construction Assistance Section on July 21, 2006, are all hereby made terms and conditions of this Permit with like effect as if all such Permit application information was set forth herein, and with other conditions set forth in Sections A, B, C, D, E, F and Appendix A.

The validity of this permit is contingent upon the payment of the applicable annual permit fee, as required by Chapter 22, Article 11, Section 10 of the Code of West Virginia.

SWEEP RESOLUTION

THE CITY OF ELKINS

WHEREAS, The City of Elkins (the "Issuer") is a governmental body and political subdivision of West Virginia;

WHEREAS, the Issuer has issued bonds, as more specifically set forth on Exhibit A, attached hereto and incorporated herein by reference (the "Bonds");

WHEREAS, the Issuer makes or will make monthly debt service payments on and transfers reserve funds for the Bonds by check to the West Virginia Municipal Bond Commission (the "MBC") which in turn pays the owners of the Bonds and deposits funds in the reserve accounts;

WHEREAS, the MBC may accept such monthly payments by electronic funds transfer, thereby eliminating delay in payments and lost checks;

WHEREAS, the Issuer finds and determines that it is in the best interest of the Issuer, its citizens and the owners of the Bonds that the administrative fees, monthly debt service and reserve fund payments be made by electronic funds transfer with the State Treasurer sweeping the Issuer's account.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1) The monthly debt service payments on and reserve funds for the Bonds, as set forth in Exhibit A, shall be made to the MBC by an electronic transfer, to the extent funds are available, by the State Treasurer from the accounts set forth in Exhibit A in such form and at such directions as are provided by the MBC.

2) The Mayor and City Clerk are hereby authorized to sign and execute all such documents as are necessary to facilitate the electronic transfer of the Bond debt service and reserve fund payments.

3) This resolution shall be effective immediately upon adoption.

Adopted this 4th day of June, 2009.

Dick Tolbert

Mayor

THE CITY OF ELKINS

Sewer Revenue Bonds, Series 2009 A
(West Virginia SRF Program)

RECEIPT AND RELEASE

THE HUNTINGTON NATIONAL BANK, as the holder of The City of Elkins' Sewer Revenue Bonds, Series 2008 A, dated May 16, 2008 in the original aggregate principal amount of $600,000 (the "Series 2008 A Bonds"), hereby certifies that it has this day received the sum of $594,325 from the City and that such sum is sufficient to pay the entire principal amount of and interest accrued on the Series 2008 A Bonds to the date hereof and discharges the liens, pledges and encumbrances securing the Series 2008 A Bonds.

Dated this 18th day of June, 2009.

THE HUNTINGTON NATIONAL BANK

By:_____
Its: Authorized Officer

255620.00012

PAID JUN 18 2009

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF ELKINS
SEWER REVENUE BONDS, SERIES 2008 A

No. AR-1 $600,000

KNOW ALL MEN BY THESE PRESENTS: This 16th day of May, 2008, that The City of Elkins, a municipal corporation and political subdivision of the State of West Virginia in Randolph County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the sources and in the manner hereinafter set forth, to the order of:

THE HUNTINGTON NATIONAL BANK

or registered assigns (the "Registered Owner"), the principal sum of SIX HUNDRED THOUSAND DOLLARS ($600,000) or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference together with interest only payable monthly on the outstanding principal amounts beginning June 5, 2008 to and including May 5, 2009 and principal and interest payments of $6,459.10 payable monthly beginning June 5, 2009 to and including May 5, 2019 at the rates per annum set forth as follows:

A. Interest on this Bond shall be payable at the rate of 5.25% per annum (hereinafter sometimes called the "Tax-Exempt Rate").

B. Notwithstanding any other provision herein, in the event the interest on this Bond is declared to be includible in gross income for federal income tax purposes by the Internal Revenue Service ("Determination of Taxability"), interest on this Bond shall be payable at the rate of 8.0% per annum (hereinafter sometimes called the "Taxable Rate"). Interest at the Taxable Rate shall commence to accrue on the date of Determination of Taxability and such interest rate shall be charged retroactively and prospectively for all periods in which interest paid on this Bond is asserted, declared or determined to be includible in gross income for federal income tax purposes, and shall continue until the entire principal of and interest on this Bond are paid, notwithstanding that the entire principal amount of this Bond may have been paid in full prior to the Determination of Taxability.

PAID JUN 18 2009

Any interest being past due on this Bond by reason of such increase shall become immediately due and payable.

The principal of and interest on this Bond are payable in any coin or currency which on the date of payment thereof is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia as Paying Agent.

This Bond may be redeemed prior to its stated date of maturity in whole or in part with no prepayment penalty.

This Bond is issued (i) to pay the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing public sewerage system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), a Bond Ordinance duly enacted by the Issuer on March 20, 2008, and a Supplemental Resolution duly adopted by the Issuer on May 15, 2008 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S: (I) SUPPLEMENTAL SUBORDINATE SEWER REVENUE BONDS, SERIES 1986 B, DATED APRIL 28, 1986, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $517,001 (THE "SERIES 1986 B BONDS"); (II) SEWER REVENUE BONDS, SERIES 1996 A, DATED AUGUST 22, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $300,000 (THE "SERIES 1996 A BONDS"); (III) SEWER REFUNDING REVENUE BOND, SERIES 2004 A, DATED JUNE 18, 2004, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,022,000, (THE "SERIES 2004 A BONDS"); AND (IV) SEWER REVENUE BONDS, SERIES 2006 A, DATED DECEMBER 7, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $8,588,400 (THE "SERIES 2006 A BONDS") (COLLECTIVELY, THE "PRIOR BONDS").

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

"Series 2008 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2008 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Prior Bonds; provided however, that so long as there exists in the Series 2008 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with or junior to the Bonds, including the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

PAID JUN 18 2009

This Bond is, under the Act, exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision or agency thereof, except inheritance, estate and transfer taxes.

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

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

[Remainder of Page Intentionally Blank]

PAID JUN 18 2009

IN WITNESS WHEREOF, THE CITY OF ELKINS has caused this Bond to be signed by its Mayor, and its corporate seal to be hereunto affixed and attested by its City Clerk, and has caused this Bond to be dated the day and year first written above

[SEAL]

Judith A. Gerp
Mayor

ATTEST:

Philip J. Graziani
City Clerk

PAID JUN 18 2009

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2008 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: May 16, 2008.

THE HUNTINGTON NATIONAL BANK,
as Registrar

Authorized Officer

American Recovery and Reinvestment Act of 2009 (ARRA)

Project Certification

Program: West Virginia Clean Water State Revolving Fund

Project: City of Elkins, Randolph County

Description:

Reconstruction of sewage pumping station #11 and downtown storm/sanitary sewer separation.

Total Project Cost

$1,766,560

ARRA Assistance Provided

$883,280

I hereby certify that the above project has received the full review and vetting required by federal law and that the investment of federal and state funds in this infrastructure project is an appropriate use of taxpayer dollars.

This certification will be posted on the Governor's website and linked to the federal ARRA website www.recovery.gov

Randy C. Huffman, Cabinet Secretary

6/9/09
Date

west virginia department of environmental protection

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 16th day of April 2009

GENERAL ORDER NO. 182.09
Public Service Commission intended procedures concerning water and sewer projects that are funded with federal stimulus funds.

COMMISSION ORDER

Earlier this year, Congress enacted and the President signed the *American Recovery and Reinvestment Act of 2009*. Under this legislation, the State of West Virginia is to receive certain stimulus funds, a portion of which will be dedicated to the construction of water and sewer infrastructure. The Public Service Commission ("Commission") has received information from various funding agencies. The State Bureau for Public Health through its drinking water treatment revolving fund will have approximately $19.5 million for water projects. In addition, the State Department of Environmental Protection through the clean water state revolving fund will have approximately $61 million for sewer projects. Both of these state agencies have indicated that they intend to have the projects bid by August 2009 and contracts awarded by October 2009. In addition, certain other stimulus funds for water and sewer projects will be administered by the U.S. Department of Agriculture, Rural Utilities Service.

Although the Commission is not a funding source for the stimulus funds, it will nonetheless be called upon to process utility applications for certificates of public convenience and necessity ("certificates") to authorize the construction of stimulus-funded water and sewer projects. Given the aggressive schedule planned by the funding agencies, and the requirement in the federal law that water and sewer projects be "shovel ready," meaning under construction within a quick time line, the Commission intends to expedite these applications to the greatest extent possible consistent with existing State Law.

As a preliminary observation, the Commission would stress that applications must be complete and the statutory thirty-day notice to the public must be given at the outset of the application. Failure to file complete applications or failure to provide timely public notice will lead to delays in processing projects and jeopardize the ability to receive federal stimulus funds. The Commission anticipates that it will receive (i) new applications for water and sewer projects using federal stimulus funds, (ii) amendments to pending applications

containing some measure of federal stimulus funds, and (iii) petitions to reopen certificates already issued seeking to amend funding by including federal stimulus funds. The Commission issues this General Order to inform the public, regulated utilities, attorneys who practice before the Commission, funding agencies, and the staff of the Commission of its intended procedures and processes.

With respect to new stimulus project applications, the Commission intends that applicants and Staff observe the following procedures. At the outset, the Commission again stresses that it is essential that a utility project sponsor file a complete application and provide timely public notice of its application.

1. Staff assigned to the case should immediately review the filing to determine if it is complete. The Initial Joint Staff Memorandum should be filed within ten days.[1]

2. If the filing is complete and does not require an increase in rates for the project, Staff should file its Final Joint Staff Memorandum in thirty-five days which allows for the protest period assuming the applicant has timely published notice.

3. If the filing is complete and includes a proposed increase in rates for the project, Staff may deem it necessary to file a data request for items needed to complete the review and make a final Staff recommendation. This data request should be filed within ten days. The applicant should expedite its response to Staff's requests and Staff should file its Final Joint Staff Memorandum within forty-five to sixty days

4. If the filing is not complete, irrespective of whether or not the application seeks an increase in rates, Staff should file a data request, if necessary, for the items needed to complete the review and make a final Staff recommendation. This data request should be filed within ten days. The applicant should expedite its responses to Staff's requests and Staff should file its Final Joint Staff Memorandum within forty-five to sixty days.

5. If rates are required for the project and a rate change has not been included with the application:

   A. For municipalities, the processing time is out of the Commission's ability to control. Staff needs to determine where the municipality is in the ordinance process and what else is needed to process the case. This should all be part of the Initial Joint Staff Memorandum to let the Commission know if the case can be processed or needs dismissed. (Certificates and rate ordinances need to be coordinated for a municipal appeal.) Data requests should still be filed within the ten-day period.

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[1] Days in this Order are calendar days. Filings due on weekends or holidays are due the next working day.

B. Public service districts ("districts") that need rates for the project can follow steps 1 and 3 or 4 above.

C. Districts that require rates outside of the project and are in default on bonds cannot move forward. Staff must address this in its initial memorandum.

5. For newly-filed water or sewer applications for certificates of convenience and necessity where the funding is described at the time of the filing as Stimulus Funding the Commission shall designate the filings as "SCN." The Commission, its Staff and Administrative Law Judges, will process those designated filings as expeditiously as possible.

The stimulus funds may be used to replace existing funding for projects that are ready to proceed, allowing the State of West Virginia to fund more projects than planned and provide an enhanced investment in water and sewer infrastructure to unserved and under-served areas of the State. To expedite the processing of projects that have already received a certificate and are eligible to receive stimulus funds, the Commission plans the following process and procedures:

6. In instances where municipalities or municipal water or sewer boards ("municipal utilities") have already been granted certificates, and in the event the municipality is awarded a stimulus assistance funding package to replace either existing grant or loan funding from another source, the municipal utility shall only be required to file with the Commission a letter from the funding agency that describes the change in the project funding. The filing will be treated as a closed entry by the Executive Secretary and the Commission anticipates no further action by the Commission.

7. Similarly, for districts that are awarded a stimulus assistance funding package equivalent to the existing grant money from another source, that has no impact on rates, the district shall only be required to file with the Commission a letter from the funding agency that describes the change in the project funding. The filing will be treated as a closed entry by the Executive Secretary and the Commission anticipates no further action by the Commission.

8. In the event that a district is awarded a stimulus assistance funding package and the benefit to the customers of such improved financing is lower project costs, the district will only be required to file a petition to reopen the original formal case granting the certificate in order that the Commission may review the rates established for the project.

The Commission will provide for such petitions to reopen to be handled in an expedited manner. To that end, the district will be required to file with its petition to reopen a letter from the funding agency that describes the change in project funding, specifically setting forth the newly-committed funding and an accompanying calculation by the district

of the impact to its rates together with supporting documentation. Upon the filing of this information, Staff will perform a review of the revised project funding and rate calculations and file a final recommendation with the Commission stating its recommended rates as soon as possible, but no later than ten days after receipt of the petition. The Commission will issue an order as soon thereafter as possible.

9. For districts that are awarded a stimulus assistance funding package to supplement funding to deal with a cost overrun in whole or part, that has no impact on rates, the district may utilize the enhanced funding to first fund any project alternatives that were reviewed as either deducts or adducts that were approved as a part of the original certificate, contingent upon funding, in order that all portions of the project can be constructed. In this event, the district shall be required to file with the Commission a letter from the funding agency that describes both the change in the project funding and also notes the deducts or adducts that will be funded for construction. The filing will be treated as a closed entry by the Executive Secretary and the Commission anticipates no further action on its part.

The issuance of these guidelines should expedite these projects and the continuing effort to provide quality water and sewer service throughout the State of West Virginia. The Commission understands that there will be instances and situations where events will disrupt these intended procedures; however, the Commission expects all parties to use their best efforts to process these cases in a timely manner. Finally, given the aggressive time frame contemplated by the funding agencies and the intent to have bids out by August 2009, project applications should be filed no later than June 1, 2009, to avoid jeopardizing the timely consideration of those applications.

IT IS SO ORDERED.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission give public notice of this order in a manner deemed most efficient and appropriate.

A True Copy, Teste:

Sandra Squire
Executive Secretary

go18209c.wpd