CITY OF FAIRMONT

Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988

BOND TRANSCRIPT

Table of Contents

BASIC DOCUMENTS

1 Prior Ordinance

2 Supplemental and Amendatory Ordinance

3 Supplemental Resolution

4 Investment Purchase Agreement

5 Cross-Receipt for Bonds and Bond Proceeds

6 Direction to Authenticate and Deliver Bonds

7 Specimen Bond

DOCUMENTS OF THE ISSUER

8 City Charter, with Amendments

9 City Council Rules of Order and Procedure, with Amendments

10 Affidavits of Publication of Abstract of Supplemental and Amendatory Ordinance

11 Facsimile Signature Affidavits of Mayor, City Manager and City Clerk

12 Minutes on Enactment of Supplemental and Amendatory Ordinance and Supplemental Resolution (September 27, October 11 and October 25, 1988)

DOCUMENTS OF THE ISSUER (Continued)

13	Certification of Minutes of Council Meetings

OPINIONS OF COUNSEL

14	Approving Opinion of Steptoe & Johnson, Bond Counsel
15	Tax Opinion of Stevens & Lee, Special Tax Counsel
16	Supplemental Opinion of Steptoe & Johnson, Bond Counsel
17	Opinion of J. Roger Williams, Jr., Counsel to First Fidelity Bank, N.A., New Jersey
18	Opinion of James O. Watkins, Counsel to Sanitary Board
19	Opinion of Courtney A. Ryan, City Attorney

CERTIFICATES

20	General Closing Certificate of City
21	Certificate as to Arbitrage
22	Certificate of Registrar, Paying Agent and Depository Bank

DOCUMENTS RELATING TO REFUNDING OF PORTION OF PRIOR BONDS

23	Letter to West Virginia Municipal Bond Commission on Proposed Refunding of Portion of Prior Bonds
24	Joint Certificate of Issuer and Escrow Agent on Investment of Escrow Funds and Discharge of Lien of Portion of Prior Bonds
25	Notices of Partial Defeasance of Prior Bonds, Partial Redemption of Prior Bonds and Copy of Letter of Instructions to Escrow Agent
26	Escrow Deposit Agreement

DOCUMENTS RELATING TO REFUNDING OF PORTION OF PRIOR BONDS (Continued)

27	Certification of Clymer Merves & Amon, Certified Public Accountants, Regarding Yield Verification and Sufficiency of Escrow

OFFERING DOCUMENTS

28	Official Statement
29	Rating Letters
30	AMBAC Policy of Insurance and Related Documentation
31	Bond Purchase Proposal

MISCELLANEOUS DOCUMENTS

32	Ordinance Creating Sanitary Board
33	Petition of Sanitary Board
34	Registrar, Paying Agent and Depository Bank Agreement
35	Acceptance of Duties as Registrar, Paying Agent and Depository Bank
36	Acceptance of Duties of Escrow Agent
37	Certified Copy of Enabling Act, West Virginia Code, Chapter 16, Article 13
38	U. S. Treasury Certificate Subscription Forms
39	IRS Disclosure Form (Form 8038-G)
40	Underwriter's Certificate
41	AMBAC Consent to Amendment of Prior Ordinance
42	Rebate Instruction Letter
43	W.Va. Municipal Bond Commission New Issue Report

12/08/88
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ALL-STATE LEGAL SUPPLY CO., ONE COMMERCE DRIVE, CRANFORD, NEW JERSEY 07016

ED 11-1C

ORDINANCE NO. 680

CITY OF FAIRMONT, WEST VIRGINIA

SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1985

ORDINANCE

Table of Contents

		Page
RECITALS		1
ARTICLE I - DEFINITIONS; STATUTORY AUTHORITY; FINDINGS		
Section 1.01	Definitions	3
Section 1.02	Authority for this Ordinance	11
Section 1.03	Findings	11
Section 1.04	Ordinance Constitutes Contract	12
ARTICLE II - AUTHORIZATION OF REFUNDING		
Section 2.01	Authorization of Refunding	13
ARTICLE III - THE BONDS		
Section 3.01	Form and Payment of Bonds	14
Section 3.02	Execution of Bonds	14
Section 3.03	Authentication and Registration	15
Section 3.04	Negotiability and Registration	15
Section 3.05	Bonds Mutilated, Destroyed, Stolen or Lost	17
Section 3.06	Term Bonds	18
Section 3.07	Notice of Redemption	19
Section 3.08	Unpaid Coupons	20
Section 3.09	Persons Treated as Owners	20
Section 3.10	Temporary Bonds	20
Section 3.11	Registration Required by Internal Revenue Code	21
Section 3.12	Series 1985 Bonds	21
Section 3.13	Form of Series 1985 Bonds	21
Section 3.14	Delivery of Series 1985 Bonds	21

ARTICLE IV - SERIES 1985 BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 4.01	Establishment of Funds and Accounts with Depository Bank	23
Section 4.02	Establishment of Funds and Accounts with Bond Commission	23
Section 4.03	System Revenues and Application Thereof	23
Section 4.04	Application of Series 1985 Bond Proceeds	27
Section 4.05	Reserve Account	28

ARTICLE V - INVESTMENTS; NON-ARBITRAGE

Section 5.01	Investments	29
Section 5.02	Restrictions as to Arbitrage Bonds	30

ARTICLE VI - ADDITIONAL COVENANTS OF THE CITY

Section 6.01	General Covenants of the City	31
Section 6.02	Bonds not to be Indebtedness of the City	31
Section 6.03	Bonds Secured by Pledge of Net Revenues	31
Section 6.04	Rates	31
Section 6.05	Completion, Operation and Maintenance	32
Section 6.06	Sale of the System	32
Section 6.07	Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances	33
Section 6.08	Additional Parity Bonds	34
Section 6.09	Insurance	37
Section 6.10	Consulting Engineers	37
Section 6.11	Services Rendered to the City	37
Section 6.12	Enforcement of Collections	37
Section 6.13	No Competing Franchise	38
Section 6.14	Books and Records	38
Section 6.15	Initial Schedule of Rates	39
Section 6.16	Operating Budget	39

ARTICLE VII - DEFAULTS AND REMEDIES

Section 7.01	Events of Default	41
Section 7.02	Enforcement	41
Section 7.03	Appointment of Receiver	42
Section 7.04	Restoration of City and Bondholder	43

ARTICLE VIII - REGISTRAR; PAYING AGENT

Section 8.01	Appointment of Registrar	44
Section 8.02	Responsibilities of Registrar	44
Section 8.03	Evidence on Which Registrar May Act	44
Section 8.04	Compensation and Expenses	44

Section 8.05	Certain Permitted Acts	45
Section 8.06	Resignation of Registrar	45
Section 8.07	Removal	45
Section 8.08	Appointment of Successor	45
Section 8.09	Transfer of Rights and Property to Successor	46
Section 8.10	Merger or Consolidation	46
Section 8.11	Adoption of Authentication	46
Section 8.12	Paying Agent	46

ARTICLE IX - DEFEASANCE; DISCHARGE OF PLEDGE OF ORDINANCE

Section 9.01	Defeasance; Discharge of Pledge of Ordinance	48

ARTICLE X - MISCELLANEOUS

Section 10.01	Amendment of Ordinance	49
Section 10.02	Evidence of Signatures of Bondholders and Ownership of Bonds	49
Section 10.03	Preservation and Inspection of Documents	50
Section 10.04	Cancellation of Bonds	50
Section 10.05	Failure to Present Bonds	50
Section 10.06	Notices, Demands and Requests	51
Section 10.07	No Personal Liability	51
Section 10.08	Law Applicable	51
Section 10.09	Parties Interested Herein	52
Section 10.10	Severability of Invalid Provisions	52
Section 10.11	Table of Contents and Headings	52
Section 10.12	Conflicting Provisions Repealed	52
Section 10.13	Procedure on Enactment of Ordinance; Public Hearing	52

SIGNATURES	53
CERTIFICATION	56
EXHIBIT A (Form of Bond)	57

07/16/85
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ORDINANCE NO. _____

CITY OF FAIRMONT

ORDINANCE AUTHORIZING THE REFUNDING OF THE OUTSTANDING SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1983, AND SEWER REVENUE AND REFUNDING BONDS, SERIES OF 1976, OF THE CITY OF FAIRMONT, WEST VIRGINIA; AUTHORIZING THE ISSUANCE OF SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1985, OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN $8,300,000, THE PROCEEDS OF WHICH, TOGETHER WITH OTHER FUNDS OF THE CITY, SHALL BE EXPENDED FOR SUCH REFUNDING, AND TO PAY COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE TRANSFER AND DISPOSITION OF MONEYS PRESENTLY ON DEPOSIT IN THE FUNDS AND ACCOUNTS HERETOFORE ESTABLISHED BY THE PRIOR ORDINANCES; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS

WHEREAS, the City of Fairmont (the "Issuer") owns and operates a municipal sewerage system (the "System") and has heretofore financed the acquisition and construction of the System and certain additions, extensions and improvements for the System by issuance of several series of bonds, of which there are presently outstanding (i) the Sewer Revenue and Refunding Bonds, Series of 1976, dated November 1, 1976, issued in the original aggregate principal amount of $2,230,000 (the "1976 Bonds"), now outstanding in the principal amount of $2,070,000, the last maturity being November 1, 2011, as provided in an ordinance enacted November 29, 1976 (the "1976 Ordinance"), and (ii) the Sewerage System Refunding Revenue Bonds, Series 1983, dated May 15, 1983, issued in the original aggregate principal amount of $7,295,000 (the "1983 Bonds"), now outstanding in the principal amount of $7,215,000, the last maturity being November 1, 2011, as provided in an ordinance enacted May 17, 1983 (the "1983 Ordinance");

WHEREAS, under the provisions of Chapter 16, Article 13 of the Official West Virginia Code of 1931, as amended (the "Act"), the Issuer is authorized and empowered to issue refunding revenue bonds to refund, pay or discharge all or any part of its outstanding revenue bonds;

WHEREAS, the Issuer is advised that interest savings should be realized if the 1976 Bonds and 1983 Bonds (collectively called herein the "Prior Bonds") are refunded;

WHEREAS, the Issuer has determined that it would therefore be to the benefit of the Issuer and its inhabitants to refund the Prior Bonds to their respective maturities, as a result of interest savings arising out of present day bond market conditions;

WHEREAS, pursuant to the Act, the Issuer has heretofore established a Sanitary Board and the Sanitary Board has petitioned the Council, pursuant to the Act, to provide for the Refunding of the Prior Bonds, as herein provided; and

WHEREAS, the Issuer now desires to authorize the refunding of the Prior Bonds to their respective final maturities, as aforesaid, and to provide for the financing thereof by the issuance of sewerage system refunding revenue bonds as hereinafter provided;

NOW, THEREFORE, THE CITY OF FAIRMONT HEREBY ORDAINS:

ARTICLE I

DEFINITIONS; STATUTORY AUTHORITY; FINDINGS

Section 1.01. Definitions. The following terms shall have the following meanings in this Ordinance 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 delivery of the 1985 Bonds.

"Authorized Newspaper" means a financial journal or newspaper of general circulation in the City of New York, New York, printed in the English language and customarily published on each business day of the Registrar, whether or not published on Saturdays, Sundays or legal holidays, and so long as so published, shall include The Daily Bond Buyer.

"Authorized Officer" means the City Manager of the City or any other officer of the City specifically designated by resolution of the Council of the City.

"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 Register" means the books of the City maintained by the Registrar for the registration and transfer of Bonds.

"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 fully registered Bond, and, if coupon Bonds, are issued pursuant to this Ordinance, also means the registered owner of any such coupon Bond registered as to principal or the holder of any such coupon Bond not registered as to principal or registered as to principal to bearer and, unless the context expressly requires otherwise, the bearer of any coupon appurtenant to such coupon Bonds.

"Bonds" means the Series 1985 Bonds, and any additional parity Bonds hereafter issued within the terms, restrictions and conditions contained in this Ordinance and, if coupon Bonds are issued pursuant to this Ordinance and unless the context expressly requires otherwise, include any coupons appurtenant to such coupon Bonds.

"1976 Bonds" shall have the meaning defined in the premises hereof, and shall include the coupons appertaining thereto.

"1983 Bonds" shall have the meaning defined in the premises hereof, and shall include the coupons appertaining thereto.

"Certificate of Authentication" means the Certificate of Authentication and Registration on the Bonds, in substantially the form set forth in Exhibit A hereto with respect to the Series 1985 Bonds and, if coupon Bonds are issued pursuant to this Ordinance, also means the Certificate of Authentication on such coupon Bonds.

"City" or "Issuer" means the City of Fairmont, a municipal corporation of the State of West Virginia, and, where appropriate, the Council, the Sanitary Board or any successor thereto.

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

"1976 Construction Fund" means the Fairmont Sewer Project Construction Trust Fund described in Section 3.03 of the 1976 Ordinance and continued by Section 4.01.

"1981 Construction Fund" means the City of Fairmont Sewerage System Project Construction Fund described in Section 4.01 of the 1983 Ordinance (designated therein as the "Construction Account") and continued by Section 4.01.

"Consulting Engineers" means Kelley, Gidley, Blair & Wolfe, Inc., consulting engineers, Charleston, West Virginia, or any qualified engineer or firm of engineers that shall at any time hereafter be retained by the City as Consulting Engineers for the System.

"Costs of the Project" or similar terms mean the costs of the financing and construction of the Project, as described in the 1983 Ordinance, including repayment of costs legally incurred in anticipation of the issuance of the 1983 Bonds, and any other expenses necessary, incidental, desirable or appurtenant to the construction of the Project; interest on the 1983 Bonds prior to, during and for 6 months after completion of construction of the Project; 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 original issuance of the 1983 Bonds; and such other expenses, including those for municipal bond insurance, as may be necessary or desirable to said acquisition and construction of the Project and the financing authorized by the 1983 Ordinance.

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

"Depository Bank" means the bank 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.

"Depreciation Fund" means the City of Fairmont 1985 Sewerage System Depreciation Fund created by Section 4.01.

"DTC-eligible" means, with respect to the Series 1985 Bonds and as hereafter deemed appropriate, meeting the qualifications prescribed by the Depository Trust Company, New York, New York.

"Escrow Agreement" means the agreement to be entered into between the City, the Bond Commission and the Escrow Trustee, providing for payment of the Prior Bonds and matters in connection therewith, the form of which shall be approved by the Supplemental Resolution.

"1976 Bonds Escrow Fund" means the fund designated as such in the Escrow Agreement.

"1983 Bonds Escrow Fund" means the fund designated as such in the Escrow Agreement.

"Escrow Fund" means collectively, the 1976 Bonds Escrow Fund and the 1983 Bonds Escrow Fund.

"Escrow Trustee" means the escrow trustee for the Prior Bonds, which shall be appointed by a resolution supplemental hereto.

"Event of Default" means any occurrence or event specified in Section 7.01.

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

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

"Government Obligations" means (1) direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America;

(2) evidences of ownership of a proportionate interest in specified direct obligations of, or specific obligations the timely payment of the principal of and interest on which is 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 (3) 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 (1), which are irrevocably pledged for such purpose.

"Gross Revenues" means the aggregate gross operating and non-operating revenues of the System 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" or "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) or any fees paid by customers of the System initially to connect thereto or for the furnishing by the City of miscellaneous services.

"Independent Accountants" 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 said System in the normal operations of its business and affairs.

"Mayor" means the Mayor of the Issuer.

"Net Revenues" or "Revenues" means Gross Revenues less Operating Expenses.

"Operating Expenses," unless qualified, means the current expenses, paid or accrued, of repair, operation and maintenance 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 of the Project), supplied, labor, wages, the cost of materials and supplies used for current operations, fees and expenses of fiscal agents and of the Registrar and any other Paying Agent, 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 Prior Bonds or 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.

"Operation and Maintenance Fund" means the City of Fairmont 1985 Sewerage System Operation and Maintenance Fund created by Section 4.01.

"Ordinance" means this Ordinance, as it may hereafter from time to time be amended or supplemented.

"1976 Ordinance" shall have the meaning defined in the premises hereof.

"1983 Ordinance" shall have the meaning defined in the premises hereof.

"Original Purchaser" means Butcher & Singer, Inc., Philadelphia, Pennsylvania, a corporation, as the purchasers of the Series 1985 Bonds directly from the City, or 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 1985 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 1985 Bonds, as hereinafter defined, including the exact principal amount thereof and interest rate or rates thereon as fixed by said supplemental resolution to be adoped by the Council at the time of approval of such sale of said Series 1985 Bonds.

"Outstanding," when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being issued and delivered except (a) any Bond cancelled by the Registrar 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 or, if coupon Bonds are issued pursuant to this Ordinance, held by the City.

"Paying Agent" means the Registrar and any other paying agent for the Bonds which may be appointed by a resolution supplemental hereto, all in accordance with Section 8.12.

"Prior Bonds" means collectively, the 1976 Bonds and the 1983 Bonds.

"Prior Ordinance" means collectively, the 1976 Ordinance and the 1983 Ordinance.

"Project" means the additions, betterments and improvements to the existing sewerage system of the City, described in the 1983 Ordinance.

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

(a) Government Obligations;

(b) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Federal Farm Credit Bank; 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;

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

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

(e) Repurchase agreements, fully secured by obligations of the types described in (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 obligations securing any said repurchase agreement either must mature as nearly as practicable coincident with the maturity of said repurchase agreement or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreement.

"Record Date" means the 15th day of the month preceding any interest payment date with respect to the Bonds, regardless of whether such day is a Saturday, Sunday or legal holiday.

"Recording Officer" or "Clerk" means the City Clerk of the Issuer.

"Redemption Account" means the City of Fairmont 1985 Sewerage System Bonds Redemption Account created in the Sinking Fund by Section 4.02.

"Redemption Date" means the date fixed for redemption of Bonds subject to redemption in any notice of redemption published in accordance herewith.

"Redemption Price" means the price at which the Bonds may be called for redemption and includes the principal amount of the Bonds to be redeemed, plus the premium, if any, required to be paid to effect such redemption, plus interest accrued on such Bonds to the date fixed for redemption.

"Registrar" means the bank to be designated in the Supplemental Resolution as the registrar for the Bonds, and any successor thereto appointed in accordance with Section 8.08.

"Reserve Account" means the City of Fairmont 1985 Sewerage System Bonds Reserve Account created in the Sinking Fund by Section 4.02.

"Reserve Account Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will come due on the Bonds in any succeeding Fiscal Year, assuming that the principal of any Term Bonds is deemed due on the earlier of their stated maturity date or the date on which they are required to be redeemed pursuant to mandatory sinking fund redemption.

"Revenue Fund" means the City of Fairmont 1985 Sewerage System Revenue Fund created by Section 4.01.

"Sanitary Board" means the Sanitary Sewer Board of the City.

"Series 1985 Bonds" means the Sewerage System Refunding Revenue Bonds, Series 1985, of the City originally authorized to be issued pursuant to this Ordinance.

"Sinking Fund" means the City of Fairmont 1985 Sewerage System Bonds Sinking Fund created by Section 4.02.

"State" means the State of West Virginia.

"Supplemental Resolution" means any ordinance or resolution amendatory hereof or supplemental hereto and, when preceded by the article "the," refers specifically to the Supplemental Resolution authorizing the sale of the Series 1985 Bonds to the Original Purchaser; provided, that any provision intended to be included in the Supplemental Resolution and not so included may be contained in any other Supplemental Resolution.

"System" means the complete existing sewerage treatment and collection system now owned by the City or any integral part thereof, and all other facilities necessary, appropriate, useful, convenient or incidental in connection with or to a sewerage treatment and collection system, and shall include the Project and any other additions, betterments and improvements thereto hereafter acquired or constructed for said sewerage treatment and collection system from any sources whatsoever, both within and without the City.

"Term Bonds" means Bonds subject to mandatory sinking fund redemption, as described by Section 3.06.

Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations and vice versa; and words importing the masculine gender shall include the feminine and neuter genders and vice versa.

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

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

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

Section 1.02. Authority for this Ordinance. This Ordinance is enacted pursuant to the provisions of the Act and other applicable provisions of law.

Section 1.03. Findings. The Council hereby finds and determines as follows:

A. The City now owns and operates the System, the acquisition and construction of which has been financed in part by the proceeds of the Prior Bonds which are currently outstanding in the aggregate principal amount of $9,285,000 and other bonds no longer outstanding.

B. The City derives Revenues from the System, and, except for the pledge thereof to secure and pay the Prior Bonds, said Revenues are not pledged or encumbered in any manner.

C. The estimated Revenues to be derived in each year after the date hereof from the operation of the System will be sufficient, upon refunding the Prior Bonds, to provide for the repair, maintenance and operation of the System, the payment of interest upon all bonds issued pursuant to the Act and to create a sinking fund, as hereinafter provided, to pay the principal thereof as and when the same become due and reasonable reserves therefor, to provide an adequate depreciation fund, as hereinafter provided, and to make all other payments provided for in this Ordinance.

D. Based upon the assumed principal amount, maturity schedule and interest rates for the Series 1985 Bonds presented to the City by the Original Purchaser, the Series 1985 Bonds show a net saving to the City after deducting all expenses of the refunding.

E. The City shall not sell the Series 1985 Bonds without setting forth in the Supplemental Resolution the determination set forth in paragraph D, above, based upon the actual principal amount, maturity schedule and interest rates for the Series 1985 Bonds, and the City shall not issue the Series 1985 Bonds without having obtained from an independent certified public accountant a certification that the amount of saving stated to be achieved by the refunding shall in fact be saved, based upon his review, comparison

and analysis of the net interest cost in dollars of the Series 1985 Bonds and the net interest cost in dollars of the Prior Bonds.

F. Subject to the determination and certification required by paragraph E, above, it is in the best interests of the City, and the inhabitants thereof, that the City issue the Series 1985 Bonds and secure the Series 1985 Bonds by a pledge and assignment of the Net Revenues derived from the operation of the System, the moneys in the Reserve Account, unexpended proceeds of the Series 1985 Bonds and as further set forth herein.

G. The Series 1985 Bonds and the Certificate of Authentication to be endorsed thereon are to be in substantially the forms set forth in Exhibit A 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.

H. All things necessary to make the Series 1985 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 1985 Bonds, will be timely done and duly performed.

I. The enactment of this Ordinance, and the execution and issuance of the Series 1985 Bonds, subject to the terms thereof, will not result in any breach of, or constitute a default under, any instrument to which the City is a part or by which it may be bound or affected.

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

Section 1.04. Ordinance Constitutes Contract. In consideration of the acceptance of the Bonds by those who shall own or hold the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the 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 legal Holders of any and all of such Bonds and the coupons, if any, respectively attached thereto, all of which shall be of equal rank and without preference, priority or distinction between any one bond and the coupons, if any, thereon and any other Bond and the coupons, if any, thereon, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

ARTICLE II

AUTHORIZATION OF REFUNDING

Section 2.01. Authorization of Refunding. The Prior Bonds outstanding as of the date of issuance of the Series 1985 Bonds are hereby ordered to be refunded pursuant to the terms of the Escrow Agreement, and the lien of said Prior Bonds imposed by the Prior Ordinance on the Net Revenues of the System, the moneys in the funds and accounts created by the Prior Ordinance and any other funds pledged by the Prior Ordinance thereto, are hereby ordered terminated, discharged and released upon the payment into the Escrow Fund from the proceeds of the Series 1985 Bonds, together with other moneys available therefor, including those moneys transferred as provided below, of the following: (a) if required by the Escrow Agreement, an amount equal to the fiscal and paying agent charges and the Escrow Trustee charges to become due and payable in connection with the Prior Bonds and (b) an amount which will be simultaneously invested in United States Treasury Obligations bearing interest and having maturities sufficient, together with certain cash also deposited, to provide for the payment of the principal of and interest on the Prior Bonds as the same become due, to the respective final maturities thereof, all as set forth in the Escrow Agreement. Contemporaneously with the deposit of such Series 1985 Bond proceeds into the Escrow Fund, the amounts on deposit in the sinking fund created and maintained on behalf of the Prior Bonds (excluding the reserve account created and maintained in the sinking fund established for the Prior Bonds) shall be deposited as provided in the Escrow Agreement, and the amounts on deposit in the reserve account created and maintained in the sinking fund established for the Prior Bonds shall be transferred to the Reserve Account to the extent of the Reserve Account Requirement, and any excess shall be deposited in the Escrow Fund and simultaneously invested as provided in the Escrow Agreement. Upon such refunding, the amounts on deposit in the revenue fund, the operation and maintenance fund and the depreciation account created and maintained under the Prior Ordinance shall be transferred, respectively, to the Revenue Fund, the Operation and Maintenance Fund and the Depreciation Fund created under this Ordinance. The moneys on deposit in the 1976 Construction Fund and the 1981 Construction Fund shall be used for the purposes and in the manner set forth in the Prior Ordinance, except as hereinafter provided. The Holders of the Series 1985 Bonds shall have a lien thereon until expended in such manner.

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 1985 Bonds, as hereinafter provided, may be issued either as coupon Bonds, registrable as to principal only, in the denomination of $5,000 each, or as fully registered Bonds without coupons, in the denomination of $5,000 or any integral multiple thereof for any year of maturity. Both coupon and fully registered Bonds shall be dated as of the date provided in a Supplemental Resolution. Coupon Bonds shall bear interest from the date thereof. Fully registered 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, fully registered Bonds issued in exchange for Bonds surrendered for transfer or exchange shall bear interset 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 Bonds and the interest on any coupon 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 at the principal office of the Paying Agent. The interest on fully registered 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.

In the event any fully registered Bond is redeemed in part, such bond shall be surrendered to and cancelled by the Registrar, and the City shall execute, and the Registrar shall authenticate and deliver to the Holder thereof, another fully registered Bond in the principal amount of said Bond then Outstanding.

Section 3.02. Execution of Bonds. The Bonds shall be executed in the name of the City by the Mayor and the City Manager, by their manual or facsimile signatures, and the seal of the City shall be affixed thereto or imprinted thereon and attested by the Clerk by his or her manual or facsimile signature; provided, that,

all such signatures and the seal may be by facsimile. The coupons attached to any coupon Bonds hereafter issued shall be executed in the name of the City by the facsimile signature of the Mayor, City Manager and 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 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 on such Bond, substantially in the form set forth in Exhibit A attached hereto and incorporated herein by reference with respect to the Series 1985 Bonds, shall have been duly manually executed by the Registrar. Any such manually executed Certificate of Authentication 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 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 on all of the Bonds issued hereunder.

Section 3.04. Negotiability and Registration. Subject to the requirements for transfer set forth below, the Bonds shall be, and have all of the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State, and each successive Holder, in accepting any of said Bonds, shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as any of the Bonds remains Outstanding, the Registrar shall keep and maintain books for the registration and transfer of the Bonds. Any coupon Bond may be registered as to principal in the Bond Register upon presentation thereof at the office of the Registrar, and such registration shall be noted on such Bond. After such registration (other than registration as to principal to bearer), no registration or transfer of said coupon Bond shall be valid unless made on the Bond Register at the written

request of the registered owner or his attorney or legal representative duly authorized in writing and similarly noted on such coupon Bond; but such coupon Bond may be discharged from registration by being in like manner registered to bearer, after which it shall again become transferable by delivery. Thereafter, such coupon Bond may again from time to time be registered or discharged from registration in the same manner. Unless registered as to principal other than to bearer, all coupon Bonds shall be transferable by delivery. Registration of any coupon Bond as to principal, however, shall not affect the transferability by delivery of the coupons appertaining to such bond, but such coupons shall continue to pass by delivery and shall remain payable to bearer.

A fully registered Bond 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 fully registered Bond, there shall be issued at the option of the Holder or the transferee another fully registered Bond or fully registered Bonds or, if authorized by a Supplemental Resolution, coupon Bonds, in any case 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.

Coupon Bonds, upon surrender thereof at the office of the Registrar with all unmatured coupons and matured coupons in default, if any, attached, may at the option of the Holder thereof be exchanged for an equal aggregate principal amount of fully registered Bonds without coupons of the same series, maturity and interest rate, in any of the authorized denominations and registered in such name or names as may be requested. If such coupon bonds are registered as to principal (other than to bearer), they shall e accompanied by an assignment duly executed by the registered owner or his attorney or legal representative duly authorized in writing in such form as shall be satisfactory to the Registrar. The Registrar shall, unless otherwise directed by the City, retain such coupon Bonds in its custody for safekeeping until such time as there shall be a request that such coupon bonds be delivered in exchange.

Fully registered Bonds, 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, may at the option of the Holder thereof be exchanged for an equal aggregate principal amount of fully registered Bonds of the same series, maturity and interest rate, in any authorized

denominations, or, if authorized by a Supplemental Resolution, of coupon Bonds of the same series, maturity and interest rate with appropriate coupons attached.

In all cases in which the privilege of transferring or exchanging a Bond is exercised, Bonds shall be delivered in accordance with the provisions of this Ordinance. Except as provided above with respect to coupon Bonds, all Bonds surrendered in any such transfer or exchange shall forthwith be cancelled by the Registrar. Transfers 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 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 Bond or coupon shall become mutilated or be destroyed, stolen or lost, the City may execute, in the discretion of Council, and the Registrar shall authenticate, register, if applicable, and delivery any new Bond (with appropriate coupons, if any, attached) of like series, maturity and principal amount as the Bond and attached coupons, if any, so mutilated, destroyed, stolen or lost, in exchange and upon surrender and cancellation of, such mutilated Bond and attached coupons, if any, or in lieu of and substitution for the bond and coupons, if any, destroyed, stolen or lost, and upon the Holder's furnishing the City and the Registrar proof of his ownership thereof and that said Bond and coupons, if any, have 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. With respect to fully registered Bonds, the name of the Bondholder listed in the Bond Register shall constitute proof of ownership. all Bonds and coupons, if any, so surrendered shall be submitted to and cancelled by the Registrar, and evidence of such cancellation shall be given to the City. If such Bond or coupon shall have matured or be about to mature, instead of issuing a substitute Bond or coupon, the City, by and through the Registrar, may pay the same, upon being indemnified as

aforesaid, and, if such bond or coupon be lost, stolen or destroyed, without surrender therefor.

Any such duplicate Bonds and coupons issued pursuant to this section shall constitute original, additional contractual obligations on the part of the City, wither or not the lost, stolen or destroyed Bonds or coupons, if any, be at any time found by any one, and such duplicate Bonds or coupons, if any, shall be entitled to equal and proportionate benefits and rights as to lien and source of security for payment from the Revenues pledged herein with all other Bonds and coupons, if any, issued hereunder.

Section 3.06. Term Bonds. In the event Term Bonds are issued pursuant to this Ordinance, the following provisions shall apply:

A. The amounts to be deposited, apportioned and set apart by the City from the Revenue Fund and into the Redemption Account in accordance with Subsection 4.03(A)(2) shall include (after credit as provided below) on the first of each month, beginning on the first day of that month which is 13 months prior to the first mandatory redemption date of said Term Bonds, a sum equal to 1/12th of the amount required to redeem the principal amount of such Term Bonds which are to be redeemed as of the next ensuing mandatory redemption date, which amounts and dates, if any, with respect to the Series 1985 Bonds shall be set forth in the Supplemental Resolution.

B. At its option, to be exercised on or before the 60th day next preceding any such mandatory redemption date, the City may (a) deliver to the Registrar for cancellation such Term Bonds in any aggregate principal amount desired or (b) receive a credit in respect of its mandatory redemption obligation for any such Term Bonds which prior to said date have been redeemed (otherwise than pursuant to his section) and cancelled by the Registrar and not theretofore applied as a credit against any such mandatory redemption obligation. Each Term Bond so delivered or previously redeemed shall be credited by the Registrar at 100% of the principal amount thereof against the obligation of the City on such mandatory redemption date, and any excess shall be credited against future mandatory redemption obligations in chronological order, and the principal amount of such Term Bonds to be redeemed pursuant to mandatory sinking fund redemption shall be accordingly reduced.

C. The City shall on or before the 60th day next preceding each mandatory redemption date furnish the Registrar and the Bond Commission with its certificate indicating whether and to what extent the provisions of (a) and (b) of the preceding paragraph are to be utilized with respect to such mandatory redemption payment

and stating, in the case of the credit provided for in (b) of the preceding paragraph, that such credit has not theretofore been applied against any mandatory redemption obligation.

D. After said 60th day but prior to the date on which the Registrar selects the Term Bonds to be redeemed, the Bond Commission may use the moneys in the Redemption Account to purchase Term Bonds at a price less than the par value thereof and accrued interest thereon. The Bond Commission shall advise the City and the Registrar of any Term Bonds so purchased, and they shall be credited by the Registrar at 100% of the principal amount thereof against the obligation of the City on such mandatory redemption date, and any excess shall be credited against future mandatory redemption obligations in chronological order, and the principal amount of such Term Bonds to be redeemed pursuant to mandatory sinking fund redemption shall be accordingly reduced.

E. The Registrar shall call for redemption, in the manner provided herein, an aggregate principal amount of such Term Bonds, at the principal amount thereof plus interest accrued to the redemption date (interest to be paid from the Sinking Fund), as will exhaust as nearly as practicable such Redemption Account payment designated to be made in accordance with paragraph (A) of this section. Such redemption shall be by random selection made on the 45th day preceding the mandatory redemption date, in such manner as may be determined by the Registrar. For purposes of this section, "Term Bonds" shall include any portion of a fully registered Term Bond, in integrals of $5,000.

Section 3.07. Notice of Redemption. Notice of any redemption of the Bonds shall be given by the Registrar in the name of the City by first class mail, postage prepaid, no less than 30 days nor more than 45 days prior to the date fixed for redemption to each Holder, addressed to such Holder at his address appearing in the Bond Register. Failure to receive such notice or any defect therein or in the mailing thereof shall not affect the validity of any proceedings for the redemption of the Bonds, and failure to mail such notice shall not affect the validity of proceedings for the redemption of any portion of Bonds for which there was no such failure. If any of the Bonds Outstanding is in coupon form, notice of any redemption shall also be given by the Registrar, in the name of the City, by publication at least once in an authorized Newspaper, such publication to be not less than 30 days nor more than 45 days prior to said redemption date. Any such notice shall specify the series and maturities of the Bonds to be redeemed, the redemption date and the place or places where amounts due upon such redemption will be payable and, if less than all of the Bonds of any like series and maturity are to be redeemed, the letters and numbers of such Bonds, or portions thereof, so to be redeemed. Notice of

redemption having been given in the manner hereinabove provided, the Bonds, or portions thereof, shall on the date fixed for redemption be deemed paid, and interest on such Bonds, or portions thereof, shall cease to accrue; and upon presentation and surrender of such Bonds, together with any coupons appertaining thereto, at the office specified in such notice, such bonds, or portions thereof, shall be paid at the designated redemption price.

Section 3.08. Unpaid Coupons. All unpaid coupons which appertain to coupon Bonds called for redemption and which shall have become payable on or prior to the date fixed for redemption shall continue to be payable to the bearers thereof upon the presentation and surrender of such coupons.

Section 3.09. Persons Treated as Owners. The City, the Registrar and any agent of the City or the Registrar may treat the bearer of any coupon Bond not registered as to principal (or registered as to principal to bearer) and the bearer of any coupon, whether or not the Bond to which it appertains is registered as to principal, as the absolute owner of such Bond or coupon for the purpose of receiving payment thereof or on account thereof and for all other purposes, whether or not such Bond or coupon is overdue.

The City, the Registrar and any agent of the City or the Registrar may treat the person in whose name any registered Bond, whether with or without coupons, is registered as the owner of such Bond for the purpose of receiving payment of the principal of, and, if such Bond be a fully registered Bond, interest on, such Bond and for all other purposes (except the payment of coupons appertaining to any coupon Bonds registered as to principal), whether or not such Bond is overdue.

Section 3.10. 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 delivery, 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 delivery 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 therefore to the Holder of such Bond in temporary form.

Section 3.11. Registration Required by Internal Revenue Code. Any provision of this Article III or any other provision of this Ordinance to the contrary, the Bonds, whether upon original issue or in exchange or transfer, shall be issued only in the form of fully registered Bonds to the extent necessary to comply with Subsection 103(c) of the Internal Revenue Code of 1954, as amended, and the rules and regulations promulgated pursuant thereto, such that the interest on the Bonds will be exempt from federal income taxation. Prior to the issuance, whether upon original issue or in exchange or transfer, of Bonds in coupon form, the City shall deliver to the Registrar the opinion of recognized bond counsel that the issuance of such Bonds in coupon form will not render any of the Bonds "arbitrage bonds" pursuant to said Subsection 103(c).

Section 3.12. Series 1985 Bonds. For the purposes of refunding all of the outstanding Prior Bonds of the City and paying costs in connection therewith, there shall be issued the Series 1985 Bonds of the City, in an aggregate principal amount of not more than $8,300,000. Said Series 1985 Bonds shall be designated "Sewerage System Refunding Revenue Bonds, Series 1985" and shall be issued in fully registered form, in the denomination of $5,000 or any integral multiple thereof for any year of maturity, not exceeding the aggregate principal amount of Series 1985 Bonds maturing in the year of maturity for which the denomination is to be specified. The Series 1985 Bonds shall be lettered R-_____ and shall be numbered from 1 consecutively upward. The Series 1985 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 semiannually on such dates; shall mature on such dates and in such amounts; shall be subject to such redemption; and shall have such other terms, all as the City shall prescribe in the Supplemental Resolution.

Section 3.13. Form of Series 1985 Bonds. The Series 1985 Bonds shall be substantially in the form set forth in Exhibit A attached thereto and incorporated herein by reference, with such appropriate variations, omissions and insertions as are permitted or required by this Ordinance or the Supplemental Resolution or as are deemed necessary by the Registrar and the City, including, if requested by the Original Purchaser, any variations necessary to render the Series 1985 Bonds DTC-eligible.

Section 3.14. Delivery of Series 1985 Bonds. The City shall execute and deliver the Series 1985 Bonds to the Registrar, and the Registrar shall authenticate, register and deliver the Series 1985 Bonds to the Original Purchaser upon receipt of the documents set forth below:

(A) A list of the names in which the Series 1985 Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Registrar may reasonable 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 1985 Bonds to the Original Purchaser; and

(C) The unqualified approving opinion upon the Series 1985 Bonds by bond counsel designated by the City and acceptable to the Original Purchaser.

ARTICLE IV

SERIES 1985 BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 4.01. Establishment of Funds and Accounts with Depository Bank. Pursuant to this Article IV, the following special funds or accounts are created with, and shall be held by, the Depository Bank:

(1) Revenue Fund;

(2) Depreciation Fund; and

(3) Operation and Maintenance Fund.

Moneys remaining in the 1976 Construction Fund and the 1981 Construction Fund shall be deposited as provided in the Escrow Agreement.

Section 4.02. Establishment of Funds and Accounts with Bond Commission. Pursuant to this Article IV, the following special funds or accounts are hereby established with the Bond Commission:

(1) Sinking Fund;

(a) Within the Sinking Fund:

(i) Reserve Account; and

(ii) Redemption 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 and all parts thereof shall be deposited by the City in the Revenue Fund. The Revenue Fund 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. All Revenues at any time remaining on deposit in the Revenue Fund shall be disposed of only in the following manner and order of priority:

(1) The City shall first, 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 moneys remaining in the Revenue Fund, the City shall next, on the first day of each month beginning on the first day of that month which is 7 months prior to the first interest payment date on the Series 1985 Bonds, apportion and set apart out of the Revenue Fund and remit to the Bond Commission, for deposit in the Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on said Bonds on the next ensuing semiannual interest payment date, less any investment earnings on sums previously deposited in the Sinking Fund for the purpose of making interest payments; provided, that "next ensuing semiannual interset payment date" shall not refer to the interest payment date on which any such deposit is made.

The City shall also apportion and set apart out of the Revenue Fund and remit to the Bond Commission for deposit in the Sinking Fund, or in the Redemption Account therein if the Bonds next maturing are Term Bonds, on the first day of each month, beginning on the first day of that month which is 13 months prior to the first principal payment or mandatory redemption date of the Bonds, a sum equal to 1/12th of the amount of principal which will mature or be redeemed and become due on the Bonds on the next ensuing principal payment or mandatory redemption date, less any investment earnings on sums previously deposited in the Sinking Fund for the purpose of making principal payments; provided, that "next ensuing principal payment or mandatory redemption date" shall not refer to the principal payment or mandatory redemption date on which any such deposit is made.

The City shall also, from the Revenue Fund, remit to the Bond Commission on such dates or at such other times, as the Bond Commission shall require, such additional sums as shall be necessary to pay the fiscal agency charges due for paying the Bonds and the interest thereon.

Moneys in the Sinking Fund shall be used only for the purposes of paying principal of and interest on the Bonds as the same shall become due, whether by maturity or redemption prior to maturity. Pending such use, such moneys shall be invested in accordance with Article V.

The City shall not be required to make any further payments into the Sinking Fund when the aggregate amount

of funds in the Sinking Fund, including the Reserve Account therein, is at least equal to the aggregate principal amount of Bonds issued pursuant to this Ordinance then Outstanding, plus the amount of interest due or thereafter to become due on the Bonds then Outstanding.

As and when additional Bonds ranking on a parity with the Series 1985 Bonds are issued, provision shall be made for additional payments into the Sinking Fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at or before maturity.

The payments into the 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 Reserve Account which have the effect of reducing the assets therein below the Reserve Account Requirement, first, from the Depreciation Fund, and then, from the first Net Revenues available after all other required payments to the Sinking Fund, including any deficiencies for prior payments, have been made in full; provided, that the City shall not be required to restore such deficiency when the aggregate amount of funds in the Sinking Fund, including the Reserve Account therein, is at least equal to the aggregate amount of Bonds issued pursuant to this Ordinance then Outstanding, plus the amount of interest due or thereafter to become due on said Bonds then Outstanding.

(3) Thereafter, from the moneys remaining in the Revenue Fund, the City shall next, on the first day of each month commencing with the first month in which interest shall be payable from the Revenue Fund, transfer to the Depreciation Fund a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for the account of the Reserve Account in the Sinking Fund. No further payments shall be required to be made into the Depreciation Fund when there shall have been deposited therein, and so long as there shall remain on deposit therein, an amount equal to 10% of the principal amount of all Outstanding Bonds payable from the Sinking Fund. All

funds of the City or the Depository Bank, and said Depreciation Fund shall be invested in accordance with Article V.

Withdrawals and disbursements may be made by the City from the Depreciation Fund only for the following purposes and in the following order of priority:

(a) To make up any deficiency in the Reserve Account (so that the amount on deposit therein is at least equal to the Reserve Account Requirement);

(b) For the payment of the principal (including the principal amount to be paid under the mandatory redemption schedules) of or interest on the Bonds, but only in the event that at the time of such withdrawal there are not sufficient funds for such purpose in the Sinking Fund (including the Reserve Account);

(c) For the payment of the reasonable costs of land and depreciable renewals, repairs, extensions, improvements and additions to the System; provided, that such depreciable items shall be depreciable over a period of not less than 5 years in accordance with generally accepted accounting principles;

(d) For the payment of debt service on obligations not on a parity with the Bonds, the proceeds of which obligations were used to finance such land and depreciable renewals, repairs, extensions, improvements and additions to the System; or

(e) Moneys in the Depreciation Fund in excess of a sum which, upon resolution of the Council, is sufficient for the purposes of capital replacements, additions or improvements for the System or any part thereof during the then present Fiscal Year and the next ensuing Fiscal Year may be transferred by the City to the Redemption Account and used for optional redemption or for purchase of Bonds. In the event of purchase of Bonds, the City may direct the purchase of Bonds offered for sale at the lowest price below the redemption price of such bonds.

(4) The City may next, each month, after making the above required transfers of moneys from the Revenue Fund, accrue the surplus then remaining in the Revenue Fund until there is on deposit in the Revenue Fund a sum equal to the budgeted Operating Expenses for the remainder of the then current Fiscal Year and the next ensuing Fiscal Year. Any excess of moneys then remaining in the Revenue Fund may be transferred by the City to either the Depreciation Fund or the Redemption Account or may be used to meet debt service requirements on any junior lien bonds hereafter issued by the City and payable from the Net Revenues of the System, subject to the prior lien of the Bonds.

(5) If on any monthly payment date the Revenues of the System are insufficient to make the required deposits in any of the funds as hereinabove provided, the deficiency shall be made up on the next ensuing payment dates by payments in addition to the payments which are otherwise required to be made into the funds on such ensuring payment dates.

B. The Bond Commission is hereby designated as the fiscal agent for the administration of the Sinking Fund created hereunder, and all amounts required for said Sinking Fund shall be remitted to the Bond Commission from said Revenue Fund and from the proceeds of the sale of the Bonds, as provided in Section 4.04, by the City at the times provided herein. 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.

C. The moneys on deposit in the Revenue Fund and the Depreciation Fund in excess of the sum insured by the maximum amounts insured by the FDIC 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 municipal funds under the laws of the State.

D. Anything to the contrary herein notwithstanding, when the aggregate sum in the Sinking Fund, including the Reserve Account therein, is sufficient to pay and redeem all the Bonds Outstanding and all interest accrued and to accrue thereon and any applicable redemption premiums, the City shall cause all the Bonds to be paid or called and redeemed at the earliest practicable date permitted pursuant to the provisions hereof as to redemption of Bonds.

Section 4.04. Application of Series 1985 Bond Proceeds. A. The amount of the Series 1985 Bond proceeds representing

interest accrued from the date thereof until the date of delivery thereof to the Original Purchaser shall be deposited in the Sinking Fund and used to pay the interest on the Series 1985 Bonds next coming due.

B. The amount of the Series 1985 Bond proceeds necessary to accomplish the funding of the Reserve Account equal to the Reserve Account Requirement shall be deposited in the Sinking Fund.

C. The amount of the Series 1985 Bond proceeds necessary to accomplish the refunding of the Prior Bonds, which amount shall be set forth in the Escrow Agreement, shall be applied by the City pursuant to the provisions of the Escrow Agreement.

D. The balance of the proceeds of the Series 1985 Bonds shall be deposited by the City in the Construction Fund described in the Prior Ordinance. Such moneys shall be used by the City to pay for the costs of issuing the Series 1985 Bonds, including, but not limited to, any premium for bond insurance thereof or for credit enhancement therefor and any reimbursement to the City of amounts expended by it in connection with the issuance of the Series 1985 Bonds and for other purposes as may be permitted by the Supplemental Resolution or the Escrow Agreement. 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 Holders of the Series 1985 Bonds.

Section 4.05. Reserve Account. Except as provided below, moneys in the Reserve Account shall be used only for the purpose of payment of principal of or interest on the Bonds as due when other moneys in the Sinking Fund are insufficient therefor, and for no other purpose.

As and when additional Bonds ranking on a parity with the Series 1985 Bonds herein authorized are issued, provision shall be made for depositing in the Reserve Account an amount such that the balance on deposit therein equals the Reserve Account Requirement, taking into account such additional parity Bonds.

Moneys in the Reserve Account shall be invested and reinvested by the Bond Commission in accordance with Article V. The City shall semiannually withdraw from the Reserve Account any earnings on the moneys deposited therein and any other funds in excess of the Reserve Account Requirement; provided, however, that there shall at all times remain on deposit in the Reserve Account an amount at least equal to the Reserve Account Requirement. The City shall deposit such moneys withdrawn by it into the Operation and Maintenance Fund.

ARTICLE V

INVESTMENTS; NON-ARBITRAGE

Section 5.01. Investments. The City shall invest and reinvest, and shall instruct the Bond Commission 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; provided, that, so long as the Series 1985 Bonds are insured by the Municipal Bond Insurance Association or another bond insurer, the City hereby covenants and agrees (unless consented to in writing by Municipal Bond Insurance Association or such other insurer of the Series 1985 Bonds) not to invest, or to direct the investment of, any moneys in the funds and accounts established with respect to the Series 1985 Bonds in (i) bonds, debentures, notes or other evidence of indebtedness issued by the Tennessee Valley Authority or the Washington Metropolitan Area Transit Authority or (ii) repurchase agreements as provided by Section 1.01.

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 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 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 provision shall apply with respect to any investments made under this section:

(A) Qualified Investments acquired for the Depreciation Fund shall mature or be subject to retirement at the option of the holder within not more than 10 years from the date of such investment.

(B) Qualified Investments acquired for the Reserve Account shall mature or be subject to retirement at the option of the holder within nor more than 5 years from the date of such investment. The City shall semiannually withdraw from the Reserve Account any earnings on the moneys deposited therein and any other funds in excess of the Reserve Account Requirement; provided, however, that there shall at all times remain on deposit in the Reserve Account an amount at least equal to the Reserve Account Requirement. The City shall deposit such moneys withdrawn by it into the Operation and Maintenance Fund.

Section 5.02. Restrictions as to Arbitrage Bonds. The City hereby covenants, and hereby so instructs the Bond Commission and the Escrow Trustee that they 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, and an authorized Officer of the City shall deliver his certificate, based upon this covenant, with regard thereto to the Original Purchaser.

ARTICLE VI

ADDITIONAL COVENANTS OF THE CITY

Section 6.01. 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 Holder or Holders of the 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 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 said Bonds, or the interest thereon, is Outstanding and unpaid.

Section 6.02. 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, the moneys in the Reserve Account, the unexpended proceeds of the Bonds or the moneys in the Construction Fund, all as herein provided. No Holder or Holders 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 6.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of all of the Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System, to the extent necessary to make the payments required under Section 4.03. 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 Sinking Fund, 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 interest on the Bonds herein authorized as the same become due and for the other purposes provided in this Ordinance.

Section 6.04. Rates. Prior to the enactment of this Ordinance, just and equitable rates or charges for the use of the services and facilities of the System have been 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 clerk of the City, which copy will be open to inspection by all interested parties. The

schedule of rates and charges shall at all times be adequate to produce Net Revenues from the System sufficient to make the prescribed payments into the funds and accounts created hereunder and to pay Operating Expenses. Such schedule 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 City hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient to produce Net Revenues equal to not less than 125% of the maximum annual debt service on the Bonds in each Fiscal Year. All such rates and charges, if not paid when due, shall constitute a lien upon the premises served by the System.

The Issuer hereby covenants to increase the rates and charges for the services and facilities of the System within 90 days, 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 6.05. 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 6.06. 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 to defease the pledge created by this Ordinance as provided by Section 9.01. The proceeds from such sale, mortgage, lease or other disposition of the System shall be immediately remitted to Bond Commission for deposit in the Sinking Fund, and otherwise as prescribed by Section 9.01. Any balance remaining after such defeasance 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 is not in excess of $10,000, the Sanitary Board 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 Depreciation 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 Sanitary Board shall first, in writing, determine with the written approval of the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the 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 Bond Commission for deposit in the Redemption Account and shall be applied only to the redemption 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 Depreciation Fund or the Redemption Account 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 $50,000 and insufficient to defease the pledge created by this Ordinance, as provided by Section 9.01, without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of 66 2/3% in amount of Bonds then Outstanding. 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 other obligations whatsoever, except additional parity Bonds provided for in Section 6.08 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 the revenues with the Bonds; and all obligations hereafter issued by the City payable from the Revenues of the System, except such additional 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.

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 such additional parity Bonds, being on a parity with the lien of the Bonds, and the interest thereon, upon any of the income and Revenues of the System pledged for payment of the Bonds and the interest thereon in this Ordinance or upon the System or any part thereof.

Section 6.08. Additional Parity Bonds. No additional parity Bonds, as in this section defined, payable out of the Revenues of the System shall be issued after the issuance of any Bonds pursuant to this Ordinance, except under the conditions and in the manner herein provided.

No such additional parity Bonds shall be issued except for the purpose of financing the costs of the construction of additions, betterments or improvements to the System or refunding the entirety of one or more series of Bonds issued pursuant hereto, or both such purposes.

No such additional parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the clerk of the City a written statement by Independent Accountants, based upon the necessary investigation and certification by the Consulting Engineers, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided, from the System during any 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 finances by such additional parity Bonds, shall not be less than 125% of the average annual amount which will become due for principal of and interest on the following:

(1) The Series 1985 Bonds;

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

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

The "estimated average increased annual Net Revenues 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 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 additional parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the Clerk of the City prior to the 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 the Consulting Engineers and the Independent Accountants as stated in a certificate jointly made and signed by the Consulting Engineers and the Independent Accountants, and filed with said City clerk, 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 additional parity Bonds.

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

The term "additional parity Bonds," as used in this section, shall be deemed to mean additional Bonds issued under the provisions and within the limitations of this section, payable from the Net Revenues of the System on a parity with the Series 1985 Bonds, and all the covenants and other provisions of this Ordinance (except as to details of such additional parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Series 1985 Bonds and the Holders of any additional parity Bonds theretofore or subsequently issued from time to time within the limitations of and in compliance with this section. All the Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Net Revenues of the System, and their source of and security for payment from said Net Revenues, without preference of any Bond over any other. The 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 additional parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Ordinance.

No additional parity Bonds shall be valid unless authenticated pursuant to Section 3.03. Prior to such authentication, registration, if applicable, and delivery, the Registrar shall receive those documents prescribed by Section 3.14 with respect to the Series 1985 Bonds, modified as deemed necessary by the Registrar to reflect the issuance of such additional parity Bonds. All additional parity Bonds shall mature on the date in the respective years of maturity, and the semiannual interest thereon

shall be payable on such dates of each year, as shall be established with respect to the Series 1985 Bonds.

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

No additional parity Bonds, as in this section defined, shall be issued at any time, however, unless all of the payments into the respective funds and accounts provided for in this Ordinance on account of the Bonds then Outstanding, and any other payments provided for in this Ordinance, shall have been made in full as required to the date of delivery of the additional parity Bonds.

The City may issue additional parity Bonds without compliance with any other conditions for the purpose of refunding prior to maturity any 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 Original Purchaser of the Series 1985 Bonds and anything to the contrary in this Section 6.08 notwithstanding, additional parity Bonds may be authorized and issued by the City pursuant to a Supplemental Resolution solely to complete the Project in accordance with the plans and specifications therefor, in the event that the amounts on deposit in the Construction Fund should be insufficient, together with other funds lawfully available therefor, to pay all costs of construction of the Project; provided, however, that, prior to the issuance of such additional parity Bonds under the provisions of this paragraph, the Consulting Engineers shall file with the clerk of the City a certificate to the effect that additional funds are necessary for such purpose. All such additional 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 additional

parity Bonds shall be in years and amounts suggested by such Original Purchaser of the Series 1985 Bonds.

Section 6.09. Insurance. The City will carry such insurance 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, which insurance shall at all times be in an amount or amounts at least equal to the greater of the fair appraisal value or the original cost of the buildings, properties, furniture, fixtures and equipment of the System. 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 Depreciation Fund and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Depreciation 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.

Section 6.10. Consulting Engineers. The City will 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. Such annual report of the Consulting Engineers, or a summary thereof, shall be made available to any Bondholder requesting such.

Section 6.11. 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 himself of the facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the 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 6.12. 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.

The City will, to the full extent permitted by law and the rules of the Public Service Commission of West Virginia, under reasonable rules and regulations of the City, discontinue and shut off the services and facilities of the Waterworks of the Issuer to any customer for nonpayment of the fees, rentals or other charges due from such customer for the services and facilities of the System, and will not restore the services of the Waterworks to such customer until all delinquent charges for the services and facilities of all parts of the System, plus reasonable penalties and charges for the restoration of service, have been fully paid.

Section 6.13. 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 6.14. 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 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 the Council shall direct.

The City shall file with the Consulting Engineers and the Original Purchaser, and shall mail in each year to any Bondholder requesting the same, an annual report containing the following:

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

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Ordinance, and 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 Holder or Holders of Bonds issued pursuant to this Ordinance and shall file said report with the Original Purchaser.

Section 6.15. Initial Schedule of Rates. The Public Service Commission of West Virginia has entered an order or orders providing a certificate of convenience and necessity for construction of the Project and rates, fees and charges sufficient to produce the Revenues hereby required have been established by ordinance of the Issuer or order of said Public Service Commission and the time for appeal thereof has expired. 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 June 4, 1985 (Ordinance No. 672), as amended by Ordinance No. 677, enacted July 2, 1985, shall constitute, and are hereby fixed as, the initial rates and charges to be collected.

Section 6.16. Operating Budget. The Council shall annually, at least 45 days preceding the beginning of each Fiscal Year, or at such earlier date required by the charter of the City, 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 Council shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The City shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Original Purchaser and shall make available such budgets and all resolutions authorizing increased

expenditures for operation and maintenance of the System at all reasonable times to the Original Purchaser and to any Bondholder or anyone acting for and in behalf of such Bondholder who requests the same.

ARTICLE VII

DEFAULTS AND REMEDIES

Section 7.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Bonds:

(A) If default occurs in the due and punctual payment of the principal of or interest on any Bond;

(B) If default occurs in the City's observance of any of the covenants, agreements or conditions on its part in this Ordinance or any Supplemental Resolution or in the Bonds contained, and such default shall have continued for a period of 30 days after written notice specifying such default and requiring the same to be remedied shall have been given to the City by any Bondholder; 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 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.

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 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 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; PAYING AGENT

Section 8.01. Appointment of Registrar. The Registrar for the Series 1985 Bonds shall be appointed pursuant to the Supplemental Resolution. The city manager of 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 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 Bonds by the City. Notwithstanding the foregoing, the Registrar shall be responsible for any representation in its Certificate of Authentication on the 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, resolution, 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 and the exchange of Bonds in the event of partial redemption, incurred in the performance of its duties hereunder. The City shall indemnify and save the Registrar harmless against any liabilities which it may incur in the exercise and performance of its powers and duties and which are not due to its own negligence, default or willful misconduct.

Section 8.05. Certain Permitted Acts. The Registrar may become the owner of or may deal in 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 Bonds or this Ordinance, whether or not any such committee shall represent the Holders of a majority in principal amount of the 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 publishing notice, specifying the date when such resignation shall take effect, in an Authorized Newspaper 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 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 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 publish notice of any such appointment in an Authorized Newspaper 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 shall pay over, assign and deliver any moneys 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 Bonds shall have been authenticated but not delivered, any successor Registrar may adopt a Certificate of Authentication executed by any predecessor Registrar and deliver such Bonds so authenticated, and, in case any 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 Registrar shall also serve as the Paying Agent. The Registrar's acceptance of the duties and responsibilities of the Registrar expressed in Section 8.02 shall also include the trusts and the duties of 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 Agents shall enjoy the same protective provisions in the performance of their 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 Agents 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 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 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 Bonds made hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied.

Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due the respective principal of and interest on such Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Bond Commission or an escrow trustee either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Bond Commission or said escrow trustee at the same or earlier time shall be sufficient, to pay when due the principal of and interest due and to become due on said Bonds on and prior to the maturity date thereof. Neither securities nor moneys deposited with the Bond Commission or an escrow trustee pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and interest on said Bonds; provided, that any cash received from such principal or 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 interest to become due on said Bonds on and prior to such maturity 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.

ARTICLE X

MISCELLANEOUS

Section 10.01. Amendment of Ordinance. No materially adverse amendment or modification to this Ordinance, or of any Supplemental Resolution, may be made without the written consents of the Holders of 60% in aggregate principal amount of the Bonds then Outstanding and any insurer of the Bonds, which must be filed with the clerk of 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 Bond without the express written consent of the Holder of such Bond, nor reduce the percentage of Bonds required for consent to any such modification or amendment.

Section 10.02. 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 acknowledgements 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, trust company or 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 cancelled and delivered to the Registrar, or, if surrendered to the Registrar, be cancelled 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 cancelled 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 discnarge 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. If any of said Bonds is a coupon Bond, the Registrar or said Paying Agent shall also publish such notice, not less than 30 days prior to the date such moneys will be returned to the City, in an Authorized Newspaper.

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 or the Depository Bank 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

City of Fairmont
City-County Complex
200 Jackson Street
Fairmont, West Virginia 26554

REGISTRAR

[Name and address to be set forth in Supplemental Resolution]

DEPOSITORY BANK

[Name and address to be set forth in Supplemental Resolution]

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 Council 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 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 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 ordinances, orders, resolutions or parts thereof in conflict with the provisions of this Ordinance, including but not limited to Ordinances Nos. 596 and 436, are, to the extent of such conflict, hereby repealed.

Section 10.13. Procedure on Enactment of Ordinance; Public Hearing. Upon adoption of this Ordinance, the Clerk is hereby authorized and directed to have an abstract of this Ordinance, which abstract has been determined to contain sufficient information to give notice of the contents of such Ordinance, published once each week for 2 successive weeks, with not less than six full days between each publication, the first such publication to be not less than 10 days before the date stated below for the public hearing, in The Fairmont Times - West Virginian, a newspaper published and having a general circulation in the City of Fairmont, together with a notice to all persons concerned, stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Bonds described in this Ordinance and that any person interested may appear before the Council at the public hearing to be had at a public meeting of Council on the 13th day of August, 1985, at 7:00 p.m., in the meeting room of the Council in the City-County Complex of the City of Fairmont and present protests, and that a certified copy of this Ordinance is on file with the Clerk for review by interested parties during the office hours of the Clerk. At such hearing all objections and suggestions shall be heard by the

Council and it shall then take such action as it shall deem proper in the premises.

This Ordinance shall become effective 30 days after enactment.

Passed on first reading:	July 16, 1985
Adopted following public hearing held:	July 30, 1985
Second public hearing held:	August 13, 1985
Effective, 30 days after adoption:	September 12, 1985

[SEAL]

Mayor

ATTEST:

Bettie M. Hogan
City Clerk

WE, the undersigned officials of the City of Fairmont, West Virginia, do hereby certify that Ordinance No. 680, entitled:

> "ORDINANCE AUTHORIZING THE REFUNDING OF THE OUTSTANDING SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1983, AND SEWER REVENUE AND REFUNDING BONDS, SERIES OF 1976, OF THE CITY OF FAIRMONT, WEST VIRGINIA; AUTHORIZING THE ISSUANCE OF SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1985, OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN $8,300,000, THE PROCEEDS OF WHICH, TOGETHER WITH OTHER FUNDS OF THE CITY, SHALL BE EXPENDED FOR SUCH REFUNDING, AND TO PAY COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE TRANSFER AND DISPOSITION OF MONEYS PRESENTLY ON DEPOSIT IN THE FUNDS AND ACCOUNTS HERETOFORE ESTABLISHED BY THE PRIOR ORDINANCES; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS."

was introduced at a regular meeting of Council of the City of Fairmont, West Virginia, held July 16, 1985. The Ordinance being lengthy and technical in nature and there being no request by the majority of councilmembers present that the proposed Ordinance be read in its entirety, the Clerk read a synopsis of the Ordinance prepared by Bond Counsel in accordance with Ordinance No. 614 adopted November 15, 1983, amending the City Charter. Notice was published in The Fairmont Times - West Virginian, on July 19, 1985, pursuant to Charter provision Section 2.13(d) and a public hearing was held July 30, 1985. There being no request that said proposed Ordinance be read in its entirety, the Clerk publicly read the title only and copies were available to the public as required by Ordinance No. 499. Said Ordinance was duly passed and adopted by the Council of said City on July 30, 1985.

The abstract and notice of public hearing that Ordinance No. 680 was adopted on July 30, 1985, were published in The Fairmont Times - West Virginian on August 2, 1985, and a second abstract and notice of public hearing was published in said newspaper on August 9, 1985. The public hearing was held August 13, 1985. There being no objections to the Ordinance being put into effect, it was signed by the undersigned officials and filed in the Office of the Clerk of said City of Fairmont, West Virginia.

Adopted by Council of the City of Fairmont, July 30, 1985.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Attorney for the Sanitary Sewer
Board of the City of Fairmont

APPROVED AS TO FORM:

City Attorney

CERTIFICATION

Certified a true copy, adopted at a regular meeting of the Council of the City of Fairmont held July 30, 1985.

Bettie M. Hogan
City Clerk

EXHIBIT A

[FRONT OF BOND]

No. R-_____

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF FAIRMONT
SEWERAGE SYSTEM REFUNDING REVENUE BOND, SERIES 1985

Interest Rate	Maturity Date	Bond Date	CUSIP

Registered Owner: _____

Principal Amount: _____

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF FAIRMONT, a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), 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 from the interest payment date preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable interest payment date or on said interest payment date, from said interest payment date or, if no interest has been paid, from the Bond Date specified above, at the Interest Rate per annum specified above, semiannually, on the first day of _____ and the first day of _____ in each year, beginning _____, _____, except as the provisions hereinafter set forth as to redemption may become applicable hereto. The principal of this Bond is payable in any coin or currency which, on the date of payment thereof, is legal tender for the payment of public and private debts under the laws of the United States of America at the office of _____, _____, West Virginia, as Registrar (the "Registrar"); and interest on this Bond is payable by check or draft, mailed to the Registered Owner at

his address as it appears on the books of the Registrar on the 15th day of the month preceding said interest payment date (the "Record Date").

REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THIS BOND SET FORTH ON THE REVERSE HEREOF, WHICH FURTHER PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS IF SET FORTH HEREIN.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of said 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 said City for the prompt payment of the principal of and interest on the Bonds of which this Bond is one.

This Bond, under the provisions of the Act is and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may be transferred only upon the surrender hereof at the office of the Registrar and otherwise as provided by the within-described Ordinance.

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, as defined on the reverse hereof, 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 Fairmont has caused this Bond to be signed by its Mayor and its City Manager, 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]

_____
Mayor

_____
City Manager

ATTEST:

_____
City Clerk

(Form of)

CERTIFICATE OF AUTHENTICATION
AND REGISTRATION

This Bond is one of the fully registered Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the Registered Owner set forth above.

Dated: _____, _____.

_____,
as Registrar

By _____
Its Authorized Officer

[REVERSE OF BOND]

This Bond is one of a series of bonds, in the aggregate principal amount of $_____ (the "Bonds"), of like tenor and effect, except as to number, denomination, date of maturity and interest rate, dated _____, 1985, issued to refund two series of sewerage system revenue bonds of the City outstanding in the aggregate principal amount of $_____ (the "Prior Bonds"), which Prior Bonds were issued to finance the cost of construction of certain additions, betterments and improvements to the sewerage system of the City (hereinafter referred to as 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 Code of West Virginia, 1931, as amended (the "Act"), and an ordinance duly enacted by the City Council of the City on the _____ day of _____, 1985, and supplemented by a resolution adopted by said Council on the _____ day of _____, 1985 (hereinafter collectively referred to as the "Ordinance"), and is subject to all the terms and conditions of said Ordinance. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance.

The Bonds shall be redeemable prior to their stated dates of maturity as follows:

[Redemption Provisions]

Notice of any redemption of this Bond, or any portion hereof, shall be given by the Registrar in the name of the City by first class mail, postage prepaid, not less than 30 days nor more than 45 days prior to the date fixed for redemption to the Registered Owner, addressed to the Registered Owner at his address appearing in the Bond Register. Failure to receive such notice or any defect therein or in the mailing thereof shall not affect the validity of any proceedings for the redemption of the Bonds, and failure to mail such notice shall not affect the validity of any proceeding for the redemption of Bonds, or portions thereof, for which there was no such failure. Notice of redemption having been given in the manner hereinabove provided, the Bonds, or portions thereof, specified in such notice shall on the date fixed for redemption be deemed paid, and from and after the date fixed for redemption interest on such Bonds, or portions thereof, shall cease to accrue; and upon presentation and surrender of such Bonds at the

office specified in such notice, such Bonds, or portions thereof, shall be paid at the designated redemption price.

The Bonds are payable only from and are secured by the Net Revenues (as defined in the Ordinance) to be derived from the operation of the System, the moneys in the reserve account created under the Ordinance (the "Reserve Account"), the unexpended proceeds of the Bonds and certain moneys in a construction fund created in connection with the Prior Bonds. Said Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose and to make the other payments required by the Ordinance. This Bond does not constitute an indebtedness of the City within any constitutional or statutory provision or limitation, nor shall the City be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account, said unexpended Bond proceeds or the moneys in said construction fund. Under the Ordinance, the City has covenanted and agreed to fix, establish and collect just and equitable rates or charges for the use of the services and facilities of the System and to revise the same from time to time as will always be sufficient to pay all operating expenses of the System and to produce revenues net of such operating expenses equal to at least 125% of the maximum annual amount required to pay the interest and principal as the same become due and accomplish retirement of all obligations for the payment of which such revenues have or shall have been pledged, charged or otherwise encumbered. Such required payments on behalf of the principal of and interest on the Bonds shall constitute a first charge upon all the revenues of the System. 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.

All moneys received from the sale of the Bonds shall be applied solely to refund the Prior Bonds, and pay all costs in connection therewith, and there shall be, and hereby is, created and granted a lien upon such moneys, until so applied, in favor of the registered owners of said Bonds.

(Form of)

ASSIGNMENT

For value received, the undersigned hereby 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 with full power of substitution in the premises.

Dated: _____, _____.

_____

SIGNATURE GUARANTEED:

_____

NOTICE: The Assignor's signature to this Assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatever.

The Registrar will not affect transfer of this Bond unless the information concerning the transferee requested below is provided. The transferor should complete whichever of the following is applicable.

INDIVIDUAL:

Name and Address:

_____

_____

_____

Social Security Number: _____
(Include information for all joint owners if the Bond is held by joint account)

CORPORATION OR PARTNERSHIP:

Name and Address:

_____

_____

_____

Tax Identification Number: _____

TRUST:

Name of Trust:

_____

_____

_____

Name and Address of Settlor:

_____

_____

_____

Name and Address of Trustee:

_____

_____

_____

Tax Identification Number of Trust: _____

Tax Identification Number or Social Security Number of Settlor: _____

NOMINEE:

Name and Address:

_____

_____

_____

Tax Identification Number or Social Security Number: _____

(If the Bond is to be registered in nominee name, then include information for the principal.)

10/23/85
FRMT2-A

ALL-STATE LEGAL SUPPLY CO., ONE COMMERCE DRIVE, CRANFORD NEW JERSEY 07016

ED 11-1C

ORDINANCE NO. 796

CITY OF FAIRMONT,

SEWERAGE SYSTEM REFUNDING REVENUE CAPITAL APPRECIATION BONDS, SERIES 1988

SUPPLEMENTAL AND AMENDATORY ORDINANCE

Table of Contents

		Page
RECITALS		1
ARTICLE I - DEFINITIONS; STATUTORY AUTHORITY; FINDINGS		
Section 1.01	Definitions	4
Section 1.02	Authority for this Supplemental and Amendatory Ordinance	13
Section 1.03	Findings	13
Section 1.04	Supplemental and Amendatory Ordinance Constitutes Contract	14
Section 1.05	Provisions of Prior Ordinance Apply	15
Section 1.06	Amendment of Prior Ordinance	15
ARTICLE II - AUTHORIZATION OF REFUNDING		
Section 2.01	Authorization of Refunding	19
ARTICLE III - THE SERIES 1988 BONDS		
Section 3.01	Authorization for Issuance of Series 1988 Bonds	20
Section 3.02	Terms of Series 1988 Bonds	20
Section 3.03	Conditions to Delivery of Series 1988 Bonds	20
Section 3.04	Execution of Series 1988 Bonds	21
Section 3.05	Authentication and Registration	21
Section 3.06	Negotiability and Registration	22
Section 3.07	Series 1988 Bonds Mutilated, Destroyed, Stolen or Lost	23
Section 3.08	Notice of Redemption	23
Section 3.09	Persons Treated as Owners	26
Section 3.10	Form of Series 1988 Bonds	26

Section 3.11 Disposition of Proceeds of Series 1988 Bonds 26

ARTICLE IV - SYSTEM REVENUES; FUNDS AND ACCOUNTS

Section 4.01 Establishment of Funds and Accounts with Depository Bank 28
Section 4.02 Establishment of Funds and Accounts with Bond Commission 28
Section 4.03 System Revenues and Application Thereof 28

ARTICLE V - INVESTMENTS; NON-ARBITRAGE; REBATES OF EXCESS INVESTMENT EARNINGS

Section 5.01 Investments 32
Section 5.02 Arbitrage 33
Section 5.03 Rebate of Excess Investment Earnings to the United States 33

ARTICLE VI - ADDITIONAL COVENANTS OF THE CITY

Section 6.01 General Covenants of the City 38
Section 6.02 Series 1988 Bonds not to be Indebtedness of the City 38
Section 6.03 Series 1988 Bonds Secured by Pledge of Net Revenues on Parity with Prior Bonds 38
Section 6.04 Tax Covenants 39
Section 6.05 Designation of Series 1988 Bonds as Qualified Tax-Exempt Obligations 40
Section 6.06 Covenants Relating to Municipal Bond Insurance Policy 40
Section 6.07 Rates 44

ARTICLE VII - DEFAULTS AND REMEDIES

Section 7.01 Events of Default 46
Section 7.02 Enforcement 46
Section 7.03 Appointment of Receiver 47
Section 7.04 Restoration of City and Series 1988 Bondholder 48

ARTICLE VIII - REGISTRAR; PAYING AGENT

Section 8.01 Appointment of Registrar 49
Section 8.02 Responsibilities of Registrar 49
Section 8.03 Evidence on Which Registrar May Act 49
Section 8.04 Compensation and Expenses 49
Section 8.05 Certain Permitted Acts 50
Section 8.06 Resignation of Registrar 50

Section 8.07	Removal	50
Section 8.08	Appointment of Successor	50
Section 8.09	Transfer of Rights and Property to Successor	51
Section 8.10	Merger or Consolidation	51
Section 8.11	Adoption of Authentication	51
Section 8.12	Paying Agent	51

ARTICLE IX - DEFEASANCE; DISCHARGE OF PLEDGE OF SUPPLEMENTAL AND AMENDATORY ORDINANCE

Section 9.01	Defeasance; Discharge of Pledge of Supplemental and Amendatory Ordinance	53

ARTICLE X - MISCELLANEOUS

Section 10.01	Amendment of Supplemental and Amendatory Ordinance	55
Section 10.02	Evidence of Signatures of Series 1988 Bondholders and Ownership of Series 1988 Bonds	55
Section 10.03	Preservation and Inspection of Documents	56
Section 10.04	Cancellation of Series 1988 Bonds	56
Section 10.05	Failure to Present Series 1988 Bonds	56
Section 10.06	Notices, Demands and Requests	57
Section 10.07	No Personal Liability	58
Section 10.08	Law Applicable	58
Section 10.09	Parties Interested Herein	58
Section 10.10	Severability of Invalid Provisions	58
Section 10.11	Table of Contents and Headings	58
Section 10.12	Procedure on Enactment of Ordinance; Public Hearing	58

SIGNATURES	59
CERTIFICATION	62
EXHIBIT A (Form of Bond)	63

11/21/88
FMTSR2-B

ORDINANCE NO. _____

CITY OF FAIRMONT

SUPPLEMENTAL AND AMENDATORY ORDINANCE SUPPLEMENTING AND AMENDING ORDINANCE NO. 680 OF THE CITY OF FAIRMONT, ENACTED AUGUST 13, 1985; AUTHORIZING THE REFUNDING OF A PORTION OF THE OUTSTANDING SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1985, OF THE CITY OF FAIRMONT, WEST VIRGINIA; AUTHORIZING THE ISSUANCE OF SEWERAGE SYSTEM REFUNDING REVENUE CAPITAL APPRECIATION BONDS, SERIES 1988, OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN $13,500,000, 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 AMENDMENT OF ORDINANCE NO. 680 TO PERMIT THE REFUNDING OF LESS THAN ALL OF SUCH SERIES 1985 BONDS; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; PROVIDING FOR THE ADOPTION OF A SUPPLEMENTAL RESOLUTION AND THE FORM OF AND EXECUTION AND DELIVERY OF AN ESCROW DEPOSIT AGREEMENT, AN INVESTMENT PURCHASE AGREEMENT AND OTHER INSTRUMENTS; AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS

WHEREAS, the City of Fairmont (the "City") owns and operates a municipal sewerage system (the "System") and has heretofore financed the acquisition and construction of the System and certain additions, extensions and improvements for the System by issuance of several series of bonds or refunding bonds, of which there are presently outstanding the Sewerage System Refunding Revenue Bonds, Series 1985, dated September 15, 1985, issued in the original aggregate principal amount of $7,370,000, and now outstanding in the principal amount of $7,185,000, the last maturity being November 1, 2011 (the "Prior Bonds"), as provided in an ordinance enacted August 13, 1985, and designated "Ordinance No. 680" and supplemented by a supplemental resolution adopted September 17, 1985 (such ordinance, as so supplemented, herein called the "Prior Ordinance");

WHEREAS, under the provisions of Chapter 16, Article 13 of the Official West Virginia Code of 1931, as amended (the "Act"), the City is authorized and empowered to issue refunding revenue bonds to refund, pay or discharge all or any part of its outstanding revenue bonds;

WHEREAS, the City is advised that interest savings should be realized if a portion of the Prior Bonds is refunded, due to present favorable market conditions and interest rates, but that refunding more than such portion would not create any additional interest savings;

WHEREAS, such savings will be applied to certain needed additions, betterments and improvements for the System;

WHEREAS, the City has determined that it would therefore be to the benefit of the City and its inhabitants to refund such portion of the Prior Bonds to the first redemption date at which the Prior Bonds may be redeemed at par, being November 1, 1995, in the manner set forth herein and in the Escrow Deposit Agreement and Investment Purchase Agreement (as such terms are defined herein) by the issuance of a series of bonds to be designated "City of Fairmont Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988" (the "Series 1988 Bonds"), limited to the aggregate principal amount of $13,500,000, such Series 1988 Bonds to be on a parity with the Prior Bonds, the issuance thereof not effecting a defeasance of the Prior Ordinance, and containing such other terms and provisions as are hereinafter provided;

WHEREAS, the Prior Ordinance provides, in Section 6.08 thereof, that additional parity Bonds may be issued to refund the entirety of one or more series of Bonds issued pursuant thereto, but the City has determined that refunding of the entire series of the Prior Bonds would result in little or no savings to the City, and it is in the best interests of the City to refund only a portion of the Prior Bonds and to issue the Series 1988 Bonds on a parity with the Prior Bonds, which will remain Outstanding;

WHEREAS, in order to permit the partial refunding of the Prior Bonds and realize interest cost savings, the City has determined that the Prior Ordinance should be amended to permit issuance of parity Bonds for the purpose of refunding all <u>or any portion</u> of one or more series of Bonds issued pursuant to the Prior Ordinance;

WHEREAS, the City has determined that such amendment of the Prior Ordinance will not be materially adverse to any Holder of the Prior Bonds, and has obtained the express written consent of AMBAC Indemnity Corporation, as insurer of the Prior Bonds, to such amendment, and such amendment is therefore permitted under the terms of the Prior Ordinance;

WHEREAS, the City has determined that all payments into the respective funds and accounts provided for in the Prior Ordinance on account of the Prior Bonds Outstanding, and any other payments provided for in the Prior Ordinance have been made in full and will be made in full to the date of delivery of the Series 1988 Bonds;

WHEREAS, the City has obtained all consents required pursuant to the Prior Ordinance for the refunding of such portion of the Prior Bonds and for the issuance of the Series 1988 Bonds on a parity with the Prior Bonds, which will remain outstanding following such refunding;

WHEREAS, pursuant to the Act, the City has heretofore established a Sanitary Board and the Sanitary Board has petitioned the Council to provide for the refunding of such portion of the Prior Bonds as hereinafter provided; and

WHEREAS, the City now desires to authorize the refunding of such portion of Prior Bonds as aforesaid, and to provide for the financing thereof by the issuance of the Series 1988 Bonds as hereinafter provided;

NOW, THEREFORE, THE CITY OF FAIRMONT HEREBY ORDAINS:

ARTICLE I

DEFINITIONS; STATUTORY AUTHORITY; FINDINGS

Section 1.01. Definitions. All capitalized terms used herein and not otherwise defined in the recitals hereto shall have the meanings set forth in the Prior Ordinance. In addition, the following terms shall have the meanings set forth below with respect to the Series 1988 Bonds notwithstanding the fact that such terms may have different meanings under the Prior Ordinance, in this Supplemental and Amendatory Ordinance unless the context expressly requires otherwise:

"AMBAC Indemnity" means AMBAC Indemnity Corporation, a Wisconsin-domiciled stock insurance company.

"Bonds" means collectively, the Prior Bonds, the Series 1988 Bonds, and any additional parity Bonds hereafter issued within the terms, restrictions and conditions contained in the Prior Ordinance, as supplemented and amended by this Ordinance.

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

"Certificate of Authentication and Registration" means the Certificate of Authentication and Registration on the Series 1988 Bonds, in substantially the form set forth in Exhibit A hereto.

"Closing Date" means the date upon which there is an exchange of the Series 1988 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" or similar terms means all those costs now or hereafter permitted by the Act to be financed with bonds issued pursuant hereto, including, without limitation, the costs of refunding a portion of the Prior Bonds, interest accruing or to accrue thereon, redemption premiums, the cost of municipal bond insurance, expenses for fiscal or other agents, legal expenses and any other costs or expenses necessary, incidental, desirable or appurtenant to the issuance of the Series 1988 Bonds and the refunding of a portion of the Prior Bonds.

"Costs of Issuance Fund" means the Costs of Issuance Fund created by Section 4.01 hereof.

"Depository Bank" means the bank 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.

"DTC-eligible" means, with respect to the Series 1988 Bonds and as hereafter deemed appropriate, meeting the qualifications prescribed by the Depository Trust Company, New York, New York.

"Escrow Agent" means the escrow agent for the Escrow Fund established pursuant to the Escrow Deposit Agreement.

"Escrow Deposit Agreement" means the agreement to be entered into between the City and the Bond Commission as the Escrow Agent, providing for the ultimate payment of a portion of the Prior Bonds, the disposition of moneys in the various funds and accounts under the Prior Ordinance and matters in connection therewith, the form of which shall be approved by the Supplemental Resolution.

"Escrow Fund" means the fund designated as such in the Escrow Deposit Agreement.

"Event of Default" means any occurrence or event specified in Section 7.01.

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

(A) The excess of

(i) The aggregate amount earned from the Closing Date on all Nonpurpose Investments in which Gross Proceeds of the Series 1988 Bonds are invested [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings], over

(ii) The amount that would have been earned if the Yield on such Nonpurpose Investments [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings] had been equal to the Yield on the Series 1988 Bond, plus

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

"Government Obligations" means direct obligations of (including obligations issued or held in book entry form on the books of) the Department of Treasury of the United States of America.

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

(i) Original proceeds, namely, net amounts received by or for the City as a result of the sale of the Series 1988 Bonds, excluding original proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Series 1988 Bonds;

(ii) Investment proceeds, namely, amounts received at any time by or for the City, such as interest and dividends, resulting from the investment of any original proceeds (as referenced in clause (i) above) or investment proceeds (as referenced in this clause (ii)) in Nonpurpose Investments, increased by any profits and decreased (if necessary, below zero) by any losses on such investments, excluding investment proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Series 1988 Bonds;

(iii) Transferred proceeds, namely, original proceeds of any prior obligations, and interest earnings and profits less losses resulting from investment of such original proceeds in Nonpurpose Investments, which are deemed to become proceeds of the Series 1988 Bonds ratably as original proceeds of the Series 1988 Bonds and interest earnings and profits resulting from investment of such original proceeds in Nonpurpose Investments discharge the outstanding principal of any such prior obligations, all on the date of such ratable discharge;

(iv) Sinking fund proceeds, namely, amounts, other than original proceeds,

investment proceeds or transferred proceeds (as referenced in clauses (i) through (iii) above) which are held in any fund to the extent that the City reasonably expects to use such fund to pay Debt Service;

(v) Amounts in any fund established hereby as a reasonably required reserve or replacement fund;

(vi) Investment Property pledged as security for payment of Debt Service on the Series 1988 Bonds by the City;

(vii) Amounts, other than as specified in this definition, used to pay Debt Service on the Series 1988 Bonds; and

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

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

"Investment Purchase Agreement" means the agreement among the City, the Escrow Agent and the Securities Provider providing for the purchase by the City of certain securities with a portion of the Net Revenues.

"Municipal Bond Insurance Policy" means the municipal bond insurance policy issued by AMBAC Indemnity insuring the payment when due of the principal of and interest on the Series 1988 Bonds as provided therein.

"Net Proceeds" means the face amount of the Series 1988 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Reserve Accounts.

"Nonpurpose Investment" means any Investment Property which is acquired with the Gross Proceeds of the Series 1988 Bonds and is not acquired in order to carry out the governmental purpose of the Series 1988 Bonds.

"Nonrefunded Prior Bonds" means the Outstanding Prior Bonds which will not be refunded by the Series 1988 Bonds.

"Ordinance" means the Prior Ordinance, as amended and supplemented by this Supplemental and Amendatory Ordinance, as it may hereafter from time to time be further amended or supplemented.

"Original Purchaser" means Butcher & Singer Inc., Philadelphia, Pennsylvania, a corporation, as the purchasers of the Series 1988 Bonds directly from the City, or 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 1988 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 1988 Bonds, as hereinafter defined, including the exact principal amount thereof and interest rate or rates thereon as fixed by said supplemental resolution to be adoped by the Council at the time of approval of such sale of said Series 1988 Bonds.

"Outstanding," when used with reference to Series 1988 Bonds and as of any particular date, describes all Series 1988 Bonds theretofore and thereupon being issued and delivered except (a) any Series 1988 Bond cancelled by the Registrar at or prior to said date; (b) any Series 1988 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 Supplemental and Amendatory Ordinance and set aside for such payment (whether upon or prior to maturity); (c) any Series 1988 Bond deemed to have been paid as provided by Section 9.01; and (d) with respect to determining the number or percentage of Series 1988 Bondholders or Series 1988 Bonds for the purpose of consents, notices and the like, any Series 1988 Bond registered to the City.

"Paying Agent" means the Registrar and any other paying agent for the Series 1988 Bonds which may be appointed by a resolution supplemental hereto, all in accordance with Section 8.12.

"Prior Bonds" shall have the meaning defined in the premises hereof.

"Prior Ordinance" shall have the meaning defined in the premises hereof.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person or in any activity carried on by a person other than a natural person, excluding, however, use by a state or local governmental unit and use as a member of the general public.

"Purchase Price," for the purpose of computation of the Yield of the Series 1988 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 1988 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 1988 Bonds of each maturity is sold or, if the Series 1988 Bonds are privately placed, the price paid by the first buyer of the Series 1988 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 1988 Bonds for acquisition thereof, or if later, on the date that Investment Property constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the Series 1988 Bonds.

"Qualified Investments" means and includes any of the following for all purposes other than (i) investments in escrow accounts, and (ii) investing, and receiving credit for, accrued and capitalized interest:

(a) Government Obligations;

(b) Obligations of any of the following federal agencies which obligations represent full faith and credit of the United States of America, including:

Export - Import Bank
Farmers Home Administration
General Services Administration
U. S. Maritime Administration
Small Business Administration
Government National Mortgage Association (GNMA)
U. S. Department of Housing & Urban Development (PHA's)
Federal Housing Administration;

(c) Bonds, notes or other evidences of indebtedness rated "AAA" by Standard & Poor's Corporation and "Aaa" by Moody's Investors Service issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding three years;

(d) U. S. dollar denominated deposit accounts, federal funds and banker's acceptances with domestic commercial banks which have a

rating on their short term certificates of deposit on the date of purchase of "A-1" or "A-1+" by Standard & Poor's and "P-1" by Moody's and maturing no more than 360 days after the date of purchase. (Ratings on holding companies are not considered as the rating of the bank);

(e) Commercial paper which is rated at the time of purchase in the single highest classification, "A-1+" by Standard & Poor's and "P-1" by Moody's Investors Service and which matures not more than 270 days after the date of purchase;

(f) Investments in a money market fund rated "AAAm" or "AAAm-G" or better by Standard & Poor's Corporation;

(g) Pre-refunded municipal obligations defined as follows:

> Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (A) which are rated, based on the escrow, in the highest rating category of Standard & Poor's Corporation and Moody's Investors Service, Inc. or any successors thereto; or (B)(i) which are fully secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or obligations described in paragraph (1) above, which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates

pursuant to such irrevocable instructions, as appropriate, and (ii) which fund is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;

(h) Investment agreements approved in writing by AMBAC Indemnity Corporation (supported by appropriate opinions of counsel) and specifically including the Investment Purchase Agreement;

(i) Other forms of Investments approved in writing by AMBAC Indemnity, including, but not limited to, the West Virginia "restricted consolidated fund" (Fund No. 140) managed by the West Virginia State Board of Investments pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

(j) The Investment Purchase Agreement.

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

(a) Cash; or

(b) Government Obligations.

"Record Date" means the 15th day of the month preceding any interest payment date with respect to the Bonds, regardless of whether such day is a Saturday, Sunday or legal holiday.

"Registrar" means the bank to be designated in the Supplemental Resolution as the registrar for the Series 1988 Bonds, and any successor thereto appointed in accordance with Section 8.08.

"Regulations" means temporary and permanent regulations promulgated under the Code, and includes applicable regulations promulgated under the Internal Revenue Code of 1954.

"Securities Provider" means the bank or other financial institution which shall purchase the securities in accordance with the Investment Purchase Agreement, and which shall be designated in the Supplemental Resolution.

"Series 1988 Bonds" means the Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988, of the City originally authorized to be issued pursuant to this Supplemental and Amendatory Ordinance.

"Sinking Fund" means the City of Fairmont 1988 Sewerage System Bonds Sinking Fund created by Section 4.02.

"Supplemental Resolution" means any ordinance or resolution amendatory hereof or supplemental hereto and, when preceded by the article "the," refers specifically to the Supplemental Resolution authorizing the sale of the Series 1988 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.

"Yield" means that yield which, when used in computing the present worth of all payments of principal and interest (or other payments in the case of Nonpurpose Investments which require payments in a form not characterized as principal and interest) on a Nonpurpose Investment or on the Series 1988 Bonds produces an amount equal to the purchase price of such Nonpurpose Investment or the Series 1988 Bonds, all computed as prescribed in applicable Regulations.

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 Supplemental and Amendatory 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 Supplemental and Amendatory Ordinance; and the term "hereafter" means after the date of enactment of this Supplemental and Amendatory Ordinance.

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

Section 1.02. Authority for this Supplemental and Amendatory Ordinance. This Supplemental and Amendatory Ordinance is enacted pursuant to the provisions of the Act and other applicable provisions of law.

Section 1.03. Findings. The Council hereby finds and determines as follows:

A. The Prior Bonds are currently outstanding in the aggregate principal amount of $7,085,000.

B. The City derives Revenues from the System, and, except for the pledge thereof to secure and pay the Prior Bonds, said Revenues are not pledged or encumbered in any manner.

C. The estimated Revenues to be derived in each year after the date hereof from the operation of the System will be sufficient, upon the partial refunding of the Prior Bonds, as further prescribed herein, to provide for the repair, maintenance and operation of the System, the payment of interest upon all bonds issued pursuant to the Act and to create a sinking fund, as hereinafter provided, to pay the principal thereof as and when the same become due and reasonable reserves therefor, to provide an adequate depreciation fund, as hereinafter provided, and to make all other payments provided for in the Ordinance.

D. Based upon the assumed principal amount, maturity schedule and interest rates for the Series 1988 Bonds presented to the City by the Original Purchaser, the Series 1988 Bonds show a net saving to the City after deducting all expenses of the refunding.

E. The City shall not sell the Series 1988 Bonds without setting forth in the Supplemental Resolution the determination set forth in paragraph D, above, based upon the actual principal amount, maturity schedule and interest rates for the Series 1988 Bonds, and the City shall not issue the Series 1988 Bonds without having obtained from an independent certified public accountant a certification that the amount of saving stated to be achieved by the refunding shall in fact be saved, based upon his review, comparison and analysis of the net interest cost in dollars of the Series 1988 Bonds and the net interest cost in dollars of that portion of the Prior Bonds to be refunded.

F. Subject to the determination and certification required by paragraph E, above, it is in the best interests of the City, and the inhabitants thereof, that the City issue the Series 1988 Bonds and secure the Series 1988 Bonds by a pledge and assignment of the Net Revenues derived from the operation of the

System and as further set forth herein, all on a parity with the Prior Bonds Outstanding following such refunding.

G. The Series 1988 Bonds and the Certificate of Authentication and Registration to be endorsed thereon are to be in substantially the forms set forth in Exhibit A attached hereto and incorporated herein by reference, with necessary and appropriate variations, omissions and insertions as permitted or required by this Supplemental and Amendatory Ordinance or a Supplemental Resolution or as deemed necessary by the Registrar or the City.

H. The Series 1988 Bonds are authorized as "additional parity bonds" pursuant to Section 6.08 of the Prior Ordinance, as amended hereby, and shall be payable from the Net Revenues on a parity with the Prior Bonds remaining Outstanding following the refunding and any other additional parity bonds which may be issued from time to time pursuant to the Prior Indenture.

I. All things necessary to make the Series 1988 Bonds, when authenticated by the Registrar and issued as in this Supplemental and Amendatory 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 1988 Bonds, will be timely done and duly performed.

J. The Sanitary Board of the City has presented a petition to the City for enactment of this Supplemental and Amendatory Ordinance and issuance of the Series 1988 Bonds.

K. The enactment of this Supplemental and Amendatory Ordinance, and the execution and issuance of the Series 1988 Bonds, subject to the terms thereof, will not result in any breach of, or constitute a default under, any instrument to which the City is a part or by which it may be bound or affected.

Section 1.04. Supplemental and Amendatory Ordinance Constitutes Contract. In consideration of the acceptance of the Series 1988 Bonds by those who shall own or hold the same from time to time, this Supplemental and Amendatory Ordinance shall be deemed to be and shall constitute a contract between the City and such Series 1988 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 legal Holders of any and all of such Series 1988 Bonds all of which shall be of equal rank and without preference, priority or distinction between any one bond and the coupons, if any, thereon and any other Series 1988 Bond by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.05. Provisions of Prior Ordinance Apply. This Supplemental and Amendatory Ordinance is supplemental to and amendatory of the Prior Ordinance. For convenience many, but not all, provisions of the Prior Ordinance are repeated herein. In the event of a conflict between any provision of this Supplemental and Amendatory Ordinance and the Prior Ordinance, this Supplemental and Amendatory Ordinance shall prevail with respect to the Series 1988 Bonds. This Supplemental and Amendatory Ordinance and the Prior Ordinance shall be read together.

Section 1.06. Amendment of Prior Ordinance. A. Section 6.08 of the Prior Ordinance is hereby amended to read as follows, with all deleted language struck out and new language underlined:

> Section 6.08. Additional Parity Bonds. No additional parity Bonds, as in this section defined, payable out of the Revenues of the System shall be issued after the issuance of any Bonds pursuant to this Ordinance, except under the conditions and in the manner herein provided.
>
> No such additional parity Bonds shall be issued except for the purpose of financing the costs of the construction of additions, betterments or improvements to the System or refunding ~~the entirety~~ all or a portion of one or more series of Bonds issued pursuant hereto, or both such purposes.
>
> No such additional parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the clerk of the City a written statement by Independent Accountants, based upon the necessary investigation and certification by the Consulting Engineers, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided, from the System during any 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 additional parity Bonds, shall not be less than 125% of the average annual amount which will become due for principal of and interest on the following:
>
> (1) The Series 1985 Bonds;

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

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

The "estimated average increased annual Net Revenues 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 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 additional parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the Clerk of the City prior to the 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 the Consulting Engineers and the Independent Accountants as stated in a certificate jointly made and signed by the Consulting Engineers and the Independent Accountants, and filed with said City clerk, 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 additional parity Bonds.

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

The term "additional parity Bonds," as used in this section, shall be deemed to mean additional Bonds issued under the provisions and within the limitations of this section, payable from the Net Revenues of the System on a parity with the Series 1985 Bonds, and all the covenants and other provisions of this Ordinance (except as to details of such additional parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Series 1985 Bonds and the Holders of any additional parity Bonds theretofore or subsequently issued from time to time within the

limitations of and in compliance with this section. All the Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Net Revenues of the System, and their source of and security for payment from said Net Revenues, without preference of any Bond over any other. The 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 additional parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Ordinance.

No additional parity Bonds shall be valid unless authenticated pursuant to Section 3.03. Prior to such authentication, registration, if applicable, and delivery, the Registrar shall receive those documents prescribed by Section 3.14 with respect to the Series 1985 Bonds, modified as deemed necessary by the Registrar to reflect the issuance of such additional parity Bonds. All additional parity Bonds shall mature on the date in the respective years of maturity, and the semiannual interest thereon shall be payable on such dates of each year, as shall be established with respect to the Series 1985 Bonds.

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

No additional parity Bonds, as in this section defined, shall be issued at any time, however, unless all of the payments into the respective funds and accounts provided for in this Ordinance on account of the Bonds then Outstanding, and any other payments provided for in this Ordinance, shall have been made in full as required to the date of delivery of the additional parity Bonds.

The City may issue additional parity Bonds without compliance with any other conditions for the purpose of refunding prior to maturity any series of the Bonds <u>or portion thereof</u>, 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 Original Purchaser of the Series 1985 Bonds and anything to the contrary in this Section 6.08 notwithstanding, additional parity Bonds may be authorized and issued by the City pursuant to a Supplemental Resolution solely to complete the Project in accordance with the plans and specifications therefor, in the event that the amounts on deposit in the Construction Fund should be insufficient, together with other funds lawfully available therefor, to pay all costs of construction of the Project; provided, however, that, prior to the issuance of such additional parity Bonds under the provisions of this paragraph, the Consulting Engineers shall file with the clerk of the City a certificate to the effect that additional funds are necessary for such purpose. All such additional 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 additional parity Bonds shall be in years and amounts suggested by such Original Purchaser of the Series 1985 Bonds.

ARTICLE II

AUTHORIZATION OF REFUNDING

Section 2.01. Authorization of Refunding. On the date of issuance of the Series 1988 Bonds, a substantial portion of the net proceeds thereof will be deposited in the Escrow Fund. The Amounts in the Escrow Fund, together with earnings thereon, will be applied to pay the principal of, and interest on, certain of the Prior Bonds, as provided in the Escrow Deposit Agreement. Thereafter, the City shall make certain payments to the Securities Provider pursuant to the Investment Purchase Agreement. Amounts deposited with the Securities Provider, together with earnings thereon, shall be applied by the Escrow Agent, upon receipt thereof, to redeem, on November 1, 1995, certain of the Prior Bonds, as provided in the Escrow Deposit Agreement. The lien of the Prior Ordinance on the Net Revenues of the System and on the funds and accounts created by such Prior Ordinance shall not be discharged as of the date of issuance of the Series 1988 Bonds. Rather, such lien shall continue for the equal and ratable benefit of the holders of the Prior Bonds and the Series 1988 Bonds so long as any thereof remain Outstanding.

ARTICLE III

THE SERIES 1988 BONDS

Section 3.01. Authorization for Issuance of Series 1988 Bonds. There is hereby authorized to be issued hereunder an issue of Bonds, to be designated "City of Fairmont Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988" (the "Series 1988 Bonds"), in an aggregate principal amount not to exceed $13,500,000. The Series 1988 Bonds shall be issued subject to the terms, conditions and limitations established in the Prior Ordinance, this Supplemental and Amendatory Ordinance and the Supplemental Resolution.

Section 3.02. Terms of Series 1988 Bonds. The Series 1988 Bonds shall be numbered from R-1 consecutively upward commencing with earliest maturity. The Series 1988 Bonds shall be dated such date upon original issuance; shall be in such aggregate principal amount; shall be capital appreciation bonds and shall not bear interest, shall be payable on such date or dates; shall mature on such dates and in such amounts; shall have such redemption provisions; and shall have such other terms, all as the City shall prescribe herein and in the Supplemental Resolution.

Section 3.03. Conditions to Delivery of Series 1988 Bonds. The Series 1988 Bonds shall be executed in the form and manner hereinabove recited and delivered to the Registrar for authentication and registration, but only upon receipt by the Registrar of the following or substantially similar documents, instruments and opinions, satisfactory to Bond Counsel:

(1) A direction and authorization to the Registrar, signed by an Authorized Officer, directing the authentication of the Series 1988 Bonds and the delivery thereof to the Original Purchaser;

(2) A certified copy of this Supplemental and Amendatory Ordinance and the Supplemental Resolution authorizing (i) the issuance, execution, authentication, sale and delivery of the Series 1988 Bonds, (ii) the execution and delivery of the Escrow Deposit Agreement, the Investment Purchase Agreement and a purchase contract between the City and the Original Purchaser, and (iii) the appointment of the Escrow Agent, Securities Provider, Depository Bank, Registrar and Paying Agent;

(3) An Opinion of Counsel for the City as to such matters as Bond Counsel may reasonably request;

(4) Evidence satisfactory to the Registrar that the City has deposited in the appropriate funds and accounts all of the amounts specified in the Escrow Deposit Agreement;

(5) A verification report of Independent Accountants in form and substance satisfactory to the City and Bond Counsel, as to the refunding of the Prior Bonds, including the sufficiency of the Escrow Fund, the verification of yield on the Refunded Prior Bonds, the Series 1988 Bonds and the verification of savings to be achieved by the refunding;

(6) The unqualified approving opinion upon the Series 1988 Bonds by Bond Counsel; and

(7) Such other documentation as may be required by Bond Counsel or the Registrar.

Section 3.04. Execution of Series 1988 Bonds. The Series 1988 Bonds shall be executed in the name of the City by the Mayor and the City Manager, by their manual or facsimile signatures, and the seal of the City shall be affixed thereto or imprinted thereon and attested by the 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 Series 1988 Bonds shall cease to be such officer of the City before the Series 1988 Bonds so signed and sealed have been actually sold and delivered, such Series 1988 Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Series 1988 Bonds had not ceased to hold such office. Any Series 1988 Bonds may be signed and sealed on behalf of the City by such person as at the actual time of the execution of such Series 1988 Bonds shall hold the proper office in the City, although at the date of such Series 1988 Bonds such person may not have held such office or may not have been so authorized.

Section 3.05. Authentication and Registration. No Series 1988 Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Supplemental and Amendatory Ordinance unless and until the Certificate of Authentication and Registration on such Series 1988 Bond, substantially in the form set forth in Exhibit A attached hereto and incorporated herein by reference, shall have been duly manually executed by the Registrar. Any such manually executed Certificate of Authentication and Registration upon any such Series 1988 Bond shall be conclusive evidence that such Series 1988 Bond has been authenticated, registered and delivered under this Supplemental and

Amendatory Ordinance. The Certificate of Authentication and Registration on any Series 1988 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 Series 1988 Bonds issued hereunder.

Section 3.06. Negotiability and Registration. Subject to the requirements for transfer set forth below, the Series 1988 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 Series 1988 Bonds, shall be conclusively deemed to have agreed that such Series 1988 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 Series 1988 Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as any of the Series 1988 Bonds remains Outstanding, the Registrar shall keep and maintain books for the registration and transfer of the Series 1988 Bonds.

The Series 1988 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 Series 1988 Bond, there shall be issued at the option of the Holder or the transferee another fully registered Series 1988 Bond or fully registered Series 1988 Bonds of the aggregate principal amount equal to the unpaid amount of the transferred Series 1988 Bond and of the same series, interest rate and maturity of said transferred Series 1988 Bond.

In all cases in which the privilege of transferring or exchanging a Series 1988 Bond is exercised, Series 1988 Bonds shall be delivered in accordance with the provisions of this Supplemental and Amendatory Ordinance. All Series 1988 Bonds surrendered in any such transfer or exchange shall forthwith be cancelled by the Registrar. Transfers of Series 1988 Bonds and exchanges of Series 1988 Bonds in the event of partial redemption of Series 1988 Bonds shall be made by the Registrar without charge to the Holder or the transferee thereof, except as provided below. For other exchanges of Series 1988 Bonds, the Registrar may impose a service charge. For every such transfer or exchange of Series 1988 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 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 Series 1988 Bonds that have been called for redemption.

Section 3.07. Series 1988 Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 1988 Bond shall become mutilated or be destroyed, stolen or lost, the City may execute, in the discretion of Council, and the Registrar shall authenticate, register and deliver any new Series 1988 Bond of like series, maturity and principal amount as the Series 1988 Bond so mutilated, destroyed, stolen or lost, in exchange and upon surrender and cancellation of, such mutilated Series 1988 Bond or in lieu of and substitution for the Series 1988 Bond destroyed, stolen or lost, and upon the Holder's furnishing the City and the Registrar proof of his ownership thereof and that said Series 1988 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 Series 1988 Bondholder listed in the Bond Register shall constitute proof of ownership. All Series 1988 Bonds so surrendered shall be submitted to and cancelled by the Registrar, and evidence of such cancellation shall be given to the City. If such Series 1988 Bond shall have matured or be about to mature, instead of issuing a substitute Series 1988 Bond the City, by and through the Registrar, may pay the same, upon being indemnified as aforesaid, and, if such Series 1988 Bond be lost, stolen or destroyed, without surrender therefor.

Any such duplicate Series 1988 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 Series 1988 Bonds be at any time found by any one, and such duplicate Series 1988 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 Series 1988 Bonds issued hereunder.

Section 3.08. Notice of Redemption. Unless waived by any Holder of the Series 1988 Bonds to be redeemed, official notice of any such 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 Original Purchaser and the registered owner of the Series 1988 Bond or

Series 1988 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.

All official notices of redemption shall be dated and shall state:

(1) The redemption date,

(2) The redemption price,

(3) If less than all outstanding Series 1988 Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Series 1988 Bonds to be redeemed,

(4) That on the redemption date the Redemption Price and interest accrued will become due and payable upon each such Series 1988 Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date,

(5) The place where such Series 1988 Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the principal office of the Registrar, and

(6) Such other information, if any, as shall be required for DTC-Eligible Series 1988 Bonds.

Prior to any redemption date, the City shall deposit with the Registrar an amount of money sufficient to pay the redemption price of all the Series 1988 Bonds or portions of Series 1988 Bonds which are to be redeemed on that date.

Official notice of redemption having been given as aforesaid, the Series 1988 Bonds or portions of Series 1988 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 Series 1988 Bonds or portions of Series 1988 Bonds shall cease to bear interest. Upon surrender of such Series 1988 Bonds for redemption in accordance with said notice, such Series 1988 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 Series 1988 Bond, there shall be prepared for the registered owner a new Series 1988 Bond or Series 1988 Bonds of the same maturity in the amount of the unpaid

principal. All Series 1988 Bonds which have been redeemed shall be cancelled 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 Series 1988 Bonds, and failure to mail such notice shall not affect the validity of proceedings for the redemption of any portion of Series 1988 Bonds for which there was no such failure.

In addition to the foregoing notice, further notice as set out below shall be given by the Registrar, at the instruction of the City, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as above prescribed.

(1) Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (i) the CUSIP numbers of all Series 1988 Bonds being redeemed; (ii) the date of issue of the Series 1988 Bonds as originally issued; (iii) the rate of interest borne by each Series 1988 Bond being redeemed; (iv) the maturity date of each Series 1988 Bond being redeemed; and (v) any other descriptive information needed to identify accurately the Series 1988 Bonds being redeemed.

(2) Each further notice of redemption shall be sent at least 35 days before the redemption date by registered or certified mail or overnight delivery service to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Series 1988 Bonds (such depositories now being Depository Trust Company of New York, New York, Midwest Securities Trust Company of Chicago, Illinois, Pacific Securities Depository Trust Company of San Francisco, California and Philadelphia Depository Trust Company of Philadelphia, Pennsylvania).

(3) Each such further notice shall be published one time in the Bond Buyer of New York, New York or, if such publication is unlikely to reach a substantial number of the holders of the Series 1988 Bonds, in some other financial newspaper or journal which regularly carries notices of redemption of other obligations similar to the Series 1988 Bonds, such publication to be made at least 30 days prior to the date fixed for redemption.

(4) Upon the payment of the redemption price of Series 1988 Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Series 1988 Bonds being redeemed with the proceeds of such check or other transfer.

redemption having been given in the manner hereinabove provided, the Series 1988 Bonds, or portions thereof, shall on the date fixed for redemption be deemed paid, and interest on such Series 1988 Bonds, or portions thereof, shall cease to accrue; and upon presentation and surrender of such Series 1988 Bonds at the office specified in such notice, such bonds, or portions thereof, shall be paid at the designated redemption price.

Section 3.09. 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 Series 1988 Bond is registered as the owner of such Series 1988 Bond for the purpose of receiving payment of the principal of and interest on such Series 1988 Bond and for all other purposes whether or not such Series 1988 Bond is overdue.

Section 3.10. Form of Series 1988 Bonds. The Series 1988 Bonds shall be substantially in the form set forth in Exhibit A attached thereto and incorporated herein by reference, with such appropriate variations, omissions and insertions as are permitted or required by this Supplemental and Amendatory Ordinance or the Supplemental Resolution or as are deemed necessary by the Registrar and the City, including, if requested by the Original Purchaser, any variations necessary to render the Series 1988 Bonds DTC-eligible.

Section 3.11. Disposition of Proceeds of Series 1988 Bonds. Upon the issuance and delivery of the Series 1988 Bonds, the City shall forthwith deposit the net proceeds (after payment of underwriters' discount and insurance premium) thereof as follows:

A. The amount of the Series 1988 Bond proceeds which, together with other moneys or securities deposited therein and the earnings thereon, shall be sufficient to accomplish refunding of the designated portion of the Prior Bonds (which amount shall be set forth in the Escrow Deposit Agreement) shall be deposited in the Escrow Fund.

B. The amount of Series 1988 Bonds which shall be specified in the Supplemental Resolution shall be deposited with the Depository Bank in the Series 1988 Bonds Costs of Issuance Fund and shall be drawn out, used and applied by the City solely to pay costs of issuance of the Series 1988 Bonds and miscellaneous costs of refunding the Prior Bonds at the written direction of the City.

Moneys not to be applied immediately to pay such costs of issuance and refunding may be invested in accordance with this Supplemental and Amendatory Ordinance, subject however, to applicable yield restrictions as may be in effect under the Code. If for any reason such proceeds, or any part thereof, are not necessary for, or are not applied to such purpose, such unapplied proceeds shall be transferred by the City to the Construction Fund established by the Prior Ordinance.

C. The balance of the proceeds of the Series 1988 Bonds shall be deposited in the Construction Fund established by the Prior Ordinance and applied to the acquisition and construction of additions, betterments and improvements for the System at the direction of the Sanitary Board of the City.

ARTICLE IV

SYSTEM REVENUES; FUNDS AND ACCOUNTS

Section 4.01. Establishment of Funds and Accounts with Depository Bank. In addition to the funds and accounts heretofore established by the Prior Ordinance and the Escrow Fund established by the Escrow Deposit Agreement, the following special fund is created with, and shall be held by, the Depository Bank, segregated from all other funds and accounts of the Depository Bank or the City and from each other, and used solely for the purposes provided herein:

(1) Series 1988 Bonds Costs of Issuance Fund; and

(2) Rebate Fund.

Section 4.02. Establishment of Funds and Accounts with Bond Commission. In addition to the funds and accounts heretofore established by the Prior Ordinance, the following special fund is hereby established with and shall be held by the Bond Commission:

(1) Series 1988 Bonds Sinking Fund.

Section 4.03. System Revenues and Application Thereof. So long as any of the Series 1988 Bonds shall be Outstanding and unpaid, the City covenants as follows:

A. The entire Gross Revenues derived from the operation of the System and all parts thereof shall be deposited by the City in the Revenue Fund. The Revenue Fund 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. All Revenues at any time remaining on deposit in the Revenue Fund shall be disposed of only in the following manner and order of priority:

(1) The City shall first, 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 moneys remaining in the Revenue Fund, the City shall next:

(i) On the first day of each month beginning on the first day of that month which is 7 months prior to the first interest payment

date on the Nonrefunded Prior Bonds, apportion and set apart out of the Revenue Fund and remit to the Bond Commission, for deposit in the Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on the Nonrefunded Prior Bonds on the next ensuing semiannual interest payment date and which interest will not be paid from the Escrow Fund, less any investment earnings on sums previously deposited in the Sinking Fund for the purpose of making interest payments; provided, that "next ensuing semiannual interest payment date" shall not refer to the interest payment date on which any such deposit is made;

(ii) On the first day of each month, remit to the Bond Commission for deposit in the Sinking Fund, or in the Redemption Account therein if the Nonrefunded Prior Bonds next maturing are Term Bonds, a sum equal to 1/12th of the amount of principal which will mature or be redeemed and become due on the Nonrefunded Prior Bonds on the next ensuing principal payment or mandatory redemption date and which will not be paid from the Escrow Fund, less any investment earnings on sums previously deposited in the Sinking Fund for the purpose of making principal payments; provided, that "next ensuing principal payment or mandatory redemption date" shall not refer to the principal payment or mandatory redemption date on which any such deposit is made;

(iii) On the first day of each month, beginning on the first day of that month which is 13 months prior to the first principal payment of the Series 1988 Bonds, remit to the Bond Commission for deposit in the Series 1988 Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on the Series 1988 Bonds on the next ensuing principal payment date, less any investment earnings on sums previously deposited in the Series 1988 Bonds Sinking Fund for the purpose of making principal payments; provided, that "next ensuing principal payment or mandatory redemption date" shall not refer to the principal payment or mandatory redemption date on which any such deposit is made; and

(iv) On the first day of each month, remit to the Escrow Agent, the amounts due in accordance with the Escrow Deposit Agreement and the Investment Purchase Agreement.

(3) The City shall also, from the Revenue Fund, remit to the Bond Commission on such dates or at such other times, as the Bond Commission shall require, such additional sums as shall be necessary to pay the fiscal agency charges due for paying the Bonds and the interest thereon.

(4) Moneys in the Series 1988 Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 1988 Bonds as the same shall become due. Pending such use, such moneys shall be invested in accordance with Article V.

(5) The City shall not be required to make any further payments into the Series 1988 Bonds Sinking Fund when the aggregate amount of funds in the Series 1988 Bonds Sinking Fund is at least equal to the aggregate principal amount of Series 1988 Bonds issued pursuant to this Supplemental and Amendatory Ordinance then Outstanding, plus the amount of interest due or thereafter to become due on the Series 1988 Bonds then Outstanding.

(6) The payments into the Series 1988 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 Supplemental and Amendatory Ordinance.

(7) Except as expressly changed herein, all provisions of Article IV of the Prior Ordinance shall remain in full force and effect.

(8) If on any monthly payment date the Revenues of the System are insufficient to make the required deposits as described in Section 4.03(A)(2) hereof, the deficiency shall be incurred and made up on a parity basis on the next ensuing payment dates by payments in addition to the payments which are otherwise required to be made on such ensuing payment dates.

B. The Bond Commission is hereby designated as the fiscal agent for the administration of the Series 1988 Bonds Sinking Fund created hereunder, and all amounts required for said Series 1988 Bonds Sinking Fund shall be remitted to the Bond Commission from said Revenue Fund and from the proceeds of the sale of the Series 1988 Bonds, as provided in Section 3.11, by the City at the times provided herein. 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.

C. The moneys on deposit in the Revenue Fund in excess of the sum insured by the maximum amounts insured by the FDIC 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 municipal funds under the laws of the State.

D. Anything to the contrary herein notwithstanding, when the aggregate sum in the Series 1988 Bonds Sinking Fund is sufficient to pay and redeem all the Series 1988 Bonds Outstanding and all interest accrued and to accrue thereon and any applicable redemption premiums, the City shall cause all the Series 1988 Bonds to be paid or called and redeemed at the earliest practicable date permitted pursuant to the provisions hereof as to redemption of Series 1988 Bonds.

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 Supplemental and Amendatory Ordinance in Qualified Investments to the fullest extent possible under applicable laws, this Supplemental and Amendatory 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) 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. With respect to all funds and accounts, valuation shall occur monthly.

(B) All amounts representing accrued and capitalized interest shall be held by the Bond Commission, pledged solely to the payment of interest on the Series 1988 Bonds and invested only in cash or Government Obligations maturing at such times and in such amounts as are necessary to match the interest payments to which they are pledged.

(C) "Value," as used in this Section 5.01, means the value of any Qualified Investments calculated as follows:

(i) As to Qualified Investments the bid and asked prices of which are published on a regular basis in The Wall Street Journal (or, if not there, then in The New York Times): the average of the bid and asked prices for such Qualified Investments so published on or most recently prior to such time of determination;

(ii) As to Qualified Investments the bid and asked prices of which are not published on a regular basis in The Wall Street Journal or The New York Times: the average bid price at such time of determination for such Qualified Investments by any two nationally recognized government securities dealers (selected by the Issuer in its absolute discretion) at the time making a market in such Qualified Investments or the bid price published by a nationally recognized pricing service;

(iii) As to certificates of deposit and bankers acceptances: the face amount thereof, plus accrued interest; and

(iv) As to any Qualified Investment not specified above: the value thereof established by prior agreement between the Issuer and AMBAC Indemnity.

Section 5.02. Arbitrage. The City covenants that (i) it will restrict the use of the proceeds of the Series 1988 Bonds in such manner and to such extent as may be necessary, so that such Series 1988 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 such Series 1988 Bonds and continued compliance after the date of issuance of the Series 1988 Bonds with the requirements of Section 148 of the Code and Regulations thereunder) so that the interest on such Series 1988 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. Rebate of Excess Investment Earnings to the United States. In accordance with Section 148(f)(4)(C) of the Code, the City covenants that it is a governmental unit with general taxing powers; that the Series 1988 Bonds are not private activity bonds as defined in Section 141 of the Code; that 95% or more of the

Net Proceeds of the Series 1988 Bonds are to be used for local governmental activities of the City (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the City); and that the aggregate face amount of all the tax-exempt obligations (other than private activity bonds as defined in Section 141 of the Code) issued by the City during the calendar year in which the Series 1988 Bonds are issued will not exceed $5,000,000, determined in accordance with Section 148(f)(4)(C) of the Code and the Regulations promulgated thereunder. For purposes of this Section 5.03 and for purposes of applying Section 148(f)(4)(C) of the Code, the City and all entities which issue obligations on behalf of the City shall be treated as one issuer; all obligations issued by a subordinate entity shall, for purposes of applying this Section 5.03 and Section 148(f)(4)(C) of the Code to any other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(C) of the Code and all other entities benefiting thereby shall be treated as one issuer.

Notwithstanding the foregoing, if in fact the City is subject to the rebate requirements of Section 148(f) of the Code, and not exempted from such requirements, the City shall take the following actions:

A. EARNINGS FUND AND REBATE FUND. All interest earnings and profits on amounts in all funds and accounts established under this Supplemental and Amendatory Ordinance, other than (i) interest earnings and profits on any funds referenced in Subsection C(5) of this Section if such earnings in any Bond Year are less than $100,000 which shall be retained in the fund or account from which such earnings or profits arose to the extent not otherwise provided herein, (ii) interest earnings and profits on amounts in funds and accounts which do not constitute Gross Proceeds, and (iii) interest earnings and profits on the Rebate Fund shall, upon receipt by the Depository Bank, be deposited in the Earnings Fund. In addition, all interest earnings and profits on Gross Proceeds in funds held by the City shall, upon receipt, be paid to the Depository Bank for deposit in the Earnings Fund. Annually, on or before the 30th day following the end of each Bond Year or on the preceding business day in the event that such day is not a business day (or such earlier date as may be required by the Code), the Depository Bank shall transfer from the Earnings Fund to the Rebate Fund for purposes of ultimate payment to the United States an amount equal to Excess Investment Earnings, all as more particularly described in this Section. Following the transfer referenced in the preceding sentence, the Depository Bank shall transfer all amounts remaining in the Earnings Fund to be used for the payment of Debt Service on

the next interest payment date and for such purpose, Debt Service due from the City on such date shall be credited by an amount equal to the amount so transferred. Notwithstanding the foregoing, the City shall withdraw moneys from the Earnings Fund, if needed for the purpose of paying Debt Service or principal of or interest on the Series 1988 Bonds. In the event of withdrawal of any moneys from the Earnings Fund the City shall restore such withdrawal from the first Gross Revenues available therefor, after payment of Debt Service or principal of or interest on the Series 1988 Bonds.

B. DUTIES OF CITY IN GENERAL. The City shall calculate Excess Investment Earnings in accordance with Subsection C and shall assure payment of an amount equal to Excess Investment Earnings to the United States in accordance with Subsections D and E.

C. CALCULATION OF EXCESS INVESTMENT EARNINGS. Within 30 days following the last day of the first Bond Year, the City shall calculate, and shall provide written notice to the Original Purchaser and Depository Bank of, the Excess Investment Earnings referenced in clause (A) of the definition of Excess Investment Earnings. Thereafter, within 30 days following the last day of each Bond Year and within 30 days following the maturity date of the Series 1988 Bonds, the City shall calculate, and shall provide written notice to the Original Purchaser and Depository Bank of, the amount of Excess Investment Earnings. Said calculations shall be made or caused to be made by the City in accordance with the following:

(1) Except as provided in (2), in determining the amount described in clause A(i) of the definition of Excess Investment Earnings, the aggregate amount earned on Nonpurpose Investments shall include (i) all income realized under federal income tax accounting principles (whether or not the person earning such income is subject to federal income tax) with respect to such Nonpurpose Investments and with respect to the reinvestment of investment receipts from such Nonpurpose Investments (without regard to the transaction costs incurred in acquiring, carrying, selling or redeeming such Nonpurpose Investments), including, but not limited to, gain or loss realized on the disposition of such Nonpurpose Investments (without regard to when such gains are taken into account under Section 453 of the Code relating to taxable year of inclusion of gross income), and income under Section 1272 of the Code (relating to original issue discount) and (ii) any unrealized gain or loss as of the date of retirement of the Series 1988 Bonds in the event that any Nonpurpose Investment is retained after such date.

(2) In determining the amount described in clause (A) of the definition of Excess Investment Earnings, Investment Property shall be treated as acquired for its fair market value at the time it becomes a Nonpurpose Investment, so that gain or loss on the disposition of such Investment Property shall be computed with reference to such fair market value as its adjusted basis.

(3) In determining the amount described in clause (A)(ii) of the definition of Excess Investment Earnings, the Yield on the Series 1988 Bonds shall be determined based on the actual Yield of the Series 1988 Bonds during the period between the Closing Date of the Series 1988 Bonds and the date the computation is made (with adjustments for original issue discount or premium).

(4) In determining the amount described in clause (B) of the definition of Excess Investment Earnings, all income attributable to the excess described in clause (A) of said definition must be taken into account, whether or not that income exceeds the Yield of the Series 1988 Bond, and no amount may be treated as "negative arbitrage."

(5) In determining the amount of Excess Investment Earnings, there shall be excluded any amount earned on any fund or account which is used primarily to achieve a proper matching of revenues and Debt Service within each Bond Year and which is depleted at least once a year except for a reasonable carryover amount not in excess of the greater of 1 year's earnings on such fund or account or 1/12th of annual Debt Service as well as amounts earned on said earnings if the gross earnings on such fund or account for the Bond Year is less than $100,000.

D. PAYMENT TO THE UNITED STATES. The City shall direct the Depository Bank to pay from the Rebate Fund an amount equal to Excess Investment Earnings to the United States in installments with the first payment to be made not later than 30 days after the end of the 5th Bond Year and with subsequent payments to be made not later than 5 years after the preceding payment was due. The City shall assure that each such installment is in an amount equal to at least 90% of the Excess Investment Earnings with respect to the Gross Proceeds as of the close of the computation period. Not later than 60 days after the retirement of the Series 1988 Bonds, the City shall direct the Depository Bank to pay from the Rebate Fund to the United States 100% of the theretofore unpaid Excess Investment Earnings in the Rebate Fund. In the event that there are any

amounts remaining in the Rebate Fund following the payment 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 at the address prescribed by the Regulations as the same may be in 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 by this Subsection D, 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.

E. FURTHER OBLIGATIONS OF ISSUER. The City shall assure that Excess Investment Earnings are not paid or disbursed except as required in this Section. To that end the City shall assure that investment transactions are on an arm's length basis and that Nonpurpose Investments are acquired at their fair market value. In the event that Nonpurpose Investments consist of certificates of deposit or investment contracts, investment in such Nonpurpose Investments shall be made in accordance with the procedures described in applicable Regulations as from time to time in effect. The Depository Bank shall keep the moneys in the Earnings Fund and Rebate Fund invested and reinvested to the fullest extent practicable in Government Obligations with maturities consonant with the required use thereof and investment profits and earnings shall be credited to the account of such fund on which earned.

F. MAINTENANCE OF RECORDS. The City shall keep, and retain for a period of 6 years following the retirement of the Series 1988 Bonds, records of the determinations made pursuant to this Section 5.03.

G. INDEPENDENT CONSULTANTS. In order to provide for the administration of this Section 5.03, the City and the Depository Bank (at the expense of the City) may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the City or the Depository Bank may deem appropriate.

H. FURTHER AGREEMENT. Notwithstanding the foregoing, the City further covenants to comply with all Regulations from time to time in effect and applicable to the Series 1988 Bonds as may be necessary in order to fully comply with Section 148(f) of the Code, and to the extent necessary to comply with such Regulations, to take such actions, or refrain from taking such actions as may be necessary, regardless of whether such actions may be contrary to any of the provisions of this Section 5.03.

ARTICLE VI

ADDITIONAL COVENANTS OF THE CITY

Section 6.01. General Covenants of the City. All the covenants, agreements and provisions of this Supplemental and Amendatory 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 1988 Bonds, as prescribed by Article VII. In addition to the other covenants, agreements and provisions of this Supplemental and Amendatory Ordinance, the City hereby covenants and agrees with the Holders of the Series 1988 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 said Series 1988 Bonds, or the interest thereon, is Outstanding and unpaid.

Section 6.02. Series 1988 Bonds not to be Indebtedness of the City. The Series 1988 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, the moneys in the Series 1988 Bonds Sinking Fund or the unexpended proceeds of the Series 1988 Bonds all as herein provided. No Holder or Holders of any Series 1988 Bonds issued hereunder shall ever have the right to compel the exercise of the taxing power of the City to pay said Series 1988 Bonds or the interest thereon.

Section 6.03. Series 1988 Bonds Secured by Pledge of Net Revenues on Parity with Prior Bonds. The payment of the debt service of all of the Series 1988 Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System, to the extent necessary to make the payments required under Section 4.03 but on a parity with respect to lien on and sources of and security for payment with the Prior Bonds (including payments to be made pursuant to the Investment Purchase Agreement). The Net Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Series 1988 Bonds herein authorized, and to make the payments into the Series 1988 Bonds Sinking Fund, and all other payments provided for in this Supplemental and Amendatory Ordinance, are hereby irrevocably pledged in the manner provided in this Supplemental and Amendatory Ordinance to the payment of the principal of the Series 1988 Bonds herein authorized as the same becomes due and for the other purposes provided in this Supplemental and Amendatory Ordinance.

Section 6.04. 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 1988 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 1988 Bonds during the term thereof is, under the terms of the Series 1988 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 1988 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 1988 Bonds during the term thereof is, under the terms of the Series 1988 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 1988 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 1988 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.

B. PRIVATE LOAN LIMITATION. The City shall assure that not in excess of the lesser of 5% of the Net Proceeds of the Series 1988 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 1988 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 1988 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 1988 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 6.05. Designation of Series 1988 Bonds as Qualified Tax-Exempt Obligations. The City and all subordinate entities do not reasonably expect to issue more than $10,000,000 of tax-exempt obligations during the calendar year 1988 and hereby designates the Series 1988 Bonds as "qualified tax-exempt obligations," as defined in Section 265(b)(3)(B) of the Code.

Section 6.06. Covenants Relating to Municipal Bond Insurance Policy. In order to obtain a Municipal Bond Insurance Policy from AMBAC Indemnity and therefore, lower interest rates on the Series 1988 Bonds, the Issuer hereby further covenants, at the request of AMBAC Indemnity, such covenants to be controlling, notwithstanding any other provision of this Supplemental and Amendatory Ordinance, as follows:

A. CONSENT OF AMBAC INDEMNITY. Any provision of this Supplemental and Amendatory Ordinance expressly recognizing or granting rights in or to AMBAC Indemnity may not be amended in any manner which affects the rights of AMBAC Indemnity hereunder without the prior written consent of AMBAC Indemnity.

B. CONSENT OF AMBAC INDEMNITY IN ADDITION TO BONDHOLDER CONSENT. Unless otherwise provided in this Section 6.05, AMBAC Indemnity's consent shall be required in addition to Bondholder consent, when required, for the purposes of execution and delivery of any supplemental ordinance or any other action requiring Bondholder consent under this Supplemental and Amendatory Ordinance.

C. CONSENT OF AMBAC INDEMNITY UPON DEFAULT. Anything in this Supplemental and Amendatory Ordinance to the contrary notwithstanding, upon the occurrence and continuance of an Event of Default, AMBAC Indemnity shall be entitled to control and direct the enforcement of all rights and remedies granted to the Bondholders, including, without limitation, acceleration of the principal of the Bonds as described in this Supplemental and Amendatory Ordinance and the right to annul any declaration of

acceleration, and AMBAC Indemnity shall also be entitled to approve all waivers of Events of Default.

D. ACCELERATION. Upon the occurrence of an Event of Default, any Bondholder may, with the consent of AMBAC Indemnity, and the Bondholders shall, at the direction of AMBAC Indemnity, by written notice to the Issuer and AMBAC Indemnity, declare the principal of the Series 1988 Bonds to be immediately due and payable, whereupon that portion of the principal of the Series 1988 Bonds thereby coming due and the interest thereon accrued to the date of payment shall, without further action, become and be immediately due and payable, anything in this Supplemental and Amendatory Ordinance, or in the Series 1988 Bonds to the contrary notwithstanding.

E. NOTICES TO BE GIVEN TO AMBAC INDEMNITY. While the Municipal Bond Insurance Policy is in effect, the Issuer shall furnish to AMBAC Indemnity:

(i) As soon as practicable after the filing thereof, a copy of any financial statement of the Issuer and a copy of any audit and annual report of the Issuer;

(ii) A copy of any notice to be given to the registered owners of the Series 1988 Bonds, including, without limitation, notice of any redemption of or defeasance of Series 1988 Bonds, and any certificate rendered pursuant to this Supplemental and Amendatory Ordinance, relating to the security for the Series 1988 Bonds; and

(iii) Such additional information it may reasonably request.

The Issuer will permit AMBAC Indemnity to discuss the affairs, finances and accounts of the Issuer or any information AMBAC Indemnity may reasonably request regarding the security for the Series 1988 Bonds with appropriate officers of the Issuer. The Issuer will permit AMBAC Indemnity to have access to and to make copies of all books and records relating to the Series 1988 Bonds at any reasonable time.

AMBAC Indemnity shall have the right to direct an accounting at the Issuer's expense, and the Issuer's failure to comply with such direction within 30 days after

receipt of written notice of the direction from AMBAC Indemnity shall be deemed an Event of Default hereunder; provided, however, that if compliance cannot occur within such period, then such period will be extended so long as compliance is begun within such period and diligently pursued, but only if such extension would not materially adversely affect the interests of any registered owner of the Series 1988 Bonds.

Notwithstanding any other provision of this Supplemental and Amendatory Ordinance, the Issuer shall immediately notify AMBAC Indemnity if at any time there are insufficient moneys to make any payments of principal and/or interest as required and immediately upon the occurrence of any Event of Default hereunder.

F. PAYMENT PROCEDURE PURSUANT TO MUNICIPAL BOND INSURANCE POLICY. As long as the Municipal Bond Insurance Policy shall be in full force and effect, the Issuer and any Paying Agent agree to comply with the following provisions:

(a) If 5 days prior to an interest payment date the Paying Agent determines that there will be insufficient funds in the funds and accounts established under the Ordinance to pay the principal of or interest on the Series 1988 Bonds on such interest payment date, the Paying Agent shall so notify AMBAC Indemnity. Such notice shall specify the amount of the anticipated deficiency, the Series 1988 Bonds to which such deficiency is applicable and whether such Series 1988 Bonds will be deficient as to principal or interest, or both. If the Paying Agent has not so notified AMBAC Indemnity 5 days prior to an interest payment date, AMBAC Indemnity will make payments of principal or interest due on the Series 1988 Bonds on or before the 5th business day next following the date on which AMBAC Indemnity shall have received notice of nonpayment from the Paying Agent.

(b) The Paying Agent shall, after giving notice to AMBAC Indemnity as provided in (a) above, make available to AMBAC Indemnity and, at AMBAC Indemnity's direction, to the United States Trust Company of New York, as insurance trustee for AMBAC Indemnity or any successor insurance trustee (the "Insurance Trustee"), the registration books of the Issuer maintained by the Registrar or Paying Agent and all records relating to the funds and accounts maintained under the Ordinance.

(c) The Paying Agent shall provide AMBAC Indemnity and the Insurance Trustee with a list of registered owners of Series 1988 Bonds entitled to receive principal or interest payments from AMBAC Indemnity under the terms of the Municipal Bond Insurance Policy, and shall make arrangements with the Insurance Trustee (i) to mail checks or drafts to the registered owners of Series 1988 Bonds entitled to receive full or partial interest payments from AMBAC Indemnity and (ii) to pay principal upon Series 1988 Bonds surrendered to the Insurance Trustee by the registered owners of Series 1988 Bonds entitled to receive full or partial principal payments from AMBAC Indemnity.

(d) The Paying Agent shall, at the time it provides notice to AMBAC Indemnity pursuant to (a) above, notify registered owners of Series 1988 Bonds entitled to receive the payment of principal or interest thereon from AMBAC Indemnity (i) as to the fact of such entitlement, (ii) that AMBAC Indemnity will remit to them all or a part of the interest payments next coming due upon proof of Bondholder entitlement to interest payments and delivery to the Insurance Trustee, in form satisfactory to the Insurance Trustee, of an appropriate assignment of the registered owner's right to payment, (iii) that should they be entitled to receive full payment of principal from AMBAC Indemnity, they must surrender their Series 1988 Bonds (along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee to permit ownership of such Series 1988 Bonds to be registered in the name of AMBAC Indemnity) for payment to the Insurance Trustee, and not the Trustee or Paying Agent, if any, and (iv) that should they be entitled to receive partial payment of principal from AMBAC Indemnity, they must surrender their Series 1988 Bonds for payment thereon first to the Trustee or Paying Agent, if any, who shall note on such Series 1988 Bonds the portion of the principal paid by the Paying Agent, and then, along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee, to the Insurance Trustee, which will then pay the unpaid portion of principal.

(e) In the event that the Paying Agent has notice that any payment of principal of or interest on a Series 1988 Bond which has become due for payment and which is made to a Bondholder by or on behalf of the Issuer has been deemed a preferential transfer and theretofore recovered from its registered owner pursuant to the United States Bankruptcy Code by a trustee in

bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Paying Agent shall, at the time AMBAC Indemnity is notified pursuant to (a) above, notify all registered owners that in the event that any registered owner's payment is so recovered, such registered owner will be entitled to payment from AMBAC Indemnity to the extent of such recovery if sufficient funds are not otherwise available, and the Paying Agent shall furnish to AMBAC Indemnity its records evidencing the payments of principal of and interest on the Series 1988 Bonds which have been made by the Paying Agent and subsequently recovered from registered owners and the dates on which such payments were made.

(f) In addition to those rights granted AMBAC Indemnity under this Supplemental and Amendatory Ordinance, AMBAC Indemnity shall, to the extent it makes payment of principal of or interest on Series 1988 Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Municipal Bond Insurance Policy, and to evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the Registrar or Paying Agent shall note AMBAC Indemnity's rights as subrogee on the registration books of the Issuer maintained by the Registrar or Paying Agent upon receipt from AMBAC Indemnity of proof of the payment of interest thereon to the registered owners of the Series 1988 Bonds, and (ii) in the case of subrogation as to claims for past due principal, the Registrar or Paying Agent shall note AMBAC Indemnity's rights as subrogee on the registration books of the Issuer maintained by the Registrar or Paying Agent upon surrender of the Series 1988 Bonds by the registered owners thereof together with proof of the payment of principal thereof.

Section 6.07. Rates. Prior to the enactment of this Supplemental and Amendatory Ordinance, just and equitable rates or charges for the use of the services and facilities of the System have been 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 clerk of the City, which copy will be open to inspection by all interested parties. The schedule or rates and charges shall at all times be adequate to produce Net Revenues from the System sufficient to make the prescribed payments into the funds and accounts created hereunder and to pay Operating Expenses. Such schedule 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 City hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient to produce Net Revenues equal to not less than 125% of (i) the maximum annual debt service on the Bonds; and (ii) the amount due under the Investment Purchase Agreement, in each Fiscal Year. All such rates and charges, if not paid when due, shall constitute a lien upon the premises served by the System.

The Issuer hereby covenants to increase the rates and charges for the services and facilities of the System within 90 days, 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.

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 1988 Bonds:

(A) If default occurs in the due and punctual payment of the principal of any Series 1988 Bond (including that portion representing interest accreted thereon at maturity);

(B) If default occurs in the City's observance of any of the covenants, agreements or conditions on its part in this Supplemental and Amendatory Ordinance or any Supplemental Resolution or in the Series 1988 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 Series 1988 Bondholder; 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 7.02. Enforcement. Upon the happening and continuance of any Event of Default, any Series 1988 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 Series 1988 Bondholders, including the right to require the City to perform its duties under the Act and this Supplemental and Amendatory Ordinance;

(C) Bring suit upon the Series 1988 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 Series 1988 Bondholders; and

(E) By action or bill in equity enjoin any acts in violation of this Supplemental and Amendatory Ordinance or the rights of the Series 1988 Bondholders.

No remedy by the terms of this Supplemental and Amendatory Ordinance conferred upon or reserved to the Series 1988 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 Series 1988 Bondholders hereunder or now or hereafter existing at law or by statute.

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 Series 1988 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 Series 1988 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 Series 1988 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 Supplemental and Amendatory 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 Series 1988 Bonds issued pursuant to this Supplemental and Amendatory Ordinance and interest thereon and under any covenants of this Supplemental and Amendatory 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 Supplemental and Amendatory 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 Series 1988 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 Series 1988 Bonds issued pursuant to this Supplemental and Amendatory 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 Series 1988 Bondholders, and the curing and making good of any default under the provisions of this Supplemental and Amendatory 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 Series 1988 Bondholder. In case any Series 1988 Bondholder shall have proceeded to enforce any right under this Supplemental and Amendatory 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 Series 1988 Bondholder shall be restored to their former positions and rights hereunder, and all rights and remedies of such Series 1988 Bondholder shall continue as if no such proceedings had been taken.

ARTICLE VIII

REGISTRAR; PAYING AGENT

Section 8.01. Appointment of Registrar. The Registrar for the Series 1988 Bonds shall be appointed pursuant to the Supplemental Resolution. The city manager of 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 1988 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 1988 Bonds by the City. Notwithstanding the foregoing, the Registrar shall be responsible for any representation in its Certificate of Authentication and Registration on the Series 1988 Bonds. The Registrar and any successor thereto shall agree to perform all the duties and responsibilities spelled out in this Supplemental and Amendatory 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, resolution, 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 Series 1988 Bonds and the exchange of Series 1988 Bonds in the event of partial redemption, incurred in the performance of its duties hereunder. The City shall indemnify and save the Registrar harmless against any liabilities which it may incur in the exercise and performance of its powers and duties and which are not due to its own negligence, default or willful misconduct.

Section 8.05. Certain Permitted Acts. The Registrar may become the owner of or may deal in Series 1988 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 Series 1988 Bondholders or effect or aid in any reorganization growing out of the enforcement of the Series 1988 Bonds or this Supplemental and Amendatory Ordinance, whether or not any such committee shall represent the Holders of a majority in principal amount of the Series 1988 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 Supplemental and Amendatory Ordinance by giving not less than 60 days' written notice to the City and publishing notice, specifying the date when such resignation shall take effect, in an Authorized Newspaper within 20 days after the giving of such written notice. A copy of such notice shall also be mailed to each owner of a Series 1988 Bond. 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 1988 Bonds then Outstanding by an instrument or concurrent instruments in writing signed and duly acknowledged by the City or by such Series 1988 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 1988 Bonds then Outstanding by an instrument or concurrent instruments in writing signed by such Series 1988 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 Series 1988 Bondholders. The City shall publish notice of any such appointment in an Authorized Newspaper within

20 days after the effective date of such appointment. A copy of such notice shall also be mailed to each owner of a Series 1988 Bond. Any successor Registrar appointed by the City shall, immediately and without further act, be superseded by a Registrar appointed by such Series 1988 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 Series 1988 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 Supplemental and Amendatory Ordinance.

Section 8.09. Transfer of Rights and Property to Successor. Any predecessor Registrar shall pay over, assign and deliver any moneys 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 1988 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 Series 1988 Bonds so authenticated, and, in case any Series 1988 Bonds shall have been prepared but not authenticated, any successor Registrar may authenticate such Series 1988 Bonds in the name of the predecessor Registrar or in its own name.

Section 8.12. Paying Agent. The Registrar shall also serve as the Paying Agent. The Registrar's acceptance of the duties and responsibilities of the Registrar expressed in Section 8.02 shall also include the trusts and the duties of 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 Supplemental and Amendatory 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 Supplemental and Amendatory 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 Series 1988 Bondholders may make such appointment.

The Paying Agents shall enjoy the same protective provisions in the performance of their 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 Agents shall, until used or applied as provided in this Supplemental and Amendatory Ordinance, be held in trust for the purposes for which they were received.

ARTICLE IX

DEFEASANCE; DISCHARGE OF PLEDGE OF SUPPLEMENTAL AND AMENDATORY ORDINANCE

Section 9.01. Defeasance; Discharge of Pledge of Supplemental and Amendatory Ordinance. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1988 Bonds the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Supplemental and Amendatory Ordinance, this Supplemental and Amendatory Ordinance and the pledges of the 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 1988 Bonds made hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied.

Series 1988 Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due the respective principal of and interest on such Series 1988 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 1988 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 and interest due and to become due on said Series 1988 Bonds on and prior to the maturity date thereof. Neither securities nor moneys deposited with the Bond Commission or an escrow trustee pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and interest on said Series 1988 Bonds; provided, that any cash received from such principal or 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 interest to become due on said Series 1988 Bonds on and prior to such maturity 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.

In the event that the principal and/or interest due on the Series 1988 Bonds shall be paid by AMBAC Indemnity pursuant to the Municipal Bond Insurance Policy, the Series 1988 Bonds shall remain Outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Issuer, and the assignment and pledge of the Net Revenues and other moneys securing the Series 1988 Bonds in the several funds and accounts described herein, and all covenants, agreements and other obligations of the Issuer to the registered owners of the Series 1988 Bonds shall continue to exist and shall run to the benefit of AMBAC Indemnity, and AMBAC Indemnity shall be subrogated to the rights of such registered owners.

ARTICLE X

MISCELLANEOUS

Section 10.01. Amendment of Supplemental and Amendatory Ordinance. No materially adverse amendment or modification to this Supplemental and Amendatory Ordinance, or of any Supplemental Resolution, may be made without the written consents of the Holders of 60% in aggregate principal amount of the Series 1988 Bonds then Outstanding and AMBAC Indemnity, which must be filed with the Clerk of 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 1988 Bond without the express written consent of the Holder of such Series 1988 Bond, nor reduce the percentage of Series 1988 Bonds required for consent to any such modification or amendment.

Section 10.02. Evidence of Signatures of Series 1988 Bondholders and Ownership of Series 1988 Bonds. Any request, consent, revocation of consent or other instrument which this Supplemental and Amendatory Ordinance may require or permit to be signed and executed by Series 1988 Bondholders may be in one or more instruments of similar tenor, and shall be signed or executed by such Series 1988 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 Supplemental and Amendatory 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 Series 1988 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 acknowledgements 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, trust company or 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 Series 1988 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 Series 1988 Bonds held by a person executing any instrument as a Series 1988 Bondholder, the date of his holding such Series 1988 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 Series 1988 Bond shall bind all future Holders and owners of such Series 1988 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 Supplemental and Amendatory Ordinance shall be retained in its possession and shall be available at all reasonable times for the inspection of the City or any Series 1988 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 Supplemental and Amendatory Ordinance shall be discharged as provided in Section 9.01.

Section 10.04. Cancellation of Series 1988 Bonds. All Series 1988 Bonds purchased or paid shall, if surrendered to the City, be cancelled and delivered to the Registrar, or, if surrendered to the Registrar, be cancelled by it. No such Series 1988 Bonds shall be deemed Outstanding under this Supplemental and Amendatory Ordinance and no Series 1988 Bonds shall be issued in lieu thereof. All such Series 1988 Bonds shall be cancelled 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 Series 1988 Bonds. Anything in this Supplemental and Amendatory 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 Series 1988 Bonds which remain unclaimed for 1 year after the date on which such Series 1988 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 Series 1988 Bonds shall look only to the City for the payment of such Series 1988 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 Original Purchaser or the Depository Bank 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

City of Fairmont
City-County Complex
200 Jackson Street
Fairmont, West Virginia 26554

REGISTRAR

[Name and address to be set forth in Supplemental Resolution]

ORIGINAL PURCHASER

Butcher & Singer Inc.
211 South Broad Street, Ninth Floor
Philadelphia, Pennsylvania 19107

DEPOSITORY BANK

[Name and address to be set forth in Supplemental Resolution]

AMBAC INDEMNITY

AMBAC Indemnity Corporation
One State Street Plaza
New York, New York 10004

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 Council 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 Series 1988 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 Supplemental and Amendatory Ordinance.

Section 10.08. Law Applicable. The laws of the State shall govern the construction of this Supplemental and Amendatory Ordinance and of all Series 1988 Bonds issued hereunder.

Section 10.09. Parties Interested Herein. Nothing in this Supplemental and Amendatory 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 1988 Bonds, AMBAC Indemnity and the Original Purchaser, any right, remedy or claim under or by reason of this Supplemental and Amendatory Ordinance. All the covenants, stipulations, promises and agreements contained in this Supplemental and Amendatory 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 1988 Bonds, AMBAC Indemnity and the Original Purchaser.

Section 10.10. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Supplemental and Amendatory Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Supplemental and Amendatory 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. Procedure on Enactment of Ordinance; Public Hearing. Upon adoption of this Supplemental and Amendatory

Ordinance, the Clerk is hereby authorized and directed to have an abstract of this Supplemental and Amendatory Ordinance, which abstract has been determined to contain sufficient information to give notice of the contents of such Supplemental and Amendatory Ordinance, published once each week for 2 successive weeks, with not less than six full days between each publication, the first such publication to be not less than 10 days before the date stated below for the public hearing, in The Fairmont Times - West Virginian, a newspaper published and having a general circulation in the City of Fairmont, together with a notice to all persons concerned, stating that this Supplemental and Amendatory Ordinance has been adopted and that the City contemplates the issuance of the Series 1988 Bonds described in this Supplemental and Amendatory Ordinance and that any person interested may appear before the Council at the public hearing to be had at a public meeting of Council on the 11th day of October, 1988, at 7:00 p.m., in the meeting room of the Council in the City-County Complex of the City of Fairmont and present protests, and that a certified copy of this Supplemental and Amendatory Ordinance is on file with the Clerk for review by interested parties during the office hours of the Clerk. At such hearing all objections and suggestions shall be heard by the Council and it shall then take such action as it shall deem proper in the premises.

This Ordinance shall become effective 30 days after enactment.

Passed on first reading:	September 27, 1988
Adopted following public hearing held:	October 11, 1988
Second public hearing held:	October 25, 1988
Effective, 30 days after adoption:	November 24, 1988

[SEAL]

Robert M. Drummond Jr.
Mayor

ATTEST:

Debra M. Bohan
City Clerk

WE, the undersigned officials of the City of Fairmont, West Virginia, do hereby certify that Ordinance No. 796 entitled:

> SUPPLEMENTAL AND AMENDATORY ORDINANCE SUPPLEMENTING AND AMENDING ORDINANCE NO. 680 OF THE CITY OF FAIRMONT, ENACTED AUGUST 13, 1985; AUTHORIZING THE REFUNDING OF A PORTION OF THE OUTSTANDING SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1985, OF THE CITY OF FAIRMONT, WEST VIRGINIA; AUTHORIZING THE ISSUANCE OF SEWERAGE SYSTEM REFUNDING REVENUE CAPITAL APPRECIATION BONDS, SERIES 1988, OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN $13,500,000, 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 AMENDMENT OF ORDINANCE NO. 680 TO PERMIT THE REFUNDING OF LESS THAN ALL OF SUCH SERIES 1985 BONDS; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; PROVIDING FOR THE ADOPTION OF A SUPPLEMENTAL RESOLUTION AND THE FORM OF AND EXECUTION AND DELIVERY OF AN ESCROW DEPOSIT AGREEMENT, AN INVESTMENT PURCHASE AGREEMENT AND OTHER INSTRUMENTS; AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS

was introduced at a regular meeting of Council of the City of Fairmont, West Virginia, held September 27, 1988. The Ordinance being lengthy and technical in nature and there being no request by the majority of councilmembers present that the proposed Ordinance be read in its entirety, the Clerk read a synopsis of the Ordinance prepared by Bond Counsel in accordance with Ordinance No. 614 adopted November 15, 1983, amending the City Charter. Notice was published in The Fairmont Times - West Virginian, on September 30, 1988, pursuant to Charter provision Section 2.13(d) and a public hearing was held October 11, 1988. There being no request that said proposed Ordinance be read in its entirety, the Clerk publicly read the title only and copies were available to the public as required by Ordinance No. 499. Said Ordinance was duly passed and adopted by the Council of said City on October 11, 1988.

The abstract and notice of public hearing that Ordinance No. 796 was adopted on October 11, 1988, were published in The Fairmont Times - West Virginian on October 12, 1988, and a second abstract and notice of public hearing was published in said

newspaper on October 19, 1988. The public hearing was held October 25, 1988. There being no objections to the Ordinance being put into effect, it was signed by the undersigned officials and filed in the Office of the Clerk of said City of Fairmont, West Virginia.

Adopted by Council of the City of Fairmont, October 25, 1988.

Robert M. Drummond Jr.
Mayor

ATTEST:

Debra M. Bohan
City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

James D. Watkins Jr.
Attorney for the Sanitary Sewer
Board of the City of Fairmont

APPROVED AS TO FORM:

Kourtney A. Ryan
City Attorney

CERTIFICATION

Certified a true, correct and complete copy of an Ordinance duly enacted by the City Council of the CITY OF FAIRMONT at a regular meeting of the City Council held at 7:00 p.m., on October 25, 1988, pursuant to proper notice, at which meeting a quorum was present and acting throughout, and which Ordinance was enacted following a public hearing thereon, notice of which public hearing was published once a week for two successive weeks in a newspaper published and of general circulation in the City of Fairmont, the first publication having been not less than 10 days prior to such public hearing.

Dated this 30th day of November, 1988.

[SEAL]

Debra M. Bohan
City Clerk

EXHIBIT A

[FRONT OF BOND]

No. R-_____

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF FAIRMONT
SEWERAGE SYSTEM REFUNDING REVENUE CAPITAL APPRECIATION BOND,
SERIES 1988

Yield to Maturity	Maturity Date	Bond Date	CUSIP NO.

Registered Owner: _____

Stated Value at Maturity: _____

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF FAIRMONT, a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Stated Value at Maturity specified above, which Stated Value at Maturity includes the principal of and interest on this Bond, at the Yield to Maturity specified above. The Stated Value at Maturity of this Bond is payable in any coin or currency which, on the date of payment thereof, is legal tender for the payment of public and private debts under the laws of the United States of America upon surrender of this Bond at the office of _____, _____, _____, as Paying Agent and Registrar (the "Registrar").

This Bond is one of a series of bonds, in the aggregate Stated Value at Maturity of $_____ (the "Bonds"), of like tenor and effect, except as to number, denomination, yield and date of maturity, dated _____, 1988, issued to (i) refund a portion of the City's Sewerage System Refunding Revenue Bonds,

Series 1985, outstanding in the total aggregate principal amount of $_____ (the "Prior Bonds"), which Prior Bonds were issued to finance or refinance the cost of construction of certain additions, betterments and improvements to the sewerage system of the City (hereinafter referred to as the "System"); (ii) to pay a portion of the costs of certain additions, betterments and improvements for the System (as hereinafter defined); and (iii) to pay costs of issuance of the Bonds and costs relating to such refunding. 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 Code of West Virginia, 1931, as amended (the "Act"), and an ordinance duly enacted by the City Council of the City on August 13, 1985, supplemented and amended by a supplemental resolution adopted September 17, 1985, a supplemental and amendatory ordinance enacted October 25, 1988, and a supplemental resolution adopted October 25, 1988 (hereinafter collectively referred to as the "Ordinance"), and is subject to all the terms and conditions of said Ordinance. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance.

The Bonds are not subject to redemption prior to maturity.

REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THIS BOND SET FORTH ON THE REVERSE HEREOF, WHICH FURTHER PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS IF SET FORTH HEREIN.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of said 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 said City for the prompt payment of the principal of and interest on the Bonds of which this Bond is one.

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

Registrar duly executed by the Registered Owner or its attorney duly authorized in writing.

This Bond, under the provisions of the Act is and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may be transferred only upon the surrender hereof at the office of the Registrar and otherwise as provided by the within-described Ordinance.

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.

This Bond is hereby designated a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended.

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 FAIRMONT has caused this Bond to be signed by its Mayor and its City Manager, 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]

(Facsimile Signature)
Mayor

(Facsimile Signature)
City Manager

ATTEST:

(Facsimile Signature)
City Clerk

(Form of)

CERTIFICATE OF AUTHENTICATION
AND REGISTRATION

This Bond is one of the Bonds of the Series designated therein, described in the within-mentioned Ordinance and has been duly registered in the name of the Registered Owner set forth above on the date set forth below. Imprinted on the reverse hereof is the complete text of the opinion of Steptoe & Johnson, bond counsel, signed originals of which are on file with the Registrar, delivered and dated on the date of the original delivery of and payment for the Bonds.

Dated: _____, _____.

_____,
as Registrar

By _____
Its Authorized Officer

[REVERSE OF BOND]

The Bonds are payable only from and are secured on a parity in all respects with the Prior Bonds outstanding, including payments to be made pursuant to the Investment Purchase Agreement, as defined in the Ordinance, by (i) the Net Revenues (as defined in the Ordinance) to be derived from the operation of the System; (ii) all moneys in the Series 1988 Bonds Sinking Fund established under the Ordinance; and (iii) unexpended proceeds of the Bonds, and the City hereby and in the Ordinance pledges such revenues and moneys to such payment. Said Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose and to make the other payments required by the Ordinance. This Bond does not constitute an indebtedness of the City within any constitutional or statutory provision or limitation, nor shall the City be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1988 Bonds Sinking Fund and said unexpended Bond proceeds. Neither the credit nor the taxing power of the City or any political subdivision thereof is pledged for the payment of the principal of or interest on this Bond. Under the Ordinance, the City has covenanted and agreed to fix, establish and collect just and equitable rates or charges for the use of the services and facilities of the System and to revise the same from time to time as will always be sufficient to pay all operating expenses of the System and to produce revenues net of such operating expenses equal to at least 125% of (i) the maximum annual debt service on the Bonds, the Prior Bonds outstanding and any additional bonds hereafter issued on a parity with the Bonds; and (ii) the amount due under the Investment Purchase Agreement in each fiscal year. Such required payments on behalf of the Bonds and the Investment Purchase Agreement shall constitute a first charge upon all the revenues of the System, but on parity with respect to lien and sources of and security for payment with each other and the nonrefunded Prior Bonds. 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 hereby made for a detailed description thereof.

All moneys received from the sale of the Bonds except for accrued interest thereon (if any) shall be applied solely to the purposes set forth above, and there shall be, and hereby is, created and granted a lien upon such moneys, until so applied, in favor of the registered owners of the Bonds.

(Form of)

ASSIGNMENT

For value received, the undersigned hereby 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 with full power of substitution in the premises.

Dated: _____, _____.

_____

SIGNATURE GUARANTEED:

_____

NOTICE: The Assignor's signature to this Assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatever.

The Registrar will not affect transfer of this Bond unless the information concerning the transferee requested below is provided. The transferor should complete whichever of the following is applicable.

INDIVIDUAL:

Name and Address:

_____

_____

_____

Social Security Number: _____
(Include information for all joint owners if the Bond is held by joint account)

CORPORATION OR PARTNERSHIP:

Name and Address:

_____

_____

_____

Tax Identification Number: _____

TRUST:

Name of Trust:

_____

_____

_____

Name and Address of Settlor:

_____

_____

_____

Name and Address of Trustee:

_____

_____

_____

Tax Identification Number of Trust: _____

Tax Identification Number or Social Security Number of Settlor: _____

NOMINEE:

Name and Address:

_____

_____

_____

Tax Identification Number or Social Security Number: _____

(If the Bond is to be registered in nominee name, then include information for the principal.)

11/21/88
FMTSR2/3-A/A

CITY OF FAIRMONT

$11,065,000 Sewerage System Refunding Revenue
Capital Appreciation Bonds, Series 1988

SUPPLEMENTAL RESOLUTION PROVIDING AS TO AMOUNT, MATURITIES, INTEREST RATES, REDEMPTION PROVISIONS, PURCHASE PRICE AND OTHER DETAILS AS TO THE SEWERAGE SYSTEM REFUNDING REVENUE CAPITAL APPRECIATION BONDS, SERIES 1988, OF THE CITY; AUTHORIZING AND APPROVING A BOND PURCHASE PROPOSAL, AN ESCROW DEPOSIT AGREEMENT, AN INVESTMENT PURCHASE AGREEMENT, A REGISTRAR'S AGREEMENT AND AN OFFICIAL STATEMENT RELATING TO THE BONDS; DETERMINING THAT A NET SAVINGS IS TO BE ACHIEVED BY SUCH REFUNDING; APPOINTING A REGISTRAR, PAYING AGENT, ESCROW AGENT, SECURITIES PROVIDER AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS AND THE REFUNDING.

WHEREAS, the City of Fairmont (the "Issuer"), in the County of Marion, State of West Virginia, is a municipal corporation of said State, the governing body of which is its Council;

WHEREAS, this Council has duly and finally enacted on October 25, 1988, a Supplemental and Amendatory Ordinance (the "Supplemental and Amendatory Ordinance") entitled:

SUPPLEMENTAL AND AMENDATORY ORDINANCE SUPPLEMENTING AND AMENDING ORDINANCE NO. 680 OF THE CITY OF FAIRMONT, ENACTED AUGUST 13, 1985; AUTHORIZING THE REFUNDING OF A PORTION OF THE OUTSTANDING SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1985, OF THE CITY OF FAIRMONT, WEST VIRGINIA; AUTHORIZING THE ISSUANCE OF SEWERAGE SYSTEM REFUNDING REVENUE CAPITAL APPRECIATION BONDS, SERIES 1988, OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN $13,500,000, 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 AMENDMENT OF ORDINANCE NO. 680 TO PERMIT THE

REFUNDING OF LESS THAN ALL OF SUCH SERIES 1985 BONDS; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; PROVIDING FOR THE ADOPTION OF A SUPPLEMENTAL RESOLUTION AND THE FORM OF AND EXECUTION AND DELIVERY OF AN ESCROW DEPOSIT AGREEMENT, AN INVESTMENT PURCHASE AGREEMENT AND OTHER INSTRUMENTS; AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS

providing for the issuance of its Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988 (the "Series 1988 Bonds"), in an aggregate principal amount not to exceed $13,500,000, for the purpose of refunding a portion of the Issuer's outstanding Sewerage System Refunding Revenue Bonds, Series 1985, dated September 15, 1985, issued in the original aggregate principal amount of $7,370,000 (the "Prior Bonds"), of which $7,185,000 principal amount is now outstanding, pursuant to an ordinance enacted August 13, 1985, and a supplemental resolution adopted September 17, 1985 (collectively, the "Prior Ordinance"), and the Supplemental and Amendatory Ordinance is supplementary to and amendatory of the Prior Ordinance and is herein called, together with the Prior Ordinance, the "Ordinance," all in accordance with Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act");

WHEREAS, in accordance with the Charter of the Issuer, the Supplemental and Amendatory Ordinance shall become effective on November 24, 1988, being 30 days following the date of adoption thereof, which occurred on October 25, 1988;

WHEREAS, the Supplemental and Amendatory Ordinance provides that the exact principal amount of the Series 1988 Bonds to be sold and the exact maturities, interest rates, redemption provisions and the price of the Bonds be established, that a determination that issuance of the Series 1988 Bonds results in a net savings to the Issuer be made, that a Paying Agent, Registrar, Depository Bank, Escrow Agent and Securities Provider be designated and that an Escrow Deposit Agreement, Investment Purchase Agreement and Registrar's Agreement be provided for by resolution of this Council upon receipt of a Bond Purchase Proposal acceptable to this Council;

WHEREAS, the Series 1988 Bonds are proposed to be purchased by Butcher & Singer, Inc. (the "Original Purchaser"),

pursuant to a Bond Purchase Proposal dated October 25, 1988 (the "Proposal"); and

WHEREAS, this Council deems it essential and desirable that this Resolution be adopted and that the Proposal, the Escrow Deposit Agreement, the Investment Purchase Agreement and the Registrar's Agreement hereinafter provided for be entered into by the Issuer, that the Official Statement relating to the Series 1988 Bonds, hereinafter described, be approved, that the price of the Series 1988 Bonds, the maturity dates and amounts, the redemption provisions, the interest rates, and the exact principal amount of the Series 1988 Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Series 1988 Bonds be herein provided for;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF FAIRMONT HEREBY RESOLVES:

Section 1. Pursuant to the Ordinance and the Act, this Resolution is adopted and there are hereby authorized and ordered to be issued the Series 1988 Bonds in the aggregate principal amount (stated value at maturity) of $11,065,000, with a stated value at issuance of $3,680,320.50. The Series 1988 Bonds shall be dated November 30, 1988, upon original issuance, shall bear interest (expressed as "Yield to Maturity"), payable only at maturity, and shall mature on November 1, of each of the years as follows:

Maturity	Stated Value at Issuance	Stated Value at Maturity	Yield to Maturity	Maturity	Stated Value at Issuance	Stated Value at Maturity	Yield to Maturity
1996	$298,975	$500,000	6.60%	2004	$239,020	$760,000	7.40%
1997	277,770	500,000	6.70	2005	217,229	755,000	7.50
1998	257,570	500,000	6.80	2006	198,354	755,000	7.60
1999	238,380	500,000	6.90	2007	180,770	755,000	7.70
2000	328,091	745,000	7.00	2008	166,017	755,000	7.75
2001	306,538	755,000	7.10	2009	154,880	760,000	7.75
2002	282,060	755,000	7.20	2010	142,597	755,000	7.75
2003	259,041	755,000	7.30	2011	133,030	760,000	7.75

Section 2. The Series 1988 Bonds shall not be subject to optional or mandatory redemption prior to maturity.

Section 3. All other provisions relating to the Series 1988 Bonds shall be as provided in the Ordinance, and the

Series 1988 Bonds shall be in substantially the form provided in the Ordinance.

Section 4. The Proposal between the Original Purchaser and the Issuer, substantially in the form submitted to this meeting, and the execution and delivery (in multiple counterparts) by the Mayor and City Manager on this day of the Proposal on behalf of the Issuer are hereby authorized, approved and directed. The Mayor and City Manager shall execute and deliver the Proposal with such changes, insertions and omissions as may be approved by the Mayor and City Manager. Execution of the Proposal by the Mayor and City Manager shall be conclusive evidence of any approval required by this Section. The price of the Series 1988 Bonds, pursuant to the Proposal, shall be $3,606,714.09 (which represents the principal amount of the Series 1988 Bonds less the Original Purchaser's discount of $73,606.41 and original issue discount of $7,384,679.50), there being no interest accrued on the Series 1988 Bonds.

Section 5. The Escrow Deposit Agreement by and between the Issuer and the West Virginia Municipal Bond Commission, as Escrow Agent, to be dated as of the date of delivery of the Series 1988 Bonds, substantially in the form submitted to this meeting shall be and the same is hereby approved. The Mayor and City Manager shall execute and deliver the Escrow Deposit Agreement with such changes, insertions and omissions as may be approved by the Mayor and City Manager. Execution of the Escrow Deposit Agreement by the Mayor and City Manager shall be conclusive evidence of any approval required by this Section.

Section 6. The Investment Purchase Agreement, by and among the Issuer, the Escrow Agent and First Fidelity Bank, N.A., New Jersey to be dated as of the date of delivery of the Series 1988 Bonds, substantially in the form submitted to this meeting shall be and the same is hereby approved. The Mayor and City Manager shall execute and deliver the Investment Purchase Agreement with such changes, insertions and omissions as may be approved by the Mayor and the City Manager. The execution of the Registrar's Agreement by the Mayor and City Manager shall be conclusive evidence of any approval required by this Section.

Section 7. The Official Statement dated October 25, 1988, to be substantially in the form of the Draft Official Statement described below, and the distribution of counterparts or copies thereof by the Original Purchaser are hereby approved. The Mayor and City Manager shall execute and deliver the Official Statement with such changes, insertions and omissions as may be approved by the Mayor and the City Manager. The execution of the Official Statement by the Mayor and City Manager shall be conclusive

evidence of any approval required by this Section. The distribution by the Original Purchaser of the Draft Official Statement dated October 20, 1988, substantially in the form submitted to this meeting is hereby ratified and approved.

Section 8. The Registrar's Agreement to be dated as of the date of delivery of the Series 1988 Bonds, by and between the Issuer and the Registrar designated herein, substantially in the form submitted to this meeting shall be and the same is hereby approved. The Mayor and City Manager shall execute and deliver the Registrar's Agreement with such changes, insertions and omissions as may be approved by the Mayor and the City Manager. The execution of the Registrar's Agreement by the Mayor and City Manager shall be conclusive evidence of any approval required by this Section.

Section 9. The Issuer does hereby appoint and designate (i) City National Bank of Fairmont, Fairmont, West Virginia, for the purpose of serving in the capacities of Registrar, Paying Agent and Depository Bank; and (ii) the West Virginia Municipal Bond Commission, Charleston, West Virginia, as Escrow Agent under and pursuant to the Escrow Deposit Agreement and the Ordinance.

Section 10. The Mayor, the City Manager and the City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Series 1988 Bond issue, hereby and by the Ordinance approved and provided for, including, if needed, subscription forms for the purchase of United States Government Securities, a commitment for the Municipal Bond Insurance Policy and other documents to the end that the Series 1988 Bonds may be delivered at the earliest practical date to the Original Purchaser, pursuant to the Proposal.

Section 11. Under the provisions of the Act, and as provided in the Ordinance and the Series 1988 Bonds, the Series 1988 Bonds and the interest thereon do not constitute indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, but shall be payable solely from the revenues derived from the operation of the sewerage system of the Issuer and the funds and accounts established by the Ordinance and neither the credit nor the taxing power of the Issuer is pledged for, and no tax shall ever be levied for, payment of the Bonds and the interest thereon.

Section 12. Based upon the actual principal amount, maturity schedule and interest rates for the Series 1988 Bonds, as set forth in Paragraph (1) hereof, it is hereby determined that the Series 1988 Bonds show a net savings to the Issuer after deducting

all expenses of the refunding. Prior to delivery of the Series 1988 Bonds, the Issuer shall have 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 correct, based upon his review, comparison and analysis of the net interest cost in dollars of the Series 1988 Bonds and the net interest cost in dollars of the Prior Bonds being refunded. The City Manager is hereby authorized and directed to employ an independent certified public accountant satisfactory to the Original Purchaser to supply the certification required herein and to take other actions required in connection with the refunding.

Section 13. The net proceeds of the Series 1988 Bonds shall be deposited in accordance with the Supplemental Ordinance as follows:

Deposit to Escrow Fund	$3,158,700.00
Bond Insurance Premium	75,592.17
Deposit to Cost of Issuance Fund	75,000.00
Deposit to Construction Fund	297,421.92
Total Net Proceeds	$3,606,714.09

Section 14. The City Manager, Mayor, City Clerk and other appropriate officers and employees of the Issuer are hereby authorized and directed to take all further actions necessary to cause the Series 1988 Bonds to be insured by AMBAC Indemnity Corporation or such other municipal bond insurance company as is acceptable to the Original Purchaser. Any rebate received by the Issuer in connection with municipal bond insurance on the Prior Bonds shall be deposited by the Issuer in accordance with the Escrow Deposit Agreement.

Section 15. This Resolution shall be effective on November 24, 1988, being 30 days following the date of enactment of the Ordinance.

Adopted this 25th day of October, 1988.

[SEAL]

Mayor, City of Fairmont

City Manager, City of Fairmont

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

11/21/88
FMTSR1-I

INVESTMENT PURCHASE AGREEMENT

THIS INVESTMENT PURCHASE AGREEMENT, dated as of November 30, 1988 (the "Agreement"), between the CITY OF FAIRMONT, a municipal corporation of the State of West Virginia (the "City"), FIRST FIDELITY BANK, N.A., NEW JERSEY, a national banking association organized and existing under the laws of the United States of America with its principal corporate office located in Newark, New Jersey (the "Bank") and the WEST VIRGINIA MUNICIPAL BOND COMMISSION, an agency of the State of West Virginia, as escrow agent (the "Escrow Agent").

W I T N E S S E T H:

WHEREAS, the City desires to invest certain anticipated future available revenues in United States Zero Coupon Treasury Investments (the "Obligations"); and

WHEREAS, the City wishes to purchase, or cause the Escrow Agent to purchase, the Obligations on the delivery dates (the "Delivery Dates"), in the principal amounts (the "Principal Amounts") and for the prices (the "Purchase Prices") which are set forth on Exhibit A attached hereto, and the Bank desires to sell such Obligations to the City; and

WHEREAS, the Bank agrees to purchase from the City, or from the Escrow Agent on behalf of the City, the Obligations on the dates (the "Repurchase Dates"), in the Principal Amounts and at the prices ("Repurchase Prices") which are set forth on Exhibit A attached hereto.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto, covenant and agree as follows:

Section 1. Purchase and Delivery of Obligations. The Bank agrees to sell and the City agrees to purchase, or cause the Escrow Agent to purchase, (subject to Section 10 hereof) the Obligations on the Delivery Dates, in the Principal Amounts and at the Purchase Prices which are set forth on Exhibit A attached hereto. The Bank shall deliver the Obligations to the City by transferring ownership of such Obligations to the Escrow Agent for the account of the City on the books and records of the Federal Reserve Bank. Such transfer in registered ownership shall only occur against payment therefor. The Bank shall deliver or cause to be delivered to the City and the Escrow Agent a written confirmation from the Federal Reserve Bank confirming the registered ownership of such obligations.

Section 2. Bank's Obligations. The Bank's obligations pursuant to this Agreement are as follows:

(a) to deliver the Principal Amounts of Obligations on the Delivery Dates to the Escrow Agent on behalf of the City against payment of the Purchase Prices, in funds immediately available in New York, New York. Not more than 30 days and not less than 10 days prior to each Delivery Date, the Bank shall give notice of said Delivery Date to the Escrow Agent on behalf of the City and to the City; provided, however, that the failure to give such notice shall not impair the obligation of the City to purchase, or to cause the Escrow Agent to purchase, and of the Bank to sell, the Obligations in accordance with the terms of this Agreement; and

(b) on the Repurchase Dates specified on Exhibit A attached hereto, to purchase the Obligations from the Escrow Agent on behalf of the City for the Repurchase Prices specified on said Exhibit by payment in immediately available funds in Charleston, West Virginia.

Section 3. Liquidated Damages for Bank. If, on any Delivery Date, the City shall fail to have paid, or caused to have been paid, to the Bank the Purchase Price for the appropriate Principal Amount of Obligations to be delivered on such date and such failure shall continue for 2 Business Days after the Bank gives the City and the Escrow Agent written notice of such failure:

(a) the Bank shall have the right, within 5 Business Days after the Delivery Date on which the City shall have defaulted, to terminate this Agreement (but only with respect to the purchase and sale of the Principal Amount of Obligations scheduled for purchase on such Delivery Date), and to resell in a commercially reasonable manner to any other purchaser or purchasers the Principal Amount of Obligations which were to be delivered to the Escrow Agent on behalf of the City on that Delivery Date (provided that the Bank has possession of or an ownership interest in such Obligations), and the City shall pay to the Bank, on demand, liquidated and exclusive (the Bank's remedies in all cases being strictly limited to such liquidated damages) damages in an amount which is equal to: (i) the difference between the applicable Purchase Price and the price which the Bank receives upon the resale of such Obligations; plus (ii) the incidental reasonable costs and expenses (including legal fees) incurred by the Bank in connection with such resale; and

(b) the Bank, after giving notice to the City and the Escrow Agent of its intention to do so, shall have the right within 5 Business Days after the Delivery Date on which the City shall have defaulted, to terminate this Agreement in

its entirety and to resell in a commercially reasonable manner to any other purchaser or purchasers all the Principal Amounts of the Obligations not previously delivered to the Escrow Agent on behalf of the City for purchase hereunder and which are owned by the Bank, and the City shall pay to the Bank, on demand, liquidated and exclusive (the Bank's remedies in all cases being strictly limited to such liquidated damages) damages in an amount equal to: (i) the difference between the present value of the applicable Purchase Prices (discounted back to the defaulted Delivery Date at a discount rate equal to 7.90%) and the total price which the Bank receives upon the resale of such Obligations; plus (ii) incidental reasonable costs and expenses (including legal fees) incurred by the Bank in connection with such resale.

Section 4. Liquidated Damages for City. If, on any Delivery Date, the Bank shall fail to deliver the Principal Amount of Obligations to be delivered for the appropriate Purchase Price, and such failure shall continue for 2 Business Days following written notice to the Bank of said failure:

(a) the City shall have the right, within 5 Business Days after the Delivery Date on which the Bank shall have defaulted, to terminate this Agreement (but only with respect to the purchase and sale of the Principal Amount of Obligations scheduled for purchase on such Delivery Date) and to purchase from any seller or sellers such Principal Amount of Obligations (the "Substitute Obligations") which are required to be delivered on that Delivery Date, and the Bank shall pay to the City on demand, liquidated and exclusive (the City's remedies in all cases being strictly limited to such liquidated damages) damages in an amount equal to: (i) the difference between the price which the City pays to purchase the Substitute Obligations and the applicable Purchase Price; and (ii) incidental reasonable costs and expenses (including legal fees) incurred by the City in connection with the purchase of the Substitute Obligations; and

(b) the City, after giving notice to the Bank of its intention to do so, shall have the right, in addition to all other remedies available to the City in law or equity, within 5 Business Days after the Delivery Date on which the Bank shall have defaulted, to terminate this Agreement in its entirety provided that another institution acceptable to the City assumes the remaining obligations of the Bank under the terms of this Agreement, and the Bank shall pay to the City on demand, liquidated damages in an amount equal to: (i) any reasonable premium or payment required by such substitution institution as a condition of said institution for entering

into such an agreement (which premium or payment shall not exceed the difference between current market cost of the Obligations and the aggregate Purchase Price of the Obligations set forth on Exhibit A); plus (ii) any incidental reasonable costs and expenses (including legal fees) incurred by the City in connection with the Bank's default under this Agreement.

Section 5. Liquidated Damages - Repurchase Dates. If on any Repurchase Date the Bank shall fail to repurchase the Obligations for the Repurchase Price specified on Exhibit A attached hereto, the Bank shall pay to the City on demand liquidated and exclusive (the City's remedies in all cases being strictly limited to such liquidated damages) damages in an amount equal to: (i) the difference between the price which the City receives upon sale of such Obligations and the Repurchase Price; plus (ii) any incidental reasonable costs and expenses (including legal fees) incurred by the City in connection with the failure of the Bank to repurchase the Obligations.

Section 6. City's Option to Terminate. The City has accepted a Bond Purchase Proposal, dated October 25, 1988 (the "Purchase Proposal"), with respect to the issuance and sale of its $11,065,000 aggregate principal amount Sewerage System Refunding Revenue Capital Appreciation Bonds, Series of 1988 (the "1988 Bonds"). In the event the underwriters fail to accept and pay for the 1988 Bonds at the closing, the City shall have the option of terminating this Agreement after 10 days written notice to the Bank, without penalty or any other liability of any kind.

Section 7. Waivers and Amendments. No failure or delay on the part of the Bank or the City in exercising any right or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. None of the terms or pvisions of this Agreement may be waived, modified or amended except in writing duly signed by the Bank, the City and the Escrow Agent.

Section 8. Assignment; Binding on Successors and Assigns. This Agreement may not be assigned or pledged by the City or the Bank without the written consent of the other; and subject to the foregoing, this Agreement shall be binding upon the Escrow Agent, the City and the Bank and upon their successors, transferees and assigns.

Section 9. Representations of Escrow Agent, City and Bank. The Escrow Agent, the City and the Bank each represents to the other that: (i) the execution, delivery and performance of this Agreement have been duly authorized by all necessary action;

and (ii) this Agreement constitutes a valid and legally binding obligation of each of them.

Section 10. Nature of Obligations. The (a) Bank's obligation to deliver the Obligations to the Escrow Agent on behalf of the City on the Delivery Dates (subject to the obligation of the City to make, or cause to be made, payment for said Obligations as provided herein), and the Bank's obligation to repurchase said Obligations on the Repurchase Dates, and (b) City's obligation to purchase, or cause to be purchased, the Obligations on the Delivery Dates, shall both be absolute and unconditional.

Section 11. Notices. All notices given pursuant to the terms of this Agreement shall be in writing and shall be sufficient if delivered or mailed by registered or certified mail, postage prepaid, to the attention of the persons listed below and to the party intended as the recipient thereof at the address of such party set forth below, or at such other address or to the attention of such other person as such party shall have designated for such purpose in a written notice complying as to delivery with the terms of this paragraph.

The Bank:	First Fidelity Bank, N.A., New Jersey 550 Broad Street Newark, New Jersey 07192 Attn: George L. Tuttle Senior Vice President
The City:	The City of Fairmont City-County Complex 200 Jackson Street Fairmont, West Virginia 26554 Attn: City Manager
The Escrow Agent:	West Virginia Municipal Bond Commission 1800 Washington Street East Building 3, Suite 337 Charleston, West Virginia 25305 Attn: Executive Director

Section 12. No Third Party Beneficiaries. Nothing expressed or implied herein is intended or shall be construed to confer upon any person, firm or corporation other than the parties hereto any right, remedy or claim by reason of this Agreement or any term hereof, and all terms contained herein shall be for the sole and exclusive benefit of the parties hereto and their successors and their assigns.

Section 13. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia.

Section 14. Counterparts. This Agreement may be executed in one or more counterparts and when each party hereto has executed at least one counterpart, this Agreement shall become binding on all parties and such counterparts shall be deemed to be one and the same document.

Section 15. Severability. If one or more provisions of this Agreement or the application of any such provision to any set of circumstances shall be determined to be invalid or ineffective for any reason, such determination shall not affect the validity and enforceability of the remaining provisions or the application of the same provisions or any of the remaining provisions to other circumstances.

IN WITNESS WHEREOF, the parties hereto have caused this

Agreement to be executed by their duly authorized officers as of the date first written above.

THE CITY OF FAIRMONT

By _____
Mayor

_____
City Manager

Attest: _____ (SEAL)
City Clerk

FIRST FIDELITY BANK, N.A.,
NEW JERSEY

By _____
Vice President

Attest: _____ (SEAL)
(Asst.) Secretary

WEST VIRGINIA MUNICIPAL BOND
COMMISSION

By _____
Authorized Officer

Attest: _____ (SEAL)
Authorized Officer

Agreement to be executed by their duly authorized officers as of the date first written above.

THE CITY OF FAIRMONT

By_____
Mayor

_____
City Manager

Attest:_____(SEAL)
City Clerk

FIRST FIDELITY BANK, N.A.,
NEW JERSEY

By_____
Vice President

Attest:_____(SEAL)
(Asst.) Secretary

WEST VIRGINIA MUNICIPAL BOND
COMMISSION

By_____
Authorized Officer

Attest:_____(SEAL)
Authorized Officer

EXHIBIT "A"

SCHEDULE OF OBLIGATIONS

The parties acknowledge and agree that, notwithstanding any other provision of the Agreement to the contrary, assuming timely performance by the parties hereto, the following schedule sets forth the Purchase Prices and the Principal Amounts of Obligations to be purchased by the City from the Bank on each Delivery Date and the Repurchase Prices to be paid by the Bank to the City on each Repurchase Date:

Schedule of Purchases of Obligations

Delivery Dates1	Maturity Dates	Principal Amounts	Purchase Prices1
May 1, 1989	November 15, 1995	$543,000	$327,099
November 1, 1989	November 15, 1995	$690,000	$432,188
May 1, 1990	November 15, 1995	$497,000	$323,582
November 1, 1990	November 15, 1995	$640,000	$433,312
May 1, 1991	November 15, 1995	$455,000	$320,102
November 1, 1991	November 15, 1995	$600,000	$438,660
May 1, 1992	November 15, 1995	$411,000	$312,446
November 1, 1992	November 15, 1995	$565,000	$446,553
May 1, 1993	November 15, 1995	$373,000	$306,397
November 1, 1993	November 15, 1995	$530,000	$452,498

Repurchase Price2	Repurchase Date2
$5,285,839	October 30, 1995

1 As provided in the Agreement, the City, or the Escrow Agent on behalf of the City, shall pay to the Bank each Purchase Price on each Delivery Date.

2 As provided in the Agreement, the Bank shall pay to the Escrow Agent, on behalf of the City, each Repurchase Price on each Repurchase Date.

CITY OF FAIRMONT

Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988

CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS

The undersigned, JOHN S. REGER, II, for and on behalf of BUTCHER & SINGER, INC. (the "Underwriter") and EDWIN J. THORNE, City Manager of the CITY OF FAIRMONT (the "Issuer"), hereby certify as follows:

1. On the 30th day of November, 1988, in Fairmont, West Virginia, the Underwriter received the entire original issue of $11,065,000 in aggregate principal amount (stated value at maturity) of the City of Fairmont Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988 (the "Bonds"). The Bonds, as so received on original issuance, are in various denominations, are dated November 30, 1988, and are numbered from R-1 to R-360, inclusive.

2. At the time of such receipt of the Bonds, all the Bonds had been executed by Edwin J. Thorne, City Manager, and Robert M. Drummond, Jr., as Mayor, by their respective facsimile signatures, and the official seal of the Issuer had been imprinted upon each Bond and attested by Debra M. Bohan, as City Clerk, by her facsimile signature, and had been authenticated by an authorized officer of City National Bank of Fairmont, as Registrar.

3. The Issuer has received and hereby acknowledges receipt from the Underwriter, as the original purchaser of the Bonds, of the proceeds of the Bonds, as follows:

Par Amount	$11,065,000.00
Less Underwriter's Discount	(73,606.41)
Less Original Issue Discount	(7,384,679.50)
Net Proceeds	$3,606,714.09

Payment for the Bonds was made in federal funds in the amount of $3,606,714.09 to pay all remaining costs and expenses of issuance of the Bonds (including the bond insurance premium and rating fee) and refunding of the designated portion of the Prior Bonds.

IN WITNESS WHEREOF, JOHN S. REGER, II, for BUTCHER & SINGER, INC. duly signed and delivered this receipt on behalf of the Underwriter and the CITY OF FAIRMONT has caused this receipt to be executed by its City Manager, as of this 30th day of November, 1988.

BUTCHER & SINGER, INC.

By John S. Reger II
Its Vice President

CITY OF FAIRMONT

By John J. Chum
Its City Manager

11/21/88
FMTSR1-K

CITY OF FAIRMONT

Sewerage System Refunding Revenue Capital Appreciation Bonds,
Series 1988

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

City National Bank of Fairmont
120 Fairmont Avenue
Fairmont, West Virginia 26555

Gentlemen:

There are delivered to you herewith:

1. Bonds Nos. R-1 through R-360, constituting the entire original issue of the City of Fairmont Sewerage Refunding Revenue Capital Appreciation Bonds, Series 1988, dated November 30, 1988, in the aggregate principal amount (stated value at maturity) of $11,065,000 (the "Bonds") executed by the Mayor, City Manager and City Clerk of the City of Fairmont (the "Issuer") and bearing the official seal of the Issuer. The Bonds are authorized to be issued under and pursuant to Supplemental and Amendatory Ordinance enacted by the Issuer on October 25, 1988, and a Supplemental Resolution adopted by the Issuer on October 25, 1988 (collectively, the "Ordinance").

2. A copy of the Ordinance, duly certified by the City Clerk of the Issuer.

3. A list of the names in which the Bonds are to be registered upon original issuance, together with taxpayer identification and other information as requested by you.

4. Evidence in the form of certificates that the Issuer has deposited in the appropriate funds and accounts all of the amounts specified in the Escrow Deposit Agreement.

5. A verification report of Independent Accountants as to the refunding of the Prior Bonds, including the sufficiency of the Escrow Fund, the verification of yield on the Bonds and the Escrow Fund and the savings to be achieved by the refunding.

6. A signed, unqualified approving opinion upon the Bonds of Bond Counsel designated by the Issuer and acceptable to the Original Purchaser.

You are hereby requested and authorized, pursuant to Section 3.03 of the Ordinance, to authenticate, register and deliver the Bonds to Butcher & Singer, Inc.

Dated this 30th day of November, 1988.

CITY OF FAIRMONT

By _____
City Manager

11/21/88
FMTSR1-L

ALL-STATE LEGAL SUPPLY CO., ONE COMMERCE DRIVE, CRANFORD, NEW JERSEY 07016 ED 11-1C

REGISTERED

No. R-

Municipal Bond Insurance Policy No. 3212BE (the "Policy") with respect to payments due for principal of and interest on this bond has been issued by AMBAC Indemnity Corporation ("AMBAC Indemnity"). The Policy has been delivered to the United States Trust Company of New York, New York, New York, as the Insurance Trustee under said Policy and will be held by such Insurance Trustee or any successor insurance trustee. The Policy is on file and available for inspection at the principal office of the Insurance Trustee and a copy thereof may be secured from AMBAC Indemnity or the Insurance Trustee. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. The owner of this bond acknowledges and consents to the subrogation rights of AMBAC Indemnity as more fully set forth in the Policy.

REGISTERED

$

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA

CITY OF FAIRMONT

SEWERAGE SYSTEM REFUNDING REVENUE CAPITAL APPRECIATION BOND, SERIES 1988

Yield to Maturity	Maturity Date	Bond Date	CUSIP NO.

REGISTERED OWNER:

SPECIMEN

STATED VALUE AT MATURITY: **DOLLARS**

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF FAIRMONT, a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Stated Value at Maturity specified above, which Stated Value at Maturity includes the principal of and interest on this Bond, at the Yield to Maturity specified above. The Stated Value at Maturity of this Bond is payable in any coin or currency which, on the date of payment thereof, is legal tender for the payment of public and private debts under the laws of the United States of America upon surrender of this Bond at the office of City National Bank of Fairmont, Fairmont, West Virginia, as Paying Agent and Registrar (the "Registrar").

This Bond is one of a series of bonds, in the aggregate Stated Value at Maturity of $11,065,000 (the "Bonds"), of like tenor and effect, except as to number, denomination, yield and date of maturity, dated November 30, 1988, issued to (i) refund a portion of the City's Sewerage System Refunding Revenue Bonds, Series 1985, outstanding in the total aggregate principal amount of $7,085,000 (the "Prior Bonds"), which Prior Bonds were issued to finance or refinance the cost of construction of certain additions, betterments and improvements to the sewerage system of the City (hereinafter referred to as the "System"); (ii) to pay a portion of the costs of certain additions, betterments and improvements for the System (as hereinafter defined); and (iii) to pay costs of issuance of the Bonds and costs relating to such refunding. 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 Code of West Virginia, 1931, as amended (the "Act"), and an ordinance duly enacted by the City Council of the City on August 13, 1985, supplemented and amended by a supplemental resolution adopted September 17, 1985, a supplemental and amendatory ordinance enacted October 25, 1988, and a supplemental resolution adopted October 25, 1988 (hereinafter collectively referred to as the "Ordinance"), and is subject to all the terms and conditions of said Ordinance. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance.

The Bonds are not subject to redemption prior to maturity.

REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THIS BOND SET FORTH ON THE REVERSE HEREOF, WHICH FURTHER PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS IF SET FORTH HEREIN.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of said 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 said City for the prompt payment of the principal of and interest on the Bonds of which this Bond is one.

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

This Bond, under the provisions of the Act is and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may be transferred only upon the surrender hereof at the office of the Registrar and otherwise as provided by the within-described Ordinance.

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.

This Bond is hereby designated a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended.

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 FAIRMONT has caused this Bond to be signed by its Mayor and its City Manager, 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.

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Bonds of the Series designated therein, described in the within-mentioned Ordinance and has been duly registered in the name of the Registered Owner set forth above on the date set forth below. Imprinted on the reverse hereof is the complete text of the opinion of Steptoe & Johnson, bond counsel, signed originals of which are on file with the Registrar, delivered and dated on the date of the original delivery of and payment for the Bonds.

Dated: _____

CITY NATIONAL BANK OF FAIRMONT,
as Registrar

By _____
Its Authorized Officer

THE CITY OF FAIRMONT, WEST VIRGINIA
CHARTERED
FEBRUARY 18, 1899

SPECIMEN

Robert M. Drummond Jr.
Mayor

Edwin J. Thomas
City Manager

ATTEST: Debra M. Bohan
City Clerk

The Bonds are payable only from and are secured on a parity in all respects with the Prior Bonds outstanding, including payments to be made pursuant to the Investment Purchase Agreement, as defined in the Ordinance, by (i) the Net Revenues (as defined in the Ordinance) to be derived from the operation of the System; (ii) all moneys in the Series 1988 Bonds Sinking Fund established under the Ordinance; and (iii) unexpended proceeds of the Bonds, and the City hereby and in the Ordinance pledges such revenues and moneys to such payment. Said Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose and to make the other payments required by the Ordinance. This Bond does not constitute an indebtedness of the City within any constitutional or statutory provision or limitation, nor shall the City be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1988 Bonds Sinking Fund *and said unexpended Bond proceeds. Neither the credit nor the taxing power of the City or any political* subdivision thereof is pledged for the payment of the principal of or interest on this Bond. Under the Ordinance, the City has covenanted and agreed to fix, establish and collect just and equitable rates or charges for the use of the services and facilities of the System and to revise the same from time to time as will always be sufficient to pay all operating expenses of the System and to produce revenues net of such operating expenses equal to at least 125% of (i) the maximum annual debt service on the Bonds, the Prior Bonds outstanding and any additional bonds hereafter issued on a parity with the Bonds; and (ii) the amount due under the Investment Purchase Agreement in each fiscal year. Such required payments on behalf of the Bonds and the Investment Purchase Agreement shall constitute a first charge upon all the revenues of the System, but on parity with respect to lien and sources of and security for payment with each other and the nonrefunded Prior Bonds. 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 hereby made for a detailed description thereof.

All moneys received from the sale of the Bonds except for accrued interest thereon (if any) shall be applied solely to the purposes set forth above, and there shall be, and hereby is, created and granted a lien upon such moneys, until so applied, in favor of the registered owners of the Bonds.

LEGAL OPINION
STEPTOE & JOHNSON
Clarksburg, West Virginia

City of Fairmont (West Virginia)
Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988

The City Council
City of Fairmont
City/County Complex
Fairmont, West Virginia 26554

AMBAC Indemnity Corporation
One State Street Plaza
New York, New York 10004

Butcher & Singer Inc.
211 South Broad Street, 9th Floor
Philadelphia, Pennsylvania 19107

Ladies and Gentlemen:

We have examined a record of proceedings relative to the issuance and sale of the Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988 (the "Bonds"), of the City of Fairmont, West Virginia (the "Issuer"). The Bonds are capital appreciation bonds which bear no current interest, are issued in the aggregate principal amount (stated value at maturity) of $11,065,000, with a stated value at issuance of $3,680,320.50, in fully registered form, are dated November 30, 1988, upon original issuance, mature on November 1 in years and amounts and bear interest (expressed as "Yield to Maturity") payable only at maturity as follows:

Maturity	Stated Value at Issuance	Stated Value at Maturity	Yield to Maturity	Maturity	Stated Value at Issuance	Stated Value at Maturity	Yield to Maturity
1996	$298,975	$500,000	6.60%	2004	$239,020	$760,000	7.40%
1997	277,770	500,000	6.70	2005	217,229	755,000	7.50
1998	257,570	500,000	6.80	2006	198,354	755,000	7.60
1999	238,380	500,000	6.90	2007	180,770	755,000	7.70
2000	328,091	745,000	7.00	2008	166,017	755,000	7.75
2001	306,536	755,000	7.10	2009	154,880	760,000	7.75
2002	282,060	755,000	7.20	2010	142,597	755,000	7.75
2003	259,041	755,000	7.30	2011	133,030	760,000	7.75

The Bonds are not subject to redemption prior to maturity.

The Bonds were authorized by an ordinance enacted by the Council of the Issuer on August 13, 1985, as supplemented and amended by a supplemental resolution adopted September 17, 1985, a supplemental and amendatory ordinance enacted October 25, 1988, and a supplemental resolution adopted October 25, 1988 (said ordinance as so supplemented and amended, is herein called the "Ordinance"), and are issued pursuant to Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act") to refund a portion of the Issuer's outstanding Sewerage System Refunding Revenue Bonds, Series 1985 (the "Prior Bonds"), to finance certain additions, betterments and improvements for the Issuer's sanitary sewerage system (the "System") and to pay costs of issuance of the Bonds and costs of such refunding. Prior Bonds in the aggregate principal amount of $6,455,000 (the "Nonrefunded Prior Bonds") will remain outstanding subsequent to delivery of the Bonds.

Based upon the foregoing, as of the date of the original issuance of the Bonds, we are of the opinion as follows:

1. The Issuer is a duly organized and validly existing municipal corporation under and pursuant to the Constitution and laws of the State of West Virginia and has full legal right, power and authority to issue the Bonds, to own and operate the System, and to enact and perform its obligations under the terms and provisions of the Ordinance.

2. The Ordinance has been duly enacted by the Council of the Issuer, is in full force and effect and constitutes a valid and binding obligation of the Issuer, enforceable in accordance with its terms.

3. The Bonds have been duly authorized and validly issued by the Issuer in accordance with the Constitution of the State of West Virginia, the Act and the Ordinance.

4. The Bonds constitute valid and legally binding special obligations of the Issuer, payable solely from and secured (on parity in all respects with the Nonrefunded Prior Bonds, including payments to be made pursuant to the Investment Purchase Agreement, as such term is defined in the Ordinance) by a first lien on and pledge of the net revenues derived from the operation of the System, moneys in the Series 1988 Bonds Sinking Fund created under the Ordinance and unexpended proceeds of the Bonds, and are enforceable in accordance with their terms and the terms of the Ordinance.

5. Under existing laws, regulations, rulings and judicial decisions of the United States of America, as presently written and applied, the interest on the Bonds (a) is excludable from gross income for federal income tax purposes and (b) is not an item of tax preference for purposes of the federal alternative minimum tax imposed upon individuals and corporations. It should be noted, however, that for the purpose of computing the alternative minimum tax on corporations (as defined for federal income tax purposes), such interest is taken into account in determining adjusted net book income (adjusted current earnings for taxable years beginning after December 31, 1989). In rendering the opinion set forth in (a) above, we have relied upon the opinion of Stevens & Lee, Special Tax Counsel to the effect that (i) the Bonds do not constitute "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code", and (ii) the Bonds are not described in Sections 149(d)(3) or (4) of the Code. Ownership of tax-exempt obligations, including the Bonds, may result in collateral federal income tax consequences to certain taxpayers, including without limitation, financial institutions, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry such obligations. We offer no opinion as to such collateral tax consequences. Prospective purchasers of the Bonds should consult their own tax advisors as to such consequences. The opinions set forth above are subject to the condition that the Issuer comply, on a continuing basis, with all certifications, covenants and representations which may affect the excludability from gross income of the interest on the Bonds set forth in the Ordinance and the certificate relating to arbitrage. Failure to comply with such certifications, covenants and representations could cause the interest on the Bonds to be includable in gross income retroactive to the date of issuance of the Bonds.

6. The Issuer has designated the Bonds as "qualified tax-exempt obligations" for purposes of the Code, and has covenanted that it does not reasonably expect to issue more than $10,000,000 of tax-exempt obligations (other than private activity bonds) during the calendar year 1988. Therefore, the Bonds are "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code. In rendering the opinion set forth in this paragraph 6, we have relied upon the opinion of Stevens & Lee, Special Tax Counsel, that the Bonds constitute "qualified tax-exempt obligations" within the meaning of Section 265 (b)(3) of the Code.

7. Under the laws of the State of West Virginia, as enacted and construed on the date of initial delivery of the Bonds, the Bonds are exempt from direct taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof, except inheritance, estate and transfer taxes, and the interest on the Bonds is exempt from personal and corporate income taxes imposed directly thereon by the State of West Virginia.

8. The portion of the Prior Bonds which have been refunded, being those Prior Bonds which mature on November 1, 1989, through November 1, 1993, in the outstanding aggregate principal amount of $630,000, have been defeased within the meaning and with the effect expressed in the ordinance authorizing their issuance, and the covenants, agreements and other obligations of the Issuer to the owners of such refunded Prior Bonds have been satisfied and discharged. In rendering the opinion set forth in this paragraph 7, we have relied upon the opinion of certain independent certified public accountants, relating to the accuracy of the maturing principal of and interest to be earned on the United States Treasury Obligations deposited in the Escrow Fund established with the West Virginia Municipal Bond Commission, Charleston, West Virginia, which, together with any other moneys on deposit in said Escrow Fund, will provide for the payment of the principal of and interest on such refunded Prior Bonds as the same becomes due, to and including November 1, 1993.

Please be advised that the enforcement of remedies with respect to the Bonds is subject to any applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights from time to time in effect.

We have examined executed Bond No. R-1, and, in our opinion, said Bond is in proper form and has been properly executed.

Yours very truly,

STEPTOE & JOHNSON

ASSIGNMENT

For value received, the undersigned hereby 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 with full power of substitution in the premises.

Dated: ______________________

SIGNATURE GUARANTEED:

____

NOTICE: The Assignor's signature to this Assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatever.

The Registrar will not affect transfer of this Bond unless the information concerning the transferee requested below is provided. The transferor should complete whichever of the following is applicable.

INDIVIDUAL:

Name and Address:

____

____

____

Social Security Number: ______________________
(Include information for all joint owners if the Bond is held by joint account)

CORPORATION OR PARTNERSHIP:

Name and Address:

____

____

____

Tax Identification Number: ______________________

TRUST:

Name of Trust:

____

____

Name and Address of Settlor:

____

____

____

Name and Address of Trustee:

____

____

____

Tax Identification Number of Trust: ______________________

Tax Identification Number or Social Security Number of Settlor: ______________________

NOMINEE:
Name and Address:

____

____

____

Tax Identification Number or Social Security Number: ______________________

(If the Bond is to be registered in nominee name, then include information for the principal.)

ALL-STATE LEGAL SUPPLY CO., ONE COMMERCE DRIVE, CRANFORD NEW JERSEY 07016

ED 11-1C

CHARTER

OF THE

City of Fairmont

MARION COUNTY
WEST VIRGINIA

Adopted at a Special Election Held August 17, 1976

Contents

2 Article I — Incorporation; Form of Government; P

CHARTER PROVISIONS

ARTICLE I — Incorporation; Form of Government; Powers

Section 1.01 Incorporation

The inhabitants of the City of Fairmont, Marion County, West Virginia, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the City of Fairmont.

Section 1.02 Form of Government

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

Section 1.03 Powers of City

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

Section 1.04 Intergovernmental Relations

The city may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states in civil divisions or subdivisions or agencies thereof, or the United States of America or any agencies thereof.

ARTICLE II — The Council

Section 2.01 Composition, Eligibility, Election and Terms

(a) Composition. There shall be nine councilmembers. The councilmembers shall be nominated each from, and by, the respective voters of the district in which they reside and, shall be elected by the voters of the city at large. The city shall be divided into nine voting districts, subject to change by the council when the districts become unequal in population.

(b) Eligibility and Qualifications. Only qualified voters of the city shall be eligible to hold the office of councilman or councilwoman. Each councilmember shall have been a resident of the city for at least two years immediately preceding his election and shall, at the time of his announcement for office and during his term of office, reside within the district from which elected or appointed to office; provided, however, that no redistrict[illegible]

Section 2.03 Compensat[illegible] Expenses

The salary of the mayor shall be sixty dollars for each regular meeting of the council attended by him, not to exceed $1440 dollars in any fiscal year. The salary of each of the other councilmembers shall be fifty dollars for each regular meeting of the council attended by him, not to exceed $1200 in any fiscal year. Until the maximum limit is reached, the salary of the mayor and each of the councilmembers shall be paid monthly as earned. Councilmembers shall receive their actual and necessary expenses incurred in the performance of their duties of office as approved by the council.

Section 2.04 Powers

All powers of the city shall be vested in the council, except as otherwise provided by law or this charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

Section 2.05 Prohibitions

(a) During his term of office no councilmember shall hold any other elected public office, nor shall be employed by the city in any other capacity and no former councilmember shall hold any compensated appointive city office or employment until one year after the expiration of the term for which he was elected to the council. However, any member of any political executive committee shall not be deemed to hold an elected public office within the meaning of this section.

(b) Appointments and Removals. Neither the council nor any of its members shall in any manner dictate the appointment or removal of any city administrative officer or employee whom the manager or any of his subordinates are empowered to appoint, but the council may express its views and fully and freely discuss with the manager anything pertaining to the appointment or the removal of such officer or employee.

(c) Interference with Administration. Except for the purpose of inquiries and investigations under section 2.09, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the manager solely through the manager, and neither the council nor its members shall give orders to any such officers or employees, either publicly or privately. Violation of this provision shall provide grounds for removal from office.

Section 2.06 Vacancies, Forfeiture of Office, Filling of Vacancies

(a) Vacancies. The office of a councilmember shall become vacant upon his death, resignation or removal from office in any manner authorized by law or forfeiture of his office.

(b) Forfeiture of Office. A councilmember shall forfeit his office if he (1) lacks at any time during his term of office any qualification for the office prescribed by this charter, (2) violates any express prohibition of this charter, (3) is convicted of a crime involving moral turpitude, or (4) fails to attend three consecutive regular meetings of the council without being excused by the council as reflected in the minutes.

(c) Filling of Vacancies. A vacancy in the council shall be filled for the remainder of the unexpired term, if any, at t[illegible] next regular election following not less than 60 days upon the occurrence of the vacancy, but the council by a majority vote of all its remaining members shall appoint a qualified person from the same political party or independent as the case may be to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. If the council fails to do so within 30 days following the occurrence of the vacancy, the election authorities shall call a special election to fill the vacancy, to be held not sooner than 90 days and not later than 120 days following the occurrence of the vacancy and to be otherwise governed by the provisions of Article VII. Notwithstanding the requirement in section 2.11 that a quorum of the council consists of five members, if at any time the membership of the council is reduced to less than five, the remaining members may by majority action appoint additional members to raise the membership to five.

Section 2.07 Judge of Qualifications

The council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand, and notice of such hearings shall be published in one or more newspapers of general circulation in the city at least one week in advance of the hearing. Decisi[illegible]

(2) Make and certify copies of any ordinance, resolution or order of the council whenever required to do so, and affix the corporate seal of the city to any paper required to be sealed and to any certified copy of any paper, order or proceeding which he may make.

(3) Prepare and cause to be served all notices required to be given to any person, firm or corporation, and after the proper service and return of any notice he shall file and preserve the same.

~~(4) Have custody of and keep available for public inspection the permanent records of the city and file and~~ property index all records of such city officers and departments as the city manager may direct.

(5) Perform such other duties as may be required of him or her by this charter, by general law, or by city ordinance or order of the city manager not inconsistent with this charter or with general law.

Section 2.09 Investigations

The council may make investigations into the affairs of the city and the conduct of any city department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the council shall be guilty of a misdemeanor and punishable by a fine of not less than $50 or more than $500.

Section 2.10 Independent Audit

The council shall provide for an independent annual audit of all city accounts including Fairmont General Hospital and other such boards or commissions, and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the city government or any of its officers. The council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the state makes such an audit, the council may accept it as satisfying the requirements of this section.

Section 2.11 Procedure

(a) Meetings. The council shall meet regularly at least twice every month at such time and place as the council may prescribe by rule. Special meetings may be held on the call of the mayor or of five or more members and, whenever practicable, upon no less than twenty-four hours' notice to each member. All meetings shall be public; however, the council may recess for the purpose of discussing in a closed executive session limited to its own membership, any matter which would tend to defame or prejudice the character or reputation of any person, or for the purpose of discussing purchases of real estate, provided that the general subject matter for consideration is expressed in the motion calling for such session and that final action theron shall not be taken by the council until the matter is placed on the agenda.

(b) Rules and Journal. The council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record.

(c) Voting. Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Five members of the council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. No action of the council, except as otherwise provided in the preceding sentence and in section 2.06, shall be valid or binding unless adopted by the affirmative vote of five or more members of the council.

Section 2.12 Action Requiring an Ordinance

In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the city council shall be by ordinance which:

(1) Adopt or amend an administrative code or establish, alter or abolish any city department, office or agency;

(2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(3) Grant, renew or extend a franchise;

(4) Regulate the rate charged for its services by a public utility;

indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) Procedure. An ordinance may be introduced by any member at any regular or special meeting of the council. Upon introduction of any ordinance, the city clerk shall read fully and distinctly the proposed ordinance in its entirety, shall distribute a copy to each council member and to the manager, shall file a reasonable number of copies in the office of the city clerk, and shall publish the ordinance together with a notice setting out the time and place for a public hearing thereon and for its consideration by the council. At the commencement of the public hearing the clerk shall read fully and distinctly the proposed ordinance in its entirety. The public hearing shall follow the publication by at least seven days, may be held separately or in connection with a regular or special council meeting and may be adjourned from time to time; all persons interested shall have an opportunity to be heard. After the hearing, the council may adopt the ordinance with or without amendment or reject it, but if it is amended as to any matter of substance, the council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures hereinbefore required in the case of a newly introduced ordinance.

(c) Effective Date. Except as otherwise provided in this charter, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein.

(d) "Published" Defined. As used in this section, the term "publish" means to print in one or more newspapers of general circulation in the city: (1) the title of the ordinance and a brief summary thereof, and (2) the places where copies of it have been filed and the times when they are available for public inspection.

Section 2.14 Emergency Ordinances

To meet a public emergency affecting life, health, property or the public peace, the council may adopt one or more emergency ordinances but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection 5.09(b). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least six members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made pursuant to subsection 5.09(b) shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Section 2.15 Codes of Technical Regulations

The council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally, except that:

(1) The requirements of section 2.13 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the city clerk pursuant to subsection 2.16(a).

Copies of any adopted code of technical regulations shall be made available by the city clerk for distribution or for purchase at a reasonable price.

Section 2.16 Authentication and Recording; Codification; Printing

(a) Authentication and Recording. The city clerk shall authenticate by his signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the council.

(b) Codification. Within three years after adoption of this charter and at least every ten years thereafter, the council shall provide for the preparation of a general codification of all city ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the council by ordinance and shall be published

further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the constitution and other laws of the state of West Virginia, or the codes of technical ~~regulations and other rules and regulations included in the code.~~

ARTICLE III — City Manager

Section 3.01 Appointment; Qualifications; Compensation

The council shall appoint a city manager for an indefinite term and fix his compensation. The manager shall be appointed solely on the basis of his executive and administrative qualifications with particular emphasis on education and experience in city government. He need not be a resident of the city or state at the time of his appointment but must reside within the city while in office.

Section 3.02 Removal

The council may remove the manager from office in accordance with the following procedures:

(1) The council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the manager.

(2) Within five days after a copy of the resolution is delivered to the manager, he may file with the council a written request for a public hearing. This hearing shall be held at a council meeting not earlier than fifteen days nor later than thirty days after the request is filed. The manager may file with the council a written reply not later than five days before the hearing.

(3) The council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five days from the date when a copy of the preliminary resolution was delivered to the manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

The manager shall continue to receive his salary until the effective date of a final resolution of removal. The action of the council is suspending or removing the manager shall not be subject to review by any court or agency.

Section 3.03 Acting City Manager

By letter filed with the city clerk the manager shall designate, subject to approval of the council, a qualified city administrative officer to exercise the powers and perform the duties of manager during his temporary absence or disability. During such absence or disability the council may revoke such designation at any time and appoint another officer of the city to serve until the manager shall return or his disability shall cease; however, in the event that the manager has failed to designate an acting manager, the council may by resolution appoint an officer of the city to perform the duties of the manager until he shall return or his disability shall cease.

Section 3.04 Powers and Duties of the City Manager

The city manager shall be the chief administrative officer of the city. He shall be responsible to the council for the administration of all city affairs placed in his charge by or under this charter. He shall have the following powers and duties:

(1) He shall appoint and, when he deems it necessary for the good of the service, suspend or remove all city employees and appointive administrative officers provided for by or under this charter, except as otherwise provided by law, this charter or personnel rules adopted pursuant to this charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(2) He shall direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law.

(10) He shall prepare and mail to each councilmember a proposed agenda of the next regular council meeting at least three days prior to the meeting.

(11) He shall perform such other duties as are specified in this charter or may be required by the council

ARTICLE IV — Administrative Departments, Boards and Commissions

Section 4.01 Administrative Offices and Departments

There shall be in the city government a police department, a fire department, a department of public works, a department of finance, and such other administrative departments as may by ordinance be created by the council. The city manager shall appoint as the head of each department a chief, supervisor or director, who shall be responsible for the efficient administration of the department, subject to the supervision and control of the manager. With the consent of council, the manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two or more of them.

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

Section 4.02 City Attorney

(a) There shall be a city attorney who shall be a member in good standing of the Marion County Bar, appointed by the manager with the approval of the council to serve at the pleasure of council. He shall serve as chief legal advisor to the council, the manager and all city departments, offices and agencies, shall represent the city in all legal proceedings and shall perform any other duties prescribed by this charter or by ordinance.

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

Section 4.03 Municipal Court

There shall be a police court, to be known as the "Fairmont Municipal Court", which shall have criminal jurisdiction over violations of city ordinances and the criminal jurisdiction of a justice of the peace of the State of West Virginia with respect to offenses committed within any territory in or beyond the city over which the city has police jurisdiction under provisions of general law.

There shall be a police court judge, to be known as the "Municipal Judge", who shall be appointed by the council and who shall serve for a term of four years and who shall be subject to removal for cause only. The Municipal Judge shall be an attorney in good standing of the Marion County Bar. He may succeed in office.

In the event of the temporary absence or disability of the municipal judge, the city manager shall appoint a person similarly qualified to serve as municipal judge during such absence or disability. Salary shall be transferred from the regular judge in the temporary judge for the time serving.

In the event of the death, resignation, removal or permanent disability of the municipal judge, the council shall appoint a person similarly qualified to serve as municipal judge for the unexpired term with fifteen days.

The municipal judge shall preside over the municipal court and with respect to offenses over which the municipal court has jurisdiction. The municipal judge shall have power to issue warrants upon complaint under oath of any person or officer for the arrest of anyone charged with any offense within the jurisdiction of the court. The municipal judge shall try and determine all cases over which the court has jurisdiction, and within the limits prescribed by ordinance or by general law shall have the power to punish by fine or imprisonment, or both. The municipal judge shall have power to summons persons or subpoena witnesses for the trial of any case before him, to compel the attendance of police officers of the city, to require the chief of police to enforce all judgments or orders entered by him in the exercise of his powers as municipal judge, and to issue executions for all fines, penalties and costs imposed by him.

Section 4.04 City Planning Commission

administrative decisions, petitions for variances in the case of peculiar and unusual circumstances which would prevent the reasonable use of land and such other matters as may be required by the council or by law.

Section 4.06 Hospital Board

(a) Management. The management, maintenance, administration, operation, custody and control of the municipal hospital and all the appurtenances thereof and grounds and site thereof, is hereby committed to a board of directors to be known as the "Fairmont Hospital Board".

(b) Hospital Board—Organization, Membership. The board shall consist of nine members to be nominated and appointed by the council. It shall be composed of seven lay members and two members of council. The terms of the lay members will be six years, (except for the first board under this charter) and members will be eligible for reappointment. The Board will at its first meeting of each calendar year elect from its' members a president, vice-president, secretary and treasurer. The board will serve without compensation. All vacancies will be filled by the city council within fifteen days. The board members may be removed at any time by city council for cause.

(c) Fiscal Matters. The hospital board shall cause accurate and proper books of accounts to be maintained in accordance with acceptable accounting practices. The hospital board shall submit to the council a monthly statement of income and expenses. An annual independent audit will be provided as per section 2.10.

(d) First Board. The lay members of the initial Board under this Charter shall be composed of the present lay members of the Hospital Board. Terms of office will be determined by the Hospital Board using the following guidelines: Three members will serve for three years; two members will serve for two years; and two members will serve for one year.

The Board will provide the city council with the names and terms of its lay members within fifteen days after this charter is in effect; otherwise, the council will designate terms of office.

(e) Any other municipal hospitals must be governed in the same manner with a separate board as prescribed in this section.

ARTICLE V — Financial Procedures

Section 5.01 Fiscal Year

The fiscal year of the city shall begin on the first day of July and end on the last day of June.

Section 5.02 Submission of Budget and Budget Message

On or before the 15th day of February of each year, the manager shall submit to the council a budget for the ensuing fiscal year and an accompanying message.

Section 5.03 Budget Message

The manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the city's debt position and include such other material as the manager deems desirable.

Section 5.04 Budget

The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the manager deems desirable or the council may require. In organizing the budget the manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose of activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year shall be so arranged as to show

(1) A clear general summary of its contents;

(2) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;

(3) Cost estimates, method of financing and recommended time schedule for each such improvement; and

(4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Section 5.06 Council Action on Budget

(a) Notice and Hearing. At the meeting of the council at which the budget is submitted, the council shall determine the time and place of a public hearing. The council shall publish in one or more newspapers of general circulation in the city a notice stating:

(1) The times and places where copies of the message and budget are available for inspection by the public, and

(2) The time and place for a public hearing on the budget.

(b) Amendment Before Adoption. After the public hearing, the council may adopt the budget with or without amendment.

(c) Adoption. The council shall adopt the budget on or before the 28th day of March of the fiscal year currently ending. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated.

Section 5.07 Council Action on Capital Program

(a) The council shall make known, no less than one month prior to adoption of the capital program, the times and places where copies of the capital program are available for inspection by the public.

(b) Adoption. The council by resolution shall adopt the capital program with or without amendment on or before the 28th day of March of the current fiscal year.

Section 5.08 Public Records

Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public at suitable places in the city.

Section 5.09 Amendments After Adoption

(a) Supplemental Appropriations. If during the fiscal year the manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of section 2.14. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may be such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

(c) Reduction of Appropriations. If at any time during the fiscal year it appears probable to the manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit, and for that purpose it may by ordinance reduce one or more appropriations.

(d) Transfer of Appropriations. At any time during the fiscal year the manager may transfer part or all of any unencumbered appropriation balance among

appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

Section 5.11 Administration of Budget

(a) Work Programs and Allotments. At such time as the manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations made pursuant to section 5.09.

(b) Payments and Obligations Prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made, and unless the manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this charter shall be void, and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the city for any amount so paid. However, except where prohibited by law, nothing in this charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

ARTICLE VI—Planning

Section 6.01 Planning Director

There shall be a planning director who shall be appointed by the manager as provided in section 4.01. The planning director will act as secretary to the commission and attend all meetings and shall have the following responsibilities:

(1) To advise the city manager on any matter affecting the physical development of the city,

(2) To maintain and recommend to the city manager a comprehensive plan and modifications thereof,

(3) To review and make recommendations regarding proposed council action implementing the comprehensive plan pursuant to section 6.03,

(4) To participate in the preparation and revision of the capital program provided for in section 5.05,

(5) To advise the city planning board in the exercise of its responsibilities and in connection therewith to provide necessary staff assistance,

(6) To assist in the preparation of grants and/or other established funding program, and

(7) To cooperate with other units of government and public agencies by planning as provided in section 1.04.

Section 6.02 Comprehensive Plan

(a) Content. The council shall adopt and may, from time to time, modify a comprehensive plan setting forth in graphic and textual form policies to govern the future physical development of the city. Such plan may cover the entire city and all of its functions and services or may consist of a combination of plans governing specific functions and services or specific geographic areas which together cover the entire city and all of its functions and services.

(b) Adoption. Upon receipt from the city manager of a proposed comprehensive plan or proposed modification of the existing plan, the council shall refer such proposal to the city planning commission, which shall within a time specified by the council report its recommendations thereon.

(c) Effect. The comprehensive plan shall serve as a guide to all future council action concerning land use and development regulations, urban renewal programs and expenditures for capital improvements.

ARTICLE VII—Nominations and Elections

Section 7.01 General Election Laws to Control; Terms of Officers

Except as otherwise herein provided, the provisions of general law with respect to primary and general elections, so far as they may be applicable, shall govern the method of nominating and electing members of the council those terms shall be for a period of four years, except as otherwise herein provided respecting the first council members to be elected under this charter.

Section 7.02 Primary Elections; Time and Place

Except as otherwise provided respecting the first council members to be elected under this charter, primary elections shall be held at the voting places in each of the election districts of the city for the purpose of nominating candidates for the ensuing general municipal election on the first Tuesday after the second Monday in September in the year 1978 and each second year thereafter.

Section 7.03 Filing

(a) Fees. There shall be a filing fee of fifteen dollars to be accompanied by an announcement of candidacy for the office of council, to be submitted to the city clerk; said fee to be deposited in the general fund. Forms for announcement of candidacy will be provided by the city clerk as follows:

"ANNOUNCEMENT OF CANDIDACY"

I, _____ hereby certify that I am a candidate for the nomination for the office of member of council for the City of Fairmont, West Virginia, to represent the _____ party, and desire my name to be printed on the official ballot of said party to be voted at the primary election to be held on the _____ day of _____, 19____; that I am a legally qualified voter of the City of Fairmont, West Virginia; that my residence is _____ in said City; that I am eligible to hold office as a member of the council of said City from the district in which I reside which is District No. _____; that I am a member of and affiliated with said political party; that I am a candidate for said office in good faith; and that I hereby accept the nomination for election as a member of council.

_____
Candidate

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

Signed and acknowledged before me, the undersigned authority, this _____ day of _____, 19____.

_____
Notary Public

My commission expires:

_____.

(b) Time for Filing. The announcement of candidacy and filing fee shall be filed with the city clerk not earlier than 90 days nor later than 60 days prior to the primary in which the candidate seeks election. The city clerk shall make a record of the exact time when each announcement is filed.

Section 7.06 First Councilmembers under this Charter; Nominations, Elections and Terms

The first primary election under the provisions of this charter shall be held on Tuesday, July 26, 1977; and the first such general municipal election shall be held on Tuesday, August 16, 1977, to elect councilmembers, whose terms shall begin on August 29, 1977, and expire as follows: of the nine councilmembers elected at the first general municipal election under the provisions of this charter, the five receiving the smallest number of votes cast shall be elected for terms of one year ending on December 31, 1978. The procedure for nominations shall not be the same as provided for in section 7.03 for the first primary and general municipal election. All candidates for the office of councilmember in the first primary election under this charter shall file on or before July 12, 1977, their filing fee and announcement as set out in 7.03 in order for their names to be placed in nomination for the first primary election. At each regular election thereafter either five or four councilmembers, as the case may be, shall be elected to succeed the incumbent councilmembers. The terms of office for the remaining four elected councilmembers in the first general municipal election shall expire on December 31, 1980.

Section 7.07 Continuity of Present Governing Body

On and after the first day of July, 1977, the municipal governing body, as then and thereafter constituted, and its administrative officers, shall continue to exercise the powers and duties given them by the charter under which they were elected and appointed and shall, in addition thereto, exercise such powers and duties as are given to and imposed upon them by this charter, expressly or implied, for conducting the first primary and general election under this charter. The members of said existing municipal governing body shall so serve until the first councilmembers elected under this charter shall have been elected and qualified, at which time their terms shall end.

Section 7.08 Independent Party or Group Participation

Persons who are not affiliated with political parties which are eligible for participation in primary elections may nominate candidates for office in the manner provided by the laws of this state and may participate fully in any election concerning non-partisan issues or in any general municipal election.

Section 7.09 Vacancies in Nominations; How Filled

Notwithstanding any provisions in the charter, the provisions of general law will govern as to filling any vacancy that occurs on either the primary or general municipal official election ballot.

ARTICLE VIII—Initiative and Referendum

Section 8.01 General Authority

(a) Initiative. The qualified voters of the city shall have power to propose ordinances to the council and, if the council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election, provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees.

(b) Referendum. The qualified voters of the city shall have power to require reconsideration by the council of any adopted ordinance and, if the council fails to repeal an ordinance so reconsidered, to approve or reject it at a city election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes.

Section 8.02 Commencement of Proceedings; Petitioners' Committee; Affidavit

Any five qualified voters may commence initiative or referendum proceedings by filing with the city clerk an affidavit stating that they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to

(c) Affidavit of Circulator. Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(d) Time for Filing Referendum Petitions. Referendum petitions must be filed within 30 days after adoption by the council of the ordinance sought to be reconsidered.

Section 8.04 Procedure After Filing

(a) Certificate of Clerk; Amendment. Within twenty days after the petition is filed, the city clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within two days after receiving the copy of his certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections (b) and (c) of section 8.03, and within five days after it is filed, the clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request council review under subsection (b) of this section within the time required, the clerk shall promptly present his certificate to the council and the certificate shall then be a final determination as to the sufficiency of the petition.

(b) Council Review. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two days after receiving the copy of such certificate, file a request that it be reviewed by the council. The council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the council's determination shall then be a final determination as to the sufficiency of the petition.

(c) Court Review, New Petition. A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

Section 8.05 Referendum Petitions; Suspension of Effect of Ordinance

When a referendum petition is filed with the city clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

(1) There is a final determination of insufficiency of the petition, or

(2) The petitioners' committee withdraws the petition, or

(3) The council repeals the ordinance, or

(4) Thirty days have elapsed after a vote of the city on the ordinance.

Section 8.06 Action on Petitions

(a) Action by Council. When an initiative or referendum petition has been finally determined sufficient, the council shall promptly consider the proposed initiative ordinance in the manner provided in Article II or reconsider the referred ordinance by voting its repeal. If the council fails to adopt a proposed initiative ordinance without any change in substance within 60 days or fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the city.

(b) Submission to Voters. The vote of the city on a proposed or referred ordinance shall be held not less than 30 days and not later than one year from the date of the final council vote thereon. If no regular city election is to be held within the period prescribed in this subsection, the council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

ARTICLE IX—General Provisions

Section 9.01 Personal Financial Interest

Any city officer or employee who has a substantial financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract with the city or in the sale of any land, material, supplies or services to the city or to a contractor supplying the city, shall make known that interest and shall refrain from voting upon or otherwise participating in his capacity as a city officer or employee in the making of such sale or in the making or performance of such contract. Any city officer or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his office or position. Violation of this section with the knowledge expressed or implied of the person or corporation contracting with or making a sale to the city shall render the contract or sale voidable by the city manager or the city council.

Section 9.02 Prohibitions

(a) Activities prohibited.

(1) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any city position or appointive city administrative office because of race, sex, political or religious opinions or affiliations.

(2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

(3) No person who seeks appointment or promotion with respect to any city position or appointive city administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.

(4) No person, group, organization or corporation shall orally, by letter or otherwise solicit or assist in soliciting any assessment, subscription or contribution for any city election from any person holding any compensated appointive city position.

(5) No person who holds any compensated appointive city position shall make, solicit or receive any contribution to the campaign funds for city elections of any political party or any candidate for city office or take any part in management, affairs or political campaign for city elections of any political party, but he may exercise his rights as a citizen to express his opinions and to cast his vote.

(b) Penalties.

(1) Any person who by himself or with others willfully and/or knowingly violates any of the provisions of paragraphs (1) through (4) shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars ($500) or less than fifty dollars ($50).

(2) Any person who by himself or with others willfully and/or knowingly violates any of the provisions of paragraph (5) shall be guilty of an offense and upon conviction thereof shall be punishable by a fine of not less than fifty dollars ($50) or more than five hundred dollars ($500).

(3) Any person convicted under this section (9.02) shall be ineligible for a period of five years thereafter to hold any city office or position and, if an officer or employee of the city, shall immediately forfeit his office or position.

Section 9.03 Separability

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

(c) Personnel System. An employee holding a city position at the time this charter takes full effect, who was serving in that same or comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position.

~~Section 10.02 Departments, Offices and Agencies~~

(a) Transfer of Powers. If a city department, office or agency is abolished by this charter, the powers and duties given it by law shall be transferred to the city department, office or agency designated in this charter or, if the charter makes no provision, designated by the city council.

(b) Property and Records. All property, records and equipment of any department, office or agency existing when this charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, offices or agencies designated by the council in accordance with this charter.

Section 10.03 Pending Matters

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on or dealt with by the city department, office or agency appropriate under this charter.

CHARTER BOARD CERTIFICATION

We, the undersigned, being members of the Charter Board of the City of Fairmont, do affix our names to this completed draft of Charter for the City of Fairmont. This charter is comprised of articles I through X and includes numerical sections 1.01 through 10.03. The date of this signing is the 5th day of January, nineteen hundred seventy six. (January 5, 1976).

Richard Bowyer

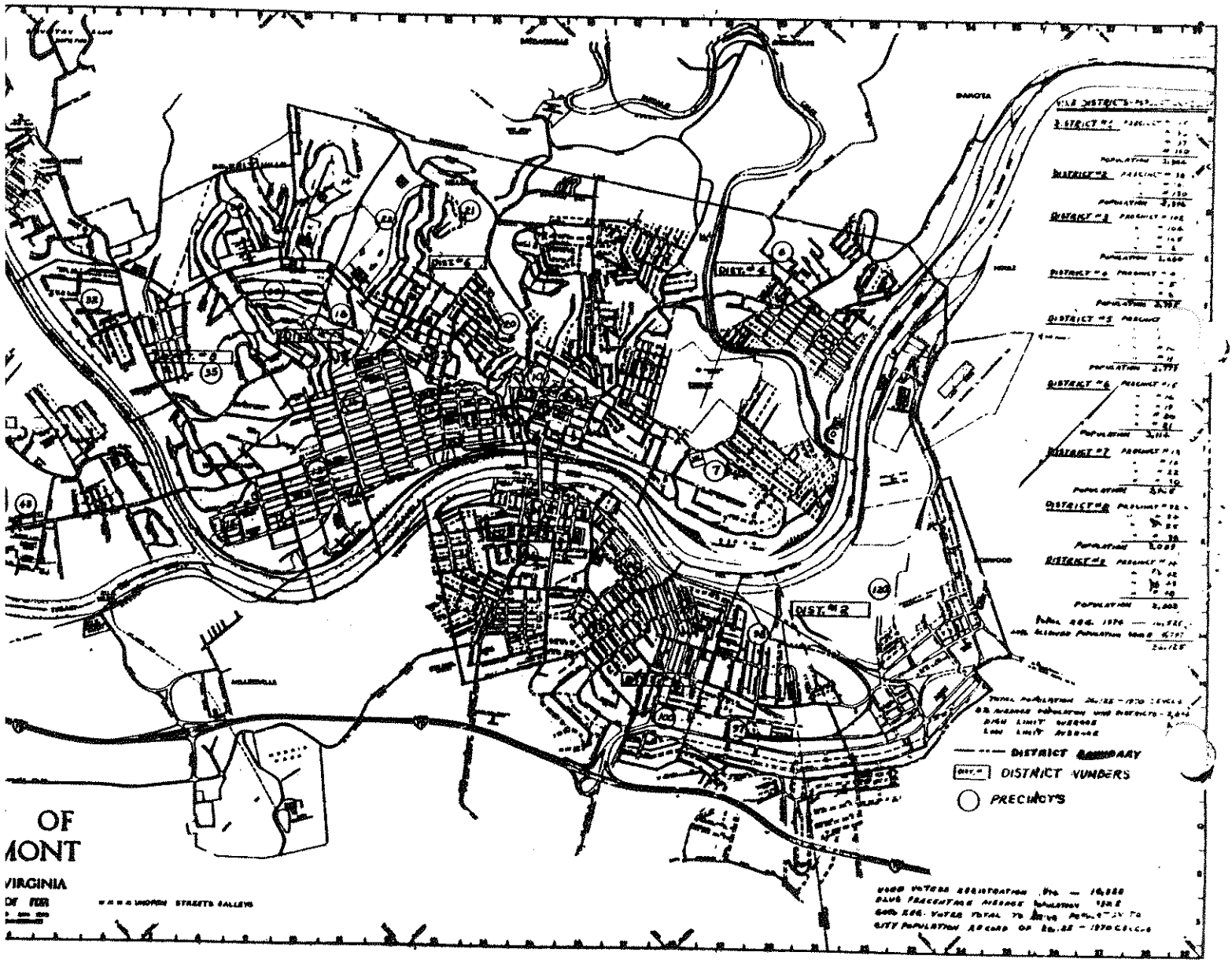
James D. Cain

Richard Davis

Elizabeth Davisson

Cecily Enos

Stanford Howes


DISTRICT BOUNDARY
DISTRICT NUMBERS
PRECINCTS
OF
MONT
VIRGINIA

ORDINANCE NO. 499

AN ORDINANCE AMENDING SECTION 2.13(b)
OF THE CHARTER OF THE CITY OF FAIRMONT
PROVIDING FOR ELIMINATION OF THE SECOND
READING OF A PROPOSED ORDINANCE IN ITS ENTIRETY

WHEREAS, the Charter Board of the City of Fairmont has continually studied and reviewed the Charter of the City of Fairmont, adopted at a special election held August 17, 1976, and has observed the functioning of city government pursuant to the terms of said Charter; and

WHEREAS, it appears to the Charter Board of the City of Fairmont that the procedure for introduction and passage of ordinances contained in the Charter as adopted on August 17, 1976, is, at times, unduly time consuming and that the procedure can be made more efficient by amending section 2.13(b) of the Charter of the City of Fairmont; and

WHEREAS, it appears to the Council of the City of Fairmont that such amendment should be made;

NOW, THEREFORE, THE CITY OF FAIRMONT HEREBY ORDAINS:

Section 1: Section 2.13(b) of the Charter of the City of Fairmont shall be amended to read as follows:

Procedure. An ordinance may be introduced by any member at any regular or special meeting of the council. Upon introduction of any ordinance, the city clerk shall read fully and distinctly the proposed ordinance in its entirety, shall distribute a copy to each council member and to the manager, shall file a reasonable number of copies in

read fully and distinctly the proposed ordinance in its entirety. Copies of the proposed ordinance shall be made available to those in attendance at the public hearing. The public hearing shall follow the publication by at least seven days, may be held separately or in connection with a regular or special council meeting and may be ajourned from time to time; all persons interested shall have an opportunity to be heard. After the hearing, the council may adopt the ordinance with or without amendment or reject it, but if it is amended as to any matter of substance, the council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures hereinbefore required in the case of a newly introduced ordinance.

Passed by the Council of the City of Fairmont this the 17th day of June, 1980.

James L. Turner
MAYOR

ATTEST:

Lina O. West
City Clerk

Approved as to form:

WE, the undersigned officials of the City of Fairmont, West Virginia, do hereby certify that Ordinance No. 499, entitled:

"AN ORDINANCE AMENDING SECTION 2.13(b) OF THE CHARTER OF THE CITY OF FAIRMONT PROVIDING FOR ELIMINATION OF THE SECOND READING OF A PROPOSED ORDINANCE IN ITS ENTIRETY"

was introduced and read for the first time in its entirety on May 6, 1980, pursuant to the provisions of the City Charter, Section 2.13(d); pursuant to West Virginia Code, §§ 8-4-8, the proposed amendment together with a notice for a public hearing to be held thereon was published in The Times-West Virginian on May 13 and 20, 1980; said public hearing was held on said proposed Ordinance Amending Section 2.13(b) of the Charter of the City of Fairmont on June 17, 1980, at which time said proposed Ordinance was read in its entirety for the second time; at said public hearing one objection in writing was filed to said proposed Ordinance Amending Section 2.13(b) of the Charter of the City of Fairmont; said objection in writing was withdrawn, in writing, at said public hearing; said Ordinance was duly passed and adopted on June 17, 1980, pursuant to W. Va. Code and the Charter of the City of Fairmont; said Ordinance was signed by the undersigned officials and filed in the office of the City Clerk of said City of Fairmont, West Virginia.

Passed by the Council of the City of Fairmont, West Virginia, this the 17th day of June, 1980.

ATTEST:

Jane C. West

CITY CLERK

James L. Turner

MAYOR

ORDINANCE NO. 614

AN ORDINANCE PROVIDING FOR A PROPOSED CHARTER AMENDMENT PROVIDING FOR ELIMINATION OF THE READING OF A PROPOSED ORDINANCE IN ITS ENTIRETY UPON INTRODUCTION; AND PROVIDING FOR PUBLICATION OF NOTICE AND PUBLIC HEARING.

WHEREAS, West Virginia Code § 8-4-8 provides that whenever the governing body of a municipality shall deem it expedient to amend the charter of a City it shall be done by ordinance; and

WHEREAS, it is deemed necessary and appropriate to delete charter provisions requiring the reading in full of ordinances at council meeting;

NOW THEREFORE, THE CITY OF FAIRMONT HEREBY ORDAINS that:

SECTION 1. ADOPTION OF AMENDMENT. The proposed charter amendments, as hereinafter setforth, be, and the same are hereby adopted amending Section 2.13 (b) of the City Charter, and the conflicting portion of said section is repealed by reference and deleted hereby. Providing further, that nothing herein shall be construed as affecting any ordinance heretofore adopted.

SECTION 2. PROPOSED CHARTER AMENDMENT. The following provisions be, and the same are deleted from Section 2.13 (b):

> [Upon introduction of any ordinance, the City Clerk shall read fully and distinctly the proposed ordinance in its entirety.....]

The following provisions be, and are hereby adopted in lieu of the deleted

be read in its entirety instead of in synopsis upon request of the majority of the council members present.

SECTION 3. PUBLIC HEARING. Subsequent to the first reading hereof and prior to adoption, being the 15th day of November, 1983, in the Council Chambers, City-County Complex, and not sooner than thirty days after the date of the first publication hereinafter required, a public hearing shall be held on the proposed amendments at which time any qualified voter or freeholder of the City may appear and file objections, in writing, to the proposed amendments. At such hearing Council shall consider the proposed amendment.

SECTION 4. NOTICE. Subsequent to the first reading hereof and prior to the public hearing, the City Clerk shall publish notice as a Class II-O legal advertisement within the City of the proposed amendment, set out in full, together with the date, time and place aforesaid that the amendment shall be considered, and that any qualified voter of the City or any freeholder of the City may appear and file objections in writing, and if no objections are filed, the said amendment shall become operative not sooner than thirty days after the date of the hearing and the adoption of this Ordinance.

Passed this the 15th day of November, 1983.

Gregory T. Hinton

MAYOR

WE, the undersigned officials of the City of Fairmont, West Virginia, do hereby certify that Ordinance No. 614, entitled:

"AN ORDINANCE PROVIDING FOR A PROPOSED CHARTER AMENDMENT PROVIDING FOR ELIMINATION OF THE READING OF A PROPOSED ORDINANCE IN ITS ENTIRETY UPON INTRODUCTION; AND PROVIDING FOR PUBLICATION OF NOTICE AND PUBLIC HEARING"

was introduced and publicly read in its entirety at a regular meeting of the Council of the City of Fairmont, Fairmont, West Virginia, held on October 4, 1983; pursuant to the provisions of the Charter of said City, Section 2.13(d) and the West Virginia Code, Chapter 8, Article 4, Section 8, the proposed Ordinance providing for said Charter amendment, together with a Notice of Public Hearing, was published in The Times-West Virginian on October 14, 1983 and again on November 8, 1983; a public hearing on said proposed Ordinance providing for said Charter amendment was held November 15, 1983, and there being no request that said proposed Ordinance be publicly read in its entirety for the second time, the Clerk publicly read only the title of said proposed Ordinance and copies were available to the public, as required by Ordinance No. 499; at said public hearing no objection in writing was filed to said proposed Ordinance amending Section 2.13(b) of said Charter of the City of Fairmont; said Ordinance was duly passed and adopted by the Council of the City of Fairmont on November 15, 1983, pursuant to the Charter of the City of Fairmont and the West Virginia Code; said Ordinance was signed by the undersigned officials and filed in the office of the Clerk of said City of Fairmont.

Adopted by the Council of the City of Fairmont this the 15th day of November, 1983.

ORDINANCE NO. 616

AN ORDINANCE PROVIDING FOR A PROPOSED CHARTER AMENDMENT DELETING THE REQUIREMENT OF REPETITION OF ORDINANCE PROVISIONS TO BE REPEALED OR AMENDED; AND PROVIDING FOR PUBLICATION OF NOTICE AND PUBLIC HEARING.

WHEREAS, West Virginia Code § 8-4-8 provides that whenever the governing body of a municipality shall deem it expedient to amend the charter of a City it shall be done by ordinance; and

WHEREAS, it is deemed necessary and appropriate to delete charter provisions requiring repetition in full of ordinance provisions to be repealed or amended as excessively cumbersome and confusing;

NOW THEREFORE, THE CITY OF FAIRMONT HEREBY ORDAINS that:

SECTION 1. ADOPTION OF AMENDMENT. The proposed charter amendments, as hereinafter setforth, be, and the same are hereby adopted amending Section 2.13 (a) of the City Charter, and the conflicting portion of said section is repealed by reference and deleted hereby. Providing further, that nothing herein shall be construed as affecting any ordinance heretofore adopted.

SECTION 2. PROPOSED CHARTER AMENDMENT. The following provisions be and the same are deleted from Section 2.13 (a):

> [Any ordinance which repeals or amends an existing ordinance or part of the city code shall set out in full the ordinance, sections, or subsections to be repealed or amended, and shall include matter to

If the purpose of any ordinance is to add to an existing ordinance or City Code section, the addition shall be accomplished by a provision that reads "Ordinance No. (or City Code section) be, and the same is hereby amended by adding thereto and inserting herein the following ....."

If the purpose of any ordinance is to repeal an existing ordinance or City Code section, the repeal shall be accomplished by a provision that reads "Section of Ordinance No. (or City Code section) be, and the same is hereby repealed."

SECTION 3. PUBLIC HEARING. Subsequent to the first reading hereof and prior to adoption, being the 15th day of November, 1983, in the Council Chambers, City-County Complex, and not sooner than thirty days after the date of the first publication hereinafter required, a public hearing shall be held on the proposed amendments at which time any qualified voter or freeholder of the City may appear and file objections, in writing, to the proposed amendments. At such hearing Council shall consider the proposed amendment.

SECTION 4. NOTICE. Subsequent to the first reading hereof and prior to the public hearing, the City Clerk shall publish notice as a Class II-O legal advertisement within the City of the proposed amendment, set out in full, together with the date, time and place aforesaid that the amendment shall be considered, and that any qualified voter of the City or any freeholder of the City may appear and file objections in writing, and if no objections are filed, the said amendment shall

WE, the undersigned officials of the City of Fairmont, West Virginia, do hereby certify that Ordinance No. 615, entitled:

"AN ORDINANCE PROVIDING FOR A PROPOSED CHARTER AMENDMENT DELETING THE REQUIREMENT OF REPETITION OF ORDINANCE PROVISIONS TO BE REPEALED OR AMENDED; AND PROVIDING FOR PUBLICATION OF NOTICE AND PUBLIC HEARING"

was introduced and publicly read in its entirety at a regular meeting of the Council of the City of Fairmont, Fairmont, West Virginia, held on October 4, 1983; pursuant to the provisions of the Charter of said City, Section 2.13(d) and the West Virginia Code, Chapter 8, Article 4, Section 8, the proposed Ordinance providing for said Charter amendment, together with a Notice of Public Hearing, was published in The Times-West Virginian on October 14, 1983 and again on November 8, 1983; a public hearing on said proposed Ordinance providing for said Charter amendment was held November 15, 1983, and there being no request that said proposed Ordinance be publicly read in its entirety for the second time, the Clerk publicly read only the title of said proposed Ordinance and copies were available to the public, as required by Ordinance No. 499; at said public hearing no objection in writing was filed to said proposed Ordinance amending Section 2.13(a) of said Charter of the City of Fairmont; said Ordinance was duly passed and adopted by the Council of the City of Fairmont on November 15, 1983, pursuant to the Charter of the City of Fairmont and the West Virginia Code; said Ordinance was signed by the undersigned officials and filed in the office of the Clerk of said City of Fairmont.

We, the undersigned officials of the City of Fairmont, West Virginia do hereby certify that Ordinance No. 630, entitled:

> "AN ORDINANCE PROVIDING FOR A CHARTER AMENDMENT; PROVIDING FOR A CONSUMER MAJORITY ON THE HOSPITAL BOARD OF DIRECTORS AND INCREASING MEMBERS TO ELEVEN; AND PROVIDING FOR PUBLICATION OF NOTICE AND PUBLIC HEARING"

was introduced and publicly read in its entirety at a regular meeting of the Council of the City of Fairmont, Fairmont, West Virginia, held on February 21, 1984; pursuant to the provisions of the Charter of said City, Section 2.13(d) and the West Virginia Code, Chapter 8, Article 4, Section 8, the proposed Ordinance providing for said Charter amendment, together with a Notice of Public Hearing was published in the Times-West Virginian on March 2, 1984 and again on March 9, 1984; a public hearing on said proposed Ordinance providing for said Charter amendment was held April 3, 1984, and there being no request that said proposed Ordinance be publicly read in its entirety for the second time, the Clerk publicly read only the title of said proposed Ordinance and copies were available to the public, as required by Ordinance No. 499; at said public hearing no objection either written or verbal were filed to said proposed Ordinance amending Section 4.06(b) of said Charter of the City of Fairmont; said Ordinance was duly passed and adopted by the Council of the City of Fairmont on April 3, 1984, pursuant to the Charter

Adopted by the Council of the City of Fairmont this the 3rd day of April, 1984

ATTEST:

CITY CLERK

MAYOR

A TRUE COPY.

Mayor, The City of Fairmont, West Virginia

Clerk, The City of Fairmont, WEst Virginia

APPROVED AS TO FORM AND CORRECTNESS:

Attorney, The City of Fairmont, West Virginia

ORDINANCE NO. 630

AN ORDINANCE PROVIDING FOR A CHARTER AMENDMENT; PROVIDING FOR A CONSUMER MAJORITY ON THE HOSPITAL BOARD OF DIRECTORS AND INCREASING MEMBERS TO ELEVEN; AND PROVIDING FOR PUBLICATION OF NOTICE AND PUBLIC HEARING.

WHEREAS, West Virginia Code § 8-4-8 provides that whenever the governing body of a municipality shall deem it expedient to amend the charter of a City it shall be done by ordinance; and

WHEREAS, it is deemed necessary and appropriate to amend the City Charter to conform with West Virginia Code § 16-5B-6a;

NOW THEREFORE THE CITY OF FAIRMONT HEREBY ORDAINS THAT:

SECTION 1. ADOPTION OF AMENDMENT: The proposed charter amendments, as hereinafter setforth be, and the same are hereby adopted amending Section 4.06(b) of the City Charter, and the conflicting portion of said section is repealed by reference and deleted hereby. Provided further, that nothing herein shall be construed as affecting any ordinance heretofore adopted.

SECTION 2. PROPOSED CHARTER AMENDMENT: Section 4.06(b) of the City Charter shall read as follows:

> The Board shall consist of eleven

~~consumer members shall be six years, and members shall be eligible for~~ reappointment. The Board shall at its first meeting of each calendar year elect from its members a president, vice-president, secretary and treasurer. The Board shall serve without compensation. All vacancies shall be filled by the City Council within fifteen (15) days. The Board members may be removed at any time by City Council for cause.

SECTION 3. PUBLIC HEARING: Subsequent to the first reading hereof and prior to adoption, being the 3rd day of April, 1984, in the Council Chambers, J. Harper Meredith Building, and not sooner than thirty (30) days after the date of the first publication hereinafter required, a public hearing shall be held on the proposed amendments at which time any qualified voter or freeholder of the City may appear and file objections, in writing, to the proposed amendments. At such hearing Council shall consider the proposed amendment.

SECTION 4. NOTICE: Subsequent to the first reading hereof and prior to the public hearing, the City Clerk shall publish notice as a Class II-O legal advertisement within the City, notice of the proposed amendment, set out in full, together with the date, time and place aforesaid that the amendment shall be considered, and that any qualified voter of the City or any freeholder of the City may appear and file

ALL-STATE LEGAL SUPPLY CO., ONE COMMERCE DRIVE, CRANFOR RSEY 07016

ED 11-1C

A RESOLUTION AMENDING RULES 1.2, 1.3 AND 1.6 OF THE CITY COUNCIL RULES OF ORDER AND PROCEDURE ADOPTED BY THE COUNCIL OF THE CITY OF FAIRMONT ON FEBRUARY 14, 1978, AS AMENDED. PROVIDING FOR REGULAR CITY COUNCIL MEETINGS ON THE SECOND AND FOURTH TUESDAYS AT 7:00 P.M. AND CONFERENCE MEETINGS ON OTHER TUESDAYS AS SCHEDULED.

AMENDMENT NO. 5

THE CITY OF FAIRMONT HEREBY RESOLVES:

SECTION 1. STATUTORY MANDATE FOR THE AMENDMENTS. The amendments to Rules 1.2, 1.3 and 1.6 of the City Council Rules of Order and Procedure adopted by the Council of the City of Fairmont, West Virginia (the"City"), on February 14, 1978, as amended on January 16, 1979, February 6, 1979, May 3, 1983 and on July 19, 1983 and in effect on the date hereof (the "Rules"), established in and by this Resolution are mandated by and promulgated pursuant to Chapter 6, Artilce 9A, of the Code of West Virginia, 1931, as amended (the "Act"), and other applicable provisions of law.

SECTION 2. FINDINGS AND DETERMINATIONS: It is hereby found and determined and declared as follows:

(A) Section 3 of the Act required each governing body, as defined in the Act, to promulgate rules by which the time and place of all regularly scheduled meetings and the time, place and purpose of all special meetings are made available, in advance, to the public and news media.

(B) The Council of the City if a governing body within the meaning of the Act.

(C) Accordingly, it is necessary and desirable that Rules 1.2, 1.3, and 1.6 be amended and re-enacted to comply more fully with the requirements of the Act.

SECTION 3. AMENDMENTS.

(A) Rule 1.2 is hereby amended and re-enacted to read as follows:

from its membership, the Mayor and the Deputy Mayor. The Council shall also adopt its rules of order and procedure for the organization and conduct of its business.

(B) Rule 1.3 is hereby amended and re-enacted to read as follows:

1.3 Regular Meetings (2.11(a)) The Council shall meet in regular session on the second and fourth Tuesday of each month at 7:00 P.M. prevailing time unless another day and hour be fixed by resolution of the Council. When the meeting falls on a National or Legal holiday, the regular meeting shall be held at the same hour on the next succeeding secular day not a holiday. On the first Tuesday in January of each year, the City Clerk shall prepare and post, and leave posted throughout the year to which it applies, at a conspicuous place in the City Hall, a notice setting forth the times and places of the Council's regularly scheduled meetings for the ensuing year. Such notice shall be of size and style sufficient to give notice and shall be of quality sufficient to withstand deterioration throughout the year to which it applies.

Concurrently with the posting of such notice, the City Clerk shall mail or otherwise distribute to all newspapers of general local distribution and to other available news media customarily covering news of the City notices identical to that posted.

In the event of any modification in the time or place of a regularly scheduled meeting of the Council, notice of such modification shall be given to the public and news media by posting at the place and distributing to the news media in the manner set forth above, not less than forty-eight (48) hours prior to the time of such regularly scheduled meeting, or, if such regularly scheduled meeting has been rescheduled for an earlier time, prior to the time of such rescheduled meeting, notices setting forth such modification in the time or place of such regularly scheduled meeting.

is deemed desirable by the Council and/or the City Manager, and particularly preliminary to discussion and action at the regular meetings of the Council. No formal vote shall be taken on any matter under discussion nor shall any Council member enter into a commitment with another respecting the vote to be taken subsequently in a regular meeting of the Council; provided, however, that nothing herein shall prevent a polling of the Council or the taking of any informal vote on any matter under discussion.

Agenda procedures shall be the same as for regular meeting except that matters not included on a conference session agenda shall be taken up by the Council only after listed agenda matters have been considered. No vote of the Council shall be required to consider a non-agenda item.

Additional conference sessions may be held at the request of the Mayor, or of a majority of the Council. It shall be the responsibility of Mayor to advise all other members of the Council and the City Manager of any additional conference sessions.

SECTION 4. Conflicting Provisions Repealed. All resolutions, orders and rules or parts thereof, in conflict with the provisions of this resolution are, to the extent of such conflicts, hereby repealed.

SECTION 5. Effective Time. This resolution and the amendments to Rules 1.2, 1.3 and 1.6 promulgated hereby shall take effect immediately upon the adoption hereof.

Passed this the 3rd day of February, 1987.

Robert M. Drummond Jr.
MAYOR

ATTEST: Debra M. Bohan
CITY CLERK

A RESOLUTION PROVIDING FOR AMENDMENT TO COUNCIL'S RULES OF ORDER AND PROCEDURE WITH RESPECT TO READING ORDINANCES IN THEIR ENTIRETY AT PUBLIC HEARINGS.

WHEREAS, The City Charter was amended to delete the necessity of reading an ordinance in its entirety at the public hearing during the course of adoption; and

WHEREAS, Council's rules of procedure require amendment to conform with the Charter;

NOW THEREFORE THE CITY OF FAIRMONT HEREBY RESOLVES THAT:

SECTION 1. DELETION: Rule 5.2(b), second paragraph, is hereby deleted in its entirety as follows:

> [At the commencement of the public hearing the clerk shall read fully and distinctly the proposed ordinance in its entirety.]

SECTION 2. AMENDMENT: Rule 5.2(b), second paragraph, is hereby amended to read:

> At the commencement of the public hearing the clerk shall read fully and distinctly the proposed ordinance by title. Any person present shall then have the right to have the ordinance read in its entirety.

Passed this the 19th day of July, 1983.

AMENDMENT NO. 3
Adopted by the Council of the City of Fairmont at its regular meeting held May 3, 1983, Recorded in Journal Book No. 39, Page 257

A RESOLUTION AMENDING RULE 1.3, AND RULE 1.4 AND RULE 1.5 OF THE CITY COUNCIL RULES OF ORDER AND PROCEDURE ADOPTED BY THE COUNCIL OF THE CITY OF FAIRMONT ON FEBRUARY 14, 1978, AS AMENDED ON JANUARY 16, 1979, AND ON FEBRUARY 6, 1979, TO COMPLY MORE FULLY WITH CHAPTER 6, ARTICLE 9A, OF THE CODE OF WEST VIRGINIA, 1931, AS AMENDED."

THE CITY OF FAIRMONT HEREBY RESOLVES:

SECTION 1. STATUTORY MANDATE FOR THE AMENDMENTS. The amendments to Rule 1, 3, Rule 1.4 and Rule 1.5 of the City Council Rules of Order and Procedure adopted by the Council of the City of Fairmont, West Virginia (the "City"), on February 14, 1978, as amended on January 16, 1979, and on February 6, 1979, and in effect on the date hereof (the "Rules"), established in and by this resolution are mandated by and promulgated pursuant to Chapter 6, Article 9A, of the Code of West Virginia, 1931, as amended (the "Act"), and other applicable provisions of law.

SECTION 2. FINDINGS AND DETERMINATIONS: It is hereby found, determined and declared as follows:

(A) Section 3 of the Act requires each governing body, as defined in the Act, to promulgate rules by which the time and place of all regularly scheduled meetings and the time, place and purpose of all special meetings are made available, in advance, to the public and news

Amended 5/3/83

I.3 Regular Meetings (2.11(a)) The Council shall meet in regular session on the first and third Tuesday of each month at 7:00 P.M. prevailing time unless another day and hour be fixed by resolution of the Council. When the meeting falls on a National or Legal holiday, the regular meeting shall be held at the same hour on the next succeeding secular day not a holiday. On the first ~~Wednesday~~ Tuesday in January of each year, the City Clerk shall prepare and post, and leave posted throughout the year to which it applies, at a conspicuous place in the City Hall, a notice setting forth the times and places of the Council's regularly scheduled meetings for the ensuing year. Such notice shall be of size and style sufficient to give notice and shall be of quality sufficient to withstand deterioration throughout the year to which it applies.

Concurrently with the posting of such notice, the City Clerk shall mail or otherwise distribute to all newspapers of general local distribution and to other available news media customarily covering news of the City notices identical to that posted.

In the event of any modification in the time or place of a regularly scheduled meeting of the Council, notice of such modification shall be given to the public and news media by posting at the place and distributing to the news media in the manner set forth above, not less than forty-eight (48) hours prior to the time of such regularly scheduled meeting, or, if such regularly scheduled meeting has been rescheduled for an earlier time, prior to the time of such rescheduled meeting, notices setting forth such modification in the time or place of such regularly scheduled meeting.

shall also be the duty of the City Clerk, immediately upon receipt of written request, to make every diligent effort to notify each member of the Council in person, either by telephone or otherwise, of such special session. Concurrently with notifying the members of Council, ~~The~~ the City Clerk shall also post the notice of the special meeting in a conspicuous place in the City Hall and shall ~~make every effort to publicise the meeting in a newspaper of general local distribution and other available news media~~ mail or otherwise distribute to all newspapers of general local distribution and to other available news media customarily covering news of the City notices identical to that posted.

Only matters set forth in the notice of the meeting shall be discussed and/or acted upon. This provision of this rule may not be suspended.

(C) Rule 1.5 is hereby amended and re-enacted to read as follows:

1.5 Adjourned Meeting Any session of the Council may be continued or adjourned from day to day, or for more than one day, but no adjournment shall be for a longer period than until the next regular meeting thereafter. Notice of the adjournment of a meeting and of the time and place for the continuation or reconvening thereof publicly given during such adjourned meeting shall be adequate notice to the public and news media of the time and place thereof.

Section 4. Conflicting Provisions Repealed. All resolutions, orders and rules, or parts thereof, in conflict with the provisions of this resolution are, to the extent of such conflicts, hereby repealed.

~~Passed~~ ~~this~~ ~~the~~ 3rd day of MAY, 1983.

Gregory T. Hinton
MAYOR

ATTEST: Lisa C. Wirt
City Clerk

CITY COUNCIL RULES OF ORDER AND PROCEDURE
ADOPTED BY THE COUNCIL OF THE CITY OF FAIRMONT
FEBRUARY 14, 1978

AMENDMENT NO. 2

(Adopted by the Council of the City of Fairmont at its regular meeting held February 6, 1979. Recorded in Journal Book No. 36, at Page 117)

ADD to Section 1.2 Organization (2.02), the following:

In electing the Mayor and Deputy Mayor, the following procedures shall be followed:

(1) The previously elected Mayor, or in his/her absence, the Deputy Mayor, shall be the presiding officer of the organization meeting and shall preside until the election of the Mayor has been accomplished.

(2) Nominations for and election of the Mayor and Deputy Mayor shall take place separately.

(3) Nominations for Mayor shall be the first order of business.

(4) Nominations for Mayor shall be made by and from the Council membership and shall not require a seconding motion.

(5) Nominations shall be closed by motion, duly seconded, and voted by a majority of the entire Council.

(6) The Council shall proceed with electing the Mayor by secret ballot. Ballots shall be provided by the City Clerk and after marking shall be delivered to and counted by the City Clerk. The City Clerk shall announce publicly the results of the balloting. A majority vote of the entire Council shall be required to elect the Mayor.

(7) In the event that a nominee or write-in does not receive the required majority, the above procedures shall be repeated.

(8) Upon election of the Mayor, the Council shall proceed with the election of the Deputy Mayor. The Council

CITY COUNCIL RULES OF ORDER AND PROCEDURE

ADOPTED BY THE COUNCIL OF THE CITY OF FAIRMONT

FEBRUARY 14, 1978

AMENDMENT NO. 1

(Adopted by the Council of the City of Fairmont at its regular meeting held January 16, 1979. Recorded in Journal Book No. 36, Pages 104-105, inclusive)

ADD Section 6.8, which reads as follows:

> Except as may be otherwise required by City Ordinance or State statute, specifically as to terms of office, all appointments made by the City Council from the Council to City Boards or Commissions, shall be for one (1) year, and shall be made at the second regular meeting of Council in January of each year. Appointments to fill vacancies shall be made as they occur and shall be for the unexpired portion of the one (1) year term.

CITY COUNCIL

RULES OF ORDER AND PROCEDURE

1. City Council Meetings

1.1 Place for Meetings The designated place for meetings of the Fairmont City Council (Council) shall be the Council Chambers, City Building, Fairmont, West Virginia unless otherwise provided by the Council.

1.2 Organization (2.02) The City Council shall meet bi-~~annually~~ annually on the first Tuesday in January at 7:00 P.M. prevailing time at the designated place for meetings of the Council. When the meeting falls on a National or Legal holiday, the Organization Meeting shall be held at the same hour on the next succeeding secular day not a holiday. The Council shall select from its membership, the Mayor and the Deputy Mayor. The Council shall also adopt its rules of order and procedure for the organization and conduct of its business

1.3 Regular Meetings (2.11(a)) The Council shall meet in regular session on the first and third Tuesday of each month at 7:00 P.M. prevailing time unless another day and hour be fixed by resolution o the Council. When the meeting falls on a National or Legal holiday

stating the time and the place and this notice shall be served personally upon each member of the Council and the City Manager, or left at their usual place of residence at least twenty-four (24) hours before the time of the meeting. It shall also be the duty of the City Clerk, immediately upon receipt of written request to make every diligent effort to notify each member of the Council in person, either by telephone or otherwise, of such special session. The City Clerk shall also post the notice of the special meeting in a conspicious place in the City Hall and shall make every effort to publicize the meeting in a newspaper of general local distribution and other available news media.

Only matters set forth in the notice of the meeting shall be discussed and/or acted upon. This provision of this rule may not be suspended.

1.5 Adjourned Meeting Any session of the Council may be continued or adjourned from day to day, or for more than one day, but no adjournment shall be for a longer period than until the next regular meeting thereafter.

Rules of Order and Procedure
Continued

Council and/or the City Manager, and particularly preliminary to discussion and action at the regular meetings of the Council. No formal vote shall be taken on any matter under discussion nor shall any Council member enter into a commitment with another respecting the vote to be taken subsequently in a regular meeting of the Council provided, however, that nothing herein shall prevent a polling of the Council or the taking of any informal vote on any matter under discussion.

Agenda procedures shall be the same as for regular meeting except that matters not included on a conference session agenda shall be taken up by the Council only after listed agenda matters have been considered. No vote of the Council shall be required to consider a non-agenda item.

Additional conference sessions may be held at the request of the Mayor, or of a majority of the Council. It shall be the responsibility of Mayor to advise all other members of the Council and the City Manager of any additional conference sessions.

reputation of any person, or the purpose of discussing purchases of real estate provided that the general subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the Council until the matter is placed on the agenda.

1.8 Quorum (2.11(6)) Five members of the Council shall constitute a quorum. In the event that a quorum is not obtained, the member (s) present may adjourn the meeting "sine die" or to a specific date and time.

No action of the Council, except as provided above and by Section 2.06 (c) of the City Charter shall be valid or binding unless adopted by the affirmative vote of five or more members of the Council.

1.9 Open Meetings All meetings of the Council shall be public except as provided by Section 1/7 of these rules and Section 2.11(a) of the City Charter.

2. Duties of Council Officers and Other City Officials

2.1 Presiding Officer The Mayor, or in his absence, the Deputy

~~The presiding officer may move, second and debate from the~~ chair, subject only to such limitations as are by these rules imposed on all members and shall not be deprived of any of the rights and privileges of a Council member by reason of acting as presiding officer.

2.2 Presiding Officer - Pro-tem In case of the absence of the proper presiding officer, the Clerk shall call the Council to order and call the roll of the members. If a quorum is found to be present, Council shall proceed to elect, by a majority vote of the Council, a presiding officer of the meeting to act until the proper presiding officer appears.

2.3 City Manager The City Manager shall attend all meetings of the Council and shall have the right to take part in discussions, but may not vote. (3.04(3)).

2.4 City Clerk The City Clerk shall attend all meetings of the council, keep the journal of its proceedings, authenticate by his or her signature and record in full in a book kept for the purpose

of law, or to advise the Chair upon any parliamentary rule.

2.6 Other City Officers and Employees - Officers and Employees to attend. The head of any department or any officer of the City, when requested by the City Manager or at the request of the City Manager by the Council shall attend any regular, adjourned or special meeting of Council.

3. Council Procedure

3.1 Order of Business The business of all regular meetings of the Council shall be transacted in the following order, unless the Council by a vote of at least two-thirds of the members present shall suspend the rules and change the order.

I. Call to Order

II. Roll Call of Members

III. Opening Ceremonies

A. Prayer/Meditation

B. Pledge of Allegiance to the Flag

IV. Approval of Minutes of Previous Meeting (s)

Rules of Order and Procedure
Continued

3.2 Minutes ~~Provided Council Members~~ ~~Each member of Council shall~~ be provided a copy of the minutes of the previous meeting in advance of the regular meeting whenever practicable. The presiding officer may inquire "whether or not there are any additions or corrections to the minutes as furnished Council members and as are set forth in the minute book of Council." If there are no corrections or addition such minutes shall stand approved and shall be signed by the presidin officer and validated by the Clerk.

3.3 Filing With City Clerk Every ordinance, resolution and document or other matter to come before Council except as hereinafter provided must be filed with the City Clerk and/or City Manager at least twenty four (24) business hours prior to each Council meeting.

3.4 Preparation of Agenda The City Manager shall arrange or cause to be arranged a list of all matters to come before the Council according to the Order of Business. The City Manager shall deliver to each member of the Council, the City Clerk and the City Attorney a copy of the agenda at least sixteen (16) business hours prior to

Rules of Order and Procedure
Continued

City Council. A sufficient number of copies of the agenda shall also be available to the public at Council meetings.

3.7 City Manager Recommendations All agenda matters relating to the administration of the City shall be acted upon by the Council only when accompanied by recommendations of the City Manager, said recommendations to be made in writing or orally and made a part of the official record of the Council.

4. Duties and Privileges of Council Members

4.1 Seating Arrangement Members shall occupy the seats in Council Chamber around the Council table as designated by the Mayor.

4.2 Right of Floor When recognized by the chair, a member shall confine himself to the question under debate, avoid personalities, and refrain from impugning the motives of any other member's argument or vote.

4.3 Right of Appeal Any member may appeal to the Council from a ruling of the presiding officer. If the appeal is seconded, the member making the appeal may briefly state his reason for the same,

more than once upon any subject until every other member choosing to speak thereon shall have spoken.

4.5 Voting Every member present when a question is put shall vote either "aye" or "nay", provided, however, that if any member of the Council does not desire to vote on any question, he may be shown on the record as having "abstained". The record shall show whenever the vote is unanimous. In all other cases, the vote shall be called and recorded. No member shall vote or engage in any discussion or debate on any matter in which he has a personal interest other than as a taxpayer of the City.

4.6 Personal Privilege The right of a member to address the Council on a question of personal privilege shall be limited to cases in which his integrity, character, or motives are assailed, questioned, or impugned.

4.7 Excusal during Meeting No member may leave the Council chamber while in regular session without permission from the presiding officer.

4.8 Motions

4.82 Motions to be Stated by Chair - Withdrawal When a motion is made and seconded, it shall be stated by the chair before debate. A motion may not be withdrawn by the mover without the consent of the member seconding it.

4.83 Motion to Lay on Table A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the consideration of the subject may be resumed at the same meeting, or at the next meeting, by a majority vote, after some business has been transacted after the original laying on the table.

4.84 The Previous Question When the previous questions is moved, and seconded by one other member, it shall be put as follows: "Shall the main question be considered?" There shall then be no further amendments or debate; but pending amendments shall be put in their order before the main question. If the question "Shall the main question be considered?" be decided in the negative, the main questions remains before Council.

Rules of Order and Procedure
~~Continued~~

introduced. An amendment modifying the intention of a motion shall be in order, but an amendment relating to a different matter shall not be in order.

4.88 Reconsideration After the question on any question, any member who voted with the majority may move a reconsideration of any action at the same or the next succeeding meeting, provided, however, that a resolution authorizing or relating to any contract may be reconsidered at any time before the final execution thereof. A motion to reconsider shall require the same number of votes as is required to adopt an ordinance or resolution. After a motion for reconsideration has once been acted on, no other motion for a reconsideration thereof shall be made without unanimous consent.

4.9 Procedure in Absence of Rule In the absence of a rule to govern a point or procedure, reference shall be had to Roberts Rules of Order - Revised.

4.95 Anonymous Communications. Unsigned communications shall not

(2) Provide for a fine and other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(3) Grant, renew or extend a franchise;

(4) Regulate the rate charged for its services by a public utility;

(5) Authorize the borrowing of money;

(6) Convey or lease or authorize the conveyance or lease of any lands of the city;

(7) Adopt with or without amendment ordinances proposed under the initiative power; and

(8) Amend or repeal any ordinance previously adopted, except as otherwise provided in Article VIII with respect to repeal of ordinances reconsidered under the referendum power.

5.2 Ordinances in General (2.13)

(a) Form. Every proposed ordinance shall be introduced in writing and the form required for final adoption. No ordinance shall con-

(b) Procedure. An ordinance may be introduced by any member at any regular or special meeting of the council. Upon introduction of any ordinance, the city clerk (1) shall read fully and distinctly the proposed ordinance in its entirety, (2) shall distribute a copy to each council member and to the manager, (3) shall file a reasonable number of copies in the office of the city clerk, and (4) shall publish the ordinance together with a notice setting out the time and place for a public hearing thereon and for its consideration by the council.

At the commencement of the public hearing the clerk shall read fully and distinctly the proposed ordinance in its entirety.

The public hearing shall follow the publication by at least seven days, may be held separately or in connection with a regular or special council meeting and may be adjourned from time to time; all persons interested shall have an opportunity to be heard.

After the hearing, the council may adopt the ordinance with or without amendment or reject it, but if it is amended as to any

(d) "Published" Defined. As used in this section, the term "publish" means to print in one or more newspapers of general circulation in the city; (1) the title of the ordinance and a brief summary thereof, and (2) the places where copies of it have been filed and the times when they are available for public inspection.

5.3 Emergency Ordinances (2.14) To meet a public emergency affecting life, health, property or the public peace, the council may adopt one or more emergency ordinances but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection 5.09(b).

An emergency ordinance shall be introduced in the form and manner prescribed for ordinances general, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms

Every emergency ordinance except one made pursuant to subsection 5.09(b) of the City Charter shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enanctment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

5.4 Codes of Technical Regulations (2.15) The council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally, except that:

(1) The requirements of Section 2.13 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

6. Miscellaneous

6.1 Decorum of Employees of the City. Members of the administrative staff and employees shall observe the same rules of procedure and decorum applicable to members of the Council. While the presiding officer shall have the authority to preserve decorum in meetings as far as staff members and city employees are concerned, the City Manager also shall be responsible for the orderly conduct and decorum of all city employees under his direction and control. The City Manager shall take such action as may be necessary to insure that such decorum is preserved at all times by the city employees in Council meetings.

6.2 Public Attending Council Meetings. Public members attending Council meetings also shall observe the same rules of propriety, decorum, and good conduct applicable to members of the Council. Any person making personal, impertinent, and/or slanderous remarks or who becomes boisterous while addressing the Council or while attending the Council meeting shall be removed from the room as directed by the presiding officer, and such person shall

officer shall fail to act, any member of the Council may move to require him to act to enforce the rules, and the affirmative vote of the majority of the Council shall require the presiding officer to act. Any public member desiring to address the Council shall be recognized by the chair, shall state his name and address in an audible tone for the record, and shall limit his remarks to matters of city business.

All remarks and questions addressed to the administration of the City shall be addressed to the City Manager through the chair and not to any individual city employee. No person other than members of the Council and the person having the floor shall enter into any discussion either directly or through a member of the Council without permission of the presiding officer.

6.3 Complaints. The procedures for complaints shall be:

(a) All complaints involving municipal policies shall be referred to the Council for appropriate action and, except in the most unusual cases, such action should

statement ~~from the person complaining of such improper~~ hearing which statement shall delineate the specific charges in order that the particular board or commission concerned may be able to take appropriate action.

(c) All complaints with respect to the management of the City shall be referred to the City Manager for the necessary or appropriate action in each individual case. In the case of those complaints involving the management of the City wherein the Council desires further information, then the City Manager, when so requested by a majority of the Council shall be given adequate time in which to make the necessary investigation and report.

6.4 The Council Meeting Room. The meeting room shall be under the supervision and control of the City Manager when the Council is not in session. Except as herein provided, it shall be used solely by the Council and its committees for the transaction of public business of the City. If not required for such use, the

6.5 Suspension of Rules. Any provision of these rules not governed by State Statue, the City Charter, the City Administrative Code may be temporarily suspended by a two-thirds (2/3) majority vote of all members elected. The vote on any such suspension shall be taken by yeas and nays and entered upon the records.

6.6 To Amend Rules. These rules may be amended or new rules adopted by a majority vote of all members of the City Council. Any such alterations or amendments shall be submitted in the manner required for City Council business and included on any agenda for a regular Council meeting. This requirement shall be waived only by unanimous consent of all members.

6.7 Roberts Rules of Order Revised shall govern the proceedings of the Council in all cases, unless they are in conflict with these rules or the City Charter.

ALL-STATE LEGAL SUPPLY CO., ONE COMMERCE DRIVE, CRANFOR IERSEY 07016

ED 11-1C

FAIRMONT
NOTICE OF PUBLIC HEARING ON SEWERAGE SYSTEM REFUNDING REVENUE CAPITAL APPRECIATION BONDS, SERIES 1988 SUPPLEMENTAL AND AMENDATORY ORDINANCE

At a meeting of the City Council of the City of Fairmont, the Council introduced a Supplemental and Amendatory Bond Ordinance concerning the issuance of Sewerage System Refunding Revenue Capital Appreciation bonds, Series 1988, of the city in an amount not to exceed $13,500,000 to refund a portion of the City's Sewerage System Refunding Revenue Bonds, Series 1985, for the purpose of achieving interest savings.

The title of said Supplemental and Amendatory Bond Ordinance is as follows:

Supplemental and amendatory ordinance supplementing and amending Ordinance No. 680 of the City of Fairmont, enacted August 13, 1985; authorizing the refunding of a portion of the outstanding sewerage system refunding revenue bonds, Series 1985, of the City of Fairmont, West Virginia; authorizing the issuance of Sewerage System refunding Revenue Capital Appreciation Bonds, Series 1988, of the city in the aggregate principal amount of not more than $13,500,000, 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 amendment of Ordinance No. 680 to permit the refunding of less than all of such Series 1985 Bonds; providing for the rights and remedies of, and the security for, the registered owners of such bonds; providing for the adoption of a supplemental resolution and the form of and execution and delivery of an Escrow Agreement, a forward supply contract and other instruments; and enacting other provisions with respect to such bonds.

The entire amount of the principal of the proposed bonds (there being no interest payable thereon) will be paid solely and only from the revenues received from operation of said sewerage system.

A certified copy of the Supplemental and Amendatory Bond Ordinance is available for examination by any interested person at the office of the City Clerk during regular office hours of such office.

A public hearing will be held before the Council at the City Hall on October 1, 1988, at 7:00 p.m., and any person or persons interested may appear before the Council and present protests. At such hearing, all suggestions and objections will be heard by the Council.

Dated this 30th day of September, 1988

/s/Debra M. Bohan
City Clerk

Times: September 30, 1988

AFFIDAVIT OF PUBLICATION

State West Virginia № 2716

County of Marion, to-wit:

I, Joyce Ann Police, being first duly sworn upon my oath, do depose and say that I am Legal Clerk of THE TIMES-WEST VIRGINIAN a corporation, publisher of the newspaper entitled THE TIMES-WEST VIRGINIAN an independent newspaper;

that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published daily except Saturday and Sunday, for at least fifty weeks during the calendar year, in the Municipality of Fairmont, Marion County, West Virginia; that such newspaper is a newspaper of "general circulation," as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforementioned municipality and Marion County; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price or consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matter, advertisements and other notices;

that the annexed notice of Notice was duly published in said newspaper once a week for one successive week (Class I), commencing with the issue of the 30 day of Sept. 19 88, and ending with the issue of the 30 day of Sept. 19 88, and was posted at the front door of the Marion County Court House on the 30 day of Sept. 19 88; that said annexed notice was published on the following dates: Sept. 30, 1988

and the cost of publishing said annexed notice as aforesaid was $33.94

Joyce Ann Police

Taken, subscribed and sworn to before me in said county this 30 day of Sept. 19 88.

My commission expires Jan. 24, 1990

Sherry L. Bond
Notary Public of Marion County, West Virginia

CITY OF FAIRMONT
NOTICE OF PUBLIC HEARING ON SEWERAGE SYSTEM REFUNDING REVENUE CAPITAL APPRECIATION BONDS, SERIES 1988, SUPPLEMENTAL AND AMENDATORY ORDINANCE

At a meeting of the City Council of the City of Fairmont, the Council adopted a Supplemental and Amendatory Bond Ordinance contemplating the issuance of Sewerage System Refunding Revenue Captial Appreciation Bonds, Series 1988, of the City in an amount not to exceed $13,500,000 to refund a portion of the City's Sewerage System Refunding Revenue Bonds, Series 1985, for the purpose of achieving interest savings.

The title of said Supplemental and Amendatory Bond Ordinance is as follows:

Supplemental and Amendatory Ordinance Supplementing and Amending Ordinance No. 680 of the City of Fairmont, enacted August 13, 1985; authorizing the refunding of a portion of the Outstanding Sewerage System Refunding Revenue Bonds, Series 1985, of the City of Fairmont, West Virginia; Aughorizing the issuance of Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988, of the City in the aggregate principal amount of not more than $13,500,000, 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 Amendment of Ordinance No. 680 to permit the refunding of less than all of such Series 1985 Bonds; providing for the rights kand remedies of,s and the security for, the registered owners of such bonds; providing for the adoption of a supplemental resolution and the form of and execution and delivery of an Escrow Agreement, A forward supply contract and other instruments; and enacting other provisions with respect to such bonds.

The entire amount of the principal of and interest on the proposed bonds will be paid solely and only from the revenues received for operation of said sewerage system.

A certified copy of the Supplemental and Amendary Bond Ordinance is available for examination by any interest person at the office of the City Clerk during regular office hours of such office.

A public hearing will be held before the Council at the City Hall on October 25, 1988, at 7:00 p.m., an any person or persons interested may appear before the Council and present protests. At such hearing, all suggestions and objections will be heard by the Council.

Dated this 12th day of October, 1988.

AFFIDAVIT OF PUBLICATION

State of West Virginia
County of Marion, to-wit:

No. 2745

I, Carolyn S. Hatting, being first duly sworn upon my oath, do depose and say that I am Advertising Manager of THE TIMES-WEST VIRGINIAN a corporation, publisher of the newspaper entitled THE TIMES-WEST VIRGINIAN an Independent newspaper;

that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published daily except Saturday and Sunday, for at least fifty weeks during the calendar year, in the Municipality of Fairmont, Marion County, West Virginia; that such newspaper is a newspaper of "general circulation," as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforementioned municipality and Marion County; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price or consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matter, advertisements and other notices;

that the annexed notice of Public Hearing was duly published in said newspaper once a week for 2 successive weeks (Class II), commencing with the issue of the 12 day of October 19 88, and ending with the issue of the 19 day of October 19 88, and was posted at the front door of the Marion County Court House on the 12 day of October 19 88; that said annexed notice was published on the following dates: October 12 & 19, 1988

and the cost of publishing said annexed notice as aforesaid was $56.01.

Carolyn S. Hatting

Taken, subscribed and sworn to before me in said county this 19 day of October 19 88.

My commission expires Jan. 24, 1990.

Sherry L. Bond
Notary Public of Marion County, West Virginia

ALL-STATE LEGAL SUPPLY CO., ONE COMMERCE DRIVE, CRANFOR ERSEY 07016

ED 11-1C

AFFIDAVIT OF COUNTY, MUNICIPAL, OR OTHER PUBLIC OFFICIAL ESTABLISHING FACSIMILE SIGNATURE

STATE OF WEST VIRGINIA,

COUNTY OF MARION, To-wit:

ROBERT M. DRUMMOND, JR., after being first duly sworn by the undersigned County Clerk, on oath, deposes, says and certifies:

1. That he is Mayor
(Title)

of City of Fairmont,
(Name of Political Subdivision)

a political subdivision of the State of West Virginia.

2. That in order to establish a facsimile signature to be used in lieu of his manual signature, as authorized by Chapter 6, Article 14, of the Code of West Virginia of 1931, as amended, he hereunto affixes his manual signature to this affidavit form and authorizes the same to be certified to and filed with the Secretary of State of West Virginia.

3. That his term of office ends as of January 10, 1989

Robert M. Drummond Jr.
Signature

I, Janice Cosco, Clerk of the County Commission of Marion County, West Virginia, do hereby certify that the affiant named above, who is well known to me, personally appeared before me this day and made oath as noted above, and affixed his manual signature to the above affidavit; that the affiant does, in fact, as of this day occupy the official office, with the specified term as aforesaid.

Witness my hand and seal of office this 9th day of Feb., 19 87

(SEAL)

Janice Cosco
Clerk of the County Commission
of Marion County,
West Virginia

I, Raymond Prozzillo, do certify that I am the President of the County Commission of Marion

AFFIDAVIT OF COUNTY, MUNICIPAL, OR OTHER PUBLIC OFFICIAL ESTABLISHING FACSIMILE SIGNATURE

STATE OF WEST VIRGINIA,

COUNTY OF MARION, To-wit:

EDWIN J. THORNE, after being first duly sworn by the undersigned County Clerk, on oath, deposes, says and certifies:

1. That he is City Manager
(Title)

of City of Fairmont,
(Name of Political Subdivision)
a political subdivision of the State of West Virginia.

2. That in order to establish a facsimile signature to be used in lieu of his manual signature, as authorized by Chapter 6, Article 14, of the Code of West Virginia of 1931, as amended, he hereunto affixes his manual signature to this affidavit form and authorizes the same to be certified to and filed with the Secretary of State of West Virginia.

3. That his term of office ~~xxxxxxxx~~ is indefinite

Signature

I, Janice Cosco, Clerk of the County ~~Court~~ Commission of Marion County, West Virginia, do hereby certify that the affiant named above, who is well known to me, personally appeared before me this day and made oath as noted above, and affixed his manual signature to the above affidavit; that the affiant does, in fact, as of this day occupy the official office, with the specified term as aforesaid.

Witness my hand and seal of office this 28th ~~day of~~ Oct, 1988

(SEAL)

Clerk of the County ~~Court~~ Commission
of Marion County,
West Virginia

I, Raymond Prozzillo, do certify that I am the President

AFFIDAVIT OF COUNTY, MUNICIPAL, OR OTHER PUBLIC OFFICIAL ESTABLISHING FACSIMILE SIGNATURE

STATE OF WEST VIRGINIA,

COUNTY OF MARION, To-wit:

DEBRA M. BOHAN, after being first duly sworn by the undersigned County Clerk, on oath, deposes, says and certifies:

1. That ~~he~~ she is City Clerk
(Title)

of City of Fairmont,
(Name of Political Subdivision)

a political subdivision of the State of West Virginia.

2. That in order to establish a facsimile signature to be used in lieu of ~~his~~ her manual signature, as authorized by Chapter 6, Article 14, of the Code of West Virginia of 1931, as amended, ~~he~~ she hereunto affixes ~~his~~ her manual signature to this affidavit form and authorizes the same to be certified to and filed with the Secretary of State of West Virginia.

3. That ~~his~~ her term of office ~~ends as of~~ is indefinite

Debra M. Bohan
Signature

I, Janice Cosco, Clerk of the County ~~Court~~ Commission of Marion County, West Virginia, do hereby certify that the affiant named above, who is well known to me, personally appeared before me this day and made oath as noted above, and affixed ~~his~~ her manual signature to the above affidavit; that the affiant does, in fact, as of this day occupy the official office, with the specified term as aforesaid.

Witness my hand and seal of office this 9th day of Feb, 1987.

(SEAL)

Janice Cosco
Clerk of the County ~~Court~~ Commission
of Marion County,
West Virginia

I, Raymond Prozzillo, do certify that I am the President of the County ~~Court~~ Commission of Marion

ALL-STATE LEGAL SUPPLY CO., ONE COMMERCE DRIVE, CRANFO ERSEY 07016

ED 11-1C

September 27, 1988

The regular meeting of Council of the City of Fairmont was held on the 27th day of September, 1988 at 7:00 P.M. in Council Chambers, Room 303, Meredith Building, Fairmont, West Virginia. The meeting was called to order by Mayor Drummond.

Councilmembers Present:

First District	Robert M. Drummond, Jr.
Second District	John C. Cosco
Third District	Jack W. Bunner
Fourth District	Manuel Garcia
Fifth District	Carol J. Hinton
Sixth District	Faith M. Bowyer
Seventh District	Carl J. Snyder
Eighth District	Michael F. Welty
Ninth District	Ronald J. Straight

Also present were:

Edwin J. Thorne, City Manager
Mary D'Anselmi, Assistant City Clerk

Invocation was given by Reverend James Johnson, First Baptist Church. The Pledge of Allegiance was led by Councilmember Bunner.

APPROVAL OF MINUTES

Mayor Drummond noted that each member of Council had received a copy of Minutes of the September 13, 1988 meeting and asked if there were any corrections, deletions or amendments.

Councilmember Welty noted that at the top of page five, it should be corrected to read as follows, "He would vote against any rezoning that destroys the integrity of that property. If a business were to come in here wanting to buy, that would not destroy the integrity of that property, and the Ross' wanted to sell it; the Ross' have some rights; they own the property, they have economic rights there and that would have to be looked at very hard in fairness to everyone concerned".

Councilmember Hinton noted that there was a mispelled word "complaints" the Clerk noted the correction. Mrs. Hinton also

COMMUNICATIONS AND ANNOUNCEMENTS

Councilmember Bowyer noted she had attended the Alcan Aluminum open house and the opening of Webster College at its new location. She noted she had received an invitation from the President of Fairmont State College, asking Councilmembers to come to breakfast, and to discuss how they could be helpful to the City and how the City could be helpful to them. Mrs. Bowyer stated this is the first time in the last six years this has happened, but she is teaching at that time and will not be able to attend.

Mrs. Bowyer also noted she had received a call from Mrs. Herman who lives in the Bellview area. Mrs. Herman stated that her water may be cut off because she owes a garbage bill. Mrs. Herman spends a lot of time in Clarksburg and she told Councilmember Bowyer that if they have any garbage, they take it with them to Clarksburg.

Councilmember Garcia stated that last year she called him and stated that the Water Department was going to turn her water off; this was on a Friday evening after the office was closed, and he went down to see her. When she made out her check for her bill, she just paid the water bill and didn't pay the garbage bill. Mr. Garcia called Bruce McDaniel and her water was turned back on.

Councilmember Bowyer noted she had received a letter from Thelma Shaw which read as follows: "Dear Faith, I hope you will do all you can to keep Highgate from being sold for commercial purposes. I am in favor of the City buying it and levying a tax to pay for it. I think it would meet with general approval. Thelma Shaw".

Councilmember Snyder stated that he would like to have a report on the Delinquent Fire Service Fee collection.

City Manager Thorne noted that the City has received over $44,000.00 in payments on Delinquent Fire Service and he gets a report once a week. He stated that he will see that the Councilmembers get a report once a month.

Councilmember Cosco stated he had talked to a few of the City business people and according to them they have to pay $100.00 to buy a license in Clarksburg and Morgantown for contractors, but in Fairmont they don't have to get a license at all.

City Manager Thorne commented that he saw the certificate that one Contractor had to fill out for the City of Clarksburg, so he asked the City Clerk to get the Ordi

stated after four years he thinks the City should do something about this house, which is owned by an employee of the City.

Mr. Cosco further stated that the house is now posted with no treaspassing and no one lives in it.

Councilmember Snyder commented that one of the houses in the picture is on Maryland Avenue and the owner called him and said he has not completed the work that he was supposed to do on the house. He said he received an extension of 10 days, but the work hasn't been completed.

Councilmember Bowyer noted she had received notification from The West Virginia Municipal League, from Betty Dean, Executive Director and Mayor Steve LaRose, President of The Municipal League that she has been appointed to serve on the Legislative Standing Committee for the West Virginia Municipal League for 1988-89. The Chairman of that committee will be Mayor William Gilligan from Sistersville.

CITIZENS PETITIONS

IN RE: Jerry Duskey, East View Unity Apartments, Fairmont, WV

Mrs. Duskey stated she has spent 75 years in Fairmont. She said the conditions they have to live with is a disgrace. The Varsity Club that is on Jefferson Street has all kinds of people and they come in the alley behind the Murphy's building and have fires and drink beer and they throw the bottles and cans all over the parking lot. Mrs. Duskey stated that young people sit on top of cars and walk on them.

Mayor Drummond stated the record should show that there was a delegation from the East View Unity Apartments at the Council meeting this evening.

IN RE: Edna Hall, East View Unity Apartments, Fairmont, WV

Mrs. Hall stated she lives on the sixth floor of East View Apartments on the Jefferson Street side. The noise that everyone is complaining about does not bother her because she is above it and she doesn't hear well.

She further stated that on the 10th of September she had just had her 75th birthday and she and a friend went out for dinner. She went on to say that when she came back, she parked her car in the

and on Monday the adjuster came and asked her if she had removed her license plate. Mrs. Hall then called the police and asked them if they had discovered what may have caused the fire and where her license plate was. The person she talked to said the policeman who had investigated the fire was off duty and when she called the Fire Department she got the same thing; the fireman was off duty.

Councilmember Hinton asked Mrs. Hall if she ever got a report from the Police Department or Fire Department.

Mrs Hall stated after she had sent letters to Mr. Mollahan, the Governor, and Mr. Manchin, two men came out and took pictures, and that one was the fireman who had investigated the fire and the other was a detective. Chief DeVito came and asked her if she had her license plate number.

City Manager Thorne said he would get a report from the Chief of Police.

Mrs. Katherine Kinsey also spoke in regard to the situation being created by the Varsity Club. She commented that the people who go to the bar take all of the tennants parking spaces even though they have a private parking lot.

Councilmember Cosco stated there is always cruisers on Speedway across from McDonald's and on Fairmont Avenue at the Social Security lot. He asked if these establishments pay the City for this Police service.

Councilmembers Bowyer and Hinton stated they had also seen cruisers parked at these locations.

CITY MANAGER'S REPORT

IN RE: BID OPENING -CINDERS

Monongahela Power Company
1310 Fairmont Avenue
Fairmont, WV

Unit Price Per 1,000 ton $5.25
Total $5,250.00

Ansline Trucking
609 Deleware Avenue
Fairmont, WV

Unit Price $2.90 per 1,000 ton
Hauling Only - Total $2,900.00

IN RE: BID OPENING - ROCK SALT

CARGILL
9600 Colerain Avenue
Cincinnati, Ohio

Due to recent River conditions
they declined to bid.

MORTON SALT
110 N. Wacker Drive
Chicago, ILLinois

600 Ton 20 Ton minimum delivery
$33.46 per ton Total $20,076.00

International Salt Co.
Abington Executive Park
Clarks Summit, Pa.

600 Ton 20 Ton minimum delivery
$39.65 per ton Total $23,790.00

The bids will be forwarded to the Purchasing Director for review and bid award.

IN RE: BIDS RECEIVED AT PUBLIC AUCTION
SEPTEMBER 26, 1988 - 1014 Penna. Ave.

Bob Grimm Management Services Director gave a memorandum to Council recommending that they accept Frank Zukowsky's Bid of $20,300.00 for the property at 1014 Pennsylvania Avenue. Mr. Zukowsky was the highest bidder.

Councilmember Straight moved to accept the bid of $20,300.00 for the property at 1014 Pennsylvania Avenue, by Frank Zukowsky. Motion was seconded by Councilmember Welty.

Mayor Drummond requested the Clerk to take a roll call.

Thereafter the Mayor declared the motion carried by a unanimous vote of Council in the affirmative.

City Manager Thorne noted that Council had received a copy of a sample Ordinance and by-laws for the establishment of a City Historical Landmark Commission. Mr. Thorne asked Council if they wanted to set up a discussion on this f

IN RE: REPORT ON POOL PROGRAM FOR 1988

Tom Arnold reported that the City had an increase in attendance at the Municipal Pool this year, which was 1,325 over 1987. He stated that the most positive thing was the fact that our revenues were up 99%; we went from basically 14,200.00 last year up to 27,562.00 this year. The big difference this year was the fact that the City operated their own concession, and he thanked Bob Grimm who was Acting City Manager, for supporting the decision to have the City operate the concession.

He also thanked Councilmember Cosco for donating some of the equipment for the City to use.

Mr. Arnold went on to say that the City made $9,914.00 on the concession this year, and that this is the most the City has made in the last 10 years of running the pool. He noted that our expenses are still up and in particular with the cost of chemicals, chlorine and soda ash. He noted that there is still a problem with water usage and that the utilities are keeping our expenses up. This is partially due to the fact that an old line, that is the return line back to the new filter system, which goes underneath the pool, is made out of clay and has started to deteriorate. There are two gate valves which are to be replaced that will solve some of the water problems.

Mr. Arnold commended Pam Priester for the fine job she did this year as Pool Manager.

Mr. Arnold noted that after the end of September, the bills will all be paid and there will be a financial statement prepared. He stated that the water and sewer bills are astronomical, and if they can be brought down the City will be able to end the season in the black in the future.

Mr. Arnold noted that a four foot fence has been replaced and it is now up to standard, alleviating the worry of anyone coming over the fence.

COMMUNICATIONS WITH THE CITY MANAGER

Councilmember Hinton, speaking to the City Manager, said that in Mrs. Edwards column Sunday it talked about a C.P.A. and it said you didn't know how much this C.P.A. is being paid.

Mr. Thorne remarked that he is now aware of how much the C.P.A.

Councilmember Straight stated that he had sat down with the contractor who worked on repairing the water leak and asked him what the cost was going to be to the city. He stated that he was given a higher quote from the contractor than what was shown on Councils' weekly update.

City Manager Thorne stated that when he had met with Bruce, he was given the estimates and that is what he used for the update, but when Bruce gave him the detailed report, he didn't get it in time for the weekly update. He noted that he will give Councilmember Straight a copy of the detailed report.

CONSIDERATION OF COUNCIL BUSINESS

IN RE: INTRODUCTION FIRST READING SETTING PUBLIC HEARING SUPPLEMENTAL AND AMENDATORY ORDINANCE SUPPLEMENTING AND AMENDING ORDINANCE NO. 680 OF THE CITY OF FAIRMONT, ENACTED AUGUST 13, 1985; AUTHORIZING THE REFUNDING OF A PORTION OF THE OUTSTANDING SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1985, OF THE CITY OF FAIRMONT, WEST VIRGINIA; AUTHORIZING THE ISSUANCE OF SEWERAGE SYSTEM REFUNDING REVENUE CAPITAL APPRECIATION BONDS, SERIES 1988, OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN $13,500,000, 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 AMENDMENT OF ORDINANCE NO. 680 TO PERMIT THE REFUNDING OF LESS THAN ALL OF SUCH SERIES 1985 BONDS; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; PROVIDING FOR THE ADOPTION OF A SUPPLEMENTAL RESOLUTION AND THE FORM OF AND EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT, A FORWARD SUPPLY CONTRACT AND OTHER INSTRUMENTS; AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS.

Mayor Drummond entertained a motion for the introduction of the proposed Supplemental And Amendatory Ordinance Supplementing And Amending Ordinance No. 680 Of The City Of Fairmont, Enacted August 13, 1985; Authorizing The Refunding Of A Portion Of The Outstanding Sewerage System Refunding Revenue Bonds, Series 1985.

Councilmember Snyder moved that the Ordinance be formally introduced.

"The Sanitary Sewer Board of the City of Fairmont, on motion duly passed at its meeting on the 27th day of September, 1988, respectfully petitions the Council of the City of Fairmont to enact a supplemental and amendatory ordinance directing that refunding revenue bonds of the municipality be issued pursuant to the provisions of Chapter 16, Article 13 of the West Virginia Code, in an amount not to exceed Thirteen Million Five Hundred Thousand Dollars ($13,500,000) for the purpose of refunding a portion of the City's outstanding Sewerage System Refunding Revenue Bonds, Series 1985, and realizing interest cost savings to the City".

"All as required by Chapter 16, Article 13 of the West Virginia Code".

"SANITARY SEWER BOARD OF THE CITY OF FAIRMONT"

Thereafter the Clerk read the Synopsis of the Supplemental And Amendatory Bond Ordinance for the first time.

Councilmember Snyder moved that a public hearing be set for October 11, 1988, at 7:00 P.M., or as soon thereafter as the matter may be heard, in Council Chambers, Room 303, Meredith Building, Fairmont, West Virginia.

Councilmember Cosco seconded the motion.

Thereafter a roll call of Council was taken by the Clerk.

Mayor Drummond declared the motion carried by unanimous vote of Council in the affirmative.

IN RE: INTRODUCTION FIRST READING SETTING PUBLIC HEARING AN ORDINANCE AMENDING ARTICLE 361 OF THE CITY CODE; PROHIBITING THE ABANDONMENT OF MOTOR VEHICLES WITHIN THE CITY OF FAIRMONT

Mayor Drummond entertained a motion for the introduction of a proposed City Ordinance Amending Article 361 Of The City Code; Prohibiting The Abandonment Of Motor Vehicles Within The City Of Fairmont.

Councilmember Cosco moved that the Ordinance be formally introduced.

Councilmember Garcia seconded the motion.

Councilmember Snyder moved that a public hearing be set for October 11, 1988 at 7:00 P.M. or as soon thereafter as the matter may be heard in Council Chambers, Room 303, Meredith Building, Fairmont, West Virginia.

Councilmember Garcia seconded the motion.

After some discussion a roll call of Council was taken by the Clerk.

Mayor Drummond declared the motion carried by unanimous vote of Council in the affirmative.

City Manager Thorne stated to Council that he wished to withdraw the introduction of the Ordinance under item #3 on the Agenda.

IN RE: APPOINTMENT ARTS AND HUMANITIES COMMISSION

City Manager Thorne recommended to Council that Mrs. Kevin Helmick of Fairmont Farms be appointed to the Arts and Humanities Commission.

Councilmember Snyder moved that Council confirm City Manager Thorne's recommendation that Kevin Helmick be appointed to the Arts and Humanities Commission.

Councilmember Cosco seconded the motion.

Thereafter a roll call was taken by the Clerk.

Mayor Drummond declared the motion carried by a unanimous vote of Council in the affirmative. Mrs. Helmick will be notified of her appointment which expires June 30, 1991.

ADJOURNMENT

Mayor Drummond noted that since there was no further business to come before Council he would entertain a motion for adjournment.

Councilmember Snyder moved to adjourn the meeting.

Councilmember Garcia seconded the motion.

Mayor Drummond requested a voice vote and declared the meeting adjourned at 8:45 P.M.

October 11, 1988

The regular meeting of Council of the City of Fairmont was held on the 11th day of October, 1988 at 7:00 P.M. in Council Chambers, Room 303, Meredith Building, Fairmont, West Virginia. The meeting was called to order by Mayor Drummond.

Councilmembers Present:

First District	Robert M. Drummond, Jr.
Second District	John C. Cosco
Third District	Jack W. Bunner
Fourth District	Manuel Garcia
Fifth District	Carol J. Hinton
Sixth District	Faith M. Bowyer
Seventh District	Carl J. Snyder
Eighth District	Michael F. Welty
Ninth District	Ronald J. Straight

Also present were:

Edwin J. Thorne, City manager
Debra M. Bohan, City Clerk

Invocation was given by Reverend Donald Thomas, Christ United Methodist Church. The Pledge of Allegiance to the Flag was led by Councilmember Bunner.

Mayor Drummond introduced Dennis Cook, Troop Leader from the Valley Chapel Church, and he brought with him, Michael Garrett - Troop #10, Jeff Zinn - Troop #10, Robbie Cook - Troop #7, Bret Palmer - Troop #7, Matthew Jack - Troop #7, Matt Wood - Troop #7. Mayor Drummond welcomed the boys. They are working on their citizenship badges.

PUBLIC HEARINGS

IN RE: SECOND READING, SETTING SECOND PUBLIC HEARING; SUPPLEMENTAL AND AMENDATORY ORDINANCE SUPPLEMENTING AND AMENDING ORDINANCE NO. 680 OF THE CITY OF FAIRMONT, ENACTED AUGUST 13, 1985; AUTHORIZING THE REFUNDING OF A PORTION OF THE OUTSTANDING SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1985, OF THE CITY OF FAIRMONT, WEST VIRGINIA; AUTHORIZING THE ISSUANCE OF SEWERAGE SYSTEM REFUNDING REVENUE CAPITAL APPRECIATION BONDS, SERIES 1988, OF THE CITY IN THE

LESS THAN ALL OF SUCH SERIES 1985 BONDS; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; PROVIDING FOR THE ADOPTION OF A SUPPLEMENTAL RESOLUTION AND THE FORM OF AND EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT, A FORWARD SUPPLY CONTRACT AND OTHER INSTRUMENTS; AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS.

Pursuant to Notice duly published in the Times West Virginian on September 30, 1988, a public hearing was convened to obtain citizen input on a proposed City Ordinance Authorizing The Partial Refunding Of The City's Sewerage Revenue Bonds Series 1985.

There being no one present who wished to speak to the Ordinance the hearing was called to a close at 7:04 P.M.

IN RE: PROPOSED CITY ORDINANCE AMENDING ARTICLE 361 OF THE CITY CODE; PROHIBITING THE ABANDONMENT OF MOTOR VEHICLES WITHIN THE CITY OF FAIRMONT.

Pursuant to Notice duly published in the Times West Virginian on October 3, 1988, a public hearing was convened to obtain citizen input on a proposed City Ordinance Amending Article 361 Of The City Code; Prohibiting The Abandonment Of Motor Vehicles Within The City Of Fairmont.

The Clerk read title only of the proposed Ordinance, and the following persons were heard:

Barbara Hibbs, 1057 Indiana Avenue, Fairmont, WV.

Mrs. Hibbs stated she has an interest in this proposal and she hopes that Council will act on and enforce this Ordinance. She stated that all the time she has lived there she has had to look at junk cars close to her property. Right now there are weeds that are way above the cars. It is zoned industrial and the City says there is nothing they can do about the cars.

Jim Dally, representing Operation Image, which is a function of the Chamber of Commerce, spoke to Council and stated that we have certainly made a great deal of progress, and many people have been involved and cooperating in the beautification not only of the City but of the County. Some of their efforts have gained State attention, and some people plan to emulate what we are doing.

should have come a long time ago, and it's something that Fairmont needs.

Councilmember Welty said that if, indeed the property is zoned industrial where Mrs. Higgs lives, there still should be something the City could do.

City Manager Thorne stated that with the agreement the City has with 12th Street Recyclers they would pick up the junk vehicle at no cost to the City or to the owners of the junk vehicle.

There being no further comments, Mayor Drummond called the Public Hearing to a close at 7:19 P.M.

APPROVAL OF MINUTES

Mayor Drummond noted that each member of Council had received a copy of Minutes of the September 27, 1988 meeting and asked if there were any corrections, deletions or amendments.

There being none the Minutes were approved as distributed.

COMMUNICATIONS AND ANNOUNCEMENTS

Councilmember Bowyer stated she had received a call from Margaret Pantalone of 312 Maryland Avenue in regard to a water leak on her street. According to Mrs. Pantalone, a lady stepped in the hole that was made by the water leak and apparently hurt her foot.

City Manager Thorne stated there is only half as many leaks in the City as there was a few years ago. The number of leaks have gone from 300 to 150. The Water Department is using a list now, but if there is a really bad leak it will be taken care of first.

Councilmember Garcia commented that a water leak was repaired about three of four months ago in the alley between Buffalo Avenue and Murray Avenue, but there is still a barracade around it and the hole has not been fixed.

Councilmember Snyder said he thought that the water department should concentrate more on leaks.

Councilmember Straight commented that there are only nine people taking care of the leaks all over the city and surrounding area.

City Manager Thorne stated that he had an application for Friday's of Fairmont, to operate a private club on Morgantown Avenue.

Mayor Drummond entertained a motion to approve the application to operate a private club known as Friday's of Fairmont.

Councilmember Cosco moved that Council approve the application.

Councilmember Snyder seconded the motion.

A roll call was taken by the City Clerk.

Mayor Drummond declared the motion carried by a unanimous vote of Council in the affirmative.

City Manager Thorne asked if there were any questions concerning the Financial Report. There were no comments at that time.

COMMUNICATIONS WITH THE CITY MANAGER

Councilmember Hinton stated after the last council meeting there were some questions about different cruisers and where they were located.

Chief DeVito later commented in the Times West Virginian that the Policemen that were at McDonalds were on their off duty time.

Mrs. Hinton asked the City Manager if that was a misquote that the cruisers were there on their off duty time.

City Manager Thorne remarked that that was not what the article was implying. City Manager Thorne replied that McDonalds sometimes hires some off duty patrolmen but they would not be there in the cruisers.

Mrs. Hinton asked for a clarification from Chief DeVito.

Councilmember Hinton did not receive a copy of the memorandum from Mr. McDaniel's in regard to the water break situation and she asked the City Manager to see that she receives a copy.

Councilmember Hinton said she wanted it understood that she is not picking on the police department, about the incident where the police cruiser chased the person who allegedly kidnapped a child. She was told that the Police knew who the person was, and who the truck belonged to. It was 8:30 [illegible]

Councilmember Hinton also asked that Public Works Director Tom Arnold check out a truck that is being parked in a curve on Avalon Road. She understands it is a City employee's truck and it could cause an accident because it is a blind spot.

Councilmember Bowyer stated there would be a meeting at the Episcopal Church on October 19, 1988, and she hoped that the City Manager will be able to attend, and would encourage anyone else who could come on Wednesday night to attend the economical development meeting.

Councilmember Straight stated that last year there was a contractor working here in town and the City said they could not park their equipment on the street and they had to move it down to 12th Street and park it when it was not being used. He went on to say that there is a contractor doing some work in his area, on Hunsaker Street and Concord Street laying a new line, and the City is not making this contractor follow the same requirements and he would like to have an answer on it from the City Manager.

CONSIDERATION OF COUNCIL BUSINESS

IN RE: INTRODUCTION SECOND READING SETTING PUBLIC HEARING SUPPLEMENTAL AND AMENDATORY ORDINANCE NO. 680 OF THE CITY OF FAIRMONT, ENACTED AUGUST 13, 1985; AUTHORIZING THE REFUNDING OF A PORTION OF THE OUTSTANDING SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1985, OF THE CITY OF FAIRMONT, SEWERAGE SYSTEM REFUNDING REVENUE CAPITAL APPRECIATION BONDS, SERIES 1988, OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN $13,500,000, 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 AMENDMENT OF ORDINANCE NO. 680 TO PERMIT THE REFUNDING OF LESS THAN ALL OF SUCH SERIES 1985 BONDS; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; PROVIDING FOR THE ADOPTION OF A SUPPLEMENTAL RESOLUTION AND THE FORM OF AND EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT, A FORWARD SUPPLY CONTRACT AND OTHER INSTRUMENTS; AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS

Mayor Drummond entertained a motion for second

Councilmember Bowyer seconded the motion.

Thereafter the Clerk read the Synopsis of the Supplemental And Amendatory Bond Ordinance for the second time.

Councilmember Snyder moved that a public hearing be set for October 25, 1988, at 7:00 P.M., or as soon thereafter as the matter may be heard, in Council Chambers, Room 303, Meredith Building, Fairmont, West Virginia.

Councilmember Cosco seconded the motion.

Thereafter a roll call of Council was taken by the Clerk.

Mayor Drummond declared the motion carried by unanimous vote of Council in the affirmative.

IN RE: ADOPTION AN ORDINANCE AMENDING ARTICLE 361 OF THE CITY CODE; PROHIBITING THE ABANDONMENT OF MOTOR VEHICLES WITHIN THE CITY OF FAIRMONT

Mayor Drummond entertained a motion for adoption of a proposed City Ordinance Amending Article 361 Of The City Code; Prohibiting The Abandonment Of Motor Vehicles Within The City Of Fairmont.

Councilmember Cosco moved for Adoption of An Ordinance Amending Aritcle 361 Of The City Code; Prohibiting The Abandonment Of Motor Vehicles Within The City Of Fairmont.

Councilmember Snyder seconded the motion.

Thereafter a roll call of Council was taken by the Clerk and the following votes recorded:

Councilmember Welty	Yes	Councilmember Straight	Yes
Councilmember Hinton	No	Councilmember Garcia	Yes
Councilmember Cosco	Yes	Mayor Drummond	Yes
Councilmember Bunner	Yes	Councilmember Snyder	Yes
Councilmember Bowyer	Yes		

Mayor Drummond declared the Proposed Ordinance, designated as Ordinance No. 795, duly adopted by a majority vote of Council in the affirmative.

IN RE: INTRODUCTION FIRST READING SETTING PUB

OR FOR REFUSING TO TAKE A SECONDARY CHEMICAL TEST OF BLOOD ALCOHOL CONTENT.

Mayor Drummond entertained a motion for the introduction of a proposed City Ordinance Setting The Penalty For Driving A Motor Vehicle Upon The Streets And Roadways Of The City Of Fairmont While Driver's License And Or Privilege To Drive Are Revoked Or Suspended For Driving Under The influence Of Alcohol, Controlled Substance, Or Drugs, Or For Refusing To Take A Secondary Chemical Test Of Blood Alcohol Content.

Councilmember Straight moved that the Ordinance be formally introduced.

Councilmember Snyder seconded the motion.

Thereafter the Clerk read the Ordinance in its entirety for the first time.

Mayor Drummond entertained a motion to set a public hearing date.

Councilmember Cosco moved that a public hearing be set for October 25, 1988 at 7:00 P.M. or as soon thereafter as the matter may be heard in Council Chambers, Room 303, Meredith Building, Fairmont, West Virginia.

Councilmember Snyder seconded the motion.

After some discussion a roll call of Council was taken by the Clerk and the following votes were recorded:

Councilmember Garcia	Yes	Councilmember Snyder	Yes
Councilmember Cosco	Yes	Councilmember Straight	Yes
Mayor Drummond	Yes	Councilmember Bowyer	Yes
Councilmember Hinton	No	Councilmember Welty	Yes
Councilmember Bunner	Yes		

Mayor Drummond declared the motion passed by a majority vote of Council in the affirmative and the public hearing duly set for October 25, 1988.

IN RE: INTRODUCTION FIRST READING SETTING PUBLIC HEARING AN ORDINANCE ESTABLISH THE CITY OF FAIRMONT'S HISTORIC LANDMARKS COMMISSION: PROVIDING FOR APPOINTMENT OF MEMBERS; PROVIDING GENERAL POWERS AND AUTHORITY TO MAKE AGREEMENTS WITH PROPERTY OWNERS; ISSUE

Mayor Drummond entertained a motion for the introduction of An Ordinance Establishing The City Of Fairmont's Historic Landmarks Commission: Providing For Appointment Of Members; Providing General Powers And Authority To Make Agreements With Property Owners; Issue Certificates Of Appropriateness; Providing For The Establishing Of Historic Districts And For The Coordination Of The Commission Activities With The West Virginia Historical Society And The West Virginia Department Of Culture And History.

Councilmember Bowyer moved that the Ordinance be formally introduced.

Councilmember Straight seconded the motion.

Thereafter the Clerk read the Ordinance in its synopsis form for the first time.

Mayor Drummond entertained a motion to set a public hearing date.

Councilmember Snyder moved that a public hearing be set for October 25, 1988 at 7:00 P.M. or as soon thereafter as the matter may be heard in Council Chambers, Room 303, Meredith Building, Fairmont, West Virginia.

Councilmember Bowyer seconded the motion.

Thereafter a roll call was taken by the Clerk.

Mayor Drummond declared the motion carried by unanimous vote of Council in the affirmative and the Public Hearing duly set for October 25, 1988.

IN RE: APPOINTMENT PLANNING AND ZONING COMMISSION

City Manager Thorne recommended to Council that Mr. Bud Stout be appointed to the Planning and Zoning Commission for three year term, expiring September 17, 1991.

Councilmember Bunner moved that Council confirm City Manager Thorne's recommendation that Bud Stout be appointed to serve on the Planning and Zoning Commission.

Councilmember Snyder seconded the motion.

Thereafter a roll call was taken by the Clerk.

RECESS TO EXECUTIVE SESSION

Council recessed to Executive Session at 7:50 P.M.

RECONVENED TO PUBLIC MEETING

Council reconvened to a public meeting at 8:27 P.M.

IN RE: APPOINTMENT TO FAIRMONT GENERAL HOSPITAL BOARD

Mayor Drummond asked for nominations to serve on the Fairmont General Hospital Board for an unexpired term ending June 30, 1990 to be nominated and appointed by Council.

Councilmember Hinton nominated Judy Humphries.

Councilmember Welty nominated Dr. Michael Haslip.

Councilmember Snyder moved that nominations come to a close.

Councilmember Bowyer seconded the motion.

Mayor Drummond requested a roll call of Council to close nominations.

Thereafter a roll call was taken by the Clerk.

Mayor Drummond declared the nominations closed by unanimous vote of Council in the affirmative.

Mayor Drummond ask Council to vote on the first nominee, Judy Humphries.

Thereafter the Clerk took a roll call vote, and the following votes were recorded.

Councilmember Snyder	No	Councilmember Straight	Yes
Councilmember Cosco	Yes	Councilmember Garcia	Yes
Councilmember Bunner	No	Councilmember Hinton	Yes
Councilmember Bowyer	Yes	Councilmember Welty	No
Mayor Drummond	No		

Mayor Drummond declared Judy Hummphries appointed to Fairmont General Hospital Board to fill the unexpired term ending June 30, 1990 by majority vote of Council in the affirmative.

ADJOURNMENT

Councilmember Snyder moved to adjourn meeting. Councilmember Bowyer seconded the motion.

Mayor Drummond requested a voice vote, and declared the meeting adjourned at 8:40 P.M.

MAYOR

ATTEST:

CITY CLERK

October 25, 1988

The regular meeting of Council of the City of Fairmont was held on the 25th day of October, 1988 at 7:00 P.M. in Council Chambers, Room 303, Meredith Building, Fairmont, West Virginia. The meeting was called to order by Mayor Drummond.

Councilmembers Present:

First District	Robert M. Drummond, Jr.
Second District	John C. Cosco
Third District	Jack W. Bunner (arrived late)
Fourth District	Manuel Garcia
Fifth District	Carol J. Hinton
Sixth District	Faith M. Bowyer
Seventh District	Carl J. Snyder
Eighth District	Michael F. Welty
Ninth District	Ronald J. Straight

Also present were:

Robert Grimm, Acting City Manager
Debra M. Bohan, City Clerk
Vincent Collins, Steptoe & Johnson, Special Bond Counsel
John Reger, Buther & Singer, Inc.

Invocation was given by Reverend Vance Ross, Trinity, and Bentons Ferry United Methodist Church. The Pledge of Allegiance to the Flag was led by Councilmember Straight.

Mayor Drummond introduced Scoutmaster, Scott Blocker - Troop #96 - Sponsored by Boothsville Volunteer Fire Department, Boothsville, West Virginia, and he brought with him, Eric Blocker, Tim Lambert, J. W. Poster, and Ricky Glaspell. Mayor Drummond welcomed the boys, and noted that they are working on their Citizenship Badges.

PUBLIC HEARINGS

IN RE: PUBLIC HEARING; SUPPLEMENTAL AND AMENDATORY ORDINANCE SUPPLEMENTING AND AMENDING ORDINANCE NO. 680 OF THE CITY OF FAIRMONT, ENACTED AUGUST 13, 1985; AUTHORIZING THE REFUNDING OF A PORTION OF THE OUTSTANDING SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1985, OF THE CITY OF FAIRMONT, WEST VIRGINIA; AUTHORIZING THE ISSUANCE OF SEWERAGE SYSTEM REFUNDING REVENUE CAPITAL APPRECIATION BONDS, SERIES 1988, OF THE

REGISTERED OWNERS OF SUCH BONDS; PROVIDING FOR THE ADOPTION OF A SUPPLEMENTAL RESOLUTION AND THE FORM OF AND EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT, A FORWARD SUPPLY CONTRACT AND OTHER INSTRUMENTS; AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS.

Pursuant to Notice duly published in the Times West Virginian on October 12 & 19, 1988, a second public hearing was convened to obtain citizen input on a proposed City Ordinance Authorizing The Partial Refunding Of The City's Sewerage Revenue Bonds Series 1985.

There being no one present who wished to speak to the Ordinance, the hearing was called to a close at 7:05 P.M.

IN RE: PUBLIC HEARING AN ORDINANCE SETTING THE PENALTY FOR DRIVING A MOTOR VEHICLE UPON THE STREETS AND ROADWAYS OF THE CITY OF FAIRMONT WHILE DRIVER'S LICENSE AND/OR PRIVILEGE TO DRIVE ARE REVOKED OR SUSPENDED FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL, CONTROLLED SUBSTANCE OR DRUGS, OR FOR REFUSING TO TAKE A SECONDARY CHEMICAL TEST OF BLOOD ALCOHOL CONTENT.

Pursuant to Notice duly published in the Times West Virginian on October 17, 1988, a public hearing was convened to obtain citizen input on a proposed City Ordinance Setting the Penalty For Driving A Motor Vehicle Upon The Streets And Roadways Of The City Of Fairmont While Driver's License And/Or Privilege To Drive Are Revoked Or Suspended For Driving Under The Influence Of Alcohol, Controlled Substance Or Drugs, Or For Refusing To Take A Secondary Chemical Test Of Blood Alcohol Content.

There being no one present who wished to speak to the Ordinance the hearing was called to a close at 7:06 P.M.

IN RE: PUBLIC HEARING AN ORDINANCE ADOPTING ARTICLE 178 OF THE CITY CODE FOR THE CITY OF FAIRMONT PROVIDING FOR ESTABLISHING THE CITY OF FAIRMONT'S HISTORIC LANDMARKS COMMISSION: PROVIDING FOR APPOINTMENT OF MEMBERS; PROVIDING GENERAL POWERS AND AUTHORITY; PROVIDING COMMISSION WITH AUTHORITY TO MAKE AGREEMENTS WITH PROPERTY OWNERS; ISSUE CERTIFICATES OF APPROPRIATENESS; PROVIDING FOR THE ESTABLISHING OF HISTORIC DISTRICTS AND FOR THE COORDINATION OF THE COMMISSION ACTIVITIES WITH THE WEST VIRGINIA HISTORICAL SOCIETY AND THE WEST VIRGINIA DEPARTMENT OF CULTURE AND HISTORY.

Pursuant to Notice duly pulished in the Times West Virginian on October 17, 1988, a public hearing was convened to obtain citizen input on a proposed City Ordinance Adopting Aritcle 178 Of The City Code For The City Of Fairmont Providing For Establishing The City Of Fairmont's Historic Landmarks Commission.

There being no one present who wished to speak to the Ordinance the hearing was called to a close at 7:07 P.M.

APPROVAL OF MINUTES

Mayor Drummond noted that each member of Council had received a copy of Minutes of the October 11, 1988 meeting and asked if there were any corrections, deletions or amendments.

Councilmember Straight stated the second sentence in the third paragraph on page five of the minutes should have read "that there is a contractor doing some work in his area, on Hunsaker Street and Concord Street laying a new line, and he would like to have an answer on it from the City Manager."

There being no further corrections the minutes were approved as corrected.

COMMUNICATION AND ANNOUNCEMENTS

Councilmember Bowyer commented she attended the West Virginia Municipal League Board Of Directors meeting last Friday, and asked if any of the Council members would be interested in a copy of the Minutes of that meeting. Mayor Drummond remarked that he would like to have a copy of the minutes.

She stated that one of the things that they are telling us is that the Home Rule Bill that was introduced, will be known as the Autonomous Municipal Governments Act. Mrs. Bowyer stated that it entails a whole lot more than taxation; like annexation and land use. She is not familar with that at all, and asked that Council have a work session to discuss it before the legislature signs it.

Councilmember Bowyer noted there will be a mid-winter conference that will be held March 5th and 6th in Charleston. The Gunners are going to play, and the Municipal League has arranged for tickets. If anyone would like to go to the game at that time, it will be on Sunday afternoon.

Councilmember Bowyer also noted that Mayor Drummond couldn't attend the Arts and Humanities Award Celebration and concert of John Sandor and he asked her as Deputy Mayor to attend the Concert; she said she enjoyed it very much, and that she had presented Mr. Sandor with a Proclamation from the City.

CITIZENS PETITION

IN RE: DANIEL K. WEBER, 1290 Hillcrest Road, Fairmont, WV

Mr. Weber spoke to Council in regard to the traffic safety on Hillcrest Road. He noted that with the increased traffic on this road it really presents a problem for anyone who would be walking along the road, and the speed with which the drivers use when traveling this road is a real hazzard. The road is posted 25 MPH

and not any of the drivers obey the speed limit signs. With parking along Lowell Street you can not drive down Lowell, because of the parked cars. This is a narrow road with the houses real close to the road, and the residents have no where to park except on the street.

Mr. Weber also noted Hillcrest Road is a through way to U.S. 250; it is a City street and also a State Road. He stated there is no easy solution, but he asked that the City look into the situation and try to come up with a solution.

Mr. Weber stated that possibly speed bumps would serve to slow traffic down some, or maybe lowering the speed limit to 15 MPH may help. He also noted that before too long there will be someone killed on this road if something is not done to relieve the traffic situation.

Acting City Manager Bob Grimm told Mr. Weber he would refer this to Chief DeVito and Tom Arnold, the Public Works Director and see if they can come up with a possible solution, and that he will contact him later with the City's response.

IN RE: JUDITH PETTIS - 714 EAST PARK AVENUE, FAIRMONT, WV

Mrs. Pettis spoke to Council in regard to some abandoned houses at 706, 708, 710 & 712, East Park Avenue, she reported that they are in extensive disrepair, including broken and missing windows, broken and missing doors, rotted and collapsing porches; one unit at 710 is burned out and gutted. They present easy access to vagrants and children. Large pieces of tin roofing has blown off and hit her house. She stated that they have contacted the property owner, Tom Narog, in Ft. Lauderdale, Florida, concerning the disrepair, but Mr. Narog has not responded to their calls.

Mrs. Pettis said there are dozens of abandoned houses on the East Side alone. Fairmont is plagued with this problem; this presents a very poor image of our City. She would like for City Council to take strong action making absentee property owners responsible for their property. She further stated that if the City doesn't have laws on the books now, it needs to make laws to protect our city from this menace.

Councilmember Cosco remarked that he had talked to Mrs. Pettis yesterday, and that he had given the information to Ms. Coletta. He noted we finally got the grass cut this summer after it was waist high.

Acting City Manager Bob Grimm said he honestly does not know what to tell Mrs. Pettis except that the Council is supportive, and we will do everything we can to try and get these houses taken care of.

Mayor Drummond said he would have someone get back to Mrs. Pettis on her complaint.

City Attorney Ryan stated that the City would have a serious problem in trying to get Mr. Narog back to West Virginia. What can we do about the house? We can board the house up, or we can tear the house down, we can assess Mr. Narog the cost of the demolition and removal of the debris, and if he doesn't pay the City for the removal and demolition then we can take the property. If Council wants to do something we can tear the houses down and take the property, but the City may end up with a piece of property that isn't worth the cost of tearing down the house. Another matter that Council should understand if you are not fully aware yet, is that where property has been taken over by the State, where an individual has not paid their taxes and the State has actually come in and taken control of the property. The State of West Virginia has no obligation to come in and maintain it, tear it down, board it up or remove the rubble.

Councilmember Hinton stated that "we are saying pretty words Mrs. Pettis but there is nothing we can do for you".

Mayor Drummond said maybe we can take a harder look at the City's Budget next year and have a demolition program worked into the budget.

Councilmember Cosco said Mr. Narog does have other property here; he owns a camp down along the river but he keeps that up.

CITY MANAGER'S REPORT

IN RE: BID OPENING SEWERAGE PROJECT ON MURRAY AVENUE, FAIRMONT, WV

Acting City Manager Bob Grimm asked the Utility's Manager Bruce McDaniel to speak to Council in regard to this project at Bellview.

Utility Manager McDaniel stated there are five or six homes on Murray Avenue in the Bellview section that were not picked up when the interceptor sewer system was constructed back in 1970s, there is an old neighborhood sewer that is discharging directly into the stream. This sanitary line will pick up those six houses and bring that waste water sewerage into our sanitary sewer system for treatment at the plant..

Hull's Contracting, Buckhannon, West Virginia	$14,145.00
DeBellis Constructing, Inc., Fairmont, West Virginia	$ 9,940.00
Myers Excavating, Inc., Fairmont, West Virginia	$10,400.00
Pipe Plus, Inc., Ona, West Virginia	$15,200.00

Acting City Manager Bob Grimm will refer the bids to the City Engineer, James Fetty and Utility Manager, Bruce McDaniel.

Mr. Grimm commented that he is in receipt of several tickets for the 612 MAC Dinner to be held at the Fairmont Elk's Club on October 27th. The guest speaker will be Joe Retton.

Mr. Grimm also stated that the Mayor asked him to announce that the State of the College Dinner will be held on Wednesday, November 9th at 6:P.M. and the City will pay for any Councilmember's ticket who wishes to attend this dinner.

COMMUNICATIONS WITH ACTING CITY MANAGER

Councilmember Welty commented that the information that was in the packets from Utilities Manager Bruce McDaniel, for explanatory purposes was very well done and that he appreciates receiving it.

Councilmember Bowyer noted she was pleased with the recommendation for revising the Agenda.

Mayor Drummond said it will be discussed at a work session.

Councilmember Hinton said she had several calls from school teachers who said they would like for the City to do away with Trick or Treating all together if it is to be done on Monday. She also expressed her gratitude for all the memo's from the Department Heads and will be looking forward to them every month.

Councilmember Garcia asked Utility Manager McDaniel if the hole had been taken care of in Bellview at the corner of Buffalo and Murray Avenue. Mr. McDaniel replied that he had the hole taken care of.

CONSIDERATION OF COUNCIL BUSINESS

IN RE: FINAL READING, ADOPTION PROPOSED ORDINANCE AUTHORIZING THE PARTIAL REFUNDING OF THE CITY'S SEWERAGE REVENUE BONDS SERIES 1985.

Mayor Drummond asked the Clerk to give the final reading of the Proposed Supplemental And Amendatory Ordinance No. 680 of the City of Fairmont, Enacted August 13, 1985; Authorizing The Refunding Of A Portion Of The Outstanding Sewerage System Refunding Revenue Bonds, Series 1985, Of The City Of Fairmont, Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988, Of The City In The Aggregate Principal Amount of Not More Than $13,500,000, 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 Amendment Of Ordinance No. 680 To Permit The Refunding Of Less Than All Of Such Series 1985 Bonds; Providing For The Rights And Remedies Of, And The Security For, The Registered Owners Of Such Bonds; Providing For The Adoption Of A Supplemental Resolution And The Form Of And Execution And Delivery Of An Escrow Agreement, A Forward Supply Contract And Other Instruments; And Enacting Other Provisions With Respect To Such Bonds.

The Clerk read the Synopsis of the Proposed Ordinance in its entirety for a third time.

Mayor Drummond introduced Mr. John Reger of Butcher & Singer and Mr. Vincent Collins of Steptoe & Johnson Attorney at Law who is serving as Bond Counsel.
Vince Collins spoke in regard to the Sewerage Bond Ordinance. He stated that the interest rates are the best now than they have been all year long. Mr. Collins noted that there is also a Supplemental Resolution which sets forth those details.

Mayor Drummond noted that if Council so wishes he would like to entertain a motion to amend the Agenda and pass a Supplemental Resolution that goes with the Bond Ordinance.

John Reger spoke to Council and said that he has been in contact with the City Manager and Utility Manager continually over this past year. He went over for Council the savings that the City will have with this Sewerage System Bonds Refunding. Mr Reger also stated he had been in to talk with City Manager Thorne after he came on board and explained that when the interest rate was right they would act on the Bond Refunding.

Mayor Drummond entertained a motion for adoption of the Proposed Ordinance Authorizing The Partial Refunding Of The City's Sewerage Revenue Bonds Series 1985.

Councilmember Straight moved for the adoption of the Proposed Ordinance on the Refunding of the Sewerage System Revenue Bonds Series 1985.

Councilmember Snyder seconded the motion.

Thereafter a roll call of Council was taken by the Clerk.

Mayor Drummond declared the motion carried by unanimous vote of Council in the affirmative.

IN RE: AMEND AGENDA TO PROVIDE FOR THE ADOPTION OF RESOLUTION PROVIDING AS TO AMOUNT, MATURITIES, INTEREST RATES, REDEMPTION PROVISIONS, PURCHASE PRICE AND OTHER DETAILS AS TO THE SEWERAGE SYSTEM REFUNDING REVENUE CAPITAL APPRECIATION BONDS, SERIES 1988, OF THE CITY.

Mayor Drummond entertained a motion to amend the Agenda To Provide For The Adoption Of Resolution Providing As To Amount, Maturities, Interst Rates, Redemption Provisions, Purchase Price And Other Details As To The Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988, Of The City.

Councilmember Snyder moved to amend the Agenda.

Councilmember Cosco seconded the motion.

Thereafter a roll call of Council was taken by the Clerk.

Mayor Drummond declared the motion carried by unanimous vote of Council in the Affirmative.

IN RE: ADOPTION SUPPLEMENTAL RESOLUTION PROVIDING AS TO AMOUNT, MATURITIES, INTEREST RATES, REDEMPTION PROVISIONS, PURCHASE PRICE AND OTHER DETAILS AS TO THE SEWERAGE SYSTEM REFUNDING REVENUE CAPITAL APPRECIATION BONDS, SERIES 1988, OF THE CITY; AUTHORIZING AND APPROVING A BOND PURCHASE PROPOSAL, AN ESCROW DEPOSIT AGREEMENT, AN INVESTMENT PURCHASE AGREEMENT, A REGISTRAR'S AGREEMENT AND AN OFFICIAL STATEMENT RELATING TO THE BONDS; DETERMINING THAT A NET SAVINGS IS TO BE ACHIEVED BY SUCH REFUNDING; APPOINTING A REGISTRAR, PAYING AGENT, ESCROW AGENT, SECURITIES PROVIDER AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS AND THE REFUNDING.

Mayor Drummond entertained a motion to adopt the Resolution.

Councilmember Straight moved for adoption of the Resolution.

Councilmember Snyder seconded the motion.

Thereafter a roll call was taken by the Clerk.

Mayor Drummond declared the motion carried by unanimous vote of Council in the affirmative.

IN RE: ADOPTION AN ORDINANCE SETTING THE PENALTY FOR DRIVING A MOTOR VEHICLE UPON THE STREETS AND ROADWAYS OF THE CITY OF FAIRMONT WHILE DRIVER'S LICENSE AND/OR PRIVILEGE TO DRIVE ARE REVOKED OR SUSPENDED FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL, CONTROLLED SUBSTANCE OR DRUGS OR FOR REFUSING TO TAKE A SECONDARY CHEMICAL TEST OF BLOOD ALCOHOL CONTENT.

Mayor Drummond entertained a motion for adoption of An Ordinance Setting The Penalty For Driving A Motor Vehicle Upon The Streets And Roadways Of The City Of Fairmont While Driver's License And/Or Privilege To Drive Are Revoked Or Suspended For Driving Under The Influence Of Alcohol,Controlled Substance Or Drugs Or For Refusing To Take A Secondary Chemical Test Of Blood Alcohol Content.

Councilmember Cosco moved for the adoption of the Proposed Ordinance.

Councilmember Snyder seconded the motion.

Thereafter a roll call of Council was taken by the Clerk.

Mayor Drummond declared the motion carried by unanimous vote of Council in the affirmative.

IN RE: ADOPTION AN ORDINANCE ADOPTING ARTICLE 178 OF THE CITY CODE FOR THE CITY OF FAIRMONT PROVIDING FOR ESTABLISHING THE CITY OF FAIRMONT'S HISTORIC LANDMARKS COMMISSION; PROVIDING FOR APPOINTMENT OF MEMBERS; PROVIDING GENERAL POWERS AND AUTHORITY; PROVIDING COMMISSION WITH AUTHORITY TO MAKE AGREEMENTS WITH PROPERTY OWNERS; ISSUE CERTIFICATES OF APPROPRIATENESS; PROVIDING FOR THE ESTABLISHING OF HISTORIC DISTRICTS AND FOR THE COORDINATION OF THE COMMISSION ACTIVITIES WITH THE WEST VIRGINIA HISTORICAL SOCIETY AND THE WEST VIRGINIA DEPARTMENT OF CULTURE AND HISTORY.

Mayor Drummond entertained a motion for adoption of An Ordinance Adopting Article 178 Of The City Code For The City Of Fairmont Providing For Establishing The City Of Fairmont's Historic Landmarks Commission; Providing For Apppointment Of Members; Providing General Powers And Authority; Providing Commission With Authority To Make Agreements With Property Owners; Issue Certificates Of Appropriateness; Providing For The Establishing Of Historic Districts And For The Coordination Of The Commission Activities With The West Virginia Historical Society And The West Virginia Department Of Culture And History.

Councilmember Straight moved for Adoption of the Proposed Ordinance.

Councilmember Bowyer seconded the motion.

After some discussion a roll call of Council was taken by the Clerk and the following votes were recorded.

Councilmember Cosco	Yes	Councilmember Garcia	Yes
Councilmember Snyder	Yes	Mayor Drummond	Yes
Councilmember Hinton	No	Councilmember Welty	Yes
Councilmember Straight	Yes	Councilmember Bunner	Yes
Councilmember Bowyer	Yes		

Mayor Drummond declared the motion carried by a majority vote of Council in the affirmative.

Mayor Drummond recommended to table Item # 5 and Item # 6 on the Agenda to a later date.

Councilmember Cosco moved to table Items # 5 & 6 of the Agenda.

Councilmember Straight seconded the motion.

Thereafter a roll call was taken by the clerk.

Mayor Drummond declared the motion to table items # 5 & 6 passed by unanimous vote of Council in the affirmative.

There being no further business to come before Council, Mayor Drummond entertained a motion for adjournment.

ADJOURNMENT

Councilmember Hinton moved that the meeting be adjourned.

Councilmember Straight seconded the motion.

Mayor Drummond requested a voice vote and declared the meeting adjourned at 8:55 P.M.

Robert M. Drummond Jr.
MAYOR

ATTEST:
Debra M. Bohman
CITY CLERK

CERTIFICATION

The undersigned hereby certifies that she is the duly qualified and acting CITY CLERK of the CITY OF FAIRMONT, and that the foregoing are true, accurate and complete copies of minutes of the meetings of the City Council of the City of Fairmont held September 27, September 30, October 11 and October 25, 1988.

Dated November 30, 1988.

Debra M. Bohan

Debra M. Bohan, City Clerk

10/28/88
FMTSR1-M

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DAVID M. HAMMER
WILLIAM F. ROHRBAUGH
CAROLINE J. STAFFORD

OF COUNSEL
ROBERT W. LAWSON, JR.
RALPH BOHANNON
ERNEST C. SWIGER

WRITER'S DIRECT DIAL NUMBER

November 30, 1988

City of Fairmont (West Virginia)
Sewerage System Refunding Revenue Capital Appreciation Bonds,
Series 1988

The City Council
City of Fairmont
City/County Complex
Fairmont, West Virginia 26554

AMBAC Indemnity Corporation
One State Street Plaza
New York, New York 10004

Butcher & Singer Inc.
211 South Broad Street, 9th Floor
Philadelphia, Pennsylvania 19107

Ladies and Gentlemen:

We have examined a record of proceedings relative to the issuance and sale of the Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988 (the "Bonds"), of the City of Fairmont, West Virginia (the "Issuer"). The Bonds are capital appreciation bonds which bear no current interest, are issued in the aggregate principal amount (stated value at maturity) of $11,065,000, with a stated value at issuance of $3,680,320.50, in fully registered form, are dated November 30, 1988, upon original issuance, mature on November 1 in years and amounts and bear interest (expressed as "Yield to Maturity") payable only at maturity as follows:

Maturity	Stated Value at Issuance	Stated Value at Maturity	Yield to Maturity	Maturity	Stated Value at Issuance	Stated Value at Maturity	Yield to Maturity
1996	$298,975	$500,000	6.60%	2004	$239,020	$760,000	7.40%
1997	277,770	500,000	6.70	2005	217,229	755,000	7.50
1998	257,570	500,000	6.80	2006	198,354	755,000	7.60
1999	238,380	500,000	6.90	2007	180,770	755,000	7.70
2000	328,091	745,000	7.00	2008	166,017	755,000	7.75
2001	306,538	755,000	7.10	2009	154,880	760,000	7.75
2002	282,060	755,000	7.20	2010	142,597	755,000	7.75
2003	259,041	755,000	7.30	2011	133,030	760,000	7.75

The Bonds are not subject to redemption prior to maturity.

The Bonds were authorized by an ordinance enacted by the Council of the Issuer on August 13, 1985, as supplemented and amended by a supplemental resolution adopted September 17, 1985, a supplemental and amendatory ordinance enacted October 25, 1988, and a supplemental resolution adopted October 25, 1988 (said ordinance as so supplemented and amended, is herein called the "Ordinance"), and are issued pursuant to Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act") to refund a portion of the Issuer's outstanding Sewerage System Refunding Revenue Bonds, Series 1985 (the "Prior Bonds"), to finance certain additions, betterments and improvements for the Issuer's sanitary sewerage system (the "System") and to pay costs of issuance of the Bonds and costs of such refunding. Prior Bonds in the aggregate principal amount of $6,455,000 (the "Nonrefunded Prior Bonds") will remain outstanding subsequent to delivery of the Bonds.

Based upon the foregoing, as of the date of the original issuance of the Bonds, we are of the opinion as follows:

1. The Issuer is a duly organized and validly existing municipal corporation under and pursuant to the Constitution and laws of the State of West Virginia and has full legal right, power and authority to issue the Bonds, to own and operate the System, and to enact and perform its obligations under the terms and provisions of the Ordinance.

2. The Ordinance has been duly enacted by the Council of the Issuer, is in full force and effect and constitutes a valid and binding obligation of the Issuer, enforceable in accordance with its terms.

3. The Bonds have been duly authorized and validly issued by the Issuer in accordance with the Constitution of the State of West Virginia, the Act and the Ordinance.

4. The Bonds constitute valid and legally binding special obligations of the Issuer, payable solely from and secured (on parity in all respects with the Nonrefunded Prior Bonds, including payments to be made pursuant to the Investment Purchase Agreement, as such term is defined in the Ordinance) by a first lien on and pledge of the net revenues derived from the operation of the System, moneys in the Series 1988 Bonds Sinking Fund created under the Ordinance and unexpended proceeds of the Bonds, and are enforceable in accordance with their terms and the terms of the Ordinance.

5. Under existing laws, regulations, rulings and judicial decisions of the United States of America, as presently written and applied, the interest on the Bonds (a) is excludable from gross income for federal income tax purposes and (b) is not an item of tax preference for purposes of the federal alternative minimum tax imposed upon individuals and corporations. It should be noted, however, that for the purpose of computing the alternative minimum tax on corporations (as defined for federal income tax purposes), such interest is taken into account in determining adjusted net book income (adjusted current earnings for taxable years beginning after December 31, 1989). In rendering the opinion set forth in (a) above, we have relied upon the opinion of Stevens & Lee, P.C., Special Tax Counsel to the effect that (i) the Bonds do not constitute "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and (ii) the Bonds are not described in Sections 149(d)(3) or (4) of the Code. Ownership of tax-exempt obligations, including the Bonds, may result in collateral federal income tax consequences to certain taxpayers, including without limitation, financial institutions, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry such obligations. We offer no opinion as to such collateral tax consequences. Prospective purchasers of the Bonds should consult their own tax advisors as to such consequences. The opinions set forth above are subject to the condition that the Issuer comply, on a continuing basis, with all certifications, covenants and representations which may affect the excludability from gross income of the interest on the Bonds set forth in the Ordinance and the certificate relating to arbitrage. Failure to comply with such certifications, covenants and representations could cause the interest on the Bonds to be includable in gross income retroactive to the date of issuance of the Bonds.

6. The Issuer has designated the Bonds as "qualified tax-exempt obligations" for purposes of the Code, and has covenanted that it does not reasonably expect to issue more than $10,000,000 of tax-exempt obligations (other than private activity bonds) during the calendar year 1988. Therefore, the Bonds are "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code. In rendering the opinion set forth in this paragraph 6, we have relied upon the opinion of Stevens & Lee, Special Tax Counsel, that the Bonds constitute "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code.

7. Under the laws of the State of West Virginia, as enacted and construed on the date of initial delivery of the Bonds, the Bonds are exempt from direct taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof, except inheritance, estate and transfer taxes, and the interest on the Bonds is exempt from personal and corporate income taxes imposed directly thereon by the State of West Virginia.

8. The portion of the Prior Bonds which have been refunded, being those Prior Bonds which mature on November 1, 1989, through November 1, 1993, in the outstanding aggregate principal amount of $630,000, have been defeased within the meaning and with the effect expressed in the ordinance authorizing their issuance, and the covenants, agreements and other obligations of the Issuer to the owners of such refunded Prior Bonds have been satisfied and discharged. In rendering the opinion set forth in this paragraph 7, we have relied upon the opinion of certain independent certified public accountants, relating to the accuracy of the maturing principal of and interest to be earned on the United States Treasury Obligations deposited in the Escrow Fund established with the West Virginia Municipal Bond Commission, Charleston, West Virginia, which, together with any other moneys on deposit in said Escrow Fund, will provide for the payment of the principal of and interest on such refunded Prior Bonds as the same becomes due, to and including November 1, 1993.

Please be advised that the enforcement of remedies with respect to the Bonds is subject to any applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights from time to time in effect.

We have examined executed Bond No. R-1, and, in our opinion, said Bond is in proper form and has been properly executed.

Yours very truly,

Steptoe & Johnson

STEPTOE & JOHNSON

11/21/88
FMTSR1-N

LAW OFFICES OF
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A PROFESSIONAL CORPORATION
607 WASHINGTON STREET
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November 30, 1988

Steptoe & Johnson
P.O. Box 2190
Union National Center East
Clarksburg, West Virginia 26301

City of Fairmont
City-County Complex
200 Jackson Street
Fairmont, West Virginia 26554

Re: City of Fairmont, West Virginia, Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988

Gentlemen:

We have acted as Special Tax Counsel with respect to the sale and issuance by the City of Fairmont, West Virginia (the "Issuer") of the above-captioned bonds (the "Bonds"). We have given particular attention to the terms of the Bonds, and to the expected use and investment of moneys (including proceeds of the Bonds) to effect the refunding of certain of the Issuer's Sewerage System Refunding Revenue Bonds, Series 1985 (the "Prior Bonds"), to determine compliance with the restrictions imposed by Sections 148, 149(d)(3) and 149(d)(4) of the Internal Revenue Code of 1986, as amended (the "Code") and applicable regulations, court decisions and published positions of the Internal Revenue Service with respect thereto. Further you have requested that we advise you regarding certain matters pertaining to Section 265(b) of the Code.

In connection therewith, we have examined originals or copies identified to our satisfaction as being true and correct, of (i) the Nonarbitrage Certificate of the Issuer, dated November 30, 1988 (the "Nonarbitrage Certificate"), setting forth the Issuer's reasonable expectations with respect to the use of the proceeds of the Bonds; (ii) the opinion of Steptoe & Johnson dated November 30, 1988, to the effect that the Bonds are authorized and valid obligations of the Issuer under applicable state and local laws; (iii) the Supplemental and Amendatory Ordinance of the Issuer authorizing the issuance of the Bonds, as supplemented by a certain supplemental resolution (the "Ordinance"), which contains a covenant to comply with the arbitrage provisions of Section 148

of the Code and which designates the Bonds as "qualified tax-exempt obligations" within the meaning of Section 265(b) of the Code; (iv) the Ordinance of the Issuer pursuant to which the Prior Bonds were issued (the "Prior Ordinance") and (v) the Escrow Deposit Agreement, dated November 30, 1988 (the "Escrow Agreement"), setting forth, among other things, that the portion of the Prior Bonds being refunded with proceeds of the Bonds will be paid as due through November 1, 1993.

No matters have come to our attention which would make unreasonable or incorrect the representations or expectations made in the Nonarbitrage Certificate.

Based on the foregoing, we are of the opinion that:

1. Assuming continued compliance with the Issuer's covenants contained in the Ordinance and the Nonarbitrage Certificate, the Bonds are not "arbitrage bonds" within the meaning of Section 148 of the Code.

2. Assuming that the Prior Bonds refunded with proceeds of the Bonds are paid as they mature through November 1, 1993, the Bonds are not described in paragraph (3) or (4) of Section 149(d) of the Code.

3. Assuming that the Issuer, together with its subordinate entities, if any, have not issued and do not reasonably anticipate that they will issue tax-exempt obligations which, in the aggregate, exceed, or will exceed, $10,000,000 in calendar year 1988, the Bonds are qualified tax-exempt obligations within the meaning of Section 265(b) of the Code.

We have been engaged solely for the limited purpose of rendering the opinions set forth above with respect to Sections 148, 149(d)(3), 149(d)(4) and 265(b) of the Code. Accordingly, we express no opinion regarding any other matters in respect of the Bonds including any other matters relating to the tax-exempt status of the Bonds or collateral income tax consequences to the owners thereof.

We have not undertaken any review of any other legal questions with respect to the issuance of the Bonds, nor of the ability of the Issuer to make timely payment of debt service thereon. Further, we have not been engaged to prepare or review,

and express no opinion as to any documents or statements pursuant to which the Bonds have been offered and sold.

Very truly yours,

STEVENS & LEE

Stevens & Lee

STEPTOE & JOHNSON
ATTORNEYS AT LAW
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MARCIA J. POLLARD
BRYAN R. COKELEY
PATRICK D. KELLY
FRANCESCA TAN
CHRISTINE S. VAGLIENTI
DAVID M. HAMMER
WILLIAM F. ROHRBAUGH
CAROLINE J. STAFFORD

OF COUNSEL
ROBERT W. LAWSON, JR.
RALPH BOHANNON
ERNEST C. SWIGER

WRITER'S DIRECT DIAL NUMBER

November 30, 1988

City of Fairmont (West Virginia)
Sewerage System Refunding Revenue Capital Appreciation Bonds,
Series 1988

City of Fairmont
City/County Complex
Fairmont, West Virginia 26554

Stevens & Lee, P.C.
607 Washington Street
P. O. Box 679
Reading, Pennsylvania 19603

First Fidelity Bank, N.A.,
New Jersey
550 Broad Street
Newark, New Jersey 07102

AMBAC Indemnity Corporation
One State Street Plaza
New York, New York 10004

Butcher & Singer Inc.
211 South Broad Street, 9th Floor
Philadelphia, Pennsylvania 19107

Ladies and Gentlemen:

We have acted as Bond Counsel in connection with the issuance and sale by the City of Fairmont (the "City") of its $11,065,000 aggregate principal amount (stated value at maturity) Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988 (the "Bonds"). As Bond Counsel we have examined certain documents consisting of (i) the ordinance of the City enacted August 13, 1985, as supplemented and amended by a supplemental resolution adopted September 17, 1985, a supplemental and amendatory ordinance enacted October 25, 1988, and a supplemental resolution adopted October 25, 1988 (such ordinance, as so supplemented and amended, the "Ordinance"); (ii) a bond purchase proposal dated October 25, 1988 (the "Bond Purchase Proposal"), by Butcher & Singer, Inc. (the "Underwriter") and accepted by the Issuer; (iii) an escrow deposit agreement dated as of

November 30, 1988 (the "Escrow Deposit Agreement"), by and between the City and the West Virginia Municipal Bond Commission, as Escrow Agent; (iv) an investment purchase agreement (the "Investment Purchase Agreement") dated as of November 30, 1988, by and between the City, First Fidelity Bank, N.A., New Jersey ("First Fidelity") and the West Virginia Municipal Bond Commission, as Escrow Agent; and (v) an official statement dated October 25, 1988 (the "Official Statement"), relating to the Bonds authorized by the City. All capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Ordinance and the Bond Purchase Proposal.

Based on the foregoing and upon such other information and documents as we consider necessary for the purpose of rendering this opinion, we are of the opinion that:

1. The Bond Purchase Proposal has been duly authorized, executed and delivered by the City and, assuming due authorization, execution and delivery by the Underwriter, constitutes a valid and binding agreement of the respective parties thereto in accordance with its terms.

2. The City has duly approved, signed and delivered the Official Statement, and the City has authorized the distribution of the Official Statement and the use thereof by the Underwriter in connection with the public offering and sale of the Bonds.

3. The Escrow Deposit Agreement and the Investment Purchase Agreement have been duly authorized, executed and delivered by the City and the Escrow Agent and, assuming due authorization, execution and delivery by First Fidelity, each constitutes a valid and binding agreement of the respective parties thereto, enforceable in accordance with its terms.

4. The statements and information in the Official Statement concerning the Ordinance and the Bonds, and the information and statements contained in the Official Statement under the captions "Introduction," "The Series 1988 Bonds," "Security for the Series 1988 Bonds," "Plan of Financing," "Summary of Certain Provisions of the Ordinance," "Tax Exemption" and "Approval of Legality" (except for financial and statistical data and forecasts included therein, as to which no view is hereby expressed) are true, correct and complete in all material respects and do not collectively omit any material fact which, in our opinion, should be included or referred to therein so as to make the information or statements made therein not misleading.

5. The Bonds are exempt from registration pursuant to the Securities Act of 1933, as amended, and the Ordinance is not subject to qualification as an indenture pursuant to the Trust Indenture Act of 1939, as amended.

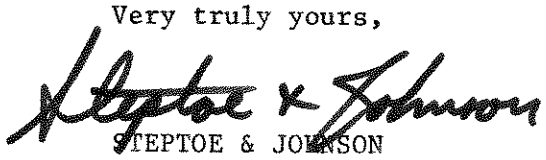
6. The Prior Bonds maturing November 1, 1989, through November 1, 1993, have been defeased within the meaning of the Ordinance and are no longer subject to payment from or secured by a lien on the revenues of the City's sewerage system. In rendering the foregoing opinion in this paragraph 6, we have relied upon the verification report of Clymer Merves & Amon, Certified Public Accountants.

7. Based upon our participation in the financing and in the course of our review and discussions with various officials of the City, no facts have come to our attention which would lead us to believe that the Official Statement (except for financial and statistical data included therein as to which we express no opinion) contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

8. Please be advised that the enforceability of liens, pledges, rights or remedies with respect to the Bonds, the Ordinance and the Bond Purchase Proposal is subject to any applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights or remedies generally, from time to time in effect and that enforcement thereof may also be subject to the exercise of judicial discretion in appropriate cases.

9. Our approving opinion relating to the Bonds, of even date herewith may be relied upon by the Underwriter and all counsel to this transaction as if specifically addressed to them.

Very truly yours,



STEPTOE & JOHNSON

12/23/88
FMTSR1-O

FIRST FIDELITY®

First Fidelity Bancorporation

LEGAL DEPARTMENT
550 Broad Street
Newark, New Jersey 07102

Writer's Direct Dial No:

First Fidelity Bank, N.A., New Jersey
First Fidelity Bank, N.A., South Jersey
First Fidelity Bank, N.A., North Jersey
First Fidelity Bank, Princeton
Morris Savings Bank
Fidelity Bank, N.A.
Merchants Bank, N.A.
Merchants Bank, North

November 30, 1988

City of Fairmont
City - County Complex
Fairmont, West Virginia 26554

Steptoe & Johnson
Clarksburg, West Virginia 26302

Dear Sirs:

I am Deputy General Counsel of First Fidelity Bancorporation and as such have acted as counsel to First Fidelity Bank, N.A., New Jersey (the "Bank") in connection with the execution and delivery of an Investment Purchase Agreement dated as of November 30, 1988 (the "Investment Contract") between the Bank and the City of Fairmont, West Virginia (the "City"). Pursuant to the Investment Contract, it is contemplated that the City will invest certain anticipated future revenues in United States Zero Coupon Treasury Investments which the Bank has agreed to sell and the City has agreed to purchase on the dates, in the principal amounts and at the purchase prices set forth in the Investment Contract. In this regard, I have examined an executed copy of the Investment Contract. Capitalized terms not otherwise defined herein shall have the meanings defined in the Investment Contract.

This opinion is subject to the following qualifications. First, I have assumed the authenticity of all documents submitted to me as copies and the genuineness of all signatures of the respective parties to such documents other than the Bank. Second, I have assumed that the Investment Contract has been duly authorized, executed and delivered by all parties thereto other than the Bank. Third, the obligations of the Bank under the Investment Contract may be limited by moratorium, bankruptcy, insolvency or reorganization laws applicable to the Bank as debtor, affecting generally the enforcement of creditors' rights. Fourth, the rights and remedies available to any person or entity

in any proceeding to enforce the Investment Contract may be subject to equitable principles of general applicability (regardless of whether such enforceability is considered in a proceeding in equity or at law). Without limiting the foregoing, I express no opinion as to the availability of equitable remedies to persons seeking to enforce the obligations of the Bank under the Investment Contract. Fifth, as to questions of fact material to this opinion, I have relied upon the documents I have examined or upon certificates of officers of the Bank or of city officials.

Based on the foregoing, I am of the opinion that:

1. The Bank has the corporate power and authority to execute and deliver the Investment Contract and to perform its obligations thereunder.

2. The Investment Contract has been duly authorized by all necessary action on the part of the Bank and has been duly executed and delivered by an authorized officer of the Bank and in conformity with applicable state and federal laws and the Investment Contract constitutes the legal, valid and binding obligation of the Bank enforceable against the Bank in accordance with its terms.

3. No consent, license or approval of any governmental authority, agency or instrumentality of the United States of America or the State of New Jersey is required in connection with the legality, validity, execution, delivery, performance or enforceability of the Investment Contract.

Very truly yours,

J. Roger Williams, Jr.

ALL-STATE LEGAL SUPPLY CO., ONE COMMERCE DRIVE, CRANFORD NJ 07016

ED 11-1C

JAMES O. WATKINS, JR.
ATTORNEY AT LAW
502 FIRST NATIONAL BANK BLDG.
P. O. BOX 1108
FAIRMONT, WEST VIRGINIA 26554
(304) 366-6202

November 30, 1988

City of Fairmont
City-County Complex
Fairmont, West Virginia 26554

Butcher & Singer, Inc.
Pittsburgh,
Pennsylvania

RE: City of Fairmont
Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988

Gentlemen:

I am counsel to the Sanitary Board of the City of Fairmont, West Virginia (the "City").

I have a copy of the approving opinion of Steptoe & Johnson as bond counsel for the above-captioned Bond issue of the City. Terms used in said opinion and defined therein have the same meanings herein.

I am of the opinion that:

1. The Sanitary Board has duly and properly petitioned the City Council of the City to enact the Ordinance and proceed with the issuance of the Bonds.

2. Nothing has come to my attention which leads me to believe that the sections of the Official Statement relating to the Bonds contains any untrue statement of a material fact or fail to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

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

Very truly yours,

James O. Watkins, Jr.

JOW/lek

CITY OF FAIRMONT

CITY/COUNTY COMPLEX
200 Jackson Street
Fairmont, West Virginia 26554
(304) 366-6211
CITY ATTORNEY'S OFFICE
(304) 366-6336

November 30, 1988

City of Fairmont (West Virginia)
Sewerage System Refunding Revenue Capital Appreciation Bonds,
Series 1988

City of Fairmont
City/County Complex
Fairmont, West Virginia 26554

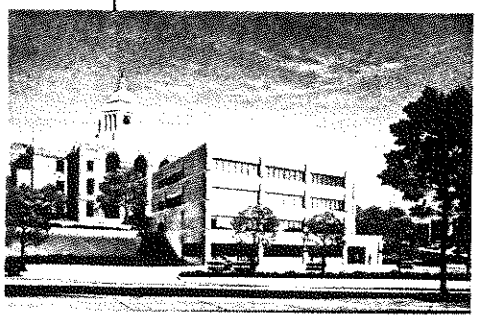
Butcher & Singer, Inc.
211 South Broad Street, 9th Floor
Philadelphia, Pennsylvania 19107

Ladies and Gentlemen:

I am City Attorney for the City of Fairmont, West Virginia (the "City").

I have reviewed copies of the approving opinion of Steptoe & Johnson as bond counsel, the Bond Purchase Proposal by and between Butcher & Singer, Inc. (the "Underwriter") and the City dated October 25, 1988, and the Ordinance relating to the above-captioned Bond issue of the City. All capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in said Bond Purchase Proposal and Ordinance.

I am of the opinion that:



1. The City is a duly organized and validly existing municipal corporation under and pursuant to the Constitution and laws of the State of West Virginia, with full legal right, power and authority to enter into the Escrow Deposit Agreement, the Investment Purchase Agreement and the Bond Purchase Proposal, to enact the Ordinance, to pledge the security as set forth in the Ordinance, to issue, sell and deliver the Bonds to the Underwriter as provided in the Bond Purchase Proposal, to own and operate the System and conduct the business thereof as set forth in and contemplated by the Official Statement and to carry out, give effect to and consummate the transactions contemplated by the Bonds, the Ordinance, the Escrow Agreement, the Investment Purchase Agreement, the Bond Purchase Proposal and the Official Statement.

2. The Bonds, the Escrow Deposit Agreement, the Investment Purchase Agreement and the Bond Purchase Proposal have been duly authorized, executed and delivered by, and the Ordinance has been duly enacted by, and each constitutes a legal, valid and binding agreement and obligation enforceable in accordance with its terms of, the City, except as enforcement may be limited by bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights from time to time in effect.

3. The City has duly authorized the execution, delivery and distribution of the Official Statement.

4. The City is not in breach of or in default under any constitutional provision, applicable law or administrative rule or regulation of the State of West Virginia, the United States, or of any department, division, agency or instrumentality of either thereof, or any applicable court or administrative decree or order, or any loan agreement, note, ordinance, resolution, indenture, contract, agreement or other instrument to which the City is a party or to which the City or any of the properties or assets of the System are otherwise subject or bound, which breach or default, in any material way, directly or indirectly, would affect System activities, the issuance, execution or delivery of the Bonds or the validity thereof, the validity or enacting of the Ordinance or the execution or delivery of the Escrow Deposit Agreement, the Investment Purchase Agreement, the Bond Purchase Proposal or the other instruments contemplated by any of such documents to which the City is a party; and no event has occurred and is continuing which, with the passage of time or the giving of notice or both, would constitute such a breach or default; and the enacting of the Ordinance, and the execution and delivery of the Bonds, the Escrow Deposit Agreement, the Investment Purchase Agreement, the Bond Purchase Proposal and the other documents and instruments contemplated by any of such documents, and compliance with the provisions of each

thereof, will not conflict with or constitute a breach of or default under any constitutional provision, applicable law or administrative rule or regulation of the State of West Virginia, the United States, or of any department, division, agency or instrumentality of either thereof, or any provision of the City's charter, or any applicable court or administrative decree or order, or any loan agreement, note, ordinance, resolution, indenture, contract, agreement or other instrument to which the City is a party or to which the City or any of the properties or assets of the System are otherwise subject or bound.

5. Upon closing, the Ordinance will be in full force and effect, and the Ordinance, the Bonds, the Escrow Deposit Agreement, the Investment Purchase Agreement and the Bond Purchase Proposal will constitute the legal, valid and binding agreements and obligations of the City enforceable in accordance with their respective terms, except as enforcement may be limited by bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights from time to time in effect.

6. All approvals, consents, authorizations, elections and orders of or fillings or registrations with any governmental authority, legislative body, board, agency or commission having jurisdiction, including without limitation, the Sanitary Board of the City, which would constitute conditions precedent to, or the absence of which would materially adversely affect the due performance by the City of its obligations under the Ordinance, the ordinance setting forth rates and charges for users of the System, the Bonds, the Escrow Deposit Agreement, the Investment Purchase Agreement, or the Contract of Purchase, have been duly obtained and are in full force and effect, except for such approvals, consents and orders as may be required under the Blue Sky or securities laws of any state in connection with the offering and sale of the Bonds, as to which no opinion is hereby expressed.

7. No action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, public board or body, is pending or, to my knowledge, threatened in any way questioning or affecting the corporate existence of the City, the organization of the Council or of the Sanitary Board of the City, or the titles of the officers and members of the City, the Council thereof or the Sanitary Board to their respective officers, or seeking to prohibit, restrain or enjoin the issuance, sale or delivery of the Bonds, the application of the proceeds thereof in accordance with the Bond Legislation or the collection or application of the Revenues of the System and any other assets pledged or to be pledged to pay the principal of and interest on the Bonds, or the pledge of and lien on the security pursuant to the Ordinance, or in any way

contesting or affecting the validity or enforceability of the Bonds, the Ordinance, the Escrow Deposit Agreement, the Investment Purchase Agreement, the Bond Purchase Proposal or any action of the City, including any action of the Sanitary Board, contemplated by any of said documents, or in any way contesting the completeness or accuracy of the Official Statement or contesting the powers or authority of the City, including any powers or authority exercised or to be exercised by the Sanitary Board, with respect to the issuance, sale or delivery of the Bonds, the enacting of the Bond Legislation, or the execution and delivery of the Escrow Deposit Agreement, the Investment Purchase Agreement or the Bond Purchase Proposal, or any action on the part of the City, including any action on the part of the Sanitary Board, contemplated by any of said documents, including without limitation the power of the City, acting by and through the Sanitary Board, or otherwise, to fix, establish, revise and collect rates and charges for the use of the services and facilities of the System sufficient to meet the rate covenant set forth in the Ordinance, or which would adversely affect the exemption of interest to be paid on the Bonds from federal income taxation, nor to my knowledge is there any basis therefor.

8. Based upon my participation in the preparation of the Official Statement and without having made any independent investigations of the operation or affairs of the City, including the Sanitary Board, or the System or any independent verification of the statements of fact contained in the Official Statement including the appendices thereto, the Official Statement (except as to any engineering, financial and statistical data contained in the Official Statement, as to which no opinion or belief is hereby expressed) does not contain any untrue statement of a material fact or omit to state a material fact which, in my judgment, is required to be stated therein in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

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

Very truly yours,

Kourtney A. Ryan
City Attorney
City of Fairmont

KAR:clc

cc: Edwin Thorne, City Manager

ALL-STATE LEGAL SUPPLY CO., ONE COMMERCE DRIVE, CRANFOR RSEY 07016

ED 11-1C

CITY OF FAIRMONT

(WEST VIRGINIA)

Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988

GENERAL CERTIFICATE OF THE CITY OF FAIRMONT ON:

1. TERMS
2. NO LITIGATION
3. PUBLICATION AND NO PROTEST
4. AWARD OF BONDS; SIGNATURES
5. DELIVERY AND PAYMENT
6. CERTIFICATION OF DOCUMENTS
7. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
8. MEETINGS, ETC.
9. INCUMBENCY; AND OFFICIAL NAME
10. INVESTMENT OF ESCROW FUNDS AND DEFEASANCE OF PORTION OF PRIOR BONDS
11. OFFICIAL STATEMENT CERTIFICATION
12. CERTIFICATIONS UNDER BOND PURCHASE AGREEMENT SECTION 13
13. DESIGNATION OF REGISTRAR, PAYING AGENT, ESCROW AGENT, SECURITIES PROVIDER AND DEPOSITORY BANK
14. RELIANCE OF BOND INSURER ON CERTIFICATE

We, the undersigned MAYOR, CITY MANAGER and CITY CLERK of the City of Fairmont, Marion County, West Virginia (the "Issuer"), and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the $11,065,000 aggregate principal amount (stated value at maturity) of the City of Fairmont Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988 (the "Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning as in the bond ordinance of the Issuer, enacted August 13, 1985, as amended and supplemented by a supplemental and amendatory resolution adopted September 17, 1985, a supplemental and amendatory ordinance enacted October 25, 1988 and a supplemental resolution adopted October 25, 1988 (said ordinance, as so supplemented and amended, the "Ordinance").

2. NO LITIGATION: No controversy or litigation of any nature is now pending or threatened, restraining, enjoining, or

affecting in any manner the issuance and delivery of the Bonds, nor in any manner questioning the proceedings and authority by which the Issuer authorized the issuance and sale of the Bonds nor in any manner affecting the validity or enforceability of or security for the Bonds, the Ordinance, the Escrow Deposit Agreement, the Investment Purchase Agreement or the Bond Purchase Proposal or any agreement or instrument relating thereto, used or contemplated by the Bond Purchase Proposal or any provisions made or authorized for the payment of the Bonds; nor in any manner questioning the valid existence of the Issuer, the authority or titles of the Mayor, City Manager, City Clerk and the members of the Council and other officials of the Issuer to their respective offices; nor in any manner questioning any proceeding, procedure, action or thing followed, taken or done in connection with the Bonds or the refunding of a portion of the Prior Bonds.

3. PUBLICATION OF NOTICES: Notices of public hearings upon the Ordinance were duly published as required by law. There was no protest to the passage of the Ordinance, and the Ordinance became fully effective on November 24, 1988, and remains in full force and effect.

4. AWARD OF BONDS; SIGNATURES: The Bonds were awarded to Butcher & Singer, Inc. (the "Underwriter"), upon a negotiated basis at the price of $11,065,000 less original issue discount of $7,384,679.50 and underwriter's discount of $73,606.41 (net proceeds = $3,606,714.09). The Bonds were duly signed by the duly established facsimile signatures of the City Manager and Mayor, and the official seal of the Issuer, which seal is impressed upon this Certificate, was imprinted thereon and attested by the duly established facsimile signature of the City Clerk.

5. DELIVERY AND PAYMENT: The undersigned City Manager did, on the date hereof, deliver to the Underwriter, the entire issue of the Bonds, in various denominations and numbered R-1 to R-360, inclusive.

At the time of delivery of the Bonds, there was paid to the Issuer the agreed price therefor as follows:

Par Amount	$11,065,000.00
Less Original Issue Discount	7,384,679.50
Less Underwriter's Discount	73,606.41
Net Proceeds Available for Deposit	$3,606,714.09

6. CERTIFICATION OF DOCUMENTS: There are delivered herewith true and correct copies of the following documents, all which remain in full force and effect and have not been amended,

modified, supplemented or repealed unless changed by the terms of other documents listed below:

Minutes (or excerpt) of Council Meetings of September 27, September 30, October 11 and October 25, 1988.

Charter of City, with all amendments.

Rules of Procedure of Council, with all amendments.

Certificates of publication of notices of public hearing on Supplemental and Amendatory Ordinance.

Prior Ordinance.

Supplemental and Amendatory Resolution.

Supplemental and Amendatory Ordinance.

Supplemental and Amendatory Resolution.

Bond Purchase Proposal.

Ordinance Creating Sanitary Board

Petition of Sanitary Board.

Escrow Deposit Agreement.

Investment Purchase Agreement.

Accountants' Certification of Escrow Fund Yield, Escrow Fund Sufficiency and Savings Verification.

Official Statement.

7. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer or the System since October 20, 1988. There is not any indebtedness or obligation of the Issuer outstanding and unpaid or for which full and irrevocable provision for payment has not been made which has priority over or ranks on a parity with the Bonds as to the sources of and security for payment, except for the portion of the Prior Bonds not being refunded by the Bonds, in the aggregate principal amount of $6,455,000, which are on parity with the Bonds.

8. MEETINGS, ETC.: All actions, ordinances, resolutions, orders and agreements taken by and entered into by or

on behalf of the Issuer in any way connected with the issuance of the Bonds were authorized or adopted at meetings of the Council of the Issuer duly and regularly called and held pursuant to the City Charter and Rules of Procedure of the council of the Issuer and all applicable statutes, including Chapter 6, Article 9A of the Official West Virginia Code of 1931, as amended, and a quorum of duly elected, qualified and acting members of the council was present and acting at all times during all such meetings.

9. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "City of Fairmont" and it is a municipal corporation of the State of West Virginia, in Marion County of said state. The governing body of the Issuer is its Common Council consisting of 9 members. The names and dates of commencement and termination of current terms of office of the members of Council, the Mayor, City Manager and the City Clerk are as follows:

Name and Office	Date of Commencement of Office	Date of Termination of Office
Robert M. Drummond, Jr. (Mayor)	February 3, 1987	January 10, 1989
Edwin J. Thorne (City Manager)	[Indefinite]	
Debra M. Bohan (City Clerk)	[Indefinite]	
Councilmembers		
Robert M. Drummond, Jr.	January 1, 1987	December 31, 1990
Carl J. Snyder	January 1, 1985	December 31, 1988
Mrs. Faith Bowyer	January 1, 1985	December 31, 1988
Jack W. Bunner	January 1, 1987	December 31, 1990
John Carl Cosco	January 1, 1985	December 31, 1988
Carol J. Hinton	January 1, 1987	December 31, 1990
Manuel Garcia	January 1, 1985	December 31, 1988
Michael F. Welty	January 1, 1987	December 31, 1990
Ronald J. Straight	January 1, 1987	December 31, 1990

The Sanitary Board of the City is composed of the following members and Officers:

Chairman (ex officio) and member	-	Edwin J. Thorne
Member	-	Charles D. Albright
Member	-	William Jarrett
*Secretary-Treasurer	-	Frances D. Schapperle

* Non-voting Member

The duly appointed and acting Attorney for the Issuer is Courtney A. Ryan, Esquire, of Fairmont, West Virginia, and the duly appointed and acting Attorney for the Sanitary Board is James O. Watkins, Esquire, of Fairmont, West Virginia.

10. INVESTMENT OF ESCROW FUNDS AND DISCHARGE OF PRIOR BOND LIENS: The funds on deposit in the Escrow Fund established by the Escrow Deposit Agreement between the Issuer and the West Virginia Municipal Bond Commission, as Escrow Agent, dated as of November 30, 1988, have been invested as provided in the Escrow Agreement and the amount of such invested funds is sufficient to pay fully the principal of and interest on the portion of the Prior Bonds to be refunded, in the aggregate principal amount of $630,000, as the same may become due.

11. OFFICIAL STATEMENT CERTIFICATION: At and since the date of the Official Statement nothing has come to the attention of any signer hereof which would lead any such signer to believe that the Official Statement contains an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Issuer has duly and properly authorized the execution and delivery of the Official Statement and has duly authorized the Underwriter's use and distribution of the Official Statement in connection with the offering and sale of the Bonds.

12. CERTIFICATIONS UNDER BOND PURCHASE PROPOSAL SECTION 12: The undersigned Mayor and City Manager hereby further certify that (i) there is no litigation pending contesting or otherwise affecting the validity of the Bonds or the security therefor; and (ii) subsequent to October 20, 1988 (the date of the draft official statement prepared in connection with the issuance of the Bonds), there has been no material adverse change in the financial position of the Issuer except as set forth in or contemplated by the draft official statement.

13. DESIGNATION OF REGISTRAR, PAYING AGENT, ESCROW AGENT SECURITIES PROVIDER AND DEPOSITORY BANK: The Issuer hereby confirms the appointment of City National Bank of Fairmont, as Registrar, Paying Agent and Depository Bank, the West Virginia Municipal Bond Commission as Escrow Agent and First Fidelity, N.A. New Jersey as Securities Provider.

14. RELIANCE OF BOND INSURER ON CERTIFICATE: All certifications contained in this General Certificate may be relied upon by AMBAC Indemnity Corporation ("AMBAC"), in accordance with their requirements for issuance of a bond insurance policy relating to the Bonds.

WITNESS our signatures and the official corporate seal of the CITY OF FAIRMONT on this 30th day of November, 1988.

[CORPORATE SEAL]

Signature	Official Title
	Mayor
	City Manager
	City Clerk
	Attorney for Issuer

11/21/88
FMTSR3-B

NONARBITRAGE CERTIFICATE
CITY OF FAIRMONT SEWERAGE SYSTEM REFUNDING
REVENUE CAPITAL APPRECIATION BONDS, SERIES 1988

Pursuant to the provisions of the Internal Revenue Code of 1986, as amended (the "Code") and the regulations applicable thereto, the undersigned duly elected and authorized officials of the City of Fairmont, West Virginia (the "City"), do hereby certify that we are the officials of the City responsible for issuing the above-captioned Bonds (the "Bonds") of the City and do hereby further certify as follows:

1. Issuance of the Bonds. The Bonds are authorized and being issued and delivered on this date pursuant to the provisions of an Ordinance of the City duly enacted on October 25, 1988, as supplemented by a certain supplemental resolution (the "Ordinance"). The Bonds are being issued under and pursuant to the Ordinance to finance a project (the "Project") for the benefit of the City which consists of, among other things, (a) the financing of certain capital projects of the City in respect of its Sewerage System (b) providing for the payment of certain principal of, and interest on, certain of the City's outstanding Sewerage System Refunding Revenue Bonds, Series 1985 (such series of bonds are referred to herein as the "Prior Bonds" and those certain bonds within such series which are being refunded with proceeds of the Bonds are referred to herein as the "Refunded Bonds"); and (c) the financing of the costs of the issuance of the Bonds and the costs of refunding the Refunded Bonds.

2. Use of Proceeds. The proceeds of the Bonds will be used as follows:

(a) to fund, on November 30, 1988, the purchase of $3,157,900 aggregate principal amount of United States Treasury Securities, State and Local Government Series (the "Acquired Obligations"), in the amounts bearing interest and maturing as set forth below:

Principal Amount	Interest Rate	Issue Date	Maturity Date
$244,600	0.00%	11/30/88	5/1/89
339,200	0.00	11/30/88	11/1/89
225,500	7.22	11/30/88	5/1/90
348,700	7.33	11/30/88	11/1/90
242,300	7.38	11/30/88	5/1/91
376,200	7.42	11/30/88	11/1/91
260,500	7.45	11/30/88	5/1/92
405,100	7.48	11/30/88	11/1/92
280,100	7.50	11/30/88	5/1/93
435,700	7.51	11/30/88	11/1/93

The Acquired Obligations will be deposited on behalf of the City into an escrow fund (the "Escrow Fund") created by the West Virginia Municipal Bond Commission, as escrow agent, (the "Escrow Agent") under and pursuant to the provisions of an Escrow Deposit Agreement (the "Escrow Agreement") dated November 30, 1988. The Acquired Obligations and the interest to be earned thereon will be used to pay, when due, certain principal and interest to become due on the Refunded Bonds, as set forth on Exhibit "C" to the Escrow Agreement.

(b) To finance the cost of the construction associated with the capital projects of the City (in an amount not less than $298,221.92 plus interest to be earned on such amounts prior to the application thereof). As contemplated by the provisions of the Ordinance, the City reasonably expects that within 6 months hereafter it will spend or enter a binding commitment to spend an amount in excess of $100,000 in connection with its capital projects. The City reasonably expects that the capital projects will thereafter proceed with due diligence to completion, and that the City will expend at least 85% of the spendable proceeds of the Bonds related to the capital projects within three years after the date hereof.

(c) To pay the cost and expense of the issuance of the Bonds and financing the Project, including, without limitation, the administrative costs of repaying the Refunded Bonds, of carrying and repaying the Bonds and of purchasing, carrying and selling or redeeming obligations acquired with the proceeds of the Bonds.

3. Applications of Proceeds - Yield Calculation.

(a) The City has covenanted and agreed that it will not make any use of the proceeds of the Bonds, or do or suffer any other action which would cause the Bonds to become "arbitrage bonds" as that term is defined in Section 148 of the Code and the regulations applicable thereto. Further, the City has covenanted, and hereby does covenant, to comply with Section 148 of the Code throughout the term of the Bonds.

(b) (i) Upon the issuance of the Bonds, the City will deposit or cause to be deposited with the Escrow Agent amounts sufficient to purchase the Acquired Obligations.

(ii) Except as expressly provided by the Escrow Agreement, the Escrow Agent shall have no power or authority to invest any proceeds of the Bonds or any income thereon or on the Acquired Obligations which are held in the Escrow Account under the Escrow Agreement, in any obligation of any type whatsoever, whether or not such obligation is interest bearing.

(iii) From time to time between 1989 and 1993, the City will purchase investments, using its own funds, the proceeds of which will be applied to redeem $245,000 of the Prior Bonds maturing in 2000 and all of the Prior Bonds maturing after 2000. Since no principal or interest on such Prior Bonds will be paid from the proceeds of the Bonds, such Prior Bonds are not "Refunded Bonds" as described herein.

(iv) Certain proceeds of the Refunded Bonds are invested in U.S. Treasury Obligations. As the Refunded Bonds are discharged, such proceeds have been treated as "Transferred Proceeds" subject to the yield restriction on the Bonds. The Report (as hereinafter defined) shows a calculation of the present value adjustments resulting from treating "Transferred Proceeds" as invested at the yield on the Bonds rather than the original restricted yield.

(v) Based upon the calculations of Clymer, Merves & Amon (the "Accountants") set forth in its letter dated November 30, 1988 (the "Report"), (i) the yield on the Bonds, calculated in accordance with the provisions of the Code, is not less than 7.4845%; and (ii) the yield on the Acquired Obligations and "Transferred Proceeds," calculated in accordance with the provisions of the Code (and taking into account a "Transferred Proceeds" Adjustment) is not greater than 7.4835%.

(vi) Based upon the calculations of the Accountants set forth in the Report, the yield on the Acquired Obligations is not greater than the yield on the Bonds.

(c) On the date of issuance of the Bonds $298,221.92 of the proceeds of the Bonds will be deposited in the Construction Fund. The City hereby covenants that it will not invest or permit the investment of such amounts in a manner that will cause the Bonds to become "arbitrage bonds," as that term is defined in Section 148 of the Code. The amount deposited in the Construction Fund and all earnings thereon which are not required to be transferred to the Rebate Fund created pursuant to the Ordinance will be spent on capital project costs of the City.

(d) The City has not issued, and will not issue, other bonds or obligations which have been or will be issued at substantially the same time as the Bonds, sold pursuant to a common plan of financing or paid (or have substantially the same claim for payment) out of substantially the same source of funds as the Bonds.

4. Size of Issue. In determining the aggregate principal amount of Bonds to be issued, consideration has been given to the anticipated investment proceeds to be earned on acquired

obligations held in the Escrow Account, the Construction Fund and all other funds created under the Ordinance.

5. Uses and Sources of Funds. The following table shows the expected uses and sources of funds for the Project:

USES OF FUNDS

Deposit to Escrow Fund	$3,157,900.00
Capital Projects	298,221.92
Insurance Premium	75,592.17
Bond Discount	73,606.41
Issuance Costs	75,000.00
TOTAL USES	$3,680,320.50

SOURCES OF FUNDS

Bond Proceeds	$3,680,320.50
TOTAL SOURCES	$3,680,320.50

6. Basis for Expectations. The undersigned officials know of no facts, estimates or circumstances which would cause them to question the accuracy or reasonableness of any of the estimates, facts and conclusions set forth herein.

7. Bonds are Not Arbitrage Bonds; No Other Information. To the best of our knowledge, information and belief there are no other facts, estimates or circumstances which would materially change the conclusions set forth herein nor do we have any reason to believe that the proceeds of the Bonds will be used in any but the manner described herein. The City has not been notified of and has no reason to believe that the Internal Revenue Service or any other governmental entity has taken or will take any action pertaining to the issuance of the Bonds, nor have we been notified of any listing of it by the Internal Revenue Service as an issuer that may not certify its obligations.

8. Funds for the Payment of Debt Service. Pursuant to the provisions of the Ordinance, the City is obligated to make certain payments to the West Virginia Municipal Bond Commission in amounts sufficient to provide for the payment of debt service on the Bonds when due. With respect to monies received by the West Virginia Municipal Bond Commission under and pursuant to the provisions of the Ordinance, the West Virginia Municipal Bond Commission shall transfer such amounts to other funds in accordance with the provisions of the Ordinance to provide for, among other things, the payment of the Bonds. Monies deposited in the Sinking Fund established under the Indenture will be used to pay debt service on the Bonds. The City reasonably expects that any amount

deposited with the West Virginia Municipal Bond Commission in the Sinking Fund created under the Ordinance for the payment of debt service on the Bonds, any amounts received from the investment of such amounts so deposited, and from the investment of any other amounts held by the West Virginia Municipal Bond Commission in any other fund or account created under the Ordinance for the payment of debt service on the Bonds, will be completely expended by the West Virginia Municipal Bond Commission within a one-year period after the date of the receipt thereof.

The City has also established the Debt Service Reserve Fund under the provisions of the ordinance pursuant to which the Prior Bonds were issued (the "Prior Ordinance"). The Debt Service Reserve Fund was funded with proceeds of the Prior Bonds. Such Debt Service Reserve Fund shall be held and invested as provided in the Ordinance and the Prior Ordinance.

The City reasonably expects that no amounts, other than amounts deposited in the Sinking Fund, and, if necessary, the Debt Service Reserve Fund, will be used or available to pay debt service on the Bonds. All amounts deposited in the Sinking Fund (including income transferred from the Debt Service Reserve Fund, if any) will be completely used within a 13 month period beginning on the date of the deposit to pay debt service on the Bonds, and any received from the investment of amounts on deposit in the Sinking Fund or in any other fund created under the Ordinance, will be used within a one year period beginning on the date of receipt to pay principal and interest on the Bonds.

Except for the funds and accounts created under the provisions of the Ordinance, the City reasonably expects that there will be no other funds or accounts which will be used or will be available for use to pay debt service on the Bonds. The City has not created or established and does not expect to create or establish any other sinking fund, reserve fund, replacement fund, debt service fund or other similar fund reasonably expected to be used, or to be available to pay, if needed, debt service on the Bonds. No amount in any account or fund of the City (other then amounts held under the provisions of the Ordinance) is reserved or pledged for the payment of debt service on the Bonds, and it is not expected that any other such account or fund will be so used and there is no reasonable assurance that any portion of any other account or fund will be available to pay debt service on the Bonds if needed. As of the date hereof the City does not reasonably expect to receive from any federal, state, individual or other source, any gift, bequest, grant, reimbursement or other amount with respect to the Project, which gift, bequest, grant, reimbursement or amount has not been considered in determining the principal amount of the Bonds and will be reserved or pledged, contrary to the provisions of the arbitrage regulations applicable

to Section 148 of the Code, as collateral or security for the payment of debt service on the Bonds.

9. Rebate Fund; Change in Law or Regulation. A Rebate Fund has been established pursuant to the Ordinance to facilitate compliance with Section 148 of the Code. The City acknowledges that regulations which set forth the procedure by which rebate must be calculated and paid pursuant to Section 148 of the Code have not been published as of the date hereof. The City hereby covenants to comply with Section 148 and any and all regulations applicable thereto now existing or hereafter promulgated to the extent applicable to the Bonds.

10. Qualified Tax-Exempt Obligations. In the Ordinance, the City has designated the Bonds as "qualified tax-exempt obligations" within the meaning of Section 265(b) of the Code. The City reasonably anticipates that the amount of "qualified tax-exempt obligations" which will be issued by it and its subordinate entities during calendar year 1988 will not exceed $10,000,000.

11. City Covenants. The City hereby represents, warrants, covenants and agrees that:

(a) no more than ten percent (10%) of the proceeds of the Bonds are to be used for any "private business use," as such term is defined in Section 141(b)(6) of the Code;

(b) except as provided in subparagraph (e) of this Section 11, no more than ten percent (10%) of the payment of the principal of, or interest on, the Bonds is, under the terms of the issuance of the Bonds or any underlying arrangement, directly or indirectly (A) secured by any interest in (i) property used or to be used for a "private business use" or (ii) payments in respect of such property or (B) 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";

(c) no more than the lesser of 5% of the proceeds of the Bonds or $5,000,000 will be used, directly or indirectly, to make or finance loans to persons other than governmental units.

(d) no more than 5% of the proceeds of the Bonds are to be used (i) for any private business use which is not related to any government use of the proceeds of the Bonds or (ii) for a disproportionate related business use, within the meaning of Section 141(a)(3) of the Code. A disproportionate related business use is a private business use of the

proceeds of the Bonds which exceeds the governmental use of the proceeds of the Bonds to which it relates.

(e) no person shall use the Project other than "as a member of the general public" within the meaning of Section 141(a)(6) of the Code and the Project shall only be used as a "government use," within the meaning of Section 141(a)(7) of the Code.

12. Reasonableness. To the best of our knowledge, information and belief, the expectations of the City as to future events and to the representation set forth herein are reasonable.

13. Date. This Certificate is dated and given the date of the issuance and delivery of the Bonds.

14. Reliance. Stevens & Lee and Steptoe & Johnson are entitled to rely upon the representations, expectations, certifications and statements contained herein in connection with issuing their respective opinions regarding matters related to the tax-exempt status of interest to be paid on the Bonds.

CITY OF FAIRMONT

By _____
Mayor

_____
City Manager

(SEAL)

Attest: _____
City Clerk

CITY OF FAIRMONT

Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988

CERTIFICATE OF REGISTRAR, PAYING AGENT AND DEPOSITORY BANK

The undersigned, ROBERT D REYNOLDS, V.P & TRUST OFFICER, and Shirley A. West, AVP & CASHIER, of CITY NATIONAL BANK OF FAIRMONT, Fairmont, West Virginia, a national banking association (the "Bank"), hereby certify as follows with respect to the above-captioned Bonds (the "Bonds"):

1. The Bank hereby accepts appointment as Registrar, Paying Agent and Depository Bank under the Ordinance authorizing issuance of the Bonds (as supplemented and amended, the "Ordinance").

2. The Bank has full power and authority to perform the duties of Registrar, Paying Agent and Depository Bank set forth in the Ordinance and the Bonds and to enter into and carry out the provisions of the Registrar Agreement, dated as of November 30, 1988, between the City of Fairmont (the "Issuer"), and the Bank (the "Agreement").

2. The persons whose titles, names and signatures are set forth below hold the positions, respectively, by election or appointment by the Board of Directors of the Bank shown opposite their respective names, and such persons have been respectively named and designated as an authorized officer of the Bank to authenticate and register the Bonds, to deliver certificates on behalf of the Bank in connection with the closing of the sale of the Bonds and to take any other actions required by the Agreement.

Title	Name	Signature
VICE-PRESIDENT & TRUST OFFICER	ROBERT D. REYNOLDS	[signature]
AVP & Cashier	Shirley A. West	Shirley A. West

3. The undersigned ROBERT D REYNOLDS was duly authorized to, and did on or prior to the date hereof, execute and deliver the Agreement to the Issuer on behalf of the Bank.

4. Pursuant to Section 3.03 of the Supplemental and Amendatory Ordinance, the undersigned has received on or prior to

the date hereof (a) a list of the names in which the Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as requested by the Bank; and (b) a request and authorization to the Bank on behalf of the Issuer, signed by an Authorized Officer of the Issuer, to authenticate and deliver the Bonds to the Original Purchaser.

5. The Bank has received from the Issuer on the date hereof the Bonds, in the respective numbers and denominations, maturing on November 1 of such years, and bearing interest at such rates, all as set forth in Exhibit A attached hereto and incorporated herein by reference. In addition, the Bank has received from the Issuer 1,640 blank certificates for use in the transfer and exchange of the Bonds. At the time of such receipt, each of the Bonds had been executed by the facsimile signatures of the City Manager and the Mayor of the City, imprinted with a facsimile of the seal of the City, and attested by the facsimile signature of the City Clerk.

6. The Bank has duly authenticated the Bonds originally issued as of November 30, 1988, and described in Exhibit A hereto, by manually executing on each of such Bonds a certificate in the following form:

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Bonds of the Series designated therein, described in the within-mentioned Ordinance and has been duly registered in the name of the Registered Owner set forth above on the date set forth below. Imprinted on the reverse hereof is the complete text of the Opinion of Steptoe & Johnson, bond counsel, signed originals of which are on file with the undersigned, delivered and dated on the date of original delivery of and payment for the Bonds of said Series.

Dated: _____

CITY NATIONAL BANK OF FAIRMONT, as
Registrar

By _____
Its Authorized Officer

WITNESS OUR SIGNATURES this 30th day of November, 1988.

CITY NATIONAL BANK OF FAIRMONT

By _____
Its VICE-PRESIDENT & TRUST OFFICER

By Shirley A. West
Its AVP & Cashier

11/28/88
FMTSR3-C

STEPTOE & JOHNSON
ATTORNEYS AT LAW
SIXTH FLOOR
UNION NATIONAL CENTER EAST
P. O. BOX 2190
CLARKSBURG, W. VA. 26302-2190
(304) 624-8000
TELECOPIER (304) 624-8183

CHARLES W. YEAGER
CARL F. STUCKY, JR.
HERBERT G. UNDERWOOD
JACKSON L. ANDERSON
OTIS L. O'CONNOR
ROBERT G. STEELE
JAMES M. WILSON
PATRICK D. DEEM
ROBERT M. STEPTOE, JR.
ANNE R. WILLIAMS
JAMES R. WATSON
JAMES D. GRAY
VINCENT A. COLLINS
JAMES A. RUSSELL
WILLIAM T. BELCHER
MICHAEL L. BRAY
DAVID C. CLOVIS
DANIEL R. SCHUDA
J. GREG GOODYKOONTZ
IRENE M. KEELEY
EVANS L. KING, JR.
WALTER L. WILLIAMS
SUSAN S. BREWER
SPRAGUE W. HAZARD
HERSCHEL H. ROSE III
RONALD H. HANLAN
C. DAVID MORRISON
HARRY P. WADDELL
CLEMENT D. CARTER III
W. HENRY LAWRENCE IV
J. ROBERT GWYNNE
WILLIAM E. GALEOTA
GORDON H. COPLAND

CHARLESTON OFFICE
715 CHARLESTON NATIONAL PLAZA
P. O. BOX 1588
CHARLESTON, W. VA. 25326
(304) 342-2191
TELECOPIER (304) 342-0726

MORGANTOWN OFFICE
1000 HAMPTON CENTER
P. O. BOX 1616
MORGANTOWN, W. VA. 26507-1616
(304) 598-8000
TELECOPIER (304) 598-8118

RANDALL C. LIGHT
CHRISTOPHER R. BASTIEN
STEVEN R. McGOWAN
RICHARD M. YURKO, JR.
GARY W. NICKERSON
W. RANDOLPH FIFE
MARTIN R. SMITH, JR.
LOUIS E. ENDERLE
ROBERT J. SCHIAVONI
JOSEPH R. FERRETTI
MARK E. KINLEY
EDWARD R. KOHOUT
MARCIA J. POLLARD
BRYAN R. COKELEY
PATRICK D. KELLY
FRANCESCA TAN
CHRISTINE S. VAGLIENTI

OF COUNSEL
ROBERT W. LAWSON, JR.
RALPH BOHANNON
ERNEST C. SWIGER

WRITER'S DIRECT DIAL NUMBER

November 2, 1988

City of Fairmont
Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988

Mr. R. Witter Hallan
Executive Director
West Virginia Municipal Bond Commission
1800 Washington Street, East
Building 3, Suite 337
Charleston, West Virginia 25305

Dear Witter:

Please be informed that the City of Fairmont intends to advance refund a portion of its Sewerage System Refunding Revenue Bonds, Series 1985, dated September 15, 1985, issued in the original aggregate principal amount of $7,370,000, of which $7,085,000 in principal amount is presently outstanding. The Series 1985 Bonds outstanding and maturing on November 1, 1989 through November 1, 1993, in the aggregate principal amount of $630,000 will be refunded from proceeds of the above-captioned Bonds and earnings thereon, and Series 1985 Bonds in the principal amount of $5,285,000 are expected to be paid from proceeds of an Investment Purchase Agreement on November 1, 1995, at which time they will be redeemed at par.

Enclosed are drafts of the documentation relating to the refunding. To simply things, I have circled the documents on the Document List which relate to the Bond Commission.

Settlement date is November 30, 1988, and John Reger or Gib Carpenter of Butcher & Singer Inc. will be in touch with you shortly to work

out the details of the funds transfer. The Registrar, Paying Agent and Depository Bank is City National Bank of Fairmont (Mr. Robert D. Reynolds). Please give me a call if you have any questions at this time.

My best regards.

Very truly yours,

Vincent A. Collins

Enclosures
Copy of letter only to:
Mr. E. Gilbert Carpenter
Edwin J. Thorne
Mr. John S. Reger, II
Michael Setley, Esquire
Courtney A. Ryan, Esquire
Mr. Robert D. Reynolds

11/02/88
FMTSR3-D

CITY OF FAIRMONT

Sewerage System Refunding Revenue Capital Appreciation Bonds,
Series 1988

Joint Certificate of Issuer and Escrow Agent

The undersigned EDWIN J. THORNE, City Manager of the City of Fairmont, a municipal corporation of the State of West Virginia (the "Issuer"), and the undersigned R. WITTER HALLAN, Executive Director of the West Virginia Municipal Bond Commission (the "Escrow Agent") hereby jointly certify as follows in connection with the above-captioned Bond issue:

1. We have executed on behalf of the Issuer and the Escrow Agent, respectively, the Escrow Deposit Agreement between the Issuer and the Escrow Agent, dated as of November 30, 1988.

2. The Government Securities and moneys on deposit in the Escrow Fund pursuant to the said Escrow Deposit Agreement are shown by the attachments to the Escrow Deposit Agreement (Prior Bonds maturing November 1, 1989 through November 1, 1993), to be in amounts sufficient to discharge the refunded portion of the Prior Bonds described in the Escrow Deposit Agreement, including payment of all interest becoming due thereon.

WITNESS our signatures this 30th day of November, 1988.

CITY OF FAIRMONT

By _____
City Manager

WEST VIRGINIA MUNICIPAL BOND COMMISSION,
as Escrow Agent

By _____
Its Executive Director

10/31/88
FMTSR3-E

[TO BE MAILED TO ALL REGISTERED OWNERS OF SERIES 1985 BONDS IMMEDIATELY FOLLOWING CLOSING]

NOTICE OF PARTIAL DEFEASANCE

CITY OF FAIRMONT

(WEST VIRGINIA)

Sewerage System Refunding Revenue Bonds, Series 1985
Dated September 15, 1985 and Due on November 1, 1989
through November 1, 1993

TO THE HOLDERS OF ALL THE ABOVE-CAPTIONED BONDS:

NOTICE IS HEREBY GIVEN that the City of Fairmont, West Virginia, has refunded a portion of its outstanding Sewerage System Refunding Revenue Bonds, dated September 15, 1985, (the "Bonds"), consisting of those Bonds maturing on November 1, 1989 through November 1, 1993, in the aggregate principal amount of $630,000 (the "Refunded Bonds"). In accordance with the provisions of the Ordinance providing for the issuance of such Bonds the Refunded Bonds are deemed to have been paid and the liens on the revenues derived from the operation of the City's sewerage system and any other security pledged for payment of the Refunded Bonds have been defeased. Sufficient United States Treasury Obligations have been purchased, and are irrevocably credited to the West Virginia Municipal Bond Commission, Charleston, West Virginia, Escrow Agent, to pay the principal of and interest on such Refunded Bonds as and when due.

The principal of and interest on the Refunded Bonds will continue to be paid in the amounts and on the dates set forth therein.

Bonds maturing November 1, 1994 through November 1, 2011, in the aggregate principal amount of $6,455,000 (the "Nonrefunded Bonds") have not been refunded and remain outstanding. The Nonrefunded Bonds shall continue to be paid, both as to principal

25A

and interest, from revenues of the City's waterworks system and shall have no claim upon the United States Treasury Obligations or earnings thereon on deposit with the Escrow Agent.

Dated: November 30, 1988.

CITY OF FAIRMONT

By /s/ EDWIN J. THORNE,
City Manager

11/28/88
FMTWA3-F

[TO BE MAILED BY ESCROW AGENT TO ALL REGISTERED OWNERS
OF SERIES 1985 BONDS BETWEEN THE DATES OF
SEPTEMBER 17, AND OCTOBER 2, 1995

NOTICE OF REDEMPTION

CITY OF FAIRMONT

Sewerage System Refunding Revenue Bonds, Series 1985
Dated September 15, 1985 and Due on November 1, 2000 through
November 1, 2011

TO THE HOLDERS OF ALL THE ABOVE-CAPTIONED BONDS WHICH WILL BE
OUTSTANDING ON OCTOBER 31, 2000 AND WHICH MATURE ON
NOVEMBER 1, 2000 THROUGH NOVEMBER 1, 2011

You are hereby notified that all the Sewerage System Refunding Revenue Bonds, Series 1985, of the City of Fairmont, dated September 15, 1985, and maturing on November 1, 2000, through November 1, 2011, (except $10,000 principal amount of such Bonds maturing November 1, 2000, which will not be redeemed prior to maturity) have been ordered by the City to be redeemed on November 1, 1995, in accordance with the provisions of the Ordinance authorizing issuance of the said Bonds.

All said Bonds maturing on November 1, 2000 through November 1, 2011 (except for the aforementioned $10,000 principal amount of Bonds maturing November 1, 2000, which will not be redeemed) are to be surrendered to City National Bank of Fairmont, Fairmont, West Virginia, for payment of the principal thereof and interest accrued thereon to November 1, 1995, there being no redemption premium thereon.

There have been deposited with the West Virginia Municipal Bond Commission, as Escrow Agent, United States Treasury securities which will mature on or before November 1, 1995, in an amount sufficient, together with earnings thereon to pay the principal or

25B

redemption price of the said Bonds and interest accrued thereon. On November 1, 1995, which is the date fixed for redemption, interest will cease to accrue on all such Bonds.

CITY OF FAIRMONT

By /s/ EDWIN J. THORNE
City Manager

Dated: May 15, 1995

11/28/88
FMTSR3-G

November 30, 1988

City of Fairmont
Sewerage System Refunding Revenue Bonds, Series 1985

West Virginia Municipal Bond Commission
Escrow Agent in Connection with
the City of Fairmont Sewerage System
Refunding Revenue Bonds, Series 1985
1800 Washington Street, East
Building 3, Suite 337
Charleston, West Virginia 25305

Gentlemen:

There are enclosed (a) five copies of the Notice of Partial Defeasance of the above-captioned Bonds, to be delivered by first-class mail to the registered owners of such Series 1985 Bonds maturing on November 1, 1989 through November 1, 1993, as soon as possible, and (b) five copies of the Notice of Redemption, also to be delivered by first-class mail, each postage prepaid to the registered owners of such Series 1985 Bonds maturing on or after November 1, 2000, addressed to such registered owners at their addresses appearing in the Bond Register, no less than 30 days nor more than 45 days prior to November 1, 1995, the date fixed for such redemption.

The directions contained in this letter are irrevocable and are made in accordance with the provisions of the Supplemental and Amendatory Ordinance enacted by the Council of the City of Fairmont on October 25, 1988, as supplemented, authorizing the issuance of $11,065,000 Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988, dated November 30, 1988, and the defeasance, from moneys on deposit with the West Virginia Municipal Bond Commission, of a portion of the above-captioned Series 1985 Bonds.

United States Treasury securities in the principal amount of $3,157,900 have been purchased with a portion of said moneys and the interest and principal on such securities will be used solely to pay the principal of and interest on such portion of such Bonds maturing on November 1, 1989 through November 1, 1993, as the same shall become due.

25C

Additional United States Treasury securities will be purchased by the City from May 1, 1989 through November 1, 1993, the principal of and interest on which will be sufficient, at maturity to redeem such portion of such Series 1985 Bonds maturing on and after November 1, 2000, except for $10,000 principal amount of Series 1985 Bonds maturing on November 1, 2000, which will not be redeemed prior to maturity.

There is enclosed a copy of the Bond Ordinance authorizing the above-captioned Bonds, enacted August 13, 1985, and your attention is directed to Section 3.07 thereof, beginning at page 19, concerning the mailing of notices of redemption to any registered holder of Bonds and to any other holder of Bonds who has properly requested such notice. You should mail such notices of redemption in accordance with said Section 3.07.

If at any time you have any questions about the instructions contained in this letter, please communicate with Vincent A. Collins, of Steptoe & Johnson, Bond Counsel, Clarksburg, West Virginia, or with Edwin J. Thorne, City Manager of the City of Fairmont, West Virginia.

Yours very truly,

CITY OF FAIRMONT

By _____
City Manager

Copy to:
Vincent A. Collins, Esquire
Mr. E. Gilbert Carpenter

11/28/88
FMTSR3-H

ESCROW DEPOSIT AGREEMENT

THIS ESCROW DEPOSIT AGREEMENT, dated November 30, 1988 (the "Agreement"), is entered into by and between the CITY OF FAIRMONT, West Virginia (the "City"), and the WEST VIRGINIA MUNICIPAL BOND COMMISSION (the "Escrow Agent"), as escrow agent under the provisions of this Agreement.

W I T N E S S E T H

WHEREAS, the City owns and operates a municipal sewerage system and has heretofore financed the acquisition and construction of such system and certain additions, extensions and improvements for such system by issuance of several series of bonds or refunding bonds, of which there are presently outstanding the Sewerage System Refunding Revenue Bonds, Series 1985, dated September 15, 1985, issued in the original aggregate principal amount of $7,730,000, and now outstanding in the principal amount of $7,085,000, the last maturity being November 1, 2011 (the "Prior Bonds"), as designated in the ordinance enacted August 13, 1985, and designated "Ordinance No. 680" and supplemented by supplemental resolution adopted September 17, 1985 (such ordinance, as so supplemented, herein called the "Prior Ordinance"); and

WHEREAS, under the provisions of Chapter 16, Article 13 of the Official West Virginia Code of 1931, as amended (the "Act"), the City is authorized and empowered to issue refunding revenue bonds to refund, pay or discharge all or any part of its outstanding sewer revenue bonds; and

WHEREAS, the City is advised that interest savings could be realized if some, but not all, of the Prior Bonds are refunded, due to present favorable market conditions and interest rates; and

WHEREAS, the City has determined to refund a portion of the Prior Bonds in the manner set forth herein and in the ordinance of the City enacted October 25, 1988, and designated "Ordinance No. 796" and supplemented by supplemental resolution adopted October 25, 1988 (such ordinance, as so supplemented, herein referred to as the "1988 Ordinance"); and

WHEREAS, pursuant to the 1988 Ordinance, the City has authorized the issuance of a series of bonds to be designated "City of Fairmont Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988" (the "1988 Bonds").

WHEREAS, the City has determined to apply a portion of the proceeds of the 1988 Bonds, together with interest to be earned thereon, for the purpose of (a) providing in advance for the payment of the principal of, and interest on, certain of the

Prior Bonds, (b) providing funds for certain capital projects of the City and (c) paying the costs and expense of the issuance of the 1988 Bonds and the refunding of certain of the Prior Bonds; and

WHEREAS, pursuant to the terms hereof, the Escrow Agent will invest certain of the proceeds of the 1988 Bonds in United States of America Certificates of Indebtedness, Bonds and/or Notes, State and Local Government Series (the "SLGS"), which SLGS shall be in amounts, and mature at times, sufficient to pay the principal of, and interest on certain Prior Bonds when due from May 1, 1989 through November 1, 1993; and

WHEREAS, pursuant to the terms hereof, the City will make certain payments from its sewerage system revenues (which do not constitute proceeds of the 1988 Bonds) to the Escrow Agent as more fully provided herein; and

WHEREAS, the City and the Escrow Agent are entering into a certain agreement (the "Investment Purchase Agreement") with First Fidelity Bank, N.A., New Jersey (the "Bank") simultaneously with the execution hereof, pursuant to which the Escrow Agent, on behalf of the City, will purchase certain Obligations from the Bank pursuant to the terms thereof, with amounts as provided herein, which amounts do not constitute proceeds of the 1988 Bonds, and pursuant to which the Bank will repurchase such Obligations from the Escrow Agent on behalf of the City as provided in the Investment Purchase Agreement; and

WHEREAS, the amounts received upon the repurchase of such Obligations shall be applied to pay the redemption price of certain of the Prior Bonds on November 1, 1995; and

WHEREAS, the City and the Escrow Agent desire to set forth the terms and conditions upon which the money held by the Escrow Agent for payment of the Priot Bonds shall be invested and/or deposited by the Escrow Agent, under terms and conditions herein set forth, with income to be derived from such investment and/or deposit of money and/or profits to be realized from such investment and/or deposit of money to accrue to the account and for the benefit of the City.

NOW, THEREFORE, the City and the Escrow Agent, each intending to be bound legally, covenant and agree as follows:

1. The Escrow Agent acknowledges to the City that, concurrently with the effectiveness hereof the Escrow Agent has received from, or on behalf of, the City $3,157,900 of the proceeds of the 1988 Bonds.

2. The City hereby covenants and agrees that, in addition to the $3,157,900 of the proceeds of the 1988 Bonds, the City shall make the following payments to the Escrow Agent in immediately available funds by 12:00 P.M. on the dates and in the amounts set forth below:

Payment Dates	Amounts
May 1, 1989	$327,099
November 1, 1989	432,188
May 1, 1990	323,582
November 1, 1990	433,312
May 1, 1991	320,102
November 1, 1991	438,660
May 1, 1992	312,446
November 1, 1992	446,553
May 1, 1993	306,397
November 1, 1993	452,498

3. The Escrow Agent agrees to apply the amounts received by it from the City as herein above provided as follows:

(a) On the date of issuance of the 1988 Bonds, the Escrow Agent shall invest $3,157,900 which constitutes proceeds of the 1988 Bonds, in SLGS maturing on the dates and in the amounts and bearing interest, as set forth on Exhibit "A" hereto;

(b) By 1:00 P.M. on the dates listed on the schedule of payments set forth in Section 2 hereof, the Escrow Agent shall apply the amounts set forth on such Schedule to purchase certain Obligations from the Bank pursuant to the terms of the Investment Purchase Agreement.

4. The Escrow Agent acknowledges to the City that the SLGS, the Investment Purchase Agreement (and the Obligations to be purchased thereunder) and any and all other amounts or obligations held by the Escrow Agent hereunder shall be held in an Escrow Fund (hereby created) in the name of the City, and shall be subject to withdrawal and/or collection only by the Escrow Agent, for application for proper purposes provided for in this Agreement.

5. (a) All amounts at any time on deposit in the Escrow Fund, which constitute amounts received pursuant to the SLGS, shall be applied by the Escrow Agent, without further authorization or direction from the City, to pay the principal of, and interest on, the Prior Bonds to become due through November 1, 1993 in the amounts and on the dates set forth on Exhibit "C" hereto.

(b) All amounts at any time on deposit in the Escrow Fund, which constitute amounts received from the Bank upon repurchase by the Bank of Obligations theretofore purchased pursuant to the Investment Purchase Agreement shall be applied by the Escrow Agent without further authorization or direction from the City to pay the redemption price ($5,285,000) on November 1, 1995 of the Prior Bonds being called for redemption on such date.

6. The Escrow Agent shall cause $245,000 of the Prior Bonds maturing on November 1, 2000 and all of the Prior Bonds maturing on or after November 1, 2001 to be called for redemption on November 1, 1995 in accordance with the provisions of the Prior Ordinance.

7. The Escrow Agent covenants and agrees to apply all amounts received by it pursuant hereto for the purposes set forth in Sections 3 and 5 hereof, and the City covenants and agrees with the Escrow Agent that in the event money available to the Escrow Agent at any time, for any reason, shall not be sufficient for such required purposes, the City, immediately upon written notice from the Escrow Agent of such deficiency, will deliver to the Escrow Agent such money as shall be necessary to satisfy such deficiency, so that obligations of the City for payment of principal and interest to registered owners of the Prior Bonds will be fulfilled.

8. The City authorizes and directs the Escrow Agent, on behalf of the City, to do all acts and things that shall be necessary or desirable, from time to time, to effectuate the withdrawal and/or collection of amounts under the SLGS and the Investment Purchase Agreement, as such shall become due and payable; and, in connection therewith, the City covenants and agrees to execute and deliver any additional documents and/or to perform any other acts that may be required from time to time.

9. The City hereby covenants and agrees that it will not direct the Escrow Agent to take any action or make any investment or the use of any moneys deposited hereunder or any other moneys held by the Escrow Agent hereunder or otherwise, and the Escrow Agent covenants that it will not take any action or make any investment or other use of such moneys, which action, investment or use would cause the Prior Bonds or the 1988 Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code") and the regulations thereunder.

The City and the Escrow Agent each hereby covenants and agrees that it will neither take nor omit to take any action, nor will they make any use or investment of any of the amounts held hereunder, which action, use or investment would cause the

Prior Bonds or the 1988 Bonds to be "arbitrage bonds" as defined in Section 148 of the Code and the regulations thereunder and that each will comply with the provisions of such Section 148 throughout the term of the 1988 Bonds.

10. Records of the Escrow Agent relating to this Agreement and the performance of duties and responsibilities assumed by the Escrow Agent pursuant to this Agreement shall be open to inspection by the City and/or its duly authorized agents and/or representatives, at reasonable times, upon reasonable request.

11. This Agreement shall be binding upon the City and the Escrow Agent and their respective successors in interest, from time to time.

12. This Agreement, in general, and each part of this Agreement, in particular, immediately upon execution and delivery hereof and at all times thereafter, shall be and shall be construed to be irrevocable.

13. Money or investments, if any, that may be in the possession of the Escrow Agent on or after November 2, 1995, pursuant to provisions hereof, and that shall not be required to meet obligations of the City with respect to the outstanding obligations, promptly shall be refunded to the City or shall be disbursed by the Escrow Agent as shall be directed, in writing, by the City.

14. The City and the Escrow Agent shall take or cause to be taken all action necessary in order to fully protect the security of the owners of the Prior Bonds and the right, title and interest of the Escrow Agent in and to the principal and interest with respect to the moneys and securities held hereunder.

15. The Escrow Agent shall not be liable for any loss resulting from any investment made pursuant to this Agreement in compliance with the provisions hereof. The Escrow Agent shall have no lien, charge or any other claim whatsoever (and the Escrow Agent irrevocably and expressly waives its rights to assert any lien, charge or other claim) upon any of the moneys or investments in the Escrow Fund for the payment of fees and expenses for services rendered by the Escrow Agent under this Agreement or likewise.

16. In the event of the Escrow Agent's failure to account for any of the securities or moneys received by it, said securities or moneys shall be and remain the property of the City in trust for the owners of the Prior Bonds, as herein provided; and if for any reason such securities or moneys are not applied as herein provided, the assets of the Escrow Agent shall be impressed

with a trust for the amount thereof until the required application shall be made.

17. The Escrow Agent may, at any time or from time to time, perform its duties hereunder through an agent which is a bank, trust company or bank and trust company.

18. Any provision of this Agreement expressly recognizing or granting rights to AMBAC Indemnity Corporation may not be amended in any manner which affects the rights of AMBAC Indemnity Corporation hereunder without the prior written consent of AMBAC Indemnity Corporation.

IN WITNESS WHEREOF, the City and the Escrow Agent have caused this Agreement duly to be executed and delivered this 30th day of November, 1988.

CITY OF FAIRMONT

By _____
Mayor

_____
City Manager

Attest: _____
City Clerk

(SEAL)

WEST VIRGINIA MUNICIPAL
BOND COMMISSION

By _____
Authorized Officer

Attest: _____
Authorized Officer

(SEAL)

EXHIBIT "A" - SLGS to be Purchased with 1988 Bond Proceeds
EXHIBIT "B" - Refunding and Verification Report
EXHIBIT "C" - Principal and Interest on Prior Bonds through November 1, 1993 to be paid from the SLGS

EXHIBIT "A"

UNITES STATES TREASURY OBLIGATIONS
STATE AND LOCAL GOVERNMENT SERIES

Principal Amount	Interest Rate	Issue Date	Maturity Date
$244,600	0.00%	11/30/88	5/1/89
339,200	0.00	11/30/88	11/1/89
225,500	7.22	11/30/88	5/1/90
348,700	7.33	11/30/88	11/1/90
242,300	7.38	11/30/88	5/1/91
376,200	7.42	11/30/88	11/1/91
260,500	7.45	11/30/88	5/1/92
405,100	7.48	11/30/88	11/1/92
280,100	7.50	11/30/88	5/1/93
435,700	7.51	11/30/88	11/1/93

EXHIBIT "B"

The Refunding Report

EXHIBIT "C"

Principal and Interest on
Prior Bonds Through November 1, 1993
to be paid from the SLGS

Payment Date	Total Debt Service
May 1, 1989	$324,764
November 1, 1989	434,764
May 1, 1990	321,052
November 1, 1990	436,052
May 1, 1991	316,883
November 1, 1991	441,883
May 1, 1992	312,196
November 1, 1992	447,196
May 1, 1993	306,964
November 1, 1993	451,964

ALL-STATE LEGAL SUPPLY CO., ONE COMMERCE DRIVE, CRANFORD NJ RSEY 07016

ED 11-2C

LIMITED PURPOSE REPORT

CITY OF FAIRMONT, WEST VIRGINIA

Refunding of a Portion of
City of Fairmont
Marion County, West Virginia
Sewerage System Refunding Revenue Bonds, Series 1985

By the Issuance of
City of Fairmont
Marion County, West Virginia
Sewerage System Refunding Revenue Capital Appreciation Bonds
Series 1988

Clymer Merves & Amon

Certified Public Accountants

Fifty South Providence Road
Media, Pennsylvania 19063
(215) 565-1120
FAX (215) 565-1159

City of Fairmont, West Virginia
200 Jackson Street
Fairmont, WV 26554

Steptoe and Johnson
P.O. Box 2190
Clarksburg, WV 26301

Stevens & Lee, P.C.
P.O. Box 679
607 Washington Street
Reading, PA 19603

We have reviewed, as to compilation and arithmetic computation only, the accompanying summary of funding of debt service requirements and related Schedules 1 through 7 of the City of Fairmont, Marion County, West Virginia, (the "City"), prepared as of November 30, 1988, in connection with the refunding of a portion of the City of Fairmont, West Virginia Sewerage System Refunding Revenue Bonds, Series 1985 (the "Bonds to be Refunded"). The computations are based solely on the information summarized in the accompanying summary of computational factors.

In our opinion, the accompanying summary of funding of debt service requirements and related Schedules 1 through 7 present fairly and accurately the compilation and arithmetical computation of (1) the debt service requirements of the Bonds to be Refunded and the City's Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988; (2) the Investment principal and interest to be received; (3) the excess sources of funds over debt service requirements of the Bonds to be Refunded, and (4) the computations related to transferred proceeds. It is also our opinion that the investment principal and interest, when paid by the United States government, will be sufficient to pay all interest on the Bonds to be Refunded and to pay, at maturity or earlier call date, all principal of the Bonds to be Refunded.

This report is solely for your information and for use in connection with the above-mentioned refunding and is not to be quoted or used or circulated for any other purpose except that it may be included in the closing documents and referred to by Bond Counsel in connection with the refunding.

Clymer Merves & Amon

November 30, 1988

One Windy Drive, Blackwood, New Jersey 08012 • (609) 963-1120

CITY OF FAIRMONT, WEST VIRGINIA
SUMMARY OF FUNDING OF DEBT SERVICE REQUIREMENTS

Sources of Funds to Meet Debt Service Requirements	
Investments	
United States Treasury Securities - State and Local Government Series (Schedule 4)	
Principal	$3,157,900.00
Interest	635,950.95
Open Market Securities (Schedule 5)	5,288,043.00
	9,081,893.95
Debt Service Requirements	
Bonds to be Refunded, Series 1985 (Schedule 2)	9,078,718.80
Excess Sources of Funds Over Debt Service Requirements	$ 3,175.15

The accompanying summary of computational factors is an integral part of this summary.

CITY OF FAIRMONT, WEST VIRGINIA
FUNDING OF DEBT SERVICE REQUIREMENTS
SERIES 1985

Period Ending	Debt Service Requirements Refunded Bonds (Schedule 2)	Available Sources: State and Local Government Series (Schedule 4)	Available Sources: Open Market Securities (Schedule 5)	Cumulative Excess Sources of Funds Over Debt Service Requirements
50189	$ 324764.38	$ 324829.93	$ 0.00	$ 65.55
110189	434764.38	434736.95	0.00	38.12
50190	321051.88	321036.95	0.00	23.19
110190	436051.88	436096.40	0.00	67.71
50191	316883.13	316916.54	0.00	101.12
110191	441883.13	441875.67	0.00	93.66
50192	312195.63	312218.65	0.00	116.68
110192	447195.63	447115.03	0.00	36.08
50193	306964.38	306964.29	0.00	35.99
110193	451964.38	452060.54	0.00	132.15
50194	0.00	0.00	0.00	132.15
110194	0.00	0.00	0.00	132.15
50195	0.00	0.00	0.00	132.15
110195	5285000.00	0.00	5288043.00	3175.15
	$9078718.80	$3793850.95	$5288043.00	

The accompanying summary of computational factors is an integral part of this schedule.

Schedule 1

CITY OF FAIRMONT, WEST VIRGINIA
PORTION OF DEBT SERVICE REQUIREMENTS TO BE REFUNDED
SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1985

Period Ending	Interest Rate	Principal (Note 1)	Interest (Note 1)	Total Debt Service to be Refunded
50189		$	$ 324764.38	$ 324764.38
110189	6.750	110000	324764.38	434764.38
50190			321051.88	321051.88
110190	7.250	115000	321051.88	436051.88
50191			316883.13	316883.13
110191	7.500	125000	316883.13	441883.13
50192			312195.63	312195.63
110192	7.750	135000	312195.63	447195.63
50193			306964.38	306964.38
110193	8.000	145000	306964.38	451964.38
50194			0.00	0.00
110194		0	0.00	0.00
50195			0.00	0.00
110195	(Schedule 3)	5285000	0.00	5285000.00
		$5915000	$3163718.80	$9078718.80

The accompanying summary of computational factors is an integral part of this schedule.

Schedule 2

CITY OF FAIRMONT, WEST VIRGINIA
DEBT SERVICE REQUIREMENTS TO MATURITY
SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1985

Period Ending	Interest Rate	Principal (Note 1)	Interest (Note 1)	Total
50189		$	$ 324764.38	$ 324764.38
110189	6.750	110000	324764.38	434764.38
50190			321051.88	321051.88
110190	7.250	115000	321051.88	436051.88
50191			316883.13	316883.13
110191	7.500	125000	316883.13	441883.13
50192			312195.63	312195.63
110192	7.750	135000	312195.63	447195.63
50193			306964.38	306964.38
110193	8.000	145000	306964.38	451964.38
50194			301164.38	301164.38
110194	8.200	155000	301164.38	456164.38
50195			294809.38	294809.38
110195	8.400	170000	294809.38	464809.38
50196			287669.38	287669.38
110196	8.600	185000	287669.38	472669.38
50197			279714.38	279714.38
110197	8.800	200000	279714.38	479714.38
50198			270914.38	270914.38
110198	9.000	215000	270914.38	485914.38
50199			261239.38	261239.38
110199	9.100	235000	261239.38	496239.38
50100			250546.88	250546.88
110100	9.375	255000	250546.88	505546.88
50101			238593.75	238593.75
110101	9.375	280000	238593.75	518593.75
50102			225468.75	225468.75
110102	9.375	305000	225468.75	530468.75
50103			211171.88	211171.88
110103	9.375	335000	211171.88	546171.88
50104			195468.75	195468.75
110104	9.375	370000	195468.75	565468.75
50105			178125.00	178125.00
110105	9.500	400000	178125.00	578125.00
50106			159125.00	159125.00
110106	9.500	440000	159125.00	599125.00
50107			138225.00	138225.00
110107	9.500	480000	138225.00	618225.00
50108			115425.00	115425.00
110108	9.500	525000	115425.00	640425.00
50109			90487.50	90487.50
110109	9.500	580000	90487.50	670487.50
50110			62937.50	62937.50
110110	9.500	630000	62937.50	692937.50
50111			33012.50	33012.50
110111	9.500	695000	33012.50	728012.50
		$7085000	$10351916.38	$17436916.38

The accompanying summary of computational factors is an integral part of this schedule.

CITY OF FAIRMONT, WEST VIRGINIA
INVESTMENTS TO BE PURCHASED AND PRESENT VALUE CALCULATIONS
UNITED STATES TREASURY SECURITIES - STATE AND LOCAL GOVERNMENT SERIES

Period Ending	Interest Rate	Principal (Note 2)	Interest (Note 2)	Total	Present Value Factor (Note 5)	Present Value (Note 5)
50189	0.00	$ 244600	$ 80229.93	$ 324829.93	.96965371	$ 314972.55
110189	0.00	339200	95536.95	434736.95	.93468014	406339.99
50190	7.22	225500	95536.95	321036.95	.90096800	289244.02
110190	7.33	348700	87396.40	436096.40	.86847180	378737.43
50191	7.38	242300	74616.54	316916.54	.83714767	265305.94
110191	7.42	376200	65675.67	441875.67	.80695335	356573.05
50192	7.45	260500	51718.65	312218.65	.77784807	242858.67
110192	7.48	405100	42015.03	447115.03	.74979257	335243.53
50193	7.50	280100	26864.29	306964.29	.72274898	221858.13
110193	7.51	435700	16360.54	452060.54	.69668079	314941.89
		$3157900	$635950.95	$3793850.95		$3126075.20

The accompanying summary of computational factors is an integral part of this schedule.

CITY OF FAIRMONT, WEST VIRGINIA
INVESTMENTS TO BE PURCHASED
OPEN MARKET UNITED STATES TREASURY SECURITIES

Period Ending	Interest Rate	Principal (Note 3)	Interest (Note 3)	Total
50189		$ 0	$0.00	$ 0.00
110189		0	0.00	0.00
50190		0	0.00	0.00
110190		0	0.00	0.00
50191		0	0.00	0.00
110191		0	0.00	0.00
50192		0	0.00	0.00
110192		0	0.00	0.00
50193		0	0.00	0.00
110193		0	0.00	0.00
50194		0	0.00	0.00
110194		0	0.00	0.00
50195		0	0.00	0.00
110195	0.00	5288043	0.00	5288043.00
		$5288043	$0.00	$5288043.00

The accompanying summary of computational factors is an integral part of this schedule.

CITY OF FAIRMONT, WEST VIRGINIA
DEBT SERVICE REQUIREMENTS AND PRESENT VALUE CALCULATIONS
SEWERAGE SYSTEM REFUNDING REVENUE CAPITAL APPRECIATION BONDS, SERIES 1988

Period Ending	Interest Rate	Principal (Note 4)	Interest (Note 4)	Total	Present Value Factor (Note 5)	Present Value (Note 5)
50189		$	$	$	.96964985	$ 0.00
110189		0	0.00	0	.93467198	0.00
50190		0		0	.90095586	0.00
110190		0	0.00	0	.86845597	0.00
50191		0		0	.83712844	0.00
110191		0	0.00	0	.80693098	0.00
50192		0		0	.77782282	0.00
110192		0	0.00	0	.74976467	0.00
50193		0		0	.72271865	0.00
110193		0	0.00	0	.69664825	0.00
50194		0		0	.67151829	0.00
110194		0	0.00	0	.64729482	0.00
50195		0		0	.62394517	0.00
110195		0	0.00	0	.60143780	0.00
50196		0		0	.57974233	0.00
110196	0.00	500000	0.00	500000	.55882947	279414.74
50197		0		0	.53867099	0.00
110197	0.00	500000	0.00	500000	.51923969	259619.85
50198		0		0	.50050932	0.00
110198	0.00	500000	0.00	500000	.48245461	241227.31
50199		0		0	.46505118	0.00
110199	0.00	500000	0.00	500000	.44827554	224137.77
50100		0		0	.43210504	0.00
110100	0.00	745000	0.00	745000	.41651786	310305.81
50101		0		0	.40149295	0.00
110101	0.00	755000	0.00	755000	.38701002	292192.57
50102		0		0	.37304953	0.00
110102	0.00	755000	0.00	755000	.35959264	271492.44
50103		0		0	.34662117	0.00
110103	0.00	755000	0.00	755000	.33411762	252258.80
50104		0		0	.32206510	0.00
110104	0.00	760000	0.00	760000	.31044735	235939.99
50105		0		0	.29924868	0.00
110105	0.00	755000	0.00	755000	.28845398	217782.75
50106		0		0	.27804867	0.00
110106	0.00	755000	0.00	755000	.26801871	202354.13
50107		0		0	.25835056	0.00
110107	0.00	755000	0.00	755000	.24903117	188018.53
50108		0		0	.24004795	0.00
110108	0.00	755000	0.00	755000	.23138877	174698.52
50109		0		0	.22304196	0.00
110109	0.00	760000	0.00	760000	.21499624	163397.14
50110		0		0	.20724075	0.00
110110	0.00	755000	0.00	755000	.19976502	150822.59
50111		0		0	.19255896	0.00
110111	0.00	760000	0.00	760000	.18561285	141065.77
		$11065000	$0.00	$11065000		$3604728.71

The accompanying summary of computational factors is an integral part of this schedule.

CITY OF FAIRMONT, WEST VIRGINIA
COMPUTATION OF TRANSFERRED PROCEEDS
1985 ESCROW TRANSFERRED

Transferred Decimal Calculation (Note 6)

Period Ending	Principal Outstanding	Principal Maturities	Gross Decimal
110189	$7085000.00	$ 110000.00	0.01552576
110190	6975000.00	115000.00	0.01648746
110191	6860000.00	125000.00	0.01822157
110192	6735000.00	135000.00	0.02004454
110193	6600000.00	145000.00	0.02196970

Transferred Proceeds Penalty Calculation (Note 6)

Date of Transfer	Transfer Factor	Cash Proceeds	Transferred Proceeds	Present Value Original Yield	Present Value Refunding Yield	Transfer Difference	Present Value Factor	Present Value Transfer Adjustment
110189	.01552576	$8683385.45	$134816.15	$83592.13	$92695.87	($9103.75)	.93467198	($ 8509.02)
110190	.01648746	7699035.76	126937.51	81088.91	89441.07	(8352.17)	.86845597	(7253.49)
110191	.01822157	6875129.23	125275.68	83338.18	91170.19	(7832.01)	.80693098	(6319.89)
110192	.02004454	6064741.55	121564.98	84271.91	91411.81	(7139.90)	.74976467	(5353.25)
110193	.02196970	5271215.53	115807.01	83715.38	90013.93	(6298.54)	.69664825	(4387.87)
								($31823.52)

The accompanying summary of computational factors is an integral part of this schedule.

CITY OF FAIRMONT, WEST VIRGINIA
SUMMARY OF COMPUTATIONAL FACTORS

The summary of funding of debt service requirements and the related schedules were compiled for the purpose of providing information with respect to the contemplated refunding of a portion of City of Fairmont, West Virginia Sewerage System Refunding Revenue Bonds, Series 1985 (the "Bonds to be Refunded"). The refunding of such bonds is to be accomplished by the issuance of City of Fairmont, West Virginia Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988 (the "1988 Bonds") and depositing in escrow for the benefit of the holders of the Bonds to be Refunded, certain of the bond proceeds. A summary of the computational factors used in the compilation of the summary and schedules follows:

Note 1 Bonds to be Refunded

The debt service requirements of the Sewerage System Refunding Revenue Bonds, Series 1985 (Schedule 3) are computed in accordance with the Official Statement of the City of Fairmont, Marion County, West Virginia dated October 10, 1985. The debt service requirements of the Bonds to be Refunded (Schedule 2) are computed in accordance with information provided by Butcher & Singer Inc. Bonds maturing on or after November 1, 1995 are redeemable at 100% of the principal amount thereof plus accrued interest to the redemption date.

Note 2 Investments to be Purchased

The investments to be purchased on November 30, 1988 with Bond proceeds (Schedule 4) are based on the Subscription for Purchase and Issue of United States Treasury Securities - State and Local Government Series, dated November 3, 1988 from the City in the aggregate principal amount of $3,157,900.

Note 3 Investments - Open Market Securities

Open Market Securities to be purchased and the funds available on November 1, 1995 are based on information provided by Butcher & Singer Inc.

Note 4 The 1988 Bonds

The debt service requirements of the 1988 Bonds are computed in accordance with the Bond Purchase Proposal, dated October 25, 1988, for City Council of the City of Fairmont, West Virginia from Butcher & Singer Inc. The schedule of debt service requirements does not give effect to any optional redemption provisions for the 1988 Bonds.

CITY OF FAIRMONT, WEST VIRGINIA
SUMMARY OF COMPUTATIONAL FACTORS

Note 5 Present Value Calculations

As defined in Section 1.103-13(c)(1)(ii) of the regulations promulgated by the Secretary of the Treasury pursuant to Section 103(c) of the Internal Revenue Code of 1954, as amended, "...the term "yield" means that yield which, when used in computing the present worth of all payments of principal and interest to be paid on an obligation, produces an amount equal to the purchase price."

The following is a summary of the present value calculations as of November 30, 1988, of the future receipts of principal and interest on Investments to be purchased with 1988 Bond proceeds using 7.483537% as the discount factor:

Investment Purchase Price	
1985 Investments (Schedule 4) -	$3,157,900.00
Transferred Proceeds Penalty (Schedule 7) -	(31,823.52)
	$3,126,076.48

Present Value	
1985 Investments (Schedule 4) -	$3,126,075.20

The following is a summary of the present value calculations as of November 30, 1988, of the future payments of principal and interest of the 1988 Bonds using 7.484522% as the discount factor:

Bond Purchase Price	- $ 3,604,728.33
Cash Flows (Schedule 6)	- 11,065,000.00
Present Value (Schedule 6)	- 3,604,728.71

The 1988 Bond purchase price referred to above was calculated as follows:

Bond Principal	$11,065,000.00
Original Issue Discount	(7,384,679.50)
	3,680,320.50
Insurance	(75,592.17)
	$ 3,604,728.33

Note 6 Transferred Proceeds

Regulation Section 1.103-14(e)(2)(ii) states in part, "At the time that proceeds of the refunding issue discharge the outstanding principal of the prior issue, proceeds of the prior issue become proceeds of the refunding issue (hereinafter referred to as 'transferred proceeds') and cease to be proceeds of the prior issue. In the case of the discharge of the portion of such principal, the amount of proceeds of the prior issue that becomes transferred is an amount which bears the same relationship to the total proceeds of such prior issue at the time of such discharge as the amount of such discharged principal bears to the total principal of the prior issue outstanding immediately prior to such discharge." Schedule 7 includes a calculation of the decimal to be applied to the proceeds of the 1985 Bonds to be Refunded to determine the amount of those proceeds that become transferred to the 1988 Bonds and thereby subject to the yield restrictions of the 1988 Bonds.

The amount of the transferred proceeds was calculated by applying the transfer decimal to the future receipts of principal and interest of the investments purchased with 1985 Bond proceeds. Each of the future receipts was reduced on a pro rata basis by the amount of those future receipts which had been transferred to the 1988 Bonds.

The transferred proceeds penalty was calculated by discounting as of each transfer date, transferred proceeds at both the 1988 Refunding Bond yield and the yield of the 1985 Escrow Fund (9.859912%) and calculating the difference between the two. This difference was then discounted to the date of settlement using the 1988 Bond yield as the discount factor. The yield of the 1985 escrow fund and the cash flows for the 1985 escrows are based on information contained in the accountants verification report which was prepared in conjunction with the issuance of the 1985 Bonds.

Clymer Merves & Amon

Certified Public Accountants

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Media, Pennsylvania 19063
(215) 565-1120
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City of Fairmont, West Virginia
200 Jackson Street
Fairmont, WV 26554

Steptoe and Johnson
P.O. Box 2190
Clarksburg, WV 26301

Stevens & Lee, P.C.
P.O. Box 679
607 Washington Street
Reading, PA 19603

We have computed the "yield" as that term is defined by the Internal Revenue Code of 1986 as amended (the "Code"), and by Regulation Section 1.103-13(c), promulgated by the Secretary of the Treasury pursuant to Section 103(c) of the Internal Revenue Code of 1954, as amended, using a 360-day year compounding semi-annually, of (1) the $11,065,000 aggregate principal amount of Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988 (the "1988 Bonds") which the City of Fairmont, Marion County, West Virginia (the "City") agreed to sell to Butcher & Singer Inc. for settlement on November 30, 1988, and (2) the $3,157,900 aggregate principal amount of United States Treasury Securities - State and Local Government Series (the "Investments") which the City agreed to purchase on November 30, 1988.

Such yields have been computed following an actuarial method whereby the yield, when used in computing the present value of all payments of principal and interest to be paid on the obligation, produces an amount equal to the purchase price of such obligation in accordance with Section 1273(b) of the Code. The computations were made based on the maturity dates, principal amounts, interest rates and issue price of the 1988 Bonds and the Investments shown in our Limited Purpose Report to the City, dated November 30, 1988, issued in connection with the refunding of a portion of City of Fairmont, West Virginia Sewerage System Refunding Revenue Bonds, Series 1985. The transferred proceeds penalty has been treated as a discount on the purchase price of the Investments.

Based solely on the factors set forth in the preceding paragraphs, the computed yield on the 1988 Bonds is not less than 7.484522%, and the computed yield on the Investments is not greater than 7.483537%.

This report is solely for your information and for use in connection with the above-mentioned refunding and is not to be quoted or used or circulated for any other purpose, except that it may be included in the closing documents and referred to by Bond Counsel in connection with the refunding.

Clymer Merves & Amon

November 30, 1988

One Windy Drive, Blackwood, New Jersey 08012 • (609) 963-1120

Rating: Standard & Poor's: "AAA"
Moody's: "Aaa"
MIC-PAC Insured
AMBAC Reinsured
(See "Rating" herein)

New Issue

In the opinion of Bond Counsel (rendered in reliance on the opinion of Special Tax Counsel that the Series 1988 Bonds are not "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended and that the Bonds are not described in Sections 149(d)(3) or (4) of the Internal Revenue Code of 1986, as amended), under existing laws, regulations, rulings and judicial decisions of the United States of America as presently written and applied, amounts treated as interest on the Series 1988 Bonds are excludable from the gross income of the recipients thereof for federal income tax purposes and such interest will not be treated as a preference item in calculating the alternative minimum tax that may be imposed on individuals and corporations. With respect to corporations, however, such interest on the Series 1988 Bonds will be taken into account in determining adjusted net book income or adjusted current earnings of a corporation to the extent the applicable portion of such book income or current earnings exceeds such corporation's alternative minimum tax for purposes of computing the alternative minimum tax and the environmental tax that may be imposed upon such corporation; and, under existing laws of the State of West Virginia, as presently written and applied, the Series 1988 Bonds are exempt from direct taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof, and the amounts treated as interest on the Series 1988 Bonds are exempt from personal and corporate income taxes imposed directly thereon by the State of West Virginia.

$3,680,320.50

City of Fairmont

Marion County, West Virginia

Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988

Dated: November 30, 1988
Due: November 1, as shown below

Denominations: Integral multiples of $5,000
Form: Fully Registered

Maturity Schedule

Year	Maturity Value	Present Value	Yield	Dollar Price	Year	Maturity Value	Present Value	Yield	Dollar Price
1996	$500,000	$298,975	6.60%	.59795	2004	$760,000	$239,020	7.40%	.31450
1997	500,000	277,770	6.70	.55554	2005	755,000	217,229	7.50	.28772
1998	500,000	257,570	6.80	.51514	2006	755,000	198,354	7.60	.26272
1999	500,000	238,380	6.90	.47676	2007	755,000	180,770	7.70	.23943
2000	745,000	328,091	7.00	.44039	2008	755,000	166,017	7.75	.21989
2001	755,000	306,538	7.10	.40601	2009	760,000	154,880	7.75	.20379
2002	755,000	282,060	7.20	.37359	2010	755,000	142,597	7.75	.18887
2003	755,000	259,041	7.30	.34310	2011	760,000	133,030	7.75	.17504

Payable: The Bonds are payable at Maturity at the principal office of City National Bank of Fairmont, Fairmont, West Virginia, as Registrar and Paying Agent.

Redemption: The Series 1988 Bonds are not subject to optional redemption prior to maturity.

Purpose: Proceeds of the Series 1988 Bonds are being used to (1) provide moneys to advance refund a portion of the City's Sewerage System Refunding Revenue Bonds, Series 1985 (the "1985 Bonds"); (2) pay the costs of certain additions and improvements to the City's Sewerage System; and (3) pay costs related to such refunding and the issuance of the Series 1988 Bonds.

Security: The Series 1988 Bonds are payable from and secured by the net revenues derived from the operation of the Sewerage System of the City and any additions, betterments and improvements thereto, and by moneys in the Reserve Account and the Depreciation Fund. Such Series 1988 Bonds are secured on a parity with $6,455,000 remaining principal amount of 1985 Bonds which will not be refunded by the Series 1988 Bonds. The Series 1988 Bonds do not constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation and the City shall not be obligated to pay the Series 1988 Bonds or the interest thereon except from such net revenues and moneys in said Reserve Account and Depreciation Fund. Payment of such Series 1988 Bonds is further assured by a municipal bond insurance policy to be issued by MIC Property and Casualty Insurance Corporation and fully reinsured by AMBAC Indemnity Corporation simultaneously with the delivery of the Bonds. Neither the credit nor the taxing power of the City shall be deemed to be pledged to, nor shall a tax ever be levied for, the payment of the principal of or interest on the Series 1988 Bonds.

Butcher & Singer Inc.

The Bonds are offered by the Underwriter when, as and if issued, subject to the unqualified approving legal opinion of Steptoe and Johnson, Clarksburg, West Virginia, Bond Counsel, to be furnished upon delivery of the Bonds. Certain federal income tax matters will be passed upon by Stevens & Lee, Reading, Pennsylvania, Special Tax Counsel. Certain legal matters pertaining to the City will be passed upon by the City Attorney, Courtney A. Ryan, Esquire, Fairmont, West Virginia. The Bonds are expected to be available for delivery in definitive form in Philadelphia, Pennsylvania, on or about November 30, 1988.

This Official Statement is dated October 25, 1988.

CITY OF FAIRMONT, WEST VIRGINIA

CITY COUNCIL

Carl J. Snyder
Robert M. Drummond, Jr.
Jack W. Bunner
Carol J. Hinton
Ronald J. Straight
John Carl Cosco
Faith M. Bowyer
Michael F. Welty
Manuel Garcia

MAYOR
Robet M. Drummond, Sr.

CITY MANAGER
Edwin J. Thorne

ASSISTANT CITY MANAGER
Mr. Robert T. Grimm

CITY CLERK
Debra M. Bohan

CITY ATTORNEY
Courtney A. Ryan, Esquire

FINANCE DIRECTOR
Margaret Rider

UTILITY MANAGER
E. Bruce McDaniel

BOND COUNSEL
Steptoe and Johnson
Clarksburg, West Virginia

SPECIAL TAX COUNSEL
Stevens & Lee
Reading, Pennsylvania

AUDITORS
Trainer, Wright & Associates, CPAs

UNDERWRITER
Butcher & Singer Inc.
Philadelphia, Pennsylvania

REGISTRAR AND PAYING AGENT
City National Bank of Fairmont
Fairmont, West Virginia

The information contained in this Official Statement has been obtained from the City and other sources which are believed to be reliable, but is not guaranteed as to accuracy or completeness and is not to be construed as a representation by the Underwriter. The information and expressions of opinion contained herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the System since the date hereof. This Official Statement is submitted in connection with the sale of securities referred to herein, and may not be reproduced or used, in whole or in part, for any other purpose.

No dealer, broker, salesman or other person has been authorized by the City or the Underwriter to give any information or to make any representation other than as contained in this Official Statement in connection with the offering described herein and, if given or made, such other information or representation must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer of any securities, other than those described on the cover page, or an offer to sell or a solicitation of an offer to buy in any jurisdiction in which it is unlawful to make such offer, solicitation or sale.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVERALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SERIES 1988 BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZATION, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

TABLE OF CONTENTS

Introduction 1
The Series 1988 Bonds 2
Security for the Series 1988 Bonds 4
Plan of Financing 6
The System 7
Summary of Certain Provisions of the Ordinance 12
Rating and Insurance 18
Tax Exemption 18
No Litigation 18
Underwriting 19
Approval of Legality 19
Mathematical Verification 19
Miscellaneous 19
Appendix A—General Information Regarding the City A-1
Appendix B—Form of Opinion of Bond Counsel B-1
Appendic C—Form of Municipal Bond Insurance Policy C-1

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OFFICIAL STATEMENT

$3,680,320.50
CITY OF FAIRMONT
Marion County, West Virginia

Sewerage System Refunding Revenue Capital Appreciation Bonds
Series 1988

INTRODUCTION

This Official Statement, including the cover page and appendices hereto, is provided to set forth certain information concerning the City of Fairmont, West Virginia (the "City"), the City's existing sewerage system and the City's $3,680,320.50 Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988 (the "Series 1988 Bonds"). The Series 1988 Bonds are being issued pursuant to the Constitution and laws of the State of West Virginia (the "State"), particularly Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended (the "Act"), and Ordinance No. 680 enacted by the Council of the City on August 13, 1985, as supplemented and amended by a supplemental and amendatory ordinance enacted October 25, 1988 and a supplemental resolution adopted October 25, 1988 (said ordinance as so supplemented and amended, the "Ordinance").

The proceeds of the Series 1988 Bonds will be used: (1) to advance refund a portion of the City's existing Sewerage System Revenue Refunding Bonds, Series 1985 (the "1985 Bonds"); (2) pay the costs of certain additions and improvements to the City's Sewerage System and; (3) to pay all costs and expenses associated with such refunding and the issuance of the Series 1988 Bonds.

A portion of the Series 1985 Bonds maturing from November 1, 1994 to November 1, 2011 in the aggregate principal amount of $6,455,000, are not being advance refunded as part of this financing, but will remain outstanding on a parity with the Series 1988 Bonds.

The Series 1988 Bonds are payable from and secured by the net Revenues (as hereinafter defined under the heading "SECURITY FOR THE SERIES 1988 BONDS — Source of Payment") derived from the operation of the existing sewerage system now owned by the City (together with any additions, betterments and improvements thereto, the "System") and by the moneys in the Reserve Account and the Depreciation Fund. The Series 1988 Bonds do not constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation and the City shall not be obligated to pay the Series 1988 Bonds or the interest thereon except from such net Revenues and moneys. Pursuant to the Ordinance, the City has covenanted and agreed to establish, revise and maintain such just and equitable rates or charges for the use of the System and its services as will produce Gross Revenues sufficient to equal at least 125 percent of the average annual amount required to pay, as the same become due, the interest on and principal of, and to accomplish retirement of, all obligations for the payment of which such net Revenues have or shall have been pledged, charged or otherwise encumbered and to leave a balance, after said 125 percent, at least sufficient to provide for all reasonable operating expenses of the System. See "SECURITY FOR THE SERIES 1988 BONDS — Rate Covenant."

The City has received a commitment from AMBAC Indemnity Corporation for a policy of insurance on the Series 1988 Bonds unconditionally guaranteeing the timely payment of principal of and interest on the Series 1988 Bonds. See "RATING AND INSURANCE."

The City may issue additional bonds on a parity with the Series 1988 Bonds and with the nonrefunded 1985 Bonds (any such bonds, together with the nonrefunded 1985 Bonds and the Series 1988 Bonds, collectively, the "Bonds") for the purpose of financing the costs of the construction of additions, betterments or improvements to the System and/or refunding one or more series of Bonds subject to certain tests and conditions specified by the Ordinance. See "SECURITY FOR THE SERIES 1988 BONDS — Additional Parity Bonds."

Brief descriptions of the Series 1988 Bonds, the System and the Ordinance are set forth in this Official Statement, which descriptions do not purport to be comprehensive. All references herein to the Ordinance, the Act and other documents, statutes, reports or instruments are qualified in their entirety by reference to such documents, References herein to the Series 1988 Bonds are qualified in their entirety by reference to the form thereof included in the Ordinance and the information with respect thereto included in the aforesaid documents. Capitalized terms used but not defined in this Official Statement shall have the meanings ascribed to them in the Ordinance. Copies of such documents may be obtained from the City or, during the period of the offering of the Series 1988 Bonds, from the Underwriter.

THE SERIES 1988 BONDS

The Bonds are capital appreciation bonds — bonds which by their terms do not bear current interest. The Bonds are being issued in the present value principal amount of $3,680,320.50 and are in the stated maturity value of $11,065,000. The Bonds will be issued in fully registered form, in denominations of $5,000 of the stated maturity value or any multiple thereof. The stated maturity value of the Bonds is payable upon maturity, to the registered owner, upon presentation and surrender at the principal corporate trust office of the Registrar, in Fairmont, West Virginia.

The Series 1988 Bonds will be dated November 30, 1988 and will mature in the amounts equal to the principal maturity values which are set forth on the cover page hereof. The principal plus the interest accrued on a Series 1988 Bond to any given date is its "Accreted Value". The Accreted Value per $5,000 maturity amount at each sequential November 1 & May 1 is shown in the "Accreted Value — Series 1988 Bonds" table shown on the following page. The Accreted Value of the Series 1988 Bonds on any other date is calculated on the assumption that such Accreted Value increases in equal daily amounts on the basis of a year of 360 days of twelve 30-day months.

Registration and Transfer

City National Bank of Fairmont has been appointed registrar and paying agent for the City and as such will maintain the books of the City for the registration of ownership of each Bond.

Bonds may be transferred upon the registration books upon delivery to the Registrar of such Bond, accompanied by a written instrument or instruments of transfer in form and with guaranty of signature satisfactory to the Registrar, duly executed by the owner of the Bonds to be transferred or his attorney-in-fact or legal representative, containing written instructions as to the details of the transfer of such Bonds and other information requested by the Trustee pursuant to its reasonable regulations. No transfer of any Bond will be effective unless and until made on the registration books. Transfer will be made at no administrative cost to the owners of the Bonds other than the collection of state or local taxes, if any, imposed on such transfers.

In all cases of the transfer of a Bond, the Registrar will enter the transfer of ownership in the registration books and will authenticate and deliver in the name of the transferee or transferees a new fully registered Bond or Bonds of authorized denominations of the same maturity for the aggregate principal amount which the registered owner is entitled to receive at the earliest practicable time in accordance with the provisions of the Indenture.

The City and the Registrar will not be required (1) to issue or transfer any Bonds during a period beginning on the fifteenth day next preceding any date of selection of Bonds to be redeemed and ending at the close of business on the day on which the applicable notice of redemption is mailed or (2) to transfer any Bonds which have been selected or called for redemption in whole or in part.

Redemption Prior to Maturity

The Series 1988 Bonds are not subject to optional redemption prior to maturity.

ACCRETED VALUE — SERIES 1988 BONDS

May 1, November 1	11/1/96 Maturity	11/1/97 Maturity	11/1/98 Maturity	11/1/99 Maturity	11/1/00 Maturity	11/1/01 Maturity	11/1/02 Maturity	11/1/03 Maturity	11/1/04 Maturity	11/1/05 Maturity	11/1/06 Maturity	11/1/07 Maturity	11/1/08 Maturity	11/1/09 Maturity	11/1/10 Maturity	11/1/11 Maturity
1989	0.61326	0.56987	0.52853	0.48925	0.45192	0.41669	0.38346	0.35221	0.32288	0.29542	0.26977	0.24588	0.22579	0.20715	0.18985	0.17384
1989	0.63372	0.58918	0.54670	0.50631	0.46791	0.43165	0.39742	0.36521	0.33496	0.30662	0.28014	0.25546	0.23464	0.21531	0.19739	0.18078
1990	0.65452	0.60880	0.56519	0.52368	0.48420	0.44688	0.41165	0.37846	0.34728	0.31805	0.29073	0.26524	0.24368	0.22366	0.20509	0.18788
1990	0.67636	0.62943	0.58462	0.54195	0.50133	0.46293	0.42664	0.39243	0.36028	0.33012	0.30190	0.27556	0.25323	0.23249	0.21323	0.19539
1991	0.69855	0.65040	0.60439	0.56045	0.51878	0.47927	0.44191	0.40668	0.37353	0.34243	0.31331	0.28611	0.26299	0.24150	0.22156	0.20306
1991	0.72186	0.67243	0.62516	0.58010	0.53714	0.49647	0.45800	0.42169	0.38751	0.35541	0.32534	0.29725	0.27329	0.25103	0.23035	0.21117
1992	0.74568	0.69495	0.64642	0.60011	0.55594	0.51410	0.47448	0.43708	0.40184	0.36874	0.33771	0.30869	0.28388	0.26082	0.23939	0.21952
1992	0.77057	0.71849	0.66864	0.62105	0.57562	0.53255	0.49176	0.45321	0.41688	0.38272	0.35068	0.32071	0.29501	0.27110	0.24889	0.22828
1993	0.79589	0.74246	0.69128	0.64238	0.59568	0.55138	0.50939	0.46968	0.43224	0.39701	0.36395	0.33301	0.30639	0.28163	0.25862	0.23726
1993	0.82245	0.76761	0.71505	0.66479	0.61676	0.57117	0.52793	0.48702	0.44841	0.41207	0.37794	0.34597	0.31840	0.29274	0.26889	0.24674
1994	0.84947	0.79322	0.73926	0.68763	0.63826	0.59136	0.54685	0.50472	0.46493	0.42745	0.39224	0.35924	0.33068	0.30411	0.27939	0.25644
1994	0.87782	0.82009	0.76467	0.71162	0.66085	0.61259	0.56676	0.52335	0.48233	0.44366	0.40731	0.37322	0.34364	0.31610	0.29048	0.26669
1995	0.90667	0.84745	0.79056	0.73607	0.68388	0.63425	0.58708	0.54237	0.50010	0.46023	0.42273	0.38753	0.35690	0.32837	0.30184	0.27718
1995	0.93692	0.87616	0.81774	0.76175	0.70808	0.65701	0.60845	0.56239	0.51881	0.47768	0.43897	0.40262	0.37088	0.34132	0.31382	0.28825
1996	0.96771	0.90538	0.84543	0.78792	0.73276	0.68024	0.63026	0.58283	0.53792	0.49552	0.45558	0.41805	0.38520	0.35458	0.32608	0.29959
1996	1.00000	0.93605	0.87450	0.81541	0.75869	0.70466	0.65321	0.60434	0.55805	0.51431	0.47309	0.43433	0.40029	0.36856	0.33902	0.31155
1997		0.96728	0.90411	0.84342	0.78514	0.72957	0.67662	0.62631	0.57861	0.53352	0.49099	0.45098	0.41574	0.38288	0.35228	0.32381
1997		1.00000	0.93519	0.87284	0.81292	0.75576	0.70125	0.64942	0.60026	0.55375	0.50985	0.46854	0.43203	0.39798	0.36626	0.33674
1998			0.96685	0.90283	0.84126	0.78248	0.72639	0.67303	0.62238	0.57443	0.52915	0.48650	0.44870	0.41343	0.38057	0.34999
1998			1.00000	0.93433	0.87103	0.81056	0.75284	0.69987	0.64566	0.59621	0.54948	0.50544	0.46628	0.42974	0.39568	0.36397
1999				0.96643	0.90139	0.83922	0.77982	0.72323	0.66945	0.61847	0.57027	0.52482	0.48427	0.44643	0.41114	0.37828
1999				1.00000	0.93329	0.86934	0.80821	0.74992	0.69450	0.64192	0.59219	0.54525	0.50325	0.46403	0.42746	0.39339
2000					0.96582	0.90008	0.83719	0.77718	0.72009	0.66590	0.61459	0.56615	0.52267	0.48205	0.44417	0.40887
2000					1.00000	0.93239	0.86766	0.80587	0.74703	0.69115	0.63821	0.58819	0.54315	0.50106	0.46180	0.42520
2001						0.96535	0.89877	0.83516	0.77455	0.71696	0.66236	0.61074	0.56410	0.52052	0.47985	0.44192
2001						1.00000	0.93148	0.86598	0.80353	0.74414	0.68781	0.63452	0.58621	0.54105	0.49889	0.45957
2002							0.96488	0.89746	0.83314	0.77193	0.71384	0.65885	0.60883	0.56206	0.51839	0.47765
2002							1.00000	0.93058	0.86431	0.80120	0.74127	0.68450	0.63268	0.58423	0.53897	0.49673
2003								0.96441	0.89615	0.83112	0.76932	0.71074	0.65710	0.60692	0.56003	0.51627
2003								1.00000	0.92968	0.86264	0.79888	0.73841	0.68285	0.63085	0.58226	0.53689
2004									0.96394	0.89485	0.82911	0.76672	0.70919	0.65535	0.60502	0.55801
2004									1.00000	0.92878	0.86097	0.79657	0.73698	0.68120	0.62903	0.58029
2005										0.96347	0.89355	0.82711	0.76542	0.70765	0.65361	0.60312
2005										1.00000	0.92788	0.85931	0.79541	0.73556	0.67956	0.62721
2006											0.96300	0.89225	0.82611	0.76413	0.70612	0.65188
2006											1.00000	0.92699	0.85848	0.79426	0.73414	0.67792
2007												0.96253	0.89160	0.82511	0.76284	0.70458
2007												1.00000	0.92654	0.85765	0.79311	0.73273
2008													0.96229	0.89096	0.82411	0.76155
2008													1.00000	0.92609	0.85682	0.79197
2009														0.96206	0.89031	0.82312
2009														1.00000	0.92565	0.85599
2010															0.96183	0.88966
2010															1.00000	0.92520
2011																0.96159
2011																1.00000

TAX ACCOUNTING TREATMENT OF INTEREST ON THE SERIES 1988 BONDS

The initial public offering price of the Series 1988 Bonds is less than the amount payable on such Bonds at maturity. The original issue discount, i.e., the difference between the initial public offering price, as set forth on the cover page of this Official Statement, and the principal amounts payable at maturity, is treated as interest to a taxpayer who has purchased in the original offering at the initial offering price and who holds a bond to maturity. Bond Counsel is of the opinion, assuming compliance by the City with certain covenants and certifications, that such original issue discount will be treated as interest that is excludable from the gross income of the recipients thereof under the Internal Revenue Code of 1986 (the "Code"), rather than as taxable capital gain, for Federal income tax purposes. See "TAX EXEMPTION".

In the case of an original holder of the Series 1988 Bonds, the amount of original issue discount which is treated as having accrued with respect to such Series 1988 Bond is added to the cost basis of the holder in determining, for Federal income tax purposes, gain or loss upon its disposition (including its sale, redemption or payment at maturity). Under Section 1288 of the Code, as added by the Tax Reform Act of 1984, interest accrues on the Series 1988 Bonds on the basis of economic accrual and the amount which is treated as interest on the Series 1988 Bonds for any particular semiannual period is equal to the product of (a) one-half of the yield on such Series 1988 Bonds and (b) the amount which would be the basis of the Series 1988 Bonds if held by the original holder. This basis can be determined by adding to the initial public offering price on such Series 1988 Bonds the sum of the amounts which would have been treated as interest for such purposes during all prior periods. The table contained above under "Terms of Series 1988 Bonds" reflects the accrual of interest on the Bonds using the method described above. If the Series 1988 Bonds are sold or otherwise disposed of between semiannual compounding dates, interest which would have accrued for the semiannual compounding period for Federal income tax purposes is to be apportioned in equal amounts among the days in such compounding period.

Owners of Series 1988 Bonds should consult their own tax advisors with respect to the determination for Federal income tax purposes of interest accured upon sale or redemption of such Bonds, and with respect to the state and local tax consequences of owning such Bonds.

SECURITY FOR THE SERIES 1988 BONDS

Source of Payments

All Bonds (including, without limitation, the Series 1988 Bonds and the nonrefunded 1985 Bonds) are secured equally and ratably by a first lien on the Net Revenues derived from the operation of the System to the extent necessary to make the deposits required under the Ordinance to the Sinking Fund, the Reserve Account, and the Depreciation Fund. See "SUMMARY OF CERTAIN PROVISIONS OF THE ORDINANCE — Application of System Revenues." "Net Revenues" are defined under the Ordinance to be the aggregate gross operating and non-operating revenues of the System, determined in accordance with generally accepted accounting principles, after deduction of Operating Expenses, prompt payment discounts, if any, and reasonable provision for uncollectible accounts; but not including any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including certain qualified investments) or any fees paid by customers of the System initially to connect thereto or for the furnishing by the City of miscellaneous services. The Net Revenues are irrevocably pledged to the payment of the Bonds as the same become due and for the other purposes provided in the Ordinance.

The Bonds are further secured by the moneys on deposit in the Reserve Account, initially funded with the funds on deposit in the reserve account maintained on account of the 1985 Bonds. In addition, pursuant to the Bond Act, there exists a statutory mortgage lien on the System in favor of the registered owners of the Bonds until such time as the Bonds have been paid in full.

The City has secured a commitment from AMBAC Indemnity Corporation for a policy of insurance on the Series 1988 Bonds unconditionally guaranteeing the timely payment of the Series 1988 Bonds at maturity. See "RATING AND INSURANCE."

Rate Covenant

The City has covenanted to establish and revise from time to time, as necessary, just and equitable rates or charges for the use of the services and facilities of the System sufficient to equal at least 125 percent of the average annual amount required to pay as the same become due the interest on and principal of, and accomplish the retirement of, all bonds or other obligations for the payment of which Revenues have or shall have been pledged, charged or otherwise encumbered and leave a balance, after said 125 percent, at least sufficient to provide for all reasonable operating expenses of the System. See "THE SYSTEM — Rates" regarding the procedure by which rates may be revised.

Reserve Account

The "Reserve Account Requirement" is defined under the Ordinance to be the maximum amount of principal and interest, as of any date of calculation, which will come due on the Bonds in any succeeding fiscal year, assuming that the principal of any term Bond is deemed due on the earlier of its stated maturity date or the date on which it is required to be redeemed pursuant to mandatory sinking fund redemption. Moneys in the Reserve Account shall be used only to pay principal of or interest on the Bonds as due when other moneys in the Sinking Fund are insufficient therefor, provided that any such moneys in excess of the Reserve Account Requirement shall be withdrawn semiannually from the Reserve Account and deposited in the Operation and Maintenance Fund. The City is required to restore from Revenues any withdrawals from the Reserve Account which have the effect of reducing the assets therein below the Reserve Account Requirement, first from the Depreciation Fund, and then from the first Net Revenues available after all other required payments to the Sinking Fund, including any deficiencies for prior payments, have been made in full; provided that such restoration is not required when the aggregate amount of funds in the Sinking Fund, including the Reserve Account, is at least equal to the aggregate amount of Bonds outstanding, plus the amount of interest due or thereafter to become due on said Bonds.

Application of Revenues

All Revenues are to be deposited in the Revenue Fund established with City National Bank of Fairmont, Fairmont, West Virginia, as the depository bank (the "Depository Bank"), for disposition in the following order of priority; first, for monthly deposit in the Operations and Maintenance Fund, an amount sufficient to pay the current Operating Expenses of the System; and next, for monthly deposit in the Sinking Fund established with the Bond Commission, (i) beginning thirteen months prior to the first principal maturity payment date or mandatory redemption date, of a sum equal to 1/12 of the amount of such principal maturity which will mature or be redeemed and become due on the Bonds on the next ensuing payment date or mandatory redemption date; second, for restoration of any deficiency in the funding of the Reserve Account; third, for monthly transfer to the Depreciation Fund, beginning with the first month following delivery of the Series 1988 Bonds, of a sum equal to five percent of monthly Revenues (excluding payments to the Reserve Account); and fourth, for monthly deposit in the Operation and Maintenance Fund, of all funds remaining on deposit in the Revenue Fund. Excess moneys on deposit in the Operation and Maintenance Fund may be transferred periodically upon resolution of the City Council to the Depreciation Fund or the Redemption Account created in the Sinking Fund. Revenues shall be used solely for the purposes of the System.

Additional Parity Bonds

Additional Bonds, payable from Net Revenues on a parity with the nonrefunded 1985 Bonds and Series 1988 Bonds, may be issued under the Ordinance for the purpose of financing the costs of the construction of additions, betterments and improvements to the System and/or refunding the entirety of one or more series of Bonds.

Additional Bonds may be issued to finance the costs of additions, betterments or improvements to the System or to refund all or a portion of one or more series of Bonds only upon the requisite certifications by independent certified public accountants and the Consulting Engineers that Net Revenues actually derived from the System during any twelve consecutive months within the eighteen months immediately preceding the date of the actual issuance of such additional parity Bonds, augmented, for purposes of such calculation, by such additional Net Revenues as would have been received during such period on the basis of any increase in rates actually enacted by the City, the time for appeal of which rate increase shall have expired prior to the date of delivery of such additional Bonds, plus the estimated average increased annual Net Revenues to be received in each of the three succeeding

years after the completion of the improvements to be financed by such additional Bonds (determined on the basis of any such increase in rates), will not be less than 125 percent of the average annual amount which will become due for principal of and interest on the nonrefunded 1985 Bonds, the Series 1988 Bonds and any additional Bonds theretofore issued or then proposed to be issued.

The City may issue additional Bonds without the above described certificates if such additional Bonds are issued for the purpose of refunding prior to maturity any series of Bonds, and if the annual debt service required on account of such 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 that the annual debt service required in such year if the Bonds to be refunded were not so refunded.

Limited Obligation

The Bonds, including the Series 1988 Bonds, do not constitute an indebtedness of the City within the meaning of any constitutional or statutory limitation. No registered owner of any Bonds shall ever have the right to compel the exercise of the taxing power of the City to pay said Bonds or the interest thereon.

PLAN OF FINANCING

The proceeds (net of bond insurance premium and underwriter's discount) of the Series 1988 Bonds will be deposited as follows:

(i) to the Escrow Fund, a portion of the Bond proceeds which will be deposited irrevocably with the West Virginia Municipal Bond Commission, Charleston, West Virginia, as escrow agent (the "Escrow Agent") under an escrow deposit agreement (the "Escrow Agreement") dated November 30, 1988 between the City and the Escrow Agent. Proceeds of the Bonds and such other available monies deposited with the Escrow Agent in the Escrow Fund, will be used to purchase United States Treasury Securities — State and Local Government Series (the "Escrow Securities") in such amounts and maturities and earning interest at such interest rates as to provide sufficient money to pay when due the principal of and interest on all the Series 1985 Bonds maturing on and after May 1, 1989 to and including November 1, 1993. Principal and interest due on the Series 1985 Bonds from May 1, 1994 to and including November 1, 2011 are not being refunded by the Series 1988 Bonds, and consequently are not secured by the moneys and securities in the Escrow Fund.

Deposits under the Escrow Agreement and all income thereon and proceeds thereof are pledged irrevocably for payment of such portion of the 1985 Bonds and interest thereon and will not be available for payment of debt service on the Series 1988 Bonds.

(ii) to the Costs of Issuance Fund, the amount necessary to pay the costs of issuance of the Series 1988 Bonds and related costs; and

(iii) to the Construction Trust Fund the balance of the proceeds of the Series 1988 Bonds.

USES AND SOURCES OF FUNDS

Uses of Funds:		
Refunding Requirement (1)		$3,157,900.00
Financing Costs (2)		224,198.58
Capital Projects		298,221.92
Total Uses of Funds		$3,680,320.50
Sources of Funds:		
Series 1988 Bonds	11,065,000.00	
LESS: Original Issue Discount	(7,384,679.50)	
Net Proceeds		3,680,320.50
Total Sources of Funds		$3,680,320.50

(1) Equal to the amount required to be invested under the Escrow Agreement to provide for payment of all debt service due on the 1985 Bonds maturing on and after May 1, 1989 to and including November 1, 1993.

(2) Includes bond insurance premium, legal, printing, rating verification, trustee, bond discount and miscellaneous fees.

THE SYSTEM

History and Development

The Sanitary Sewer Board was formed by the Board of Directors of the City of Fairmont by Ordinance #239 on June 28, 1954. The City Manager is ex-officio chairman of the Sanitary Sewer Board. Mr. Gerald W. Ragen is the Engineer Member and Mr. William Jarrett is the third member.

Properties and Services

The Fairmont Sanitary Sewer System includes a complete interceptor sewer system, 15 lift stations and the 6.0 MGD wastewater treatment plant.

The Fairmont system has been constructed as a regional system providing wastewater treatment for several satellite systems throughout Marion County as well as the Fairmont service area. The satellites include the Town of Barrackville, Kingmill Valley Public Service District, Greater Paw Paw Public Service District and White Hall Public Service District.

Service Area

The service area includes the City of Fairmont, Hoult, Graham Heights, E. Grafton Road, Norway, Country Club Estates and Rolling Hills.

Previous Sewer Financing

In 1954, the City issued $500,000 principal amount of Sewer Revenue Bonds, Series 1954, for the purpose of defraying the cost of constructing improvements and extensions to the System. In 1957, the City issued $350,000 principal amount of Sewer Revenue Bonds, Series 1957, to provide for construction of extensions and improvements to the System.

In 1976, the City issued $2,230,000 principal amount of Sewer Revenue and Refunding Bonds. Series 1976, for the purpose of refunding the Series 1954 and Series 1957 bonds and to finance part of the costs of construction of additions, extensions and improvements to the System. There is currently $2,070,000 principal amount of 1976 Bonds outstanding.

In 1981 the City issued the Sewer Revenue Bonds, Series 1981 to pay a portion of the cost of substantial additions to the City's sewerage system, including a wastewater treatment plant designed to treat up to six million gallons of sewage a day and various pump stations and collection sewers. The balance of the funds required for this project was obtained by the City from grants by the U.S. Environmental Protection Agency ($10,198,000), Farmers Home Administration ($370,000), West Virginia Water Development Authority ($174,345) and Appalachian Regional Commission ($400,000). In anticipation of the receipt of such grants the City issued its Sewerage System Construction Notes, Series 1981 (the "1981 Notes") in the aggregate principal amount of $1,640,000. The City has paid in full the 1981 Notes. In 1983 the City issued the 1983 Bonds to advance refund the 1981 Bonds to effect debt service savings. Following the issuance of the Series 1988 Bonds the only Bonds of the City outstanding and payable from revenues of the City's sewerage system will be such Series 1988 Bonds and the nonrefuned Prior Bonds.

Sanitary Board of the City of Fairmont

The Sanitary Board was created on June 28, 1954 by Ordinance No. 239 for the custody, supervision, control, administration, operation and maintenance of the System, all as permitted and provided by Article 13, Chapter 16 of the West Virginia Code.

The Sanitary Board is composed of the City Manager and two other persons appointed by the City Manager, one of whom is a registered professional engineer. The City, acting through its Council, and subject to the provisions of its Charter, the Act and other applicable statutes, now manages, operates, maintains and controls the System through the Sanitary Board. The following members currently serve on the Sanitary Board:

Name	Title
Edwin J. Thorne	Chairman
Gerald W. Ragen	Member
William Jarrett	Member
Francis C. Schappule	Secretary-Treasurer

The Sanitary Board presently provides sewerage service to approximately 9,126 residential customers and to 911 Commercial and Industrial customers in the City and surrounding areas. A summary of average monthly water used by gallonage for May, 1985 is as follows:

Residential Customers

Usage Level (Gallons)	Number of Customers	Total Gallons Used
0-5,200	3,125	—
5,201-50,000	5,672	68,712,800
50,001-100,000	54	3,351,700
100,001-150,000	9	938,200
150,001-200,000	5	846,700
200,001-250,000	2	496,300
Over 250,000	1	3,709,500
Total Residential	8,872	78,055,200

The average residential customer used 8,798 gallons in June, 1988.

Commercial and Industrial Customers

Usage Level (Gallons)	Number of Customers	Total Gallons Used
0-2,600	337	—
2,601-25,000	385	3,036,500
25,001-50,000	66	1,808,100
50,001-75,000	26	1,316,600
75,001-100,000	9	687,700
100,001-125,000	12	1,244,400
Over 250,000	30	9,734,700
Total Commercial and Industrial	865	17,828,000

The average Commercial and Industrial customer used 20,610 gallons in June, 1988.

Satellite Customers

Number of Customers	Total Gallons Used
4	21,142,400

Source: City Officials

Organization and Administration

Pursuant to State statute and the City Charter adopted in 1976, the City is governed under the council-manager form of municipal government, whereby the Council is the governmental authority and the City Manager, who is appointed for an indefinite term by the Council, administers the government. The City Council is responsible to establish, alter or abolish any City department, office or agency, regulate rates charged for services by a public utility and authorize the borrowing of money. The City Manager is responsible to appoint and remove City employees, including department heads, to direct and supervise the administration of most departments, offices and agencies, to see that all laws and ordinances are faithfully executed and to prepare and submit the annual budget.

Certain City Officers and Personnel

Edwin J. Thorne, a native of Brooklyn, N.Y., was graduated from East Carolina University, Greenville, N. C. in 1969 with a B.S. degree in Geography and History. In 1970 Mr. Thorne received a M. S. degree in Public Administration from East Carolina University; and in 1980 he studied Municipal Administration at the University of North Carolina. Before coming to Fairmont, W. Va. as City Manager in June 1988, he served as Town Coordinator in Westborough, Mass.

Robert T. Grimm has been Management Services Director since October, 1986 and has been employed by the City for four years. He is responsible for the purchasing and personnel activities of all City departments. He holds a B.S. degree from Pennsylvania State University.

Margaret E. Rider received a B.S. degree from Fairmont State College in 1974. Her major was in Business Administration/Accounting and her minor was in Electronic Data Processing. Before being hired by the City of Fairmont as Finance Director, Ms. Rider held the position of Finance Manager with Fairmont General Hospital.

E. Bruce McDaniel has served as the Utility Manager since March, 1982, and assumed responsibility for water operations as of July 1, 1983. He has worked in the water and wastewater treatment field since 1969.

Other Employees

Excluding the personnel named above and employees assigned to the City Manager, Utility Manager or the City Finance Department. All of these employees are members of the United Steelworkers Union of America, working pursuant to a contract with the City which expires in 1991. The City considers its historical and current relationship with employees assigned to the System to be good.

Rates

The City adopted interim rates and charges to produce sufficient funds to cover operation and maintenance expenses of the System and debt service requirements on the 1983 Bonds and 1976 Bonds during the period the improvement project was under construction. Interim rates became effective on all bills rendered on and after July 3, 1981 and remained in effect until July 1, 1983 at which time the final required rate increase was imposed. These rates were effective through July 31, 1985. On August 1, 1985, the City imposed a new rate schedule which represented a slight reduction in sewer rates. The City adopted such rates because large surpluses had built up in the sewer operating accounts. The following schedule sets forth the past rates and the current rates.

Sewer Rates and Charges

(Dollars Per Thousand Gallons)

	Interim Effective July 3, 1981	Final Effective October 1, 1983
First 2,600 gal/month (minimum charge)	1.72	6.24
2601-25,000 gallons	.66	2.40
Next 25,000 gallons	.65	2.28
Next 25,000 gallons	.64	2.19
Next 25,000 gallons	.63	2.07
Next 25,000 gallons	.62	1.95
Over 125,000 gallons	.61	1.83

On August 1, 1985 the following rates took effect:

First 50,000 gallons/month $2.28 per 1,000 gallons
Next 25,000 gallons/month 2.19 per 1,000 gallons
Next 25,000 gallons/month 2.07 per 1,000 gallons
Next 25,000 gallons/month 1.95 per 1,000 gallons
Over 125,000 gallons/month 1.83 per 1,000 gallons
Minimum bill is $6.24 per month.

The current connection charge is $200.00 per connection. Industrial customers discharging high strength waste are charged an additional surcharge.

Collection of Sewer User Payments

To promote the collection of adequate revenues from the operation of the System, the City has covenanted in the Ordinance to:

(1) discontinue and shut off services for nonpayment of fees, and not restore the services until all delinquent charges for the services, plus reasonable penalties for the restoration have been fully paid (all bills over 20 days past due are charged a ten percent penalty);

(2) require, upon completion of the Project, every owner, tenant and occupant of every lot, parcel and tract of land which abuts on a street, alley or other public way in which a sewer line, main or facility is located, or within a distance not exceeding three hundred feet, and upon which a building or other habitable structure has been and shall be erected for residential, commercial or industrial use, to connect waste or sewage lines with the System; and

(3) enforce a lien on all lands, buildings and premises served by the System where charges are delinquent, in addition to discontinuing the service.

Pro Forma Summary of Revenue & Expenses

	Year Ending June 30, 1985	1986	1987
Beginning Balance, July 1	$ 300,000	$ 526,831	$ 755,354
Operating Revenue:			
Metered Services	$1,713,135	$1,750,000	$1,750,000
Reimbursed Expenses	140,744	100,000	100,000
Tapping Fees	8,025	10,000	10,000
Total Operating Revenue	$1,861,904	$1,860,000	$1,860,000
Non-Operating Revenue:			
Interest Income	$ 188,837	$ 135,000	$ 135,000
Total Non-Operating Revenue	$ 188,837	$ 135,000	$ 135,000
Total Available Funds	$2,350,741	$2,521,831	$2,750,354
Operating Expenditures:			
Operation and Maintenance	$ 944,360	$ 908,000	$ 950,000
Total Operation and Maintenance	$ 944,360	$ 908,000	$ 950,000
Total Funds Available For Debt Service	$1,460,381	$1,613,831	$1,800,354
Debt Service Payable:			
Series of 1976	$ 154,000	$ 95,971	—0—
Series of 1983	725,550	401,775	—0—
Series of 1985	—0—	360,731	$ 756,241
Total Debt Service	$ 879,550	$ 858,477	$ 756,241
Excess Revenues	$ 526,831	$ 755,354	$1,044,113
Debt Service Coverage	1.66%	1.88%	2.38%
Ending Balance, June 30	$ 526,831	$ 755,354	$1,044,113

Source: City Officials

System Budget

The City Manager, City Finance Department and Municipal Utility Department prepare draft budgets for System operations under their respective managements. The City budget is compiled from these, and other, draft budgets by the City Manager and submitted to the City Council on or before February 15 of each year. The budget is required by Charter to indicate operating expenditures and capital expenditures proposed for the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures. The total of proposed expenditures may not exceed the total of estimated income. Prior to March 28 of each year, but following public hearing, the City Council is required to adopt the budget Supplemental appropriations, or a reduction of appropriations, may be made by the City Council upon certification by the City Manager of an excess or insufficiency of revenues. No payment may be made except in accordance with appropriations set forth in the budget. As a matter of City practice, purchase orders are approved by the purchasing officer and payments are approved by the City Manager prior to disbursement of funds by the City accounting office. Separate accounting records are kept by the water accounting clerk and reviewed by the City utility accountant each year. Water accounting records are balanced with the records of the City Finance Department on a monthly basis.

Method of Accounting

The City maintains its accounts pertaining to the System on an accrual basis and in accordance with the guidelines of the PSC. The records of the water commission for the fiscal years ended June 30 of each of the past three years have been audited and are available for public inspection at the City.

SUMMARY OF CERTAIN PROVISIONS OF THE ORDINANCE

The following is a summary of certain provisions of the Ordinance. The summary does not purport to be a comprehensive statement of the terms and provisions thereof, for which reference is made to the complete text of the Ordinance, copies of which may be obtained from the Underwriter.

Application of Series 1988 Bond Proceeds

The amount of the Series 1988 Bond proceeds necessary, together with other available city funds, to advance refund a portion of the 1985 Bonds, which amount shall be set forth in the Escrow Agreement, shall be applied by the City pursuant to the provisions of the Escrow Agreement.

The balance of the proceeds of the Series 1988 Bonds, after payment of issuance costs, shall be deposited by the City in the Construction Fund established with the Depository Bank.

Application of System Revenues

The entire Gross Revenues derived from the operation of the System and all parts thereof shall be deposited by the City in the Revenue Fund. The Revenue Fund 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. All Revenues at any time remaining on deposit in the Revenue Fund shall be disposed of only in the following manner and order of priority:

1. The City shall first, 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 moneys remaining in the Revenue Fund, the City shall next:

(a) On the first day of each month beginning on the first day of that month which is 7 months prior to the first interest payment date on the Nonrefunded Prior Bonds, apportion and set apart out of the Revenue Fund and remit to the Bond Commission, for deposit in the Sinking Fund, a sum equal to ⅙th of the amount of interest which will become due on the Nonrefunded Prior Bonds on the next ensuing semiannual interest payment date and which interest will not be paid from the Escrow Fund, less any investment earnings on sums previously deposited in the Sinking Fund for the purpose of making interest payments; provided, that "next ensuing semiannual interest payment date" shall not refer to the interest payment date on which any such deposit is made;

(b) On the first day of each month, remit to the Bond Commission for deposit in the Sinking Fund, or in the Redemption Account therein if the Nonrefunded Prior Bonds next maturing are Term Bonds, a sum equal to 1/12th of the amount of principal which will mature or be redeemed and become due on the Nonrefunded Prior Bonds on the next ensuing principal payment or mandatory redemption date and which will not be paid from the Escrow Fund, less any investment earnings on sums previously deposited in the Sinking Fund for the purpose of making principal payments; provided, that "next ensuing principal payment or mandatory redemption date" shall not refer to the principal payment or mandatory redemption date on which any such deposit is made;

(c) On the first day of each month, beginning on the first day of that month which is 13 months prior to the first principal payment of the Series 1988 Bonds, remit to the Bond Commission for deposit in the Series 1988 Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on the Series 1988 Bonds on the next ensuing principal payment date, less any investment earnings on sums previously deposited in the Series 1988 Bonds Sinking Fund for the purpose of making principal payments; provided, that "next ensuing principal payment or mandatory redemption date" shall not refer to the principal payment or mandatory redemption date on which any such deposit is made; and

(d) On the first day of each month, remit to the Escrow Agent, the amounts due in accordance with the Escrow Deposit Agreement and the Investment Purchase Agreement.

3. The City shall also, from the Revenue Fund, remit to the Bond Commission on such dates or at such other times, as the Bond Commission shall require, such additional sums as shall be necessary to pay the fiscal agency charges due for paying the Bonds and the interest thereon.

4. Moneys in the Series 1988 Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 1988 Bonds as the same shall become due.

5. The City shall not be required to make any further payments into the Series 1988 Bonds Sinking Fund when the aggregate amount of funds in the Series 1988 Bonds Sinking Fund is at least equal to the aggregate principal amount of Series 1988 Bonds issued pursuant to the Supplemental and Amendatory Ordinance then Outstanding, plus the amount of interest due or thereafter to become due on the Series 1988 Bonds then Outstanding.

6. The payments into the Series 1988 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 the Supplemental and Amendatory Ordinance.

Investments

The City shall invest or instruct the Bond Commission to invest any money held as part of the funds and accounts created by the Ordinance for all purposes other than (i) investments in escrow accounts, and (ii) investing, and receiving credit for, accrued and capitalized interest in the following:

(a) Government Obligations;

(b) Obligations of any of the following federal agencies which obligations represent full faith and credit of the United States of America, including:

Export — Import Bank

Farmers Home Administration

General Services Administration

U.S. Maritime Administration

Small Business Administration

Government National Mortgage Association (GNMA)

U. S. Department of Housing & Urban Development. (PHA's)

Federal Housing Administration;

(c) Bonds, notes or other evidences of indebtedness rated "AAA" by Standard & Poor's Corporation and "Aaa" by Moody's Investors Services issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding three years;

(d) U. S. dollar denominated deposit accounts, federal funds and banker's acceptances with domestic commercial banks which have a rating on their short term certificates of deposit on the date of purchase of "A-1" or "A-1+" by Standard & Poor's and "P-1" by Moody's and maturing no more than 360 days after the date of purchase. (Ratings on holding companies are not considered as the rating of the bank);

(e) Commercial paper which is rated at the time of purchase in the single highest classification, "A-1+" by Standard & Poor's and "P-1" by Moody's Investors Service and which matures not more than 270 days after the date of purchase;

(f) Investments in a money market fund rated "AAAm" or "AAAm-G" or better by Standard & Poor's Corporation;

(g) Pre-refunded municipal obligations defined as follows:

Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (A) which are rated, based on the escrow in the highest rating category of

Standard & Poor's Corporation and Moody's Investors Service, Inc. or any successors thereto; or (B)(i) which are fully secured as to principal and interest and redemption premiums, if any, by a fund consisting only of cash or obligations described in paragraph (1) above, which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which fund is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest on redemption premium if any, on the the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;

(h) Investment agreements approved in writing by AMBAC Indemnity Corporation (supported by appropriate opinions of counsel) and specifically including the Investment Purchase Agreement;

(i) Other forms of Investments approved in writing by AMBAC Indemnity, including, but not limited to, the West Virginia "restricted consolidated fund" (Fund No. 140) managed by the West Virginia State Board of Investments pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

(j) The Investment Purchase Agreement.

The City or the Bond Commission may invest in any of the following for any purpose:

(a) Cash; or

(b) Government Obligations.

General Covenants

Enforcement of Collections. The City has covenanted diligently to 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 become delinquent to the full extent permitted or authorized by State law. The City will shut off and discontinue the supplying of water of the System for the nonpayment of the rates or charges for said water service.

Completion, Operation and Maintenance. The City 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 the System in the manner provided in the Ordinance.

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 to pay fully all the Bonds outstanding.

The foregoing provision notwithstanding, the City reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System determined in the manner described below 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 manager of the System 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 City Council may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Depreciation Fund. If the amount to be received from such sale, lease or other disposition of said property shall be in excess of ten thousand ($10,000) but not in excess of fifty thousand dollars ($50,000), the manager of the System shall first, in writing, determine with the written approval of the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and the City Council may then 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 ten thousand dollars ($10,000) and not in excess of fifty thousand dollars ($50,000), shall be remitted by the City to the Bond Commission for deposit in the Redemption Account and shall be applied only to the redemption or purchase of Bonds of the last maturities then outstanding at prices not greater than the redemption price of such Bonds. Payment of such proceeds into the Depreciation Fund or the Redemption Account shall not reduce the amounts required to be paid into said funds by other provisions of the 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 all the Bonds then outstanding without the prior approval and consent in writing of the registered owners, or their duly authorized representatives, of sixty-six and two-thirds percent (66⅔%) in principal amount of the Bonds then outstanding.

Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. The City 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 the Revenues with, the 1985 Bonds and the Series 1988 Bonds, provided that additional Bonds on a parity with the Bonds may be issued as provided in the Ordinance. See "SECURITY FOR THE SERIES 1988 BONDS — Additional Parity Bonds." All obligations 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 Revenues and in all other respects, to the Bonds.

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 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 the Ordinance, or upon the System or any part thereof.

Insurance. The City will carry, with a reputable insurance carrier or carriers, such insurance as is customarily carried with respect to works and properties similar to the System, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks, which insurance shall at all times be in an amount or amounts at least equal to the greater of the fair appraisal value or the original cost of the buildings, properties, furniture and equipment of the System. 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 Deprecation Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided for said Depreciation Fund. The City will also carry liability insurance for damage or injury to persons or property in amounts adequate for such proposes and customarily carried with respect to works and properties similar to the System.

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 himself of the facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the 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 operation of the System.

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.

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 registered owner of the 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 PSC and the Bond Act. Separate control accounting records shall be maintained by the City. Subsidiary records as may be required shall be kept in the manner and on the forms, 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 Council shall be reported to such agent of the City as the City Council shall direct.

The City Council shall file with the Consulting Engineers and the Underwriters, and shall mail in each year to any registered owner of the Bonds requesting the same, an annual report containing a statement of Revenues,

operating expenses and Net Revenues derived from the System, and a balance sheet statement showing all deposits in the funds and accounts provided for in the 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 audited by independent certified public accountants and shall mail upon request, and make available generally, the report of said independent certified public accountants, or a summary thereof, to any registered owner of the Bonds, and shall file said report with the Underwriters.

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 148 of the Internal Revenue Code of 1986, as amended, and any regulations thereunder, and an authorized officer of the City shall deliver his certificate, based upon this covenant, with regard thereto to the Underwriters.

Operating Budget. The City Council 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 the Underwriters and shall make available such budgets and resolutions to the Underwriters and to any registered owner of the Bonds or anyone acting for and in behalf of such registered owner who requests the same.

Amendment. No materially adverse modification or amendment to the Ordinance or any supplemental resolution may be made without the written consents of the registered owners of sixty percent in aggregate principal amount of the Bonds then outstanding; provided that no modification or amendment shall extend the maturity of or reduce the interest rate on, or otherwise alter the terms of payment of the principal of or interest on, any Bond without the express written consent of the registered owner thereof. No amendment or modification shall be made that would reduce the percentage of Bonds required for consent to any such amendment or modification.

Defeasance. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the registered owners of all Bonds the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in the Ordinance, then the respective pledges of the Revenues and other moneys and securities pledged under the Ordinance, and all covenants, agreements and other obligations of the City on behalf of the registered owners of the Bonds, shall thereupon cease, terminate and become void and be discharged and satisfied.

Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due will provide moneys which, together with the moneys, if any, deposited with the paying agent at the same or earlier time, shall be sufficient, to pay as and when due the respective principal of and interest on such Bonds, shall be deemed to have been paid within the meaning and with the effect expressed in the preceding paragraph. All Bonds shall, prior to the maturity thereof, be deemed to have been paid if there shall have been deposited with the Bond Commission 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 at the same or earlier time, shall be sufficient, to pay when due the principal of and interest due and to become due on the Bonds on and prior to the maturity dates thereof. Neither securities nor moneys so deposited with the Bond Commission 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 respective principal of and interest on the Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Bond 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 interest to become due on the Bonds on and prior to such maturity dates thereof, and

interest earned from such reinvestments shall be paid over to the City as received by the Bond Commission free and clear of any trust, lien or pledge. The Bond Commission may appoint an escrow trustee to hold such moneys or securities. With respect to defeasance, the term securities includes only Government Obligations.

Default and Remedies

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

A. If default occurs inthe due and punctual payment of the principal of or interest on any Bonds;

B. If default occurs in the City's observance of any of the covenants, agreements or conditions on its part in the Ordinance or any supplemental resolution or in the Bonds, and such default shall have continued for a period of thirty (30) days after the City shall have been given written notice of such default, requiring the same to be remedied, by any registered owner of the Bonds;

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.

Remedies. Upon the happening and continuance of any Event of Default, any registered owner of the Bonds 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 proceedings enforce all rights of the registered owners of the Bonds, including the right to require the City to perform its duties under the Act and the Ordinance; (iii) bring suit upon the 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 the Bonds; and (v) by action or bill in equity enjoin any acts in violation of the Ordinance or the rights of the registered owners of the Bonds.

Appointment of Receiver. If there be any Event of Default existing and continuing, any registered owner of the Bonds 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, fees and other charges sufficient to provide for the payment of operating expenses of the System, the payment of the Bonds and the deposits into the funds and accounts established with respect to the Bonds and to apply such rates, fees, charges or other Revenues in conformity with the provisions of the Ordinance and the Act.

The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of all facilities of the System and shall hold, operate, maintain, manage and control such facilities 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 and interest thereon and under any covenants of the 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 the 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 registered owner of the Bonds shall have the same right to secure the further appointment of a receiver.

Such receiver, in the performance of the powers conferred upon him, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the order and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing contained in the Ordinance 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 in the Ordinance.

Any receiver appointed as provided in the Ordinance shall hold and operate the System in the name of the City and for the joint protection and benefit of the City and registered owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage, or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System for the sole purpose of the protection of both the City and registered owners of the Bond, and the

curing and making good of any default under the provisions of the Ordinance, and the title to and ownership of the 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.

RATING

Standard & Poor's Corporation and Moody's Investors Service, Inc. have assigned their municipal bond ratings of "AAA" and "Aaa", respectively, to this issue of Bonds with the understanding that upon delivery of the Bonds, a municipal bond insurance policy insuring the payment when due of the principal of and interest on the Bonds will be issued by MIC Property and Casualty Insurance Corporation and fully reinsured by AMBAC Indemnity Corporation.

TAX EXEMPTION

In the opinion of Bond Counsel, under existing laws, regulations, rulings and judicial decisions of the United States of America, as presently written and applied, the interest on the Series 1988 Bonds (a) is excludable from gross income for federal income tax purposes and (b) is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. However, with respect to corporations (as defined for federal income tax purposes), such interest is taken into account in determining adjusted net book income and in adjusted current earnings for taxable years ending after December 31, 1989, for the purpose of computing the alternative minimum tax imposed on such corporations. In rendering such opinion with respect to excludability from gross income for federal income tax purposes, Bond Counsel has relied upon the opinion of Stevens & Lee, Special Tax Counsel, that the Series 1988 Bonds are not "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and that the Bonds are not described in Sections 149(d)(3) or (4) of the Internal Revenue Code of 1986, as amended. The opinion of Bond Counsel set forth in clause (a) above is subject to the condition that the City comply, on a continuing basis, with all covenants, certifications and representations that may affect the excludability from gross income of the interest on the Series 1988 Bonds set forth in the Ordinance and the certificates relating thereto. In the opinion of Bond Counsel, failure to comply with such covenants, certifications and representations could cause the interest on the Series 1988 Bonds to be includable in gross income retroactive to the date of issuance of the Series 1988 Bonds. In the opinion of Bond Counsel, under the Act, the Series 1988 Bonds are exempt from direct taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof, and interest on the Series 1988 Bonds is exempt from personal and corporate income taxes imposed directly thereon by the State of West Virigina.

The City has designated the Bonds as "qualified tax-exempt obligations" for purposes of §265(b) of the Internal Revenue Code of 1986, and has covenanted that it does not reasonably expect to issue more than $10,000,000 of tax-exempt obligations (other than private activity bonds) during the calendar year 1988. In the opinion of Bond Counsel, therefore, the Bonds are "qualified tax-exempt obligations," and the provision of the Internal Revenue Code of 1986 which disallows all deductibility of interest expense incurred by financial institutions on debt incurred or continued to purchase or carry most tax-exempt obligations does not apply to the Bonds; accordingly, 80% of the interest expense of a financial institution incurred for the purpose of purchasing or carrying the Bonds is deductible for federal income tax purposes.

Please be advised that, except as set forth above, Bond Counsel's opinion does not address, and Bond Counsel expresses no opinion with respect to, certain collateral federal income tax consequences that may result from the ownership of tax-exempt obligations, including the Series 1988 Bonds, by certain taxpayers, including without limitation, corporations, financial institutions, property and casualty insurance companies, individual recipients of social security or railroad retirement benefits and other taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry such obligations. Prospective purchasers of the Series 1988 Bonds should consult their own tax advisors as to such consequences.

NO LITIGATION

There is no litigation or other proceeding pending or, to the knowledge of the City, threatened to restrain or enjoin the issuance, sale, or delivery of the Series 1988 Bonds, or in any way contesting the validity or enforceability of the Series 1988 Bonds, the proceedings pursuant to which the Series 1988 Bonds are issued, or the collection application or pledge of the Revenues and other moneys purported to be pledged by the Ordinance.

UNDERWRITING

The Bonds are being purchased for reoffering by Butcher & Singer Inc. the "Underwriter". The purchase agreement for the Bonds provides that all of the Bonds will be purchased if any are purchased and is subject to certain terms and conditions set forth therein, including approval of certain legal matters by Bond Counsel and the existence of no material adverse change in the condition of the City from that set forth in the Official Statement. The Underwriter may offer and sell the Bonds to certain dealers (including dealers depositing Bonds into investment trusts) and certain dealer banks and banks acting as agents at prices lower than the public offering prices stated on the cover page hereof. The purchase price is $3,606,714.09. The initial public offering price stated on the cover page hereof may be changed from time to time by the Underwriter without prior notice.

APPROVAL OF LEGALITY

The Series 1988 Bonds are offered by the Underwriter when, as and if issued, subject to the unqualified approving legal opinion of Steptoe and Johnson, Clarksburg, West Virginia, Bond Counsel to be furnished upon delivery of the Series 1988 Bonds. Certain tax matters will be passed upon by Stevens & Lee, Reading, Pennsylvania, Special Tax Counsel and counsel to the Underwriter. Certain legal matters pertaining to the City will be passed upon by the City Attorney, Courtney A. Ryan, Esquire, Fairmont, West Virginia.

MATHEMATICAL VERIFICATION

Clymer, Merves and Amon, Media, Pennsylvania, independent certified public accountants, will deliver an opinion upon delivery of the Series 1988 Bonds stating that they have reviewed the mathematical accuracy of certain computations, contained in schedules provided to them relating to (a) principal of and interest on the 1985 Bonds and the adequacy of the amount funded in the Escrow Fund to advance refund a portion of the 1985 Bonds, and (b) the computations of actuarial yield relied upon by Special Tax Counsel to support its opinion that the Bonds are not "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended.

MISCELLANEOUS

The foregoing summaries of the Series 1988 Bonds and the Ordinance, and references to the Act, do not purport to be comprehensive and are qualified in their entirety by the exact provisions thereof. Copies of the Ordinance (including the form of Series 1988 Bonds) and the Act may be obtained from the Underwriter. Attached as Appendix A to this Official Statement is information concerning the City which has been furnished by the City.

All estimates and assumptions herein have been made upon the best information available and are believed to be reliable, but no representation whatsoever is made that such estimates or assumptions are correct or will be realized. Statements involving matters of opinion, whether or not so expressly stated, are set forth as opinions and are not representations of fact.

This Official Statement has been duly approved and its distribution authorized by the City.

CITY OF FAIRMONT,
WEST VIRGINIA

By /s/ Robert M. Drummond, Jr.
Mayor

By /s/ Edwin J. Thorne
City Manager

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GENERAL INFORMATION REGARDING THE CITY

The City of Fairmont, county seat of Marion County, West Virginia, was founded in 1820 and chartered as a city in 1899. The City is located in north central West Virginia, about 95 miles south of Pittsburgh, Pennsylvania, and 19 miles south of Morgantown, West Virginia. The Monongahela River begins in the City, making it the head of a great inland waterway system.There is a nine-foot channel from the City to Pittsburgh. The City covers 5.32 square miles, of which 31 percent is used for single family housing, 4.8 percent for multi-family housing, 8.3 percent for commercial uses, 3 percent for industrial purposes and 7 percent for other land uses. Approximately 36 percent of the land in the City is vacant. Located close to the City are West Virginia's scenic and recreational areas including Blackwater Falls State Park, a 3,860 acre lake created by Tygart Dam, ski slopes of Tucker County, six other State parks and the Monongahela National Forest.

Population

The tables below present the populations of the City and of Marion County for each of the last five census periods.

CITY OF FAIRMONT POPULATION

Census Report	City Population	Percentage Change Over Preceding Census
1940	23,105	− .2%
1950	29,346	+27.0
1960	27,477	− 6.4
1970	26,093	− 5.0
1980	23,863	− 8.5

Source: U.S. Census Bureau.

MARION COUNTY POPULATION

Census Report	City Population	Percentage Change Over Preceding Census
1940	68,683	+ 3.0%
1950	71,521	+ 4.1
1960	63,717	−10.9
1970	61,356	− 3.7
1980	65,789	+ 7.2

Source: U.S. Census Bureau.

The City projects a population gradually increasing to 30,000 persons in the year 2020.

Commerce and Industry

The City has long been an important trade area for North Central West Virginia. A downtown shopping area contains stores and specialty shops. A shopping mall, Middletown Mall, located on the edge of the City, was opened in 1972 with over 50 stores of various classifications.

There is significant industrial activity in the area surrounding the City. Various industrial firms have facilities located in the area, including North American Philips Lighting Corporation, EIMCO, Alcan Aluminum Corporation and several smaller companies.

Employment

The following table indicates the major employment sectors of the Marion County economy and the percentage of the Marion County labor force employed in each sector for the years indicated.

MARION COUNTY LABOR FORCE ALLOCATION
(Percentage)

Employment Sector	1960	1970	1984	1987
Mining	23.7	16.8	13.8	8.7
Construction	6.4	6.5	5.2	3.9
Manufacturing	24.4	26.0	20.8	14.8
Transportation & Public Utilities	5.9	4.1	5.3	8.3
Wholesdale Trade	6.9	4.2	4.2	2.6
Retail Trade	9.7	13.8	18.8	21.6
Finance, Insurance, Real Estate	3.9	4.2	3.8	4.2
Service Trade	11.6	12.2	11.2	15.5
State & Local Government	7.5	12.2	16.9	20.4

Source: West Virginia Department of Employment Security.

Listed below are the sixteen major employers with facilities located in Marion County, their primary product or service and the approximate number of persons locally employed by each as of December 31, 1987.

MAJOR EMPLOYERS

Employer	Product	Approximate Number of Employees
Marion County Board of Education	education	1,465
Consolidated Coal Company	coal	1,000
North American Phillips Lighting Corporation	electrical fixtures	1,000
Southern Ohio Coal Company	coal	810
Fairmont General Hospital	medical services	725
Eastern Associated Coal Company	coal	600
Fairmont State College	education	550
Monongahela Power Company	electrical power	505
Alcan Aluminium Corporation	aluminum	311
Industrial Resources	metal products	225
EIMCO Corporation (Mining Equipment Division)	mining equipment	200
City of Fairmont	government	194
Helmick Corporation	metal products	115
Creative Label Company of Fairmont, Inc.	labels	100
Stone & Thomas	department store	70
Hess's	department store	55

Source: Marion County Chamber of Commerce.

The following tables present statistics regarding the labor force and historical employment levels in the City and Marion County.

CITY EMPLOYMENT RATES

Year	Labor Force	Number Employed	Number Unemployed	Unemployment Rate (%)
1981	10,110	8,943	1,167	11.5
1982	9,680	8,611	1,069	11.0

Source: West Virginia Department of Labor, Division of Employment Security.

MARION COUNTY EMPLOYMENT RATES

Year	Labor Force	Number Employed	Number Unemployed	Unemployment Rate (%)
1978	24,890	23,270	1,620	6.5
1979	26,180	24,030	2,150	8.2
1980	24,610	22,270	2,340	9.5
1981	25,740	22,650	3,090	12.0
1982	26,240	21,810	4,430	16.8
1983	24,240	20,850	3,390	14.0
1984	23,720	20,970	2,750	11.6
1985	22,520	19,240	3,280	14.6
1986	23,391	20,549	2,842	12.1
1987	21,788	19,764	2,024	9.3

Source: West Virginia Department of Labor, Division of Employment Security.

Pensions

The City participates in the West Virginia Public Employees Retirement System ("PERS"). Employees eligible for membership in the system are all full-time employees of the City. Each member pays 4½ percent of his or her monthly salary into the PERS Fund. The City contributes 10½ percent per month of the gross salary of each employee covered by this plan.

The Pension Relief Fund for policemen and firemen of the City is administered by an elected Board of Trustees. This Board of Trustees consists of the City Manager and four members of the Police Department for the Police Pension Fund, and four members of the Fire Department, for the Firemen's Pension Fund.

Under State statute, each municipality with a Police and Firemen's Pension Relief Fund is required to make contributions which, when added to the amounts contributed by participants, will be equal to 110 percent of the estimated expenditures of the fund. The statute further provides that the municipal levy appropriated for the purpose of meeting this requirement shall be at least one cent (1¢) and not more than ten cents (10¢) for each one hundred dollars ($100.00) of real and personal property listed for taxation in such municipality.

The following is the City's contribution for the last five fiscal years.

CITY PENSION FUND CONTRIBUTIONS

Year Ended June 30	PERS Fund	Firemen's Pension Fund	Policemen's Pension Fund
1982	$120,600	$115,000	$ 90,000
1983	141,500	135,000	92,000
1984	197,747	180,527	117,289
1985	224,273	133,647	97,835
1986	222,311	154,855	126,924
1987	181,248	156,660	116,186
1988	195,844	149,042	100,973

Source: City records.

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APPENDIX B

(Form of Opinion of Bond Counsel)

City of Fairmont (West Virginia)
Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988

The City Council
City of Fairmont
City/County Complex
Fairmont, West Virginia 26554

AMBAC Indemnity Corporation
One State Street Plaza
New York, New York 10004

Butcher & Singer Inc.
211 South Broad Street, 9th Floor
Philadelphia, Pennsylvania 19107

Ladies and Gentlemen:

We have examined a record of proceedings relative to the issuance and sale of the Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988 (the "Bonds"), of the City of Fairmont, West Virginia (the "Issuer"). The Bonds are capital appreciation bonds which bear no current interest, are issued in the aggregate principal amount (stated value at maturity) of $11,065,000, with a stated value at issuance of $3,680,320.50, in fully registered form, are dated November 30, 1988, upon original issuance, mature on November 1 in years and amounts and bear interest (expressed as "Yield to Maturity") payable only at maturity as follows:

Maturity	Stated Value at Issuance	Stated Value at Maturity	Yield to Maturity	Maturity	Stated Value at Issuance	Stated Value at Maturity	Yield to Maturity
1996	$298,975	$500,000	6.60%	2004	$239,020	$760,000	7.40%
1997	277,770	500,000	6.70	2005	217,229	755,000	7.50
1998	257,570	500,000	6.80	2006	198,354	755,000	7.60
1999	238,380	500,000	6.90	2007	180,770	755,000	7.70
2000	328,091	745,000	7.00	2008	166,017	755,000	7.75
2001	306,538	755,000	7.10	2009	154,880	760,000	7.75
2002	282,060	755,000	7.20	2010	142,597	755,000	7.75
2003	259,041	755,000	7.30	2011	133,030	760,000	7.75

The Bonds are not subject to redemption prior to maturity.

The Bonds were authorized by an ordinance enacted by the Council of the Issuer on August 13, 1985, as supplemented and amended by a supplemental resolution adopted September 17, 1985, a supplemental and amendatory ordinance enacted October 25, 1988, and a supplemental resolution adopted October 25, 1988 (said ordinance as so supplemented and amended, is herein called the "Ordinance"), and are issued pursuant to Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act") to refund a portion of the Issuer's outstanding Sewerage System Refunding Revenue Bonds, Series 1985 (the "Prior Bonds"), to finance certain additions, betterments and improvements for the Issuer's sanitary sewerage system (the "System") and to pay costs of issuance of the Bonds and costs of such refunding. Prior Bonds in the aggregate principal amount of $6,455,000 (the "Nonrefunded Prior Bonds") will remain outstanding subsequent to delivery of the Bonds.

Based upon the foregoing, as of the date of the original issuance of the Bonds, we are of the opinion as follows:

1. The Issuer is a duly organized and validly existing municipal corporation under and pursuant to the Constitution and laws of the State of West Virginia and has full legal right, power and authority to issue the Bonds, to own and operate the System, and to enact and perform its obligations under the terms and provisions of the Ordinance.

2. The Ordinance has been duly enacted by the Council of the Issuer, is in full force and effect and constitutes a valid and binding obligation of the Issuer, enforceable in accordance with its terms.

3. The Bonds have been duly authorized and validly issued by the Issuer in accordance with the Constitution of the State of West Virginia, the Act and the Ordinance.

4. The Bonds constitute valid and legally binding special obligations of the Issuer, payable solely from and secured (on parity in all respects with the Nonrefunded Prior Bonds, including payments to be made pursuant to the Investment Purchase Agreement, as such term is defined in the Ordinance) by a first lien on and pledge of the net revenues derived from the operation of the System, moneys in the Series 1988 Bonds sinking Fund created under the Ordinance and unexpended proceeds of the Bonds, and are enforceable in accordance with their terms and the terms of the Ordinance.

5. Under existing laws, regulations, rulings and judicial decisions of the United States of America, as presently written and applied, the interest on the Bonds (a) is excludable from gross income for federal income tax purposes and (b) is not an item of tax preference for purposes of the federal alternative minimum tax imposed upon individuals and corporations. It should be noted, however, that for the purpose of computing the alternative minimum tax on corporations (as defined for federal income tax purposes), such interest is taken into account in determining adjusted net book income (adjusted current earnings for taxable years beginning after December 31, 1989). In rendering the opinion set forth in (a) above, we have relied upon the opinion of Stevens & Lee, P.C., Special Tax Counsel to the effect that (i) the Bonds do not constitute "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and (ii) the Bonds are not described in Sections 149(d)(3) or (4) of the Code. Ownership of tax-exempt obligations, including the Bonds, may result in collateral federal income tax consequences to certain taxpayers, including without limitation, financial institutions, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry such obligations. We offer no opinion as to such collateral tax consequences. Prospective purchasers of the Bonds should consult their own tax advisors as to such consequences. The opinions set forth above are subject to the condition that the Issuer comply, on a continuing basis, with all certifications, covenants and representations which may affect the excludability from gross income of the interest on the Bonds set forth in the Ordinance and the certificate relating to arbitrage. Failure to comply with such certifications, covenants and representations could cause the interest on the Bonds to be includable in gross income retroactive to the date of issuance of the Bonds.

6. The Issuer has designated the Bonds as "qualified tax-exempt obligations" for purposes of the Internal Revenue Code of 1986, as amended (the "Code"), and has covenanted that it does not reasonably expect to issue more than $10,000,000 of tax-exempt obligations (other than private activity bonds) during the calendar year 1988. Therefore, the Bonds are "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code. In rendering the opinion set forth in this paragraph 6, we have relied upon the opinion of Stevens & Lee, Special Tax Counsel, that the Bonds constitute "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code.

7. Under the laws of the State of West Virginia, as enacted and construed on the date of initial delivery of the Bonds, the Bonds are exempt from direct taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof, except inheritance, estate and transfer taxes, and the interest on the Bonds is exempt from personal and corporate income taxes imposed directly thereon by the State of West Virginia.

8. The portion of the Prior Bonds which have been refunded, being those Prior Bonds which mature on November 1, 1989, through November 1, 1993, in the outstanding aggregate principal amount of $630,000, have been defeased within the meaning and with the effect expressed in the ordinance authorizing their issuance, and the covenants, agreements and other obligations of the Issuer to the owners of such refunded Prior Bonds have been satisfied and discharged. In rendering the opinion set forth in this pargraph 7, we have relied upon the opinion of certain independent certified public accountants, relating to the accuracy of the maturing principal of and interest to be earned on the United States Treasury Obligations deposited in the Escrow Fund established with the West Virginia Municipal Bond Commission, Charleston, West Virginia, which, together with any other moneys on deposit in said Escrow Fund, will provide for the payment of the principal of and interest on such refunded Prior Bonds as the same becomes due, to and including November 1, 1993.

Please be advised that the enforcement of remedies with respect to the Bonds is subject to any applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights from time to time in effect.

We have examined executed Bond No. R-1, and, in our opinion, said Bond is in proper form and has been properly executed.

Yours very truly,

STEPTOE & JOHNSON

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APPENDIX C

FORM OF MUNICIPAL BOND INSURANCE POLICY

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Municipal Bond Insurance Policy

MIC Property And Casualty Insurance Corporation
3044 West Grand Boulevard, Detroit, Michigan 48202

Issuer:

Policy Number:

Bonds:

Premium:

MIC Property And Casualty Insurance Corporation (MIC-PAC), A Stock Insurance Company

in consideration of the payment of the premium and subject to the terms of this Policy, hereby agrees to pay to the United States Trust Company of New York, as trustee, or its successor (the "Insurance Trustee"), for the benefit of Bondholders, that portion of the principal of and interest on the above-described debt obligations (the "Bonds") which shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer.

MIC-PAC will make such payments to the Insurance Trustee within 5 days following notification to MIC-PAC of Nonpayment. Upon a Bondholder's presentation and surrender to the Insurance Trustee of such unpaid Bonds or appurtenant coupons, uncanceled and in bearer form and free of any adverse claim, the Insurance Trustee will disburse to the Bondholder the face amount of principal and interest which is then Due for Payment but is unpaid. Upon such disbursement, MIC-PAC shall become the owner of the surrendered Bonds and coupons and shall be fully subrogated to all of the Bondholder's rights to payment.

In cases where the Bonds are issuable only in a form whereby principal is payable to registered Bondholders or their assigns, the Insurance Trustee shall disburse principal to a Bondholder as aforesaid only upon presentation and surrender to the Insurance Trustee of the unpaid Bond, uncanceled and free of any adverse claim, together with an instrument of assignment, in form satisfactory to the Insurance Trustee, duly executed by the Bondholder or such Bondholder's duly authorized representative, so as to permit ownership of such Bond to be registered in the name of MIC-PAC or its nominee. In cases where the Bonds are issuable only in a form whereby interest is payable to registered Bondholders or their assigns, the Insurance Trustee shall disburse interest to a Bondholder as aforesaid only upon presentation to the Insurance Trustee of proof that the claimant is the person entitled to the payment of interest on the Bond and delivery to the Insurance Trustee of an instrument of assignment, in form satisfactory to the Insurance Trustee, duly executed by the claimant Bondholder or such Bondholder's duly authorized representative, transferring to MIC-PAC all rights under such Bond to receive the interest in respect of which the insurance disbursement was made. MIC-PAC shall be subrogated to all of the Bondholders' rights to payment on registered Bonds to the extent of the insurance disbursements so made.

As used herein, the term "Bondholder" means any person other than the Issuer who, at the time of Nonpayment, is the owner of a Bond or of a coupon appertaining to a Bond. "Due for Payment", when referring to the principal of Bonds, is when the stated maturity date or a mandatory redemption date for the application of a required sinking fund installment has been reached and does not refer to any earlier date on which payment is due by reason of call for redemption (other than by application of required sinking fund installments), acceleration or other advancement of maturity; and, when referring to interest on the Bonds, is when the stated date for payment of interest has been reached. "Nonpayment" means the failure of the Issuer to have provided sufficient funds to the paying agent for payment in full of all principal of and interest on the Bonds which are Due for Payment.

This Policy is noncancelable. The premium on this Policy is not refundable for any reason, including payment of the Bonds prior to maturity. This Policy does not insure against loss of any redemption, prepayment or acceleration premium which at any time may become due in respect of any Bond, nor against risk other than Nonpayment.

In witness whereof, MIC-PAC has caused this Policy to be affixed with a facsimile of its corporate seal and to be signed by its duly authorized officers in facsimile to become effective as its original seal and signatures and binding upon MIC-PAC by virtue of the counter-signature of its duly authorized representative.

SAMPLE

President

MIC PROPERTY AND CASUALTY INSURANCE CORPORATION
CORPORATE SEAL 1980
MICHIGAN

Secretary

Effective Date:

Authorized Representative

UNITED STATES TRUST COMPANY OF NEW YORK acknowledges that it has agreed to perform the duties of Insurance Trustee under this Policy.

Authorized Officer

MIC Property And Casualty Insurance Corporation
a subsidiary of

MIC Motors Insurance GM
The Insurance People From General Motors

Form #67-0003 (2/85)

ALL-STATE LEGAL SUPPLY CO., ONE COMMERCE DRIVE, CRANFORD, NEW JERSEY 07016

ED 11-2C

Moody's Investors Service

99 Church Street, New York, N.Y. 10007

November 28, 1988

AMBAC Indemnity Corporation
One State Street Plaza
New York, New York 10004

Gentlemen:

Moody's Investors Service has assigned the rating of Aaa (AMBAC Insured-Policy No. 3212BE) to the $3,680,322, City of Fairmont, West Virginia, Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988, which sold through negotiation on October 25, 1988.

Very truly yours,

Freda S. Ackerman

Freda S. Ackerman
Executive Vice President

FSA:cc

29A

Standard & Poor's Corporation
25 Broadway, New York, New York 10004

November 29, 1988

Ms. Zeyba Rahman
Assistant Vice President
AMBAC Indemnity Corporation
One State Street Plaza - 17th Floor
New York, New York 10004

Re: $3,680,322.00 Fairmont City, (Marion County), West Virginia, Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988, dated: November 30, 1988, due: November 1, 1996-2011, (POLICY #3212BE/ACN 4010)

Dear Ms. Rahman:

Pursuant to your request for a Standard & Poor's rating on the subject obligations, we have reviewed the information submitted and have assigned a rating of "AAA".

This reflects our assessment of the likelihood of repayment of principal and interest based on the bond insurance policy your company is providing.

Rating adjustments may result from changes in the financial position of your company or from alterations in documents governing the issue. With respect to the latter, please notify us of any changes or amendments over the term of the issue.

When using this Standard & Poor's rating, include S&P's definition of the rating together with a statement that this may be changed, suspended or withdrawn as a result of changes in, or unavailability of, information. This rating is not a "market rating", because it is not a recommendation to buy, hold or sell the obligations.

Please remember that complete documentation relating to this issue must be submitted no later than 90 days after the date of this letter. If you have any questions, please contact us.

Very truly yours,

Gail Heumann

/cf

29B

ALL-STATE LEGAL SUPPLY CO., ONE COMMERCE DRIVE, CRANF JERSEY 07016

ED 11-2C

Municipal Bo[illegible] Insurance Policy

AMBAC Indemnity Corporation
c/o CT Corporation Systems
222 W. Washington Ave., Madison, Wisconsin 537[illegible]
Administrative Office:
One State Street Plaza, New York, N Y 10004

Issuer: CITY OF FAIRMONT, MARION COUNTY, WEST VIRGINIA

Policy Number: 3212BE

Bonds: $3,680,322.00 Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988, dated November 30, 1988 and maturing on November 1 in the years 1996 through 2011, both inclusive. The Registrar and Paying Agent is City National Bank of Fairmont, Fairmont, West Virginia.

Premium: $72,945.00

AMBAC

AMBAC Indemnity Corporation (AMBAC) A Wisconsin Stock Insurance Company

in consideration of the payment of the premium and subject to the terms of this Policy, hereby agrees to pay to the United States Trust Company of New York, as trustee, or its successor (the "Insurance Trustee"), for the benefit of Bondholders, that portion of the principal of and interest on the above-described debt obligations (the "Bonds") which shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer.

AMBAC will make such payments to the Insurance Trustee within 5 days following notification to AMBAC of Nonpayment. Upon a Bondholder's presentation and surrender to the Insurance Trustee of such unpaid Bonds or appurtenant coupons, uncanceled and in bearer form and free of any adverse claim, the Insurance Trustee will disburse to the Bondholder the face amount of principal and interest which is then Due for Payment but is unpaid. Upon such disbursement, AMBAC shall become the owner of the surrendered Bonds and coupons and shall be fully subrogated to all of the Bondholder's rights to payment.

In cases where the Bonds are issuable only in a form whereby principal is payable to registered Bondholders or their assigns, the Insurance Trustee shall disburse principal to a Bondholder as aforesaid only upon presentation and surrender to the Insurance Trustee of the unpaid Bond, uncanceled and free of any adverse claim, together with an instrument of assignment, in form satisfactory to the Insurance Trustee, duly executed by the Bondholder or such Bondholder's duly authorized representative, so as to permit ownership of such Bond to be registered in the name of AMBAC or its nominee. In cases where the Bonds are issuable only in a form whereby interest is payable to registered Bondholders or their assigns, the Insurance Trustee shall disburse interest to a Bondholder as aforesaid only upon presentation to the Insurance Trustee of proof that the claimant is the person entitled to the payment of interest on the Bond and delivery to the Insurance Trustee of an instrument of assignment, in form satisfactory to the Insurance Trustee, duly executed by the claimant Bondholder or such Bondholder's duly authorized representative, transferring to AMBAC all rights under such Bond to receive the interest in respect of which the insurance disbursement was made. AMBAC shall be subrogated to all of the Bondholders' rights to payment on registered Bonds to the extent of the insurance disbursements so made.

As used herein, the term "Bondholder" means any person other than the Issuer who, at the time of Nonpayment, is the owner of a Bond or of a coupon appertaining to a Bond. "Due for Payment", when referring to the principal of Bonds, is when the stated maturity date or a mandatory redemption date for the application of a required sinking fund installment has been reached and does not refer to any earlier date on which payment is due by reason of call for redemption (other than by application of required sinking fund installments), acceleration or other advancement of maturity; and, when referring to interest on the Bonds, is when the stated date for payment of interest has been reached. "Nonpayment" means the failure of the Issuer to have provided sufficient funds to the paying agent for payment in full of all principal of and interest on the Bonds which are Due for Payment.

This Policy is noncancelable. The premium on this Policy is not refundable for any reason, including payment of the Bonds prior to maturity. This Policy does not insure against loss of any redemption, prepayment or acceleration premium which at any time may become due in respect of any Bond, nor against risk other than Nonpayment.

In witness whereof, AMBAC has caused this Policy to be affixed with a facsimile of its corporate seal and to be signed by its duly authorized officers in facsimile to become effective as its original seal and signatures and binding upon AMBAC by virtue of the counter-signature of its duly authorized representative.

President

AMBAC INDEMNITY CORPORATION CORPORATE SEAL WISCONSIN

Secretary

Countersigned at Charleston, W. Va.

Authorized Representative

Authorized Officer

Effective Date: November 30, 1988

UNITED STATES TRUST COMPANY OF NEW YORK acknowledges that it has agreed to perform the duties of Insurance Trustee under this Policy.

Form # 66-0003 (11/87)

A-2700

30

BOND PURCHASE PROPOSAL

FOR

CITY COUNCIL
City of Fairmont, West Virginia
$11,065,000 Refunding Revenue CapitalAppreciation Bonds
Series of 1988

October 25, 1988

October 25, 1988

City Council
City of Fairmont, West Virginia

Dear Ladies and Gentlemen:

Acting as Principal, Butcher & Singer Inc. (the "Purchaser") submits herewith this Purchase Proposal (the "Proposal") for $11,065,000 aggregate principal amount Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988 (the "Bonds") of the City of Fairmont, Marion County, West Virginia (the "City).

For all, but not part, of the Capital Appreciation Bonds, in all respects conforming to the attached schedule material herewith made a part of this Proposal, and as set forth in the draft Official Statement prepared in connection with the issuance of the Bonds, we will pay a purchase price (the "Purchase Price") equal to $3,606,714.09 (which represents the principal amount of the Bonds, less the Purchaser's discount of $73,606.41 and original issue discount of $7,384,679.50.

This Proposal is made subject to the following conditions:

1. This Proposal is governed by and construed in accordance with the laws of the State of West Virginia (the "State).

2. All Bonds shall be dated as of the date of settlement on the Bonds. The Bonds shall mature on November 1 in the years specified in the attached schedule material.

3. The Bonds shall be issued and secured under and pursuant to a supplemental and amendatory ordinance enacted by the City on October 25, 1988 as supplemented by a supplemental resolution adopted October 25, 1988 (collectively the "Ordinance"). Pursuant to the Ordinance the net proceeds of the Bonds will be Deposited in accordance with the provisions of an Escrow deposit Agreement between the City and the West Virginia Municipal Bond Commission, as escrow agent (the "Escrow Deposit Agreement") and used to refund a portion of the City's outstanding Sewage System Refunding Revenue Bonds, Series 1985, dated September 15, 1985 (the "Prior Bonds").

4. This Proposal shall not be binding upon the City until November 24, 1988, being the date upon which the Ordinance becomes effective.

5. The Depository Bank shall be City National Bank of Fairmont, Fairmont, West Virginia (the "Depository Bank).

6. On or before the Settlement Date, the Bonds shall be delivered, pursuant to the written direction of the Purchaser, in definitive form to Depository Trust Company, New York, New York and Philadelphia Depository Trust Company, Philadelphia, Pennsylvania. Closing shall be held in the City of November 30, 1988, or at such other time and place as shall be satisfactory to the Purchaser and the City (the "Settlement Date").

7. Final payment of the Purchase Price by the purchaser will be by wire transfer of Federal funds to the City's account at the Depository Bank.

8. The Bonds shall be in registered form, in $5,000 denominations or multiples thereof, as requested by the Purchaser.

9. The Bonds are not subject to optional or mandatory redemption prior to maturity.

10. The City will covenant in the Ordinance that it will make no investment or other use of the proceeds of the Bonds, which, if such use or investment had been reasonably expected on the date of issue of the Bonds, would have caused the Bonds to be "arbitrage bonds" under Sections 103 and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations thereunder, and will further covenant that it will comply with the requirements of such Section throughout the term of the Bonds.

11. The Bonds shall carry the unqualified approving legal opinion of bond counsel, Steptoe & Johnson, Clarksburg, West Virginia, in form and content acceptable to the Purchaser. The opinion for the Bonds (a) shall be rendered in reliance on the opinion of Stevens & Lee, P.C., Reading, Pennsylvania, Special Tax Counsel that the Bonds are not "arbitrage bonds" within the meaning of Sections 103 and 148 of the Code, and (b) shall state that interest on the Bonds is exempt from Federal income taxation under existing laws and judicial decisions, and the Bonds are exempt from direct taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof, under existing statutes of said State, and the interest on the Bonds is exempt

from personal income taxes imposed directly thereon by said state.

12. Stevens & Lee, Reading, Pennsylvania, Special Tax Counsel, shall deliver an opinion stating the Bonds are not "arbitrage bonds" under Sections 103 and 148 of the Code. The City shall execute and deliver such Certificates as Bond Counsel or Special Tax Counsel shall require to Support their respective opinions.

13. The City shall deliver a certificate, on the Settlement Date, stating that (1) there is no litigation pending contesting or otherwise affecting the validity of the Bonds or the security therefor and (2) subsequent to October 20, 1988 (the date of the latest draft Official Statement prepared in connection with the issuance of the Bonds), there has been no material adverse change in the financial position of the City except as set forth in or contemplated by the draft Official Statement or as described in such certificate. Should there be any such litigation pending on or prior to the date herein fixed as the latest date for settlement on the Bonds covered by this Proposal, or any such material adverse change in the financial position of the City, the Purchaser, in its sole judgment, shall have the right either to complete its Proposal, to withdraw its Proposal, or make a new Proposal for the Bonds which would reflect the effect of such pending litigation or changes in financial position.

14. The Purchaser may terminate this Proposal if at any time prior to the settlement (1) Federal legislation shall have been proposed or adopted by either house of Congress or a decision shall have been rendered by a court of the United States or by the United States tax court, or any order, ruling or regulation shall be adopted which in terms, by the repeal or omission of exemptions or otherwise, makes the interest on the Bonds subject to Federal income tax, or (2) there shall exist any event or circumstances which either makes untrue or incorrect in any respect the draft Official Statement or is not reflected in the draft Official Statement that should be reflected therein, or (3) any legislation, ordinance, rule or regulation is introduced in, or enacted by, any governmental body, department or agency of the State, or a decision by any court of competent jurisdiction within the State is rendered, that, in the reasonable opinion of the Purchaser, adversely affects the market price of the Bonds or the sale, at the contemplated offering prices, by the Purchaser of the Bonds; (4) there shall have occurred any new outbreak of hostilities or other national or international calamity or crisis, the effect of which, in the reasonable opinion of the Purchaser, materially affects the market

for the Bonds or the sale, at the contemplated offering prices, by the Purchaser of the Bonds; (5) federal legislation is enacted or any action is taken by, or on behalf of, the Securities and Exchange Commission, that, in the opinion of counsel to the Purchaser, has the effect of requiring the contemplated distribution of the Bonds to be registered under the Securities Act of 1933, as amended, or the Bond Indenture to be qualified under the Trust Indenture Act of 1933, as amended, or the Bond Indenture to be qualified under the Trust Indenture Act of 1939, as amended, or any laws analogous thereto relating to governmental bodies, and compliance therewith cannot be accomplished prior to the settlement date; or (6) there shall have occurred a general suspension of trading on the New York Stock Exchange, or a general banking moratorium is declared by the United States, New York or State authorities, that, in the reasonable opinion of the Purchaser, materially affects the market for the Bonds or the sale, at the contemplated offering prices, by the Purchaser.

15. The draft Official Statement dated October 20, 1988, and the Official Statement substantially in the form of such draft Official Statement shall be approved as a result of the acceptance of this Proposal. Additionally, the Purchaser is authorized to use the Official Statement in connection with the public offering and sale of the Bonds. To the best of the knowledge of the City, the information with respect to the City set forth in the Official Statement is true in all material respects and does not contain any untrue statement of a material fact or omit to state any fact necessary to make the information set forth therein not misleading.

16. By settlement the Purchaser shall deliver a verification from an independent Certified Public Accountant stating that the proceeds of the Bonds, together with other moneys, deposited under the Escrow Agreement shall be sufficient to pay interest and principal on the Prior Bonds maturing on and after May 1, 1989 to and including November 1, 1993. Such verification report shall also certify that the savings associated with the refunding program illustrated in the attached Schedule material made a part of this Proposal are mathematically accurate.

17. The City shall certify at settlement that to the best of its knowledge there is no untrue statement of a material fact contained in the Official Statement or an omission of any material fact in the Official Statement which is actually known to the City.

18. The Bonds shall have been approved for municipal insurance from AMBAC Indemnity Corporation ("AMBAC"),

and have received a rating of "AAA" and "Aaa" from Standard & Poor's Corporation and Moody's Investors Services, Inc., respectively. At closing, AMBAC will deliver its policy of Municipal Bond Insurance for the Bonds.

19. The insurance premium (in the amount of $75,592.17, net of a credit to be given to the City) will be paid at settlement by the City from the proceeds of the Bonds.

20. The City agrees to indemnify and hold harmless the Purchaser and each person, if any, who controls the Purchaser within the meaning of the Securities Act of 1933, as amended, from and against all losses, claims, damages, liabilities and expenses, joint or several, to which the Purchaser or such controlling person may become subject, under Federal or state laws or regulations, or otherwise, insofar as such losses, claims, changes, liabilities and expenses (or actions in respect thereof) (a) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact set forth in the Official Statement (including the Appendices thereto) or any amendment or supplement thereto, for which the City has assumed liability pursuant to this Proposal, or (b) arise out of or based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make such statements not misleading (including the legal and other expenses of investigating such claims), and will assume the defense of any action against the Purchaser or any officer or employee of the Purchaser based upon allegations of any such loss, claim, damage, liability or action, including the payment of counsel fees of counsel satisfactory to the purchaser and all other expenses relating to such defense; provided that this indemnity agrement shall not inure tot he benefit of the Purchaser (or to the benefit of any person controlling such Purchaser) on account of any loss, claim, damage or liability arising from the sale of Bonds by the Purchaser to any person on account of any statement or omission of alleged omission in the draft Official Statement if such statement or omission has been corrected in the Official Statement and a copy of the Official Statement shall not have been sent or given by or on behalf of the Purchaser to such person at or prior to the written confirmation of the sale of such Bonds and the delivery thereof would have constituted a defense to the claim asserted by such person. This indemnity agreement will be in addition to any liability which the City may otherwise have.

21. The City will pay or cause to be paid from, but only form, the proceeds of the Bonds all expenses incident to the performance of its obligations under this

Proposal, including, but not limited to, mailing and delivery of the Bonds, cost of printing the Bonds, the preliminary Official Statement and the Official Statement, the Proposal and the blue sky and legal investment memoranda, including the mailing or delivery thereof by the printer, costs of a verification from an independent certified public accountant, costs of obtaining ratings from the rating agencies, fees and disbursements of Bond Counsel and Special Tax Counsel and other miscellaneous fees incurred as part of this financing. In the event this Proposal shall terminate other than because of a default by the Purchaser the City agrees that it will not look to the Purchaser for the payment of any third party costs, will protect the Purchaser against any third party claims for fees, costs or expenses, and will be responsible for the settlement and discharge thereof. In the event this Proposal shall terminate because of the default of the Purchaser, the Purchaser will pay, or cause to be paid but only out of the Purchaser's liquidated damages as described in Paragraph 21 hereof, all of the expenses specified above. If there are any excess funds remaining from said liquidated damages of the Purchase such excess funds shall be paid to the City. The Purchaser shall pay the cost of qualifying the Bonds for sale in various states chosen by the Purchaser, all advertising expenses in connection with the public offering of the Bonds, and all other expenses incurred by it in connection with its public offering and distribution of the Bonds.

22. If the City shall be unable to satisfy the conditions to the obligations of the Purchaser contained in this Proposal, or if the obligations of the Purchaser shall be terminated for any reason permitted by this Proposal, the Proposal shall terminate and neither the Purchaser nor the City shall have any further obligations hereunder.

23. This Proposal is subject to acceptance at the meeting of the City Council at which it is delivered.

Very truly yours,

By: John S. Reger II

John S. Reger II

This Purchase Proposal for $11,065,000 CITY OF FAIRMONT, WEST VIRGINIA, Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988, by Butcher & Singer Inc. is accepted this 25th day of October, 1988.

CITY OF FAIRMONT

By: Robert M. Drummond Jr.
Mayor

Attest: Deborah M. Richards

(SEAL)

EXHIBIT I

City of Fairmont
Sewerage System Refunding Revenue Bonds
Summary of Terms of Bonds Issue

Size (Bond Proceeds)	3,680,320.50
Final Maturity Date	November 1, 2011
Underwriters Discount (%)	2.00%
Underwriters Discount ($)	73,606.41
Total Bid for Issue	3,686,714.09
Bond Yield	7.49%
Rating	AAA/Aaa
Funds Provided for Capital Proje	297,421.92

Bond Issue Consists of:

Maturity Amount	Yield	Approx. Proceeds	
500,000	6.60%	298,975	Captial Appreciation Bonds Due: November 1, 1996
500,000	6.70%	277,770	Captial Appreciation Bonds Due: November 1, 1997
500,000	6.80%	257,570	Captial Appreciation Bonds Due: November 1, 1998
500,000	6.90%	238,380	Captial Appreciation Bonds Due: November 1, 1999
745,000	7.00%	328,091	Captial Appreciation Bonds Due: November 1, 2000
755,000	7.10%	306,538	Captial Appreciation Bonds Due: November 1, 2001
755,000	7.20%	282,050	Captial Appreciation Bonds Due: November 1, 2002
755,000	7.30%	259,041	Captial Appreciation Bonds Due: November 1, 2003
760,000	7.40%	239,020	Captial Appreciation Bonds Due: November 1, 2004
755,000	7.50%	217,229	Captial Appreciation Bonds Due: November 1, 2005
755,000	7.60%	198,354	Captial Appreciation Bonds Due: November 1, 2006
755,000	7.70%	180,770	Captial Appreciation Bonds Due: November 1, 2007
755,000	7.75%	166,017	Captial Appreciation Bonds Due: November 1, 2008
760,000	7.75%	154,880	Captial Appreciation Bonds Due: November 1, 2009
755,000	7.75%	142,597	Captial Appreciation Bonds Due: November 1, 2010
760,000	7.75%	133,030	Captial Appreciation Bonds Due: November 1, 2011
11,065,000		3,680,321	

Butcher & Singer Inc

SCHEDULE 1

City of Fairmont
Proposed Sewerage System Refunding Revenue Bonds, Series of 1988
Existing Debt Service, Series of 1985 Bonds

Date	Principal	Coupon	Interest	Total Debt Service	Annual Debt Service
01-Nov-88					
01-May-89			324,764	324,764	
01-Nov-89	110,000	6.750%	324,764	434,764	759,529
01-May-90			321,052	321,052	
01-Nov-90	115,000	7.250%	321,052	436,052	757,104
01-May-91			316,883	316,883	
01-Nov-91	125,000	7.500%	316,883	441,883	758,766
01-May-92			312,196	312,196	
01-Nov-92	135,000	7.750%	312,196	447,196	759,391
01-May-93			306,964	306,964	
01-Nov-93	145,000	8.000%	306,964	451,964	758,929
01-May-94			301,164	301,164	
01-Nov-94	155,000	8.200%	301,164	456,164	757,329
01-May-95			294,809	294,809	
01-Nov-95	170,000	8.400%	294,809	464,809	759,619
01-May-96			287,669	287,669	
01-Nov-96	185,000	8.600%	287,669	472,669	760,339
01-May-97			279,714	279,714	
01-Nov-97	200,000	8.800%	279,714	479,714	759,429
01-May-98			270,914	270,914	
01-Nov-98	215,000	9.000%	270,914	485,914	756,829
01-May-99			261,239	261,239	
01-Nov-99	235,000	9.100%	261,239	496,239	757,479
01-May-2000			250,547	250,547	
01-Nov-2000	255,000	9.375%	250,547	505,547	756,094
01-May-2001			238,594	238,594	
01-Nov-2001	280,000	9.375%	238,594	518,594	757,188
01-May-2002			225,469	225,469	
01-Nov-2002	305,000	9.375%	225,469	530,469	755,938
01-May-2003			211,172	211,172	
01-Nov-2003	335,000	9.375%	211,172	546,172	757,344
01-May-2004			195,469	195,469	
01-Nov-2004	370,000	9.375%	195,469	565,469	760,938
01-May-2005			178,125	178,125	
01-Nov-2005	400,000	9.500%	178,125	578,125	756,250
01-May-2006			159,125	159,125	
01-Nov-2006	440,000	9.500%	159,125	599,125	758,250
01-May-2007			138,225	138,225	
01-Nov-2007	480,000	9.500%	138,225	618,225	756,450
01-May-2008			115,425	115,425	
01-Nov-2008	525,000	9.500%	115,425	640,425	755,850
01-May-2009			90,488	90,488	
01-Nov-2009	580,000	9.500%	90,488	670,488	760,975
01-May-2010			62,938	62,938	
01-Nov-2010	630,000	9.500%	62,938	692,938	755,875
01-May-2011			33,013	33,013	
01-Nov-2011	695,000	9.500%	33,013	728,013	761,025
	7,085,000		10,351,916	17,436,916	17,436,916

Butcher & Singer Inc

SCHEDULE 2

City of Fairmont
Proposed Sewerage System Refunding Revenue Bonds, Series of 1988
Existing Debt Service to be Refunded

Date	Principal	Coupon	Interest	Total Debt Service	Annual Debt Service	Principal Called	Redemption Price	Escrow Requirement
01-May-89			324,764	324,764				324,764
01-Nov-89	110,000	6.750%	324,764	434,764	759,529			434,764
01-May-90			321,052	321,052				321,052
01-Nov-90	115,000	7.250%	321,052	436,052	757,104			436,052
01-May-91			316,883	316,883				316,883
01-Nov-91	125,000	7.500%	316,883	441,883	758,766			441,883
01-May-92			312,196	312,196				312,196
01-Nov-92	135,000	7.750%	312,196	447,196	759,391			447,196
01-May-93			306,964	306,964				306,964
01-Nov-93	145,000	8.000%	306,964	451,964	758,929			451,964
01-May-94			0	0				0
01-Nov-94	0	8.200%	0	0	0			0
01-May-95			0	0				0
01-Nov-95	0	8.400%	0	0	0	5,285,000	100.000%	0
01-May-96			250,078	250,078				0
01-Nov-96	0	8.600%	250,078	250,078	500,156			0
01-May-97			250,078	250,078				0
01-Nov-97	0	8.800%	250,078	250,078	500,156			0
01-May-98			250,078	250,078				0
01-Nov-98	0	9.000%	250,078	250,078	500,156			0
01-May-99			250,078	250,078				0
01-Nov-99	0	9.100%	250,078	250,078	500,156			0
01-May-2000			250,078	250,078				0
01-Nov-2000	245,000	9.375%	250,078	495,078	745,156			0
01-May-2001			238,594	238,594				0
01-Nov-2001	280,000	9.375%	238,594	518,594	757,188			0
01-May-2002			225,469	225,469				0
01-Nov-2002	305,000	9.375%	225,469	530,469	755,938			0
01-May-2003			211,172	211,172				0
01-Nov-2003	335,000	9.375%	211,172	546,172	757,344			0
01-May-2004			195,469	195,469				0
01-Nov-2004	370,000	9.375%	195,469	565,469	760,938			0
01-May-2005			178,125	178,125				0
01-Nov-2005	400,000	9.500%	178,125	578,125	756,250			0
01-May-2006			159,125	159,125				0
01-Nov-2006	440,000	9.500%	159,125	599,125	758,250			0
01-May-2007			138,225	138,225				0
01-Nov-2007	480,000	9.500%	138,225	618,225	756,450			0
01-May-2008			115,425	115,425				0
01-Nov-2008	525,000	9.500%	115,425	640,425	755,850			0
01-May-2009			90,488	90,488				0
01-Nov-2009	580,000	9.500%	90,488	670,488	760,975			0
01-May-2010			62,938	62,938				0
01-Nov-2010	630,000	9.500%	62,938	692,938	755,875			0
01-May-2011			33,013	33,013				0
01-Nov-2011	695,000	9.500%	33,013	728,013	761,025			0
	5,915,000		8,960,581	14,875,581	14,875,581	5,285,000		3,793,719

Butcher & Singer Inc

SCHEDULE 3

City of Fairmont
Proposed Sewerage System Refunding Revenue Bonds, Series of 1983
Existing Debt Service Not Refunded

Date	Principal	Coupon	Interest	Total Debt Service	Annual Debt Service
01-May-89			0	0	
01-Nov-89	0	6.75%	0	0	0
01-May-90			0	0	
01-Nov-90	0	7.25%	0	0	0
01-May-91			0	0	
01-Nov-91	0	7.50%	0	0	0
01-May-92			0	0	
01-Nov-92	0	7.75%	0	0	0
01-May-93			0	0	
01-Nov-93	0	8.00%	0	0	0
01-May-94			301,164	301,164	
01-Nov-94	155,000	8.20%	301,164	456,164	757,329
01-May-95			294,809	294,809	
01-Nov-95	170,000	8.40%	294,809	464,809	759,619
01-May-96			37,591	37,591	
01-Nov-96	185,000	8.60%	37,591	222,591	260,183
01-May-97			29,636	29,636	
01-Nov-97	200,000	8.80%	29,636	229,636	259,273
01-May-98			20,836	20,836	
01-Nov-98	215,000	9.00%	20,836	235,836	256,673
01-May-99			11,161	11,161	
01-Nov-99	235,000	9.10%	11,161	246,161	257,323
01-May-2000			469	469	
01-Nov-2000	10,000	9.375%	469	10,469	10,938
01-May-2001			0	0	
01-Nov-2001	0	9.375%	0	0	0
01-May-2002			0	0	
01-Nov-2002	0	9.375%	0	0	0
01-May-2003			0	0	
01-Nov-2003	0	9.375%	0	0	0
01-May-2004			0	0	
01-Nov-2004	0	9.375%	0	0	0
01-May-2005			0	0	
01-Nov-2005	0	9.50%	0	0	0
01-May-2006			0	0	
01-Nov-2006	0	9.50%	0	0	0
01-May-2007			0	0	
01-Nov-2007	0	9.50%	0	0	0
01-May-2008			0	0	
01-Nov-2008	0	9.50%	0	0	0
01-May-2009			0	0	
01-Nov-2009	0	9.50%	0	0	0
01-May-2010			0	0	
01-Nov-2010	0	9.50%	0	0	0
01-May-2011			0	0	
01-Nov-2011	0	9.50%	0	0	0
	1,170,000		1,391,335	2,561,335	2,561,335

Butcher & Singer Inc

SCHEDULE 4

City of Fairmont
Proposed Sewerage System Refunding Revenue Bonds, Series of 1988
Structure of Escrow Account (Funded From New Bond Proceeds)

Date	Refunding Requirement	Escrow Principal	Interest Rate	Escrow Interest	Available Funds	Cumulative Surplus
01-May-89	324,764	236,500	7.49%	88,310	324,810	46
01-Nov-89	434,764	316,600	7.49%	118,126	434,726	7
01-May-90	321,052	224,800	7.49%	96,305	321,105	60
01-Nov-90	436,052	348,200	7.49%	87,890	436,090	99
01-May-91	316,883	242,000	7.49%	74,855	316,855	70
01-Nov-91	441,883	376,100	7.49%	65,796	441,896	83
01-May-92	312,196	260,400	7.49%	51,716	312,116	4
01-Nov-92	447,196	405,300	7.49%	41,968	447,268	77
01-May-93	306,964	280,100	7.49%	26,796	306,896	8
01-Nov-93	451,964	435,700	7.49%	16,310	452,010	54
	3,793,719	3,125,700		668,073	3,793,773	

Gross SLGS Purchased	3,125,700
PLUS: Transferred Proceeds Penalty	33,000
Net Refunding Requirement:	3,158,700

Butcher & Singer Inc

SCHEDULE 5

City of Fairmont
Proposed Sewerage System Refunding Revenue Bonds, Series of 1988
Cash Flows Under Forward Supply Contract

Date	Total Refunding Requirement	Type of Security	Maturity Date	Principal Amount Purchased	Net Funds Available @ Repo Price 0.996991	Yield	15-Nov-95 STRIP Price	Cost at Purchase	Annual Payments
01-May-89				543,000	541,366	7.900%	0.60239	327,099	
01-Nov-89				690,000	687,924	7.900%	0.62619	432,069	759,168
01-May-90				497,000	495,505	7.900%	0.65092	323,508	
01-Nov-90				640,000	638,075	7.900%	0.67663	433,045	756,553
01-May-91				455,000	453,631	7.900%	0.70336	320,029	
01-Nov-91				600,000	598,195	7.900%	0.73114	438,685	758,714
01-May-92				411,000	409,763	7.900%	0.76002	312,369	
01-Nov-92				565,000	563,300	7.900%	0.79004	446,375	758,744
01-May-93				373,000	371,878	7.900%	0.82125	306,326	
01-Nov-93				530,000	528,405	7.900%	0.85369	452,455	758,782
01-May-94				0	0	7.900%	0.88741	0	
01-Nov-94				0	0	7.900%	0.92246	0	0
01-May-95				0	0	7.900%	0.95890	0	
15-Nov-95	5,285,000	US STRIPS	15-Nov-95	0	0	7.900%	1.00000	0	0
	5,285,000			5,304,000	5,288,043			3,791,961	3,791,961

Debt Service Not Refunded:	2,561,335
Debt Service Defeased in Escrow:	3,793,719
Cash Flows From FS Contract	
-Principal Called	5,285,000
-Interest Precluded	5,796,863
Total Debt Service Accounted For:	17,436,916
Total Existing Debt	17,436,916
CHECK:	0

Butcher & Singer Inc SCHEDULE 6

City of Fairmont
Proposed Sewerage System Refunding Revenue Bonds, Series of 1988
Sources & Uses of Funds
INTEREST RATES AT CURRENT LEVELS

ASSUMPTIONS

Dated Date	30-Nov-88
Settlement Date	30-Nov-88
Rating	"AAA/Aaa"

USES

Net Deposit to Escrow Account	3,158,700.00
Purchase Escrow Securities with Future Revenues	3,791,960.85
Bond Insurance Premium (1)	75,592.17
Issuance Costs (2)	148,606.41
Capital Projects (3)	297,421.92
Total Uses	7,472,281.35

SOURCES

Series of 1988 Bonds

-Principal	11,065,000.00	
-Original Issue Discount	(7,384,679.50)	
Total Proceeds		3,680,320.50
Future Revenues		3,791,960.85
Total Sources		7,472,281.35

(1) Equal to 0.68% of total debt service on the Bonds.
(2) Financing costs include the following:

U/W Discount @ .200%	73,606.41
Bond Counsel	30,000.00
Special Tax Counsel	22,500.00
Sanitary Board Counsel	500.00
Printing (Bonds)	3,500.00
Printing (Official Statement)	9,500.00
CPA Verification	5,000.00
Paying Agent	1,800.00
Municipal Bond Commission	1,000.00
Miscellaneous	1,200.00
Total Financing Costs	148,606.41

(3) Funds available due to refinancing.

Butcher & Singer Inc

SCHEDULE 7

City of Fairmont
Proposed Sewerage System Refunding Revenue Bonds, Series of 1988
Debt Service Summary - Series of 1987 Bonds
INTEREST RATES AT CURRENT LEVELS

Date	Principal	Yield	Price	Interest	Cash Proceeds	Total Debt Service	Annual Debt Service
01-May-89				0		0	
01-Nov-89	0			0	0	0	0
01-May-90				0		0	
01-Nov-90	0			0	0	0	0
01-May-91				0		0	
01-Nov-91	0			0	0	0	0
01-May-92				0		0	
01-Nov-92	0			0	0	0	0
01-May-93				0		0	
01-Nov-93	0			0	0	0	0
01-May-94				0		0	
01-Nov-94	0			0	0	0	0
01-May-95				0		0	
01-Nov-95	0			0	0	0	0
01-May-96				0		0	
01-Nov-96	500,000	6.600%	59.795%	0	298,975	500,000	500,000
01-May-97				0		0	
01-Nov-97	500,000	6.700%	55.554%	0	277,770	500,000	500,000
01-May-98				0		0	
01-Nov-98	500,000	6.800%	51.514%	0	257,570	500,000	500,000
01-May-99				0		0	
01-Nov-99	500,000	6.900%	47.676%	0	238,380	500,000	500,000
01-May-2000				0		0	
01-Nov-2000	745,000	7.000%	44.039%	0	328,091	745,000	745,000
01-May-2001				0		0	
01-Nov-2001	755,000	7.100%	40.601%	0	306,538	755,000	755,000
01-May-2002				0		0	
01-Nov-2002	755,000	7.200%	37.359%	0	282,060	755,000	755,000
01-May-2003				0		0	
01-Nov-2003	755,000	7.300%	34.310%	0	259,041	755,000	755,000
01-May-2004				0		0	
01-Nov-2004	760,000	7.400%	31.450%	0	239,020	760,000	760,000
01-May-2005				0		0	
01-Nov-2005	755,000	7.500%	28.772%	0	217,229	755,000	755,000
01-May-2006				0		0	
01-Nov-2006	755,000	7.600%	26.272%	0	198,354	755,000	755,000
01-May-2007				0		0	
01-Nov-2007	755,000	7.700%	23.943%	0	180,770	755,000	755,000
01-May-2008				0		0	
01-Nov-2008	755,000	7.750%	21.989%	0	166,017	755,000	755,000
01-May-2009				0		0	
01-Nov-2009	760,000	7.750%	20.379%	0	154,880	760,000	760,000
01-May-2010				0		0	
01-Nov-2010	755,000	7.750%	18.887%	0	142,597	755,000	755,000
01-May-2011				0		0	
01-Nov-2011	760,000	7.750%	17.504%	0	133,030	760,000	760,000
	11,065,000			0	3,680,321	11,065,000	11,065,000

Butcher & Singer Inc

SCHEDULE 8

City of Fairmont
Proposed Sewerage System Refunding Revenue Bonds, Series of 1988
Debt Service Comparison
INTEREST RATES AT CURRENT LEVELS

Date	Unrefunded Debt Service	Forward Payments	1988 Bonds Debt Service	Annual Obligations	Existing Debt Service	Savings
01-May-89						
01-Nov-89	0	759,168	0	759,168	759,529	361
01-May-90						
01-Nov-90	0	756,553	0	756,553	757,104	551
01-May-91						
01-Nov-91	0	758,714	0	758,714	758,766	52
01-May-92						
01-Nov-92	0	758,744	0	758,744	759,391	647
01-May-93						
01-Nov-93	0	758,782	0	758,782	758,929	147
01-May-94						
01-Nov-94	757,329	0	0	757,329	757,329	0
01-May-95						
01-Nov-95	759,619	0	0	759,619	759,619	0
01-May-96						
01-Nov-96	260,183	0	500,000	760,183	760,339	156
01-May-97						
01-Nov-97	259,273	0	500,000	759,273	759,429	156
01-May-98						
01-Nov-98	256,673	0	500,000	756,673	756,829	156
01-May-99						
01-Nov-99	257,323	0	500,000	757,323	757,479	156
01-May-2000						
01-Nov-2000	10,938	0	745,000	755,938	756,094	156
01-May-2001						
01-Nov-2001	0	0	755,000	755,000	757,188	2,188
01-May-2002						
01-Nov-2002	0	0	755,000	755,000	755,938	938
01-May-2003						
01-Nov-2003	0	0	755,000	755,000	757,344	2,344
01-May-2004						
01-Nov-2004	0	0	760,000	760,000	760,938	938
01-May-2005						
01-Nov-2005	0	0	755,000	755,000	756,250	1,250
01-May-2006						
01-Nov-2006	0	0	755,000	755,000	758,250	3,250
01-May-2007						
01-Nov-2007	0	0	755,000	755,000	756,450	1,450
01-May-2008						
01-Nov-2008	0	0	755,000	755,000	755,850	850
01-May-2009						
01-Nov-2009	0	0	760,000	760,000	760,975	975
01-May-2010						
01-Nov-2010	0	0	755,000	755,000	755,875	875
01-May-2011						
01-Nov-2011	0	0	760,000	760,000	761,025	1,025
	2,561,335	3,791,961	11,065,000	17,418,296	17,436,916	18,620

ORDINANCE NO. 239

AN ORDINANCE providing for a sanitary board of the City of Fairmont, West Virginia.

* * *

WHEREAS preliminary investigations and proceedings have heretofore been taken for the construction of improvements and extensions to the municipal sewer system in and for the City of Fairmont, West Virginia, under the provisions of Article 13 of Chapter 16 of the West Virginia Code, and it is provided by said enabling law that a sanitary board shall be created for the custody, supervision, control, administration, operation and maintenance of said system;

NOW, THEREFORE, Be It Ordained by the Board of Directors of the City of Fairmont, West Virginia, as follows:

Section 1. That there shall be and there is hereby created in and for the City of Fairmont, West Virginia, a sanitary board for the custody, supervision, control, administration, operation and maintenance of the sewer system, all as permitted and provided by Article 13 of Chapter 16 of the West Virginia Code of 1949, and said sanitary board shall be composed of the Mayor of said city and two persons, one of whom is a registered professional engineer, namely, Bernard H. Sampson, for a term of two years, and Alfred Keely, for a term of three years.

Section 2. That the Mayor of said city shall act as Chairman of said sanitary board, and that upon organization said board shall elect a vice chairman and also designate a secretary and treasurer (who may be separate persons or one and the same), and the Board of Directors of said city hereby reserves the right and privilege from time to time by ordinance to fix the compensation of the members of said board and the secretary and treasurer thereof,

and also to require and fix the amount of bonds which any or all of said officials may be required to furnish.

Section 3. That this ordinance be in full force and effect immediately upon its adoption and publication.

First reading: June 14, , 1954.

Second reading: June 21, , 1954.

Third reading and adopted: June 28, , 1954.

James H. Hanway
Mayor

Attest:

Marchie M. Gutter
City Clerk

Approved as to form and correctness,

June 28, , 1954.

R. E. Johnson
City Attorney

WCW:bjb

We, the undersigned officials of the City of Fairmont, certify that Ordinance No. 239 entitled:

"AN ORDINANCE PROVIDING FOR A SANITARY BOARD OF THE CITY OF FAIRMONT, WEST VIRGINIA",

was introduced and read on the 14th day of June 1954; was read a second time on June 21, 1954; was read a third time on the 28th day of June 1954; and was duly passed on said last named day; that said Ordinance was signed by the undersigned officials and filed with the City Clerk within two days after its final passage in all daily newspapers of opposite politics published in the City of Fairmont, to-wit: by publication in the West Virginian July 1, 1954 and in the Fairmont Times July 1, 1954.

Passed by the Board of Directors June 28, 1954.

James H. Hanway
Mayor

Attest:

Marchie M. Nutter
City Clerk

A TRUE COPY-

James H. Hanway
Mayor

Marchie M. Nutter
City Clerk

ALL-STATE LEGAL SUPPLY CO., ONE COMMERCE DRIVE, CRANFORD, NEW JERSEY 07016

ED 11-2C

PETITION

The Sanitary Sewer Board of the City of Fairmont, on motion duly passed at its meeting on the 27th day of September, 1988, respectfully petitions the Council of the City of Fairmont to enact a supplemental and amendatory ordinance directing that refunding revenue bonds of the municipality be issued pursuant to the provisions of Chapter 16, Article 13 of the West Virginia Code, in an amount not to exceed Thirteen Million Five Hundred Thousand Dollars ($13,500,000) for the purpose of refunding a portion of the City's outstanding Sewerage System Refunding Revenue Bonds, Series 1985, and realizing interest cost savings to the City.

All as required by Chapter 16, Article 13 of the West Virginia Code.

SANITARY SEWER BOARD OF THE CITY OF FAIRMONT

By _____
City Manager and Chairman
Sanitary Sewer Board

09/24/88
FMTSR1-B

REGISTRAR, PAYING AGENT AND DEPOSITORY BANK AGREEMENT

THIS REGISTRAR, PAYING AGENT AND DEPOSITORY BANK AGREEMENT (the "Agreement"), dated as of the 30th day of November, 1988, by and between the CITY OF FAIRMONT, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and CITY NATIONAL BANK OF FAIRMONT, a national banking association (the "Bank").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its $11,065,000 aggregate principal amount of Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988, in fully registered form (the "Bonds"), pursuant to an ordinance enacted August 13, 1985, as supplemented and amended by a supplemental and amendatory resolution adopted September 17, 1985, a supplemental and amendatory ordinance enacted October 25, 1988, and a supplemental resolution adopted October 25, 1988 (collectively, the "Ordinance");

WHEREAS, capitalized words and terms used in this Agreement and not otherwise defined herein shall have the respective meanings given them in the Ordinance, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Ordinance provides for an appointment by the Issuer of a Registrar, Paying Agent and Depository Bank for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Ordinance and this Agreement does appoint City National Bank of Fairmont, Fairmont, West Virginia, to act as Registrar, Paying Agent and Depository Bank for the Bonds under the Ordinance and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Agreement by the Issuer and the Bank and during the term hereof, the Bank does accept and shall have and carry out the powers and duties of Paying Agent, Registrar and Depository Bank, all as set forth in the Ordinance, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and

when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exemption of interest on the Bonds from federal income taxation, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Bank agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Paying Agent, Registrar or Depository Bank and to furnish the Issuer with the names and specimen signatures of the Bank's authorized officers for the purposes of acting in such capacities and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Bank 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 Paying Agent, Registrar and Depository Bank pursuant to this Agreement, the Issuer hereby agrees to pay to the Bank, from time to time, the compensation for services rendered as provided in the annexed schedule and reimbursement for reasonable expenses incurred in connection therewith. The Bank recognizes and acknowledges that it shall have no claim upon any funds deposited therewith or earnings thereon designated for payment of debt service on the Bonds.

5. It is intended that this Agreement shall carry out and implement provisions of the Ordinance with respect to the Paying Agent, Registrar and Depository Bank. In the event of any conflict between the terms of this Agreement and the Ordinance, the terms of the Ordinance shall govern.

6. The Issuer and the Bank each warrants and represents that it is duly authorized and empowered to execute and enter into this Agreement and that neither such execution nor the performance of its duties hereunder or under the Ordinance will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER: City of Fairmont
City/County Complex
200 Jackson Street
Fairmont, West Virginia 26554
Attention: City Manager

REGISTRAR: City National Bank of Fairmont
120 Fairmont Avenue
Fairmont, West Virginia 26555
Attention: Trust Officer

8. The Bank is hereby requested and authorized to authenticate, register and deliver the Bonds in accordance with the Ordinance.

IN WITNESS WHEREOF, the CITY OF FAIRMONT and CITY NATIONAL BANK OF FAIRMONT have caused this Registrar's Agreement to be signed in their respective names and on their behalf, all as of the day and year first above-written.

CITY OF FAIRMONT

By _____
City Manager

CITY NATIONAL BANK OF FAIRMONT

By _____
Its VICE-PRESIDENT & TRUST OFFICER

10/28/88
FMTSR3-J

CITY OF FAIRMONT

Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988

ACCEPTANCE OF DUTIES OF REGISTRAR, PAYING AGENT AND DEPOSITORY BANK

CITY NATIONAL BANK OF FAIRMONT, a national banking association with principal office in the City of Fairmont, West Virginia, hereby accepts appointment as Registrar, Paying Agent and Depository Bank in connection with the City of Fairmont Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988, dated November 30, 1988, in the aggregate principal amount of $11,065,000 (the "Bonds") and agrees to perform all duties of Registrar, Paying Agent and Depository Bank in connection with such Bonds, all as set forth in the Ordinance, as supplemented and amended, and Supplemental Resolution authorizing issuance of the Bonds.

CITY NATIONAL BANK OF FAIRMONT

By _____

Its VICE-PRESIDENT & TRUST OFFICER

10/31/88
FMTSR3-K

CITY OF FAIRMONT

Sewerage System Refunding Revenue Capital Appreciation Bonds,
Series 1988

ACCEPTANCE OF DUTIES OF ESCROW AGENT

THE WEST VIRGINIA MUNICIPAL BOND COMMISSION, in Charleston, West Virginia, hereby accepts appointment as Escrow Agent in connection with the City of Fairmont Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988, dated November 30, 1988, in the aggregate principal amount of $11,065,000 (the "Bonds") to perform all duties of Escrow Agent in connection with the defeasance of such portion of the City of Fairmont Prior Bonds, as defined as in the Escrow Deposit Agreement dated as of November 30, 1988, by and between the City of Fairmont and the West Virginia Municipal Bond Commission, as Escrow Agent, all as set forth in the Ordinance, as supplemented and amended, and Supplemental Resolution authorizing issuance of the Bonds.

WEST VIRGINIA MUNICIPAL BOND
COMMISSION

By _____
Its Executive Director

10/31/88
FMTSR3-L

ALL-STATE LEGAL SUPPLY CO., ONE COMMERCE DRIVE, CRANFORD RSEY 07016

ED 11-2C

State of West Virginia

CERTIFICATE

I, Ken Hechler, Secretary of State of the State of West Virginia, hereby certify that

ATTACHED IS A TRUE COPY OF WEST VIRGINIA CODE CHAPTER 16, ARTICLE 13; AS INDICATED BY THE RECORDS OF MY OFFICE.

Given under my hand and the Great Seal of the State of West Virginia, on this

TWENTY-SECOND *day of*

NOVEMBER *19* 88

Ken Hechler

Secretary of State.

Notice shall be given by the county court of the time and place, when and where all persons interested will be heard substantially as provided in section one of this article. The conduct of the hearing and the manner of conducting the subsequent election on the question whether such territory shall become disconnected and the issuance, reception, return and canvassing of the ballots shall be, as nearly as possible, in accordance with the provisions of section one of this article. The ballots for the election provided for in this section shall be substantially as follows, to wit:

☐ For disconnection from sanitary district.
☐ Against disconnection from sanitary district.

If a majority of the votes cast at such election shall be in favor of disconnection, and if the trustees of such sanitary district shall, by ordinance, disconnect such territory, thereupon the county court of the county in which the original petition for the formation of such sanitary district was filed, shall enter an appropriate order in the records of the said county court and thereafter such territory shall henceforth be deemed disconnected from such sanitary district. (1933, Ex. Sess., c. 24, § 14.)

Editor's note. — As to designation of county courts as county commissions, see W. Va. Const., art. IX, § 9.

ARTICLE 13.

SEWAGE WORKS OF MUNICIPAL CORPORATIONS AND SANITARY DISTRICTS.

Sec.
16-13-1. Acquisition, operation, etc., of works; acquisition of property; issuance of bonds.
16-13-2. Sanitary board to supervise and control construction, etc., of works; appointment of board; definitions.
16-13-3. Powers of sanitary board; contracts; employees; compensation thereof; extensions and improvements; replacement of damaged public works.
16-13-4. Payment of preliminary expenses of surveys, etc.
16-13-5. Ordinance necessary before acquisition or construction of works.
16-13-6. Publication and hearing upon ordinance.
16-13-7. Acquisition by condemnation or purchase.
16-13-8. Cost of works.
16-13-9. Contracts and obligations incurred to be paid for solely by revenue bonds.
16-13-10. Interest on and redemption of bonds; form; statement on face of bond; negotiability; exemption from taxation; registration; execution; sale; disposition of surplus proceeds; additional and temporary bonds.
16-13-11. Additional bonds to extend or improve works.
16-13-12. Additional bonds for extension, etc., of works to have equal priority with original bonds.
16-13-13. Application of revenue from bonds; lien.
16-13-14. Securing bonds by trust indenture.
16-13-15. Sinking fund; transfer of balance of net revenues.
16-13-16. Rates for service; change or readjustment; hearing; lien and recovery; discontinuance of services.
16-13-17. Municipality subject to established rates.
16-13-18. Supervision of works by sanitary board; organization of board;

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16-13-18a. Publication of financial statement.
16-13-19. Contract with other municipalities for service of works; powers of lessee as to rates; intercepting sewers.
16-13-20. Discharge of lien on property acquired.
16-13-21. Action on certificates or attached coupons; receivers.
16-13-22. Powers conferred in addition to existing powers; jurisdiction outside corporate limits.
16-13-22a. Grants, loans and advances.
16-13-22b. Contracts for abatement of pollution.
16-13-22c. Refunding bonds.
16-13-22d. Subordination of bonds.
16-13-22e. Operating contract.
16-13-22f. Exemption of bonds from taxation.
16-13-22g. Covenants with bondholders.
16-13-23. Article deemed full authority for construction, etc., of works and issue of bonds; alternative method; powers of state department of health unaffected.
16-13-23a. Additional powers of municipality upon receipt of order to cease pollution.
16-13-24. Article to be construed liberally.

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

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

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

No conflict with statutory limitations on expenditure of tax funds. — There is no conflict between this article, authorizing a city to incur expenses which are to be payable solely from the proceeds of revenue bonds, and the general statutory limitations on the expenditure of money and incurring of obligations with respect to funds produced by tax levies. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

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

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

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

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

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

Sections read together. — This section should be read and construed with former § 8-4-20 and §§ 16-13-2, 16-13-16, 24-1-1, 24-2-1, and 24-2-3. Delardas v. Morgantown Water Comm'n, 148 W. Va. 776, 137 S.E.2d 426 (1964).

Use of territory in adjoining state authorized. — By this section and § 16-13-22 the legislature intended, insofar as it could, to confer upon such municipalities as might find its exercise convenient, the right to make necessary and appropriate arrangements for the disposal of their sewage, even where that course involved the use of territory in an adjoining state. Bernard v. City of Bluefield, 117 W. Va. 556, 186 S.E. 298 (1936).

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

Cited in City of Beckley v. Craighead, 125 W. Va. 484, 24 S.E.2d 908 (1943).

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

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

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

Sections read together. — This section should be read and construed with former § 8-4-20 and §§ 16-13-1, 16-13-16, 24-1-1, 24-2-1 and 24-2-3. Delardas v. Morgantown Water Comm'n, 148 W. Va. 776, 137 S.E.2d 426 (1964).

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

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

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

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

for the successful operation thereof. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition, as nearly as practicable, if requested so to do by proper authority, out of the funds provided by this article. (1933, Ex. Sess., c. 25, § 3.)

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

And is liable on contract with third party. — Where a contract between a municipal sanitary board and a contractor, providing for the construction of a sanitary sewage system, provides inter alia that "existing surface, overhead or subsurface structures damaged or destroyed by reason of the contractor's operations shall be promptly repaired or replaced in a satisfactory manner at the cost and expense of the contractor," and the contractor by job order requests enters into a contract with an existing water company to remove certain of the latter's water pipes which interfere with the construction of the sewage system, the contractor, in a notice of motion for judgment proceeding instituted by the water company, is liable for the expense so incurred. West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

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

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

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

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

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

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

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

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

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

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

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

After such ordinance shall have been adopted, an abstract of the ordinance, determined by the governing body to contain sufficient information as to give notice of the contents of such ordinance, together with the following described notice, shall be published as a Class II legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the municipality. The notice shall state that said ordinance has been adopted, and that the municipality contemplates the issuance of the bonds described in the ordinance, and

that any person interested may appear before the governing body upon a certain date, which shall not be less than ten days subsequent to the first date of publication of such abstract and notice which shall not be prior to the last date of publication of such abstract and notice, and present protests. At such hearing all objections and suggestions shall be heard and the governing body shall take such action as it shall deem proper in the premises: Provided, however, that if at such a hearing written protest is filed by thirty percent or more of the owners of real estate situate in said municipality, then the governing body of said municipality shall not take further action unless four fifths of the qualified members of the said governing body assent thereto. (1933, Ex. Sess., c. 25, § 6; 1967, c. 105; 1981, 1st Ex. Sess., c. 2.)

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

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

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§ 16-13-8. Cost of works.

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

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

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

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

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

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

The provisions of this article become a part of the contract between the municipality and the bondholders as effectually as if written verbatim in the bonds. The bondholders are bound by their contract in this instance just as firmly as in any other legal contract. Consequently, the bonds do not create a corporate indebtedness of the municipality. Brewer v. City of Point Pleasant, 114 W. Va. 572, 172 S.E. 717 (1934); United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

Contractual obligation between municipalities not relieved by inability of town to sell revenue bonds. — Under the provisions of §§ 16-13-19 and 16-13-23a, a city and a town may enter into a contract whereby the city agreed to construct a sewage disposal facility and the town agreed to contribute to the cost of the construction of the facility in return for the right to use the facility, and the fact that the town was unable to sell revenue bonds because it was not allowed to have part ownership in the treatment plant or interceptor sewers did not relieve the town of its contractual obligation when the city offered to buy the revenue bonds issued by the town. Since the contracts were authorized by statute and were thus not ultra vires, even if the contracts were not formally approved by ordinance, the municipalities were estopped from asserting any invalidity of the contracts on such ground. City of Morgantown v. Town of Star City, 156 W. Va. 529, 195 S.E.2d 166 (1973).

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

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

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

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

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

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

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

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

All moneys received from any bonds issued pursuant to this article, after reimbursements and repayment to said municipality of all amounts advanced for preliminary expenses as provided in section four [§ 16-13-4] of this article, shall be applied solely to the payment of the cost of the work, extensions,

improvements or betterments, or to the appurtenant sinking fund and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the holders of the bonds or the trustees hereinafter provided for. (1933, Ex. Sess., c. 25, § 13.)

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

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

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

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

At or before the issuance of any such bonds the governing body shall by said ordinance create a sinking fund, to be remitted to and administered by the state sinking fund commission, for the payment of the bonds and the interest thereon and the payment of the charges of banks or trust companies for making payment of such bonds or interest, and shall set aside and pledge a sufficient amount of the net revenues of the works, hereby defined to mean the revenues of the works remaining after the payment of the reasonable expense of oper-

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

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

pursuant to this section shall be deemed the revenues of the works. No such rates or charges shall be established until after a public hearing, at which all the users of the works and owners of property served or to be served thereby and others interested shall have an opportunity to be heard concerning the proposed rates or charges. After introduction of the ordinance fixing such rates or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates or charges, shall be given by publication as a Class II-0 legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the municipality. The first publication shall be made at least ten days before the date fixed in such notice for the hearing. After such hearing, which may be adjourned from time to time, the ordinance establishing rates or charges, either as originally introduced or as modified and amended, shall be passed and put into effect. A copy of the schedule of such rates and charges so established shall be kept on file in the office of the board having charge of the operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinbefore provided: Provided, however, that if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. The aggregate of the rates or charges shall always be sufficient for such expense of operation, repair and maintenance and for such sinking fund payments. All such rates or charges, if not paid when due, shall constitute a lien upon the premises served by such works. If any service rate or charge so established shall not be paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the board in a civil action in the name of the municipality, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto: Provided, however, that where both water and sewer services are furnished by any municipality to any premises the schedule of charges may be billed as a single amount or individually itemized and billed for the aggregate thereof. Whenever any rates, rentals or charges for services or facilities furnished shall remain unpaid for a period of thirty days after same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid. The board collecting such charges shall be obligated under reasonable rules and regulations, to shut off and discontinue both water and sewer services to all delinquent users of either water facilities, or sewer facilities, or both, and shall not restore either water facilities or sewer facilities to any delinquent user of either until all delinquent charges for both water facilities and sewer facilities, including reasonable interest and penalty charges, have been paid in full. (1933, Ex. Sess., c. 25, § 16; 1933, 2nd Ex. Sess., c. 48; 1959, c. 125; 1967, c. 105.)

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Sections read together. — This section should be read and construed with former § 8-4-20 and §§ 16-13-1, 16-13-2, 24-1-1, 24-2-1, and 24-2-3. Delardas v. Morgantown Water Comm'n, 148 W. Va. 776, 137 S.E.2d 426 (1964).

Municipal sewer system is subject to jurisdiction of public service commission. 45 Op. Att'y Gen. 642 (1954).

Hence, municipality is required to file its rates with the commission for approval in accordance with § 24-2-1 et seq. 45 Op. Att'y Gen. 642 (1954).

Jurisdiction to enforce lien. — The fact that this section speaks of the enforcement of the lien in a "civil action" should not be construed as placing that jurisdiction in our courts of law simply because the word "action," strictly applied, does not usually refer to chancery practice. City of Beckley v. Craighead, 125 W. Va. 484, 24 S.E.2d 908 (1943). As to abolition of procedural distinctions between law and equity, see Rules of Civil Procedure, Rule 2, appearing in Vol. 1A.

Discrimination not shown. — Charges made against the users of a city sewage system were based upon the amount of water used upon the premises as indicating the extent to which the sewers were used. The charges were subject to a deduction of the amount of water retained on the premises, such amount to be determined by a meter installed by the consumer and used to record gallonage of water that had come on the property but had not been disposed of through the sewers. It was held that the method under which the charges were assessed was neither capricious nor unfair although certain users had been unable to install meters used to measure their deductions. Houchins v. City of Beckley, 127 W. Va. 306, 32 S.E.2d 286 (1944).

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

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

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

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

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

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

The governing body shall provide by ordinance that the custody, administration, operation and maintenance of such works shall be under the supervision and control of a sanitary board, created as herein provided. Such sanitary board shall be composed of either the mayor of the municipality, or the city manager thereof, if said municipality shall have a city manager form of government, and two persons appointed by the governing body, one of whom, during the construction period, must be a registered professional engineer. The engineer member of the board need not be a resident of said municipality. After the construction of the plant has been completed, the engineer member may be succeeded by a person not an engineer. No officer or employee of the municipality, whether holding a paid or unpaid office, shall be eligible to appointment on said sanitary board until at least one year after the expiration of the

term of his public office. Said appointees shall originally be appointed for terms of two and three years respectively, and upon the expiration of each such term and each succeeding term, an appointment of a successor shall be made in like manner for a term of three years. Vacancies shall be filled for an unexpired term in the same manner as the original appointment. Each member shall give such bond, if any, as may be required by ordinance. Such mayor or city manager shall act as chairman of the sanitary board, which shall elect a vice-chairman from its members and shall designate a secretary and treasurer (but the secretary and the treasurer may be one and the same), who need not be a member or members of the sanitary board. The vice-chairman, secretary and treasurer shall hold office as such at the will of the sanitary board. The members of the sanitary board shall receive such compensation for their services, either as a salary or as payments for meetings attended, as the governing body may determine, and shall be entitled to payment for their reasonable expenses incurred in the performance of their duties. The governing body shall fix the reasonable compensation of the secretary and treasurer in its discretion, and shall fix the amounts of bond to be given by the treasurer. All compensation, together with the expenses in this section referred to, shall be paid solely from funds provided under the authority of this article. The sanitary board shall have power to establish bylaws, rules and regulations for its own government. (1933, Ex. Sess., c. 25, § 18; 1939, c. 96; 1953, c. 146; 1957, c. 137.)

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

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

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

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

Public service commission may order extension of service. — A public utility is under a duty to make reasonable extensions of its services in accordance with its franchise and charter obligations and the needs of the inhabitants within the territory covered by its franchise; and a public service commission may, where its action is not unlawful, arbitrary, or capricious, order an extension of service for the inhabitants of such territory. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Sanitary board may be incorporated and domesticated in adjoining state. — Since the incorporation of its sanitary board and its domestication in the state of Virginia was the only plan by which the power intended to be granted by the legislature to a city to construct a sewage disposal plant outside the State of West Virginia could be legally effectuated, the power to so incorporate its sanitary board was a necessary and incidental right to the main power granted. Bernard v. City of Bluefield, 117 W. Va. 556, 186 S.E. 298 (1936).

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

Mayor and city manager may not both be appointed to municipal sanitary board. — When a municipal corporation has a city man-

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

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

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

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

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

Editor's note. — The bracketed word was inserted by the editor. See § 50-1-17.

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

Any municipality operating a sewage collecting system and/or a sewage disposal plant or plants as defined in this article, or which as herein provided has ordered the construction or acquisition of such works (in this section called the owner), is hereby authorized to contract with one or more other municipal corporations or political subdivisions within the State (in this section called the lessee), and such lessees are hereby authorized to enter into such contracts with such owners, for the service of such works to such lessees and their inhabitants, but only to the extent of the capacity of the works without

impairing the usefulness thereof to the owners, upon such terms and conditions as may be fixed by the boards and approved by ordinances of the respective contracting parties: Provided, however, that no such contract shall be made for a period of more than forty years or in violation of the provisions of said ordinance authorizing bonds hereunder or in violation of the provisions of said trust indenture. The lessee shall by ordinance have power to establish, change and adjust rates and charges for the service rendered therein by the works against the owners of the premises served, in the manner hereinbefore provided for establishing, changing and adjusting rates and charges for the service rendered in the municipality where the works are owned and operated, and such rates or charges shall be collectible and shall be a lien as herein provided for rates and charges made by the owner. The necessary intercepting sewers and appurtenant works for connecting the works of the owner with the sewerage system of the lessee shall be constructed by the owner and/or the lessee upon such terms and conditions as may be set forth in said contract, and the cost or that part of the cost thereof which is to be borne by the owner may be paid as a part of the cost of the works from the proceeds of bonds issued under this article unless otherwise provided by said ordinance or trust indenture prior to the issuance of the bonds. The income received by the owner under any such contract shall, if so provided in said ordinance or trust indenture, be deemed to be a part of the revenues of the works as in this article defined and be applied as herein provided for the application of such revenues. (1933, Ex. Sess., c. 25, § 19; 1981, 1st Ex. Sess., c. 2.)

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

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

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

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

Any holder of any such certificates or any of the coupons attached thereto, and the trustee, if any, except to the extent the rights herein given may be restricted by said ordinance authorizing issuance of the bonds or by the trust indenture, may either at law or in equity, by suit, action, mandamus or other proceeding protect and enforce any and all rights granted hereunder or under such ordinance or trust indenture, and may enforce and compel performance of all duties required by this article or by such ordinance or trust indenture to be performed by the municipality issuing the bonds or by the board or any officer, including the making and collecting of reasonable and sufficient charges and rates for service rendered by the works. If there be any failure to pay the

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principal or interest of any of the bonds on the date therein named for such payment, any court having jurisdiction of the action may appoint a receiver to administer the works on behalf of the municipality and the bondholders and/or trustee, except as so restricted, with power to charge and collect rates sufficient to provide for the payment of the expenses of operation, repair and maintenance and also to pay any bonds and interest outstanding and to apply the revenues in conformity with this article and the said ordinance and/or trust indenture. (1933, Ex. Sess., c. 25, § 21.)

Rules of Civil Procedure. — As to abolition of procedural distinctions between law and equity, see Rule 2, appearing in Vol. 1A. As to receivers, see Rule 66. As to application of rules to extraordinary remedies, see Rule 81(a)(5).

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

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

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

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

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

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

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

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

§ 16-13-22c. Refunding bonds.

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

§ 16-13-22d. Subordination of bonds.

Notwithstanding any other provisions to the contrary in this article, any municipality authorizing the issuance of bonds under this article in an effort to aid in the abatement or reduction of the pollution of any waters or streams may provide in the ordinance authorizing the issuance of the bonds and in any trust indenture pertaining thereto that such bonds, or any additional bonds that may thereafter be issued to extend or improve the works, shall, to the extent and in the manner prescribed, be subordinated and be junior in standing, with respect to the payment of principal and interest and the security thereof, to such other bonds as are designated in the ordinance. (1949, c. 93.)

§ 16-13-22e. Operating contract.

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

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

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

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

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

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

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

(c) The fixing, establishing and collecting of such fees, rentals or other charges for the use of the services and facilities of such sewerage system, including the parts thereof heretofore or hereafter constructed or acquired and the revision of same from time to time, as will always provide revenues at least sufficient to provide for all expenses of operation, maintenance and repair of such sewerage system, the payment of the principal of and interest on all bonds or other obligations payable from the revenues of such sewerage system, and all reserve and other funds required by the terms of the ordinance authorizing the issuance of such bonds;

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

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

(f) The manner and terms upon which all bonds and other obligations issued hereunder may be declared immediately due and payable upon the happening of a default in the payment of the principal of or interest thereon, or in the

performance of any covenant or agreement with bondholders, and the manner and terms upon which such defaults may be declared cured and the acceleration of the maturity of such bonds rescinded and repealed;

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

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

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

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

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

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

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

Notwithstanding any other provision contained in this article, and in addition thereto, the governing body of any municipal corporation which has received or which hereafter receives an order issued by the chief of the division of water resources or the state water resources board requiring such municipal corporation to cease the pollution of any stream or waters, is hereby authorized and empowered to fix, establish and maintain, by ordinance, just and equitable rates or charges for the use of the services and facilities of the existing sewer system of such municipal corporation, and/or for the use of the services and facilities to be rendered upon completion of any works and system necessary by virtue of said order, to be paid by the owner, tenant or occupant of each and every lot or parcel of real estate or building that is connected with and uses any part of such sewer system, or that in any way uses or is served thereby, and may change and readjust such rates or charges from time to time. Such rates or charges shall be sufficient for the payment of all the proper and reasonable costs and expenses of the acquisition and construction of plants, machinery and works for the collection and/or treatment, purification and disposal of sewage, and the repair, alteration and extension of existing sewer facilities, as may be necessary to comply with such order of the chief of the division of water resources or the state water resources board, and for the operation, maintenance and repair of the entire works and system; and the governing body shall create, by ordinance, a sinking fund to accumulate and hold any part or all of the proceeds derived from rates or charges until completion of said construction, to be remitted to and administered by the state sinking fund commission by expending and paying said costs and expenses of construction and operation in the manner as provided by said ordinance; and after the completion of the construction such rates or charges shall be sufficient in each year for the payment of the proper and reasonable costs and expenses of operation, maintenance, repair, replacement, and extension from time to time, of the entire sewer and works. No such rates or charges shall be established until after a public hearing, at which all the potential users of the works and owners of property served or to be served thereby and others interested shall have an opportunity to be heard concerning the proposed rates or charges. After introduction of the ordinance fixing such rates or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates or charges, shall be given by publication of such notice as a Class II-0 legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the municipality. The first publication shall be made at least ten days before the date fixed therein for the hearing. After such hearing, which may be adjourned from time to time, the ordinance establishing the rates or charges, either as originally introduced or as modified and

amended, may be passed and put into effect. A copy of the schedule of such rates and charges so established shall be kept on file in the office of the sanitary board having charge of the construction and operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinbefore provided: Provided, however, that if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. If any rate or charge so established shall not be paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the sanitary board of such municipal corporation in a civil action in the name of the municipality. Any municipal corporation exercising the powers given herein shall have authority to construct, acquire, improve, equip, operate, repair and maintain any plants, machinery, or works necessary to comply with such order of the state water resources board, and the authority provided herein to establish, maintain and collect rates or charges shall be construed as a further additional and alternative method of financing such works and matters, and shall be independent of any other provision of this article insofar as such article provides for or requires the issuance of revenue bonds or the imposition of rates and charges in connection with such bonds: Provided, however, that except for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works in compliance with an order of the state water resources board, and the rights, powers, and duties of such municipal corporation and the respective officers and departments thereof, including the sanitary board, shall be governed by the provisions of this article. (1955, c. 135; 1967, c. 105.)

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

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

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

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

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ANNOTATED

VOLUME 5

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1988

(b) Any outdoor billboard advertisement that does not conform to the provisions of this section shall be deemed a nuisance affecting the public health. (1987, c. 119.)

ARTICLE 11.

SEXUAL STERILIZATION.

Wrongful pregnancy. — An action based on wrongful pregnancy is recognized in West Virginia. James v. Caserta, 332 S.E.2d 872 (W. Va. 1985).

In applying general rules governing damages to a wrongful pregnancy action, the following damages are recoverable, if proven: (1) Any medical and hospital expenses incurred as a result of a physician's negligence, including costs of the initial unsuccessful sterilization operation, prenatal care, childbirth, postnatal care, and a second sterilization operation, if obtained; (2) the physical and mental pain suffered by the wife as a result of the pregnancy and subsequent childbirth and as a result of undergoing two sterilization operations; and (3) recovery for the loss of consortium and loss of wages. James v. Caserta, 332 S.E.2d 872 (W. Va. 1985).

ARTICLE 13.

SEWAGE WORKS OF MUNICIPAL CORPORATIONS AND SANITARY DISTRICTS.

Sec.
16-13-1. Acquisition, operation, etc., of works; acquisition of property; issuance of bonds.
16-13-15. Sinking fund; transfer of balance of net revenues.
16-13-22a. Grants, loans and advances.

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

Any municipal corporation and/or sanitary district in the state of West Virginia is hereby authorized and empowered to own, acquire, construct, equip, operate and maintain within and/or without the corporate limits of such municipal corporation, a sewage collection system and/or a sewage treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other appurtenances necessary or useful and convenient for the collection and/or treatment, purification and disposal, in a sanitary manner, of the liquid and solid waste, sewage, night soil and industrial waste of such municipal corporation and/or sanitary district, including acquisition of the municipal sewerage system resulting from the severance of a combined waterworks and sewerage system pursuant to section one-b [§ 8-20-1b], article twenty, chapter eight of this code, and shall have authority to acquire by gift, grant, purchase, condemnation, or otherwise, all necessary lands, rights-of-way and property therefor, within and/or without the corporate limits of such municipal corporation and/or sanitary district, and to issue revenue bonds to pay the cost of such works and property; and any such municipality may serve and supply the facilities of such sewerage system within the corporate limits of such municipality and within the area

extending twenty miles beyond
Provided, That such municipalit
such sewerage system within th
without the consent of the gove
incurred by any such municipali
tion or acquisition except such a
under the authority of this artic
1986, c. 118.)

Effect of amendment of 1986. —
amendment added "including acquisition o
municipal sewerage system resulting from
severance of a combined waterworks and

§ 16-13-15. Sinking fund;
nues.

At or before the issuance of any
ordinance create a sinking fund,
West Virginia municipal bond com
the interest thereon and the payme
nies for making payment of such
pledge a sufficient amount of the ne
mean the revenues of the works re
able expense of operation, repair ar
the board into said sinking fund a
prior to issuance of the bonds, for:
interest shall fall due; (b) the necess
and interest; (c) the payment of th
mature at one time, the proper
amounts as are necessary and suffic
(d) a margin for safety and for the pa
call or purchase as herein provided,
surplus of such margin carried forw
ten percent of all other amounts so
Such required payments shall const
nue of the works. Prior to the issu
nance be given the right to use or
commission to use such sinking fur
any of the outstanding bonds payab
but not exceeding the price, if any,
be payable or redeemable, and all b
with be cancelled and shall not agai
fund as herein required, the board r
all or any part of the balance of the
deemed by the board sufficient for c
ensuing period of not less than twel
sinking fund or into a fund for exte

that does not conform to the provi-
isance affecting the public health.

11.

LIZATION.

ation, prenatal care, childbirth, postnatal
, and a second sterilization operation, if ob-
ed; (2) the physical and mental pain suf-
l by the wife as a result of the pregnancy
subsequent childbirth and as a result of
rgoing two sterilization operations; and
ecovery for the loss of consortium and loss
ges. James v. Caserta, 332 S.E.2d 872 (W.
1985).

13.

PAL CORPORATIONS
ISTRICTS.

15. Sinking fund; transfer of balance of net revenues.
22a. Grants, loans and advances.

etc., of works; acquisi-
ance of bonds.

y district in the state of West
ed to own, acquire, construct,
vithout the corporate limits of
n system and/or a sewage treat-
fall sewers, force mains, pump-
ourtenances necessary or useful
nent, purification and disposal,
waste, sewage, night soil and
on and/or sanitary district, in-
system resulting from the sev-
ge system pursuant to section
it of this code, and shall have
ondemnation, or otherwise, all
ierefor, within and/or without
ation and/or sanitary district,
such works and property; and
he facilities of such sewerage
nicipality and within the area

extending twenty miles beyond the corporate limits of such municipality: Provided, That such municipality shall not serve or supply the facilities of such sewerage system within the corporate limits of any other municipality without the consent of the governing body thereof. No obligations shall be incurred by any such municipality and/or sanitary district in such construction or acquisition except such as is payable solely from the funds provided under the authority of this article. (1933, Ex. Sess., c. 25, § 1; 1955, c. 132; 1986, c. 118.)

Effect of amendment of 1986. — The amendment added "including acquisition of the municipal sewerage system resulting from the severance of a combined waterworks and sewerage system pursuant to section one-b, article twenty, chapter eight of this code," and made minor stylistic change.

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

At or before the issuance of any such bonds the governing body shall by said ordinance create a sinking fund, to be remitted to and administered by the West Virginia municipal bond commission, for the payment of the bonds and the interest thereon and the payment of the charges of banks or trust companies for making payment of such bonds or interest, and shall set aside and pledge a sufficient amount of the net revenues of the works, hereby defined to mean the revenues of the works remaining after the payment of the reasonable expense of operation, repair and maintenance, such amount to be paid by the board into said sinking fund at intervals to be determined by ordinance prior to issuance of the bonds, for: (a) The interest upon such bonds as such interest shall fall due; (b) the necessary fiscal agency charges for paying bonds and interest; (c) the payment of the bonds as they fall due, or, if all bonds mature at one time, the proper maintenance of a sinking fund in such amounts as are necessary and sufficient for the payment thereof at such time; (d) a margin for safety and for the payment of premiums upon bonds retired by call or purchase as herein provided, which margin, together with any unused surplus of such margin carried forward from the preceding year, shall equal ten percent of all other amounts so required to be paid into the sinking fund. Such required payments shall constitute a first charge upon all the net revenue of the works. Prior to the issuance of the bonds the board may by ordinance be given the right to use or direct the West Virginia municipal bond commission to use such sinking fund or any part thereof in the purchase of any of the outstanding bonds payable therefrom at the market price thereof, but not exceeding the price, if any, at which the same shall in the same year be payable or redeemable, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued. After the payments into such fund as herein required, the board may at any time in its discretion transfer all or any part of the balance of the net revenues, after reserving an amount deemed by the board sufficient for operation, repair and maintenance for an ensuing period of not less than twelve months and for depreciation, into the sinking fund or into a fund for extensions, betterments and additions to the

works. The amounts of the balance of the net revenue as and when so set apart shall be remitted to the West Virginia municipal bond commission to be retained and paid out by said commission consistent with the provisions of this article and with the ordinance pursuant to which such bonds have been issued. The West Virginia municipal bond commission is hereby authorized to act as fiscal agent for the administration of such sinking fund, under any ordinance passed pursuant to the provisions of this article, and shall invest all such sinking funds as provided by general law. Notwithstanding the foregoing, payments of principal and interest on any bonds owned by the United States of America or any agency or department thereof may be made by the governing body directly thereto. (1933, Ex. Sess., c. 25, § 15; 1933, 2nd Ex. Sess., c. 48; 1986, c. 118.)

Effect of amendment of 1986. — The amendment substituted "West Virginia municipal bond commission" for "state sinking fund commission" in four places; added the last sentence; and made other minor changes.

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

Textbooks. — Administrative Law in West Virginia (Neely), § 3.07.

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

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

from the proceeds thereof unti
instrument.

In no event shall any such l
tion of the municipality and su
interest thereon, shall be paid
(1949, c. 93; 1961, c. 107; 198(

Effect of amendment of 1986.
amendment added the last sentence in
paragraph.

§ 16-13-23a. Additional
ceipt of ord

Textbooks. — Administrative Law
Virginia (Neely), § 3.07.

A

PUBLIC SERVIC
SEWERAGE

Sec.
16-13A-1. Legislative findings.
16-13A-1a. Jurisdiction of the public
commission.
16-13A-1b. County commissions to
plan to create, cons
merge, expand or dissol
lic service districts.
16-13A-1c. General purpose of district
16-13A-2. Creation of districts by
commission; enlarging,
ing or dissolving distric
solidation; agreements, e
fringing upon powers of
commission; filing list of
bers and districts with t
retary of state.
16-13A-3. District to be a public corp
and political subd
powers thereof; public
boards.
16-13A-3a. Removal of members of pub
vice board.

§ 16-13A-1. Legislative f

The Legislature of the state c
that the present system of pub
vided a valuable service at a re
have been unable to obtain pub
to ensure that all areas of the

he net revenue as and when so set
nia municipal bond commission to be
on consistent with the provisions of
ıant to which such bonds have been
d commission is hereby authorized to
ɔn of such sinking fund, under any
ıns of this article, and shall invest all
al law. Notwithstanding the forego-
on any bonds owned by the United
rtment thereof may be made by the
Ex. Sess., c. 25, § 15; 1933, 2nd Ex.

ɔmmission" in four places; added the last sen-
ıce; and made other minor changes.

change or readjustment;
ecovery; discontinuance of

advances.

ıpowered to accept loans or grants
evidenced by notes or other negotia-
d subject to the privileges and limi-
authorized to be issued under the
of paying part or all of the cost of
works and the construction of bet-
or the other purposes herein autho-
state or from the United States of
department of the United States or
lual, which loans or temporary ad-
ay be repaid out of the proceeds of
ɔvisions of this article, the revenues
ıunicipality from any agency of the
ı or any federal or public agency or
vate agency, corporation or individ-
ıs of payment, and to enter into the
y out the purposes hereof with any
America or any federal or public
or with any private agency, corpo-
of this article to the contrary not-
r temporary advances may be paid

from the proceeds thereof until the maturity of such notes or other negotiable instrument.

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

Effect of amendment of 1986. — The amendment added the last sentence in the first paragraph.

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

Textbooks. — Administrative Law in West Virginia (Neely), § 3.07.

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

Sec.
16-13A-1. Legislative findings.
16-13A-1a. Jurisdiction of the public service commission.
16-13A-1b. County commissions to develop plan to create, consolidate, merge, expand or dissolve public service districts.
16-13A-1c. General purpose of districts.
16-13A-2. Creation of districts by county commission; enlarging, reducing or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the secretary of state.
16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.
16-13A-3a. Removal of members of public service board.
16-13A-4. Board chairman; members' compensation; procedure; district name.
16-13A-5. General manager of board.
16-13A-7. Acquisition and operation of district properties.
16-13A-9. Rules and regulations; service rates and charges; discontinuance of service; required water and sewer connections.
16-13A-11. Accounts; audit.
16-13A-18a. Sale, lease or rental of water, sewer or gas system by district; distribution of proceeds.
16-13A-21. Complete authority of article; liberal construction; district to be public instrumentality; tax exemption.
16-13A-24. Acceptance of loans, grants or temporary advances.
16-13A-25. Borrowing and bond issuance; procedure.

§ 16-13A-1. Legislative findings.

The Legislature of the state of West Virginia hereby determines and finds that the present system of public service districts within the state has provided a valuable service at a reasonable cost to persons who would otherwise have been unable to obtain public utility services. To further this effort, and to ensure that all areas of the state are benefiting from the availability of

Butcher & Singer Inc.

211 South Broad Street
PO. Box 957
Philadelphia, Pennsylvania 19105

(215) 985-5000

November 2, 1988

Edwin Thorne
City Manager
City of Fairmont, West Virginia
200 Jackson Street, 3rd Floor
Fairmont, W. VA 26554

Dear Mr. Thorne:

Enclosed you will find subscriptions for State and Local Government Series (SLGS") U.S. Treasury securities which the City is purchasing in conjunction with the 1988 sewerage system refunding issue.

The SLGS subscription forms require your signature on each page as well as a signature from The National Bank of Commerce of Charleston on the first page. If you would kindly sign each page where the "X" is marked and forward the entire package to Mike Cline at the Bank (Federal Express envelope is enclosed) it would be a great help. The Direct Deposit sign-up form is for the Bank only.

Thank you for your help in this matter.

Very truly yours,

BUTCHER & SINGER INC.

E. Gilbert Carpenter
Assistant Vice President

EGC:mr

Enclosure

38A

FORM PD 4144
Dept. of the Treasury
Bur. of the Public Debt
(Rev. July 1977)

SUBSCRIPTION FOR PURCHASE AND ISSUE OF U.S. TREASURY SECURITIES – STATE AND LOCAL GOVERNMENT SERIES

To: Federal Reserve Bank or Branch at Richmond, Virginia

1. Pursuant to the provisions of Department of the Treasury Circular, Public Debt Series No. 3-72, current revision, the undersigned hereby subscribes for the purchase of the following securities:

   a. [XX] **United States Treasury Certificates of Indebtedness – State and Local Government Series (SCHEDULE 1)**

   TOTAL AMOUNT $ 583,800

   b. [XX] **United States Treasury Notes – State and Local Government Series (SCHEDULE 2)**

   TOTAL AMOUNT $ 2,574,100

   c. [ ] **United States Treasury Bonds – State and Local Government Series (SCHEDULE 3)**

   TOTAL AMOUNT $ Ø

   GRAND TOTAL $ 3,157,900

   as described on the attached schedules, which are incorporated by reference to this subscription, to be used as entries on the books of the Bureau of the Public Debt, Department of the Treasury.

2. The undersigned certifies that the total investment (1) consists only of the proceeds of obligations described in Section 103(a) of the Internal Revenue Code, and (2) is not more nor less, within authorized multiples ($1,000 minimum and increments of $100 over such amount), directly subject to yield restrictions under Section 103(c) of the Code, and the regulations issued thereunder, except for any portion thereof required for a payment due less than 45 days from the date settlement is made for the securities subscribed for.

3. The undersigned requests that book-entry accounts be established for:

   Name of owner City of Fairmont, West Virginia
   200 Jackson Street, Fairmont, West Virginia 26554

4. The undersigned:
   a. [ ] submits payment in full herewith for the above securities, as shown below.
   b. [XX] requests that issuance be deferred until 11/30/88 (not to exceed by more than 60 days the date on which this subscription is received at a Federal Reserve Bank or Branch or, where mailed, by the stamp date appearing on the registered or certified mail envelope in which it is received), and agrees to make payment on that date.

5. The undersigned further certifies that the following official(s), by title(s), are authorized, subject to the provisions of the above circular, to request redemption prior to maturity of the securities (if no one has been so authorized, enter the word "none").

   None

Dated this 3rd day of November, 19 88

City of Fairmont, West Va.
(Name of State or Local Government Body)

(304) 366-6211
(Telephone Number Include Area Code)

By X , City Manager
(Signature and Title)

FOR USE BY BANK IN TRANSMITTING PAYMENT FOR ABOVE SECURITY

(The issue date of the account will be the date specified in this subscription, provided payment therefor in readily available funds is received herewith or within the time limitation specified above. Where payment is submitted separately, it should be accompanied by a copy of this subscription.)

[ ] Check enclosed
[X] Charge our reserve a/c on 11/30/88 (Date)
[ ] Other

Name of Institution The National Bank of Commerce of Charleston
City Charleston, State West Virginia
Authorized signature and title

FOR USE OF FEDERAL RESERVE BANK

ACCOUNT NUMBERS		Applicable Interest Rate Table No.	Issue Date	Date credited to Treas. Acct. (cannot be subsequent to Issue Date)
C OF I'S: From:	Through:			
NOTES: From:	Through:			
BONDS: From:	Through:			

FOR USE OF THE DIVISION OF SECURITIES OPERATIONS

Approved

By

FORM PD 4144 I
Dept. of the Treasury
Bur. of the Public Debt

SCHEDULE OF UNITED STATES TREASURY CERTIFICATES OF INDEBTEDNESS—STATE AND LOCAL GOVERNMENT SERIES

The United States Treasury Certificates of Indebtedness—State and Local Government Series subscribed for on the FORM PD 4144 to which this schedule is attached and incorporated, are requested to be issued and held in book-entry accounts on the books of the Department of the Treasury, as follows:

NAME AND ADDRESS OF OWNER

The National Bank of Commerce
of Charleston on behalf of
The City of Fairmont, West Virginia
200 Jackson St., Fairmont, W. Va. 26554

EMPLOYER IDENTIFICATION NO. 5 5 - 6 0 1 9 6 6 5

NAME AND ADDRESS OF SUBSCRIBER'S BANK

The National Bank of Commerce of Charleston
P. O. Box 633
Charleston, W. Va. 25322

THE UNDERSIGNED REQUESTS THAT PAYMENT OF PRINCIPAL AND INTEREST AT MATURITY BE MADE FOR THE ACCOUNT OF THE OWNER AS BELOW:

[X] CREDIT RESERVE ACCOUNT OF: The National Bank of Commerce of Charleston, Charleston, W. Va. 25322

OR

[ ] MAIL CHECK TO:

NOTE: The interest rate on each certificate may not exceed the maximum interest rate for Treasury securities of comparable terms of maturity, as shown in the Treasury rate table applicable to this issuance. The maturity dates specified must be not less than 45 days nor more than one year from date of issue.

ACCOUNT NUMBERS (ASSIGNED BY FRB)	PRINCIPAL AMOUNT	INTEREST RATE	ISSUE DATE	MATURITY DATE	FOR TREASURY DEPARTMENT USE ONLY
	244,600	0.00%	11/30/88	5/1/89	
	339,200	0.00%	11/30/88	11/1/89	
TOTAL	583,800				

NAME OF STATE OR LOCAL GOVERNMENT BODY: City of Fairmont, W. Va.

SIGNATURE: X

TITLE: City Manager

FOR FRB OR BRANCH USE ONLY:
ACCOUNT NOS. ASSIGNED BY _____ FRB _____

FOR TREASURY DEPARTMENT USE ONLY:
ACCOUNTS ESTABLISHED BY _____ ON _____

NOV-23-'88 14:36 T-BUTCHER + SINGER #450

FORM PD 4144-2
Dept. of the Treasury
Bur. of the Public Debt

SCHEDULE 2
PG. 1 OF 1

SCHEDULE OF UNITED STATES TREASURY NOTES—STATE AND LOCAL GOVERNMENT SERIES

The United States Treasury Notes-State and Local Government Series subscribed for on the FORM PD 4144 to which this schedule is attached and incorporated, are requested to be issued and held in book-entry accounts on the books of the Department of the Treasury, as follows:

NAME AND ADDRESS OF OWNER

The National Bank of Commerce
of Charleston on behalf of
The City of Fairmont, West Virginia
200 Jackson St., Fairmont, W. Va. 26554

EMPLOYER IDENTIFICATION NO. 5 5 - 6 0 1 9 6 6 5

NAME AND ADDRESS OF SUBSCRIBER'S BANK

The National Bank of Commerce of Charleston
P. O. Box 633
Charleston, W. Va. 25322

THE UNDERSIGNED REQUESTS THAT PAYMENT OF INTEREST, AND PRINCIPAL WHEN DUE, BE MADE FOR THE ACCOUNT OF THE OWNER AS BELOW:

[X] CREDIT RESERVE ACCOUNT OF: The National Bank of Commerce of Charleston, Charleston, W. Va. 25322

OR

[ ] MAIL CHECK TO:

NOTE: The interest rate on each note may not exceed the maximum interest rate for Treasury notes of comparable terms to maturity, as shown on the Treasury rate table applicable to this issuance. The maturity dates specified must be not less than one year and one day nor more than ten years from date of issue. Interest will be paid on the designated first interest payment date and semi-annually thereafter, the final six months interest to be paid at maturity with the principal. If the date for the first interest payment is less than 45 days from the date of issue, such payment may be delayed.

ACCOUNT NUMBERS (ASSIGNED BY FRB)	PRINCIPAL AMOUNT	INTEREST RATE	ISSUE DATE	MATURITY DATE	FIRST INT PYMT DATE	FOR TREASURY DEPARTMENT USE ONLY
	225,500	7.22%	11/30/88	5/1/90	5/1/89	
	348,700	7.33%	11/30/88	11/1/90	5/1/89	
	242,300	7.38%	11/30/88	5/1/91	5/1/89	
	376,200	7.42%	11/30/88	11/1/91	5/1/89	
	260,500	7.45%	11/30/88	5/1/92	5/1/89	
	405,100	7.48%	11/30/88	11/1/92	5/1/89	
	280,100	7.50%	11/30/88	5/1/93	5/1/89	
	435,700	7.51%	11/30/88	11/1/93	5/1/89	
TOTAL	2,574,100					

NAME OF STATE OR LOCAL GOVERNMENT BODY:
City of Fairmont, West Va.

SIGNATURE X
TITLE City Manager

FOR FRB OR BRANCH USE ONLY:
ACCOUNT NOS. ASSIGNED BY ON

FOR TREASURY DEPARTMENT USE ONLY:
ACCOUNTS STAMPED BY ON

NOV-23-'88 14:37 T-BUTCHER + SINGER #450-

Standard Form 1199A
(Rev July 1984)
Government Financial Operations
Treasury Dept. Cir. 1076

FOR SALE BY THE SUPERINTENDENT OF DOCUMENTS US GOVERNMENT PRINTING OFFICE
WASHINGTON DC 20402 STOCK NO 048-000-00363-0

OMB No 1510-0007
Expiration Date 12 31 86

DIRECT DEPOSIT SIGN-UP FORM

DIRECTIONS

- To sign up for Direct Deposit, the payee is to read the back of this form and fill in the information requested in Sections 1 and 2. Then take or mail this form to the financial institution. The financial institution will verify the information in Sections 1 and 2, and will complete Section 3. The completed form will be returned to the Government agency identified below.
- A separate form must be completed for each type of payment to be sent by Direct Deposit.
- The claim number and type of payment are printed on Government checks. (See the sample check on the back of this form.) This information is also stated on beneficiary/annuitant award letters and other documents from the Government agency.
- Payees must keep the Government agency informed of any address changes in order to receive important information about benefits and to remain qualified for payments.

SECTION 1 *(TO BE COMPLETED BY PAYEE)*

A NAME OF PAYEE *(last, first, middle initial)*
The National Bank of Commerce of Charleston

ADDRESS *(street, route, P O. Box, APO/FPO)*
1 Commerce Square

CITY / STATE / ZIP CODE
Charleston, W. Va. 25301

TELEPHONE NUMBER
AREA CODE (304) 348-5000

B NAME OF PERSON(S) ENTITLED TO PAYMENT
The National Bank of Commerce of Charleston

C CLAIM OR PAYROLL ID NUMBER
Prefix 55-6019665 Suffix

D TYPE OF DEPOSITOR ACCOUNT [XX] CHECKING [ ] SAVINGS

E DEPOSITOR ACCOUNT NUMBER
0 0 2 2 3 4 0 7 - b 1

F TYPE OF PAYMENT *(Check only one)*

- [ ] Social Security
- [ ] Supplemental Security Income
- [ ] Railroad Retirement
- [ ] Civil Service Retirement (OPM)
- [ ] VA Compensation or Pension
- [ ] Fed Salary/Mil Civilian Pay
- [ ] Mil. Active
- [ ] Mil. Retire
- [ ] Mil. Survivor
- [XX] Other SLGS *(specify)*

G THIS BOX FOR ALLOTMENT OF PAYMENT ONLY *(if applicable)*
TYPE
AMOUNT

PAYEE/JOINT PAYEE CERTIFICATION

I certify that I am entitled to the payment identified above, and that I have read and understood the back of this form. In signing this form, I authorize my payment to be sent to the financial institution named below to be deposited to the designated account.

SIGNATURE: X
DATE: 11/7/88
SIGNATURE
DATE

JOINT ACCOUNT HOLDERS' CERTIFICATION *(optional)*

I certify that I have read and understood the back of this form, including the SPECIAL NOTICE TO JOINT ACCOUNT HOLDERS.

SIGNATURE
DATE
SIGNATURE
DATE

SECTION 2 *(TO BE COMPLETED BY PAYEE OR FINANCIAL INSTITUTION)*

GOVERNMENT AGENCY NAME

GOVERNMENT AGENCY ADDRESS

SECTION 3 *(TO BE COMPLETED BY FINANCIAL INSTITUTION)*

NAME AND ADDRESS OF FINANCIAL INSTITUTION
The National Bank of Commerce of Charleston
1 Commerce Square
Charleston, W. Va. 25301

ROUTING NUMBER: 0 5 1 9 - 0 3 7 6
CHECK DIGIT: 1

DEPOSITOR ACCOUNT TITLE
The National Bank of Commerce of Charleston
for the City of Fairmont, West Va.

FINANCIAL INSTITUTION CERTIFICATION

I confirm the identity of the above-named payee(s) and the account number and title. As representative of the above-named financial institution, I certify that the financial institution agrees to receive and deposit the payment identified above in accordance with 31 CFR Parts 240, 209 and 210

PRINT OR TYPE REPRESENTATIVE'S NAME: Michael C. Cline
SIGNATURE OF REPRESENTATIVE: X
TELEPHONE NUMBER: (304) 348-4566
DATE: 11/7/88

Financial institutions should refer to the GREEN BOOK for further instructions

THE FINANCIAL INSTITUTION SHOULD MAIL THE COMPLETED FORM TO THE GOVERNMENT AGENCY IDENTIFIED ABOVE.

SCHEDULE 4

Butcher & Singer Inc

City of Fairmont
Proposed Sewerage System Refunding Revenue Bonds, Series of 1988
Structure of Escrow Account (Funded From New Bond Proceeds)

Date	Refunding Requirement	Escrow Principal	Interest Rate	Escrow Interest	Available Funds	Cumulative Surplus
01-May-89	324,764	244,600	0.00%	80,230	324,830	66
01-Nov-89	434,764	339,200	0.00%	95,537	434,737	38
01-May-90	321,052	225,500	7.22%	95,537	321,037	23
01-Nov-90	436,052	348,700	7.33%	87,396	436,096	68
01-May-91	316,883	242,300	7.38%	74,617	316,917	101
01-Nov-91	441,883	376,200	7.42%	65,676	441,876	94
01-May-92	312,196	260,500	7.45%	51,719	312,219	117
01-Nov-92	447,196	405,100	7.48%	42,015	447,115	36
01-May-93	306,964	280,100	7.50%	26,864	306,964	36
01-Nov-93	451,964	435,700	7.51%	16,361	452,061	132
	3,793,719	3,157,900		635,951	3,793,851	

Gross SLGS Purchased	3,157,900
Net Refunding Requirement:	3,157,900

FIRST FIDELITY BANK

First Fidelity Bank, N.A., New Jersey
550 Broad Street, Newark, New Jersey 07102
B55008
201 565-3200

Investment Department

November 23, 1988

Mr. R. Witter Hallen
Executive Director
West Virginia Municipal Bond Commission
1800 Washington St. East
Building 337
Charleston, West Virginia 25305

Re: City of Fairmont Refunding

Dear Mr. Hallen:

Enclosed please find Confirmation/Safekeeping Receipts for the purchase of the various U.S. Treasury Strips on the above referenced financing.

If you have any questions, please call me at (201) 565-6487.

Sincerely,

Charles Adornetto, Jr.

Charles Adornetto, Jr.
Assistant Vice President

CA:be
cc: Stevens & Lee
Michael A. Setley, Esq.
Steptoe & Johnson
Vincent A. Collins, Esq.
Edwin J. Thorne
City Manager - City of Fairmont

FIRST FIDELITY BANK

FIRST FIDELITY BANK, N.A., New Jersey
P.O. Box 15086, Newark, New Jersey 07192
Investment Department

Confirmation/Safekeeping Receipt

Area Code 201

Municipal Trading	565-3411
Money Market	565-3217
Investment Operations	565-3017

Important — Please notify us immediately if this does not agree with your records.

Please retain for income Tax purposes. It is the only copy you will receive.
This confirmation and advice is subject to the terms and conditions stated on the reverse side hereof.

TRADE DATE	REFERENCE NO.
11/21/88	922896

AS PRINCIPAL WE HAVE SOLD TO YOU

PAR VALUE	RATE	MATURITY DATE	PRICE	YIELD	BASIS	SETTLEMENT DATE
530,000.00		11/15/1995	85.393	7.900	7.90	11/01/93

U.S. TREASURY STRIPS PRINCIPAL 452,582.90

CUSIP 912833FB1

TIN NO.	SECURITY NUMBER	SLS	SK/CUST. NO.	ACCOUNT NO.
050	912833FB1	014	857873	

CITY OF FAIRMONT 0000
WEST VIRGINIA

NET AMOUNT 452,582.90

PAYMENT AND DELIVERY INSTRUCTIONS

PAYMENT VS DELIVERY
WE WILL WIRE BOOK-ENTRY VIA
FRB TO YOU AS FOLLOWS: 00
MORGAN NYC/CUST/TREAS ST W V

If securities described hereon are held in safekeeping this will also constitute as your safekeeping receipt

FIRST FIDELITY BANK

FIRST FIDELITY BANK, N.A., New Jersey
P.O. Box 15086, Newark, New Jersey 07192
Investment Department

Confirmation/Safekeeping Receipt

Area Code 201	
Municipal Trading	565-3411
Money Market	565-3217
Investment Operations	565-3017

Important — Please notify us immediately if this does not agree with your records.

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TRADE DATE	REFERENCE NO.
11/21/88	922895

AS PRINCIPAL WE HAVE SOLD TO YOU

PAR VALUE	RATE	MATURITY DATE	PRICE	YIELD	BASIS	SETTLEMENT DATE
373,000.00		11/15/1995	82.144	7.900	7.90	05/01/93

U.S. TREASURY STRIPS PRINCIPAL 306,397.12

CUSIP 912833FB1

TIN NO.	SECURITY NUMBER	SLS	SK/CUST. NO.	ACCOUNT NO.
050	912833FB1	014	857873	

CITY OF FAIRMONT
WEST VIRGINIA

0000

NET AMOUNT 306,397.12

PAYMENT AND DELIVERY INSTRUCTIONS

PAYMENT VS DELIVERY
WE WILL WIRE BOOK-ENTRY VIA
FRB TO YOU AS FOLLOWS: 00
MORGAN NYC/CUST/TREAS ST W.V.

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FIRST FIDELITY BANK

FIRST FIDELITY BANK, N.A., New Jersey
P.O. Box 15086, Newark, New Jersey 07192
Investment Department

Confirmation/Safekeeping Receipt

Area Code 201	
Municipal Trading	565-3411
Money Market	565-3217
Investment Operations	565-3017

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TRADE DATE	REFERENCE NO.
11/21/88	922894

AS PRINCIPAL WE HAVE SOLD TO YOU

PAR VALUE	RATE	MATURITY DATE	PRICE	YIELD	BASIS	SETTLEMENT DATE
565,000.00		11/15/1995	79.027	7.900	7.90	11/01/92

U.S. TREASURY STRIPS PRINCIPAL 446,502.55

CUSIP 912833FB1

TIN NO.	SECURITY NUMBER	SLS	SK/CUST. NO.	ACCOUNT NO.
050	912833FB1	014	857873	

NET AMOUNT 446,502.55

CITY OF FAIRMONT
WEST VIRGINIA

0000

PAYMENT AND DELIVERY INSTRUCTIONS

PAYMENT VS DELIVERY
WE WILL WIRE BOOK-ENTRY VIA
FRB TO YOU AS FOLLOWS: 00
MORGAN NYC/CUST/TREAS ST. U.V.
[illegible]

If securities described hereon are held in safekeeping this will also constitute as your safekeeping receipt.

FIRST FIDELITY BANK

FIRST FIDELITY BANK, N.A., New Jersey
P.O. Box 15086, Newark, New Jersey 07192
Investment Department

Confirmation/Safekeeping Receipt

Area Code 201	
Municipal Trading	565-3411
Money Market	565-3217
Investment Operations	565-3017

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TRADE DATE	REFERENCE NO.
11/21/88	922893

AS PRINCIPAL WE HAVE SOLD TO YOU

PAR VALUE	RATE	MATURITY DATE	PRICE	YIELD	BASIS	SETTLEMENT DATE
411,000.00		11/15/1995	76.021	7.900	7.90	05/01/92

U.S. TREASURY STRIPS PRINCIPAL 312,446.31

CUSIP 912833FB1

TIN NO.	SECURITY NUMBER	SLS	SK/CUST. NO.	ACCOUNT NO.
050	912833FB1	014	857873	

CITY OF FAIRMONT
WEST VIRGINIA

0000

NET AMOUNT 312,446.31

PAYMENT AND DELIVERY INSTRUCTIONS

PAYMENT VS DELIVERY
WE WILL WIRE BOOK-ENTRY VIA
FRB TO YOU AS FOLLOWS:
MORGAN NYC/CUST/TREAS ST U U

00

If securities described hereon are held in safekeeping this will also constitute as your safekeeping receipt.

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FIRST FIDELITY BANK

FIRST FIDELITY BANK, N.A., New Jersey
P.O. Box 15086, Newark, New Jersey 07192
Investment Department

Confirmation/Safekeeping Receipt

Area Code 201	
Municipal Trading	565-3411
Money Market	565-3217
Investment Operations	565-3017

Important — Please notify us immediately if this does not agree with your records.

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TRADE DATE	REFERENCE NO.
11/21/88	923287

AS PRINCIPAL WE HAVE SOLD TO YOU

PAR VALUE	RATE	MATURITY DATE	PRICE	YIELD	BASIS	SETTLEMENT DATE
600,000.00		11/15/1995	73.135	7.900	7.90	11/01/91

U.S. TREASURY STRIPS PRINCIPAL 438,810.00

CUSIP 912833FB1

TIN NO.	SECURITY NUMBER	SLS	SK/CUST. NO.	ACCOUNT NO.
050	912833FB1	014	857873	

NET AMOUNT 438,810.00

CITY OF FAIRMONT
WEST VIRGINIA

0000

PAYMENT AND DELIVERY INSTRUCTIONS

PAYMENT VS DELIVERY
WE WILL WIRE BOOK-ENTRY VIA
FRB TO YOU AS FOLLOWS:

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FIRST FIDELITY BANK

FIRST FIDELITY BANK, N.A., New Jersey
P.O. Box 15086, Newark, New Jersey 07192
Investment Department

Confirmation/Safekeeping Receipt

Area Code 201
Municipal Trading 565-3411
Money Market 565-3217
Investment Operations 565-3017

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TRADE DATE	REFERENCE NO.
11/21/88	922891

AS PRINCIPAL WE HAVE SOLD TO YOU

PAR VALUE	RATE	MATURITY DATE	PRICE	YIELD	BASIS	SETTLEMENT DATE
455,000.00		11/15/1995	70.352	7.900	7.90	05/01/91

U.S. TREASURY STRIPS PRINCIPAL 320,101.60

CUSIP 912833FB1

TIN NO.	SECURITY NUMBER	SLS	SK/CUST. NO.	ACCOUNT NO.
050	912833FB1	014	957873	

NET AMOUNT 320,101.60

CITY OF FAIRMONT
WEST VIRGINIA

0000

PAYMENT AND DELIVERY INSTRUCTIONS

PAYMENT VS DELIVERY
WE WILL WIRE BOOK-ENTRY VIA
FRB TO YOU AS FOLLOWS: 00
MORGAN NYC/CUST/TREAS ST W V

If securities described hereon are held in safekeeping this will also constitute as your safekeeping receipt

FIRST FIDELITY BANK

FIRST FIDELITY BANK, N.A., New Jersey
P.O. Box 15086, Newark, New Jersey 07192
Investment Department

*

Confirmation/Safekeeping Receipt

Area Code 201	
Municipal Trading	565-3411
Money Market	565-3217
Investment Operations	565-3017

Important — Please notify us immediately if this does not agree with your records.

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TRADE DATE	REFERENCE NO.
11/21/88	922890

AS PRINCIPAL WE HAVE SOLD TO YOU

PAR VALUE	RATE	MATURITY DATE	PRICE	YIELD	BASIS	SETTLEMENT DATE
640,000.00		11/15/1995	67.682	7.900	7.90	11/01/90

U.S. TREASURY STRIPS PRINCIPAL 433,164.80

CUSIP 912833FB1

TIN NO.	SECURITY NUMBER	SLS	SK/CUST. NO.	ACCOUNT NO.
050	912833FB1	014	857873	

NET AMOUNT 433,164.80

CITY OF FAIRMONT 0000
WEST VIRGINIA

PAYMENT AND DELIVERY INSTRUCTIONS

PAYMENT VS DELIVERY
WE WILL WIRE BOOK-ENTRY VIA
FRB TO YOU AS FOLLOWS:
00MORGAN NYC/UST/TREAS ST U U

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FIRST FIDELITY BANK

FIRST FIDELITY BANK, N.A., New Jersey
P.O. Box 15086, Newark, New Jersey 07192
Investment Department

*

Confirmation/Safekeeping Receipt

Area Code 201	
Municipal Trading	565-3411
Money Market	565-3217
Investment Operations	565-3017

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TRADE DATE	REFERENCE NO.
11/21/88	922889

AS PRINCIPAL WE HAVE SOLD TO YOU

PAR VALUE	RATE	MATURITY DATE	PRICE	YIELD	BASIS	SETTLEMENT DATE
497,000.00		11/15/1995	65.107	7.900	7.90	05/01/90

U.S. TREASURY STRIPS PRINCIPAL 323,581.79

CUSIP 912833FB1

TIN NO.	SECURITY NUMBER	SLS	SK/CUST. NO.	ACCOUNT NO.
050	912833FB1	014	857873	

CITY OF FAIRMONT
WEST VIRGINIA

0000

NET AMOUNT 323,581.79

PAYMENT AND DELIVERY INSTRUCTIONS

PAYMENT VS DELIVERY
WE WILL WIRE BOOK-ENTRY VIA
FRB TO YOU AS FOLLOWS:
MORGAN NYC/CUST/TREAS ST U U

00

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FIRST FIDELITY BANK

FIRST FIDELITY BANK, N.A., New Jersey
P.O. Box 15086, Newark, New Jersey 07192
Investment Department

Confirmation/Safekeeping Receipt

Area Code 201
Municipal Trading 565-3411
Money Market 565-3217
Investment Operations 565-3017

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AS PRINCIPAL WE HAVE SOLD TO YOU

TRADE DATE	REFERENCE NO.
11/21/88	922887

PAR VALUE	RATE	MATURITY DATE	PRICE	YIELD	BASIS	SETTLEMENT DATE
543,000.00		11/15/1995	60.253	7.900	7.90	05/01/89

U.S. TREASURY STRIPS PRINCIPAL 327,173.79

CUSIP 912833FB1

TIN NO.	SECURITY NUMBER	SLS	SK/CUST. NO.	ACCOUNT NO.
050	912833FB1	014	857873	

NET AMOUNT 327,173.79

CITY OF FAIRMONT
WEST VIRGINIA

0000

PAYMENT AND DELIVERY INSTRUCTIONS

PAYMENT VS DELIVERY
WE WILL WIRE BOOK-ENTRY VIA
FRB TO YOU AS FOLLOWS:
MORGAN NYC/CUST/TREA ST U U

00

If securities described hereon are held in safekeeping this will also constitute as your safekeeping receipt.

150057

FIRST FIDELITY BANK

FIRST FIDELITY BANK, N.A., New Jersey
P.O. Box 15086, Newark, New Jersey 07192
Investment Department

Confirmation/Safekeeping Receipt

Area Code 201	
Municipal Trading	565-3411
Money Market	565-3217
Investment Operations	565-3017

Important — Please notify us immediately if this does not agree with your records.

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TRADE DATE	REFERENCE NO.
11/21/88	922888

AS PRINCIPAL WE HAVE SOLD TO YOU

PAR VALUE	RATE	MATURITY DATE	PRICE	YIELD	BASIS	SETTLEMENT DATE
690,000.00		11/15/1995	62.636	7.900	7.90	11/01/89

U.S. TREASURY STRIPS PRINCIPAL 432,188.40

CUSIP 912833FB1

TIN NO.	SECURITY NUMBER	SLS	SK/CUST. NO.	ACCOUNT NO.
050	912833FB1	014	857873	

CITY OF FAIRMONT
WEST VIRGINIA 0000

NET AMOUNT 432,188.40

PAYMENT AND DELIVERY INSTRUCTIONS

PAYMENT VS DELIVERY
WE WILL WIRE BOOK-ENTRY VIA
FRB TO YOU AS FOLLOWS:
MORGAN NYC/COST TREAS. ST U U

If securities described hereon are held in safekeeping this will also constitute as your safekeeping

ALL-STATE LEGAL SUPPLY CO., ONE COMMERCE DRIVE, CRANFORD, NEW JERSEY 07016

ED 11-2C

STEPTOE & JOHNSON
ATTORNEYS AT LAW
SIXTH FLOOR
UNION NATIONAL CENTER EAST
P. O. BOX 2190
CLARKSBURG, W. VA. 26302-2190
(304) 624-8000
TELECOPIER (304) 624-8183

CHARLES W. YEAGER
CARL F. STUCKY, JR.
HERBERT G. UNDERWOOD
JACKSON L. ANDERSON
OTIS L. O'CONNOR
ROBERT G. STEELE
JAMES M. WILSON
PATRICK D. DEEM
ROBERT M. STEPTOE, JR.
ANNE R. WILLIAMS
JAMES R. WATSON
JAMES D. GRAY
VINCENT A. COLLINS
JAMES A. RUSSELL
WILLIAM T. BELCHER
MICHAEL L. BRAY
DAVID C. CLOVIS
DANIEL R. SCHUDA
J. GREG GOODYKOONTZ
IRENE M. KEELEY
EVANS L. KING, JR.
WALTER L. WILLIAMS
SUSAN S. BREWER
SPRAGUE W. HAZARD
HERSCHEL H. ROSE III
RONALD H. HANLAN
C. DAVID MORRISON
HARRY P. WADDELL
CLEMENT D. CARTER III
W. HENRY LAWRENCE IV
J. ROBERT GWYNNE
WILLIAM E. GALEOTA
GORDON H. COPLAND

CHARLESTON OFFICE
715 CHARLESTON NATIONAL PLAZA
P. O. BOX 1588
CHARLESTON, W. VA. 25326
(304) 342-2191
TELECOPIER (304) 342-0726

MORGANTOWN OFFICE
1000 HAMPTON CENTER
P. O. BOX 1616
MORGANTOWN, W. VA. 26507-1616
(304) 598-8000
TELECOPIER (304) 598-8116

RANDALL C. LIGHT
CHRISTOPHER P. BASTIEN
STEVEN P. McGOWAN
RICHARD M. YURKO, JR.
GARY W. NICKERSON
W. RANDOLPH FIFE
MARTIN R. SMITH, JR.
LOUIS E. ENDERLE
ROBERT J. SCHIAVONI
JOSEPH R. FERRETTI
MARK E. KINLEY
EDWARD R. KOHOUT
MARCIA J. POLLARD
BRYAN R. COKELEY
PATRICK D. KELLY
FRANCESCA TAN
CHRISTINE S. VAGLIENTI

OF COUNSEL
ROBERT W. LAWSON, JR.
RALPH BOHANNON
ERNEST C. SWIGER

WRITER'S DIRECT DIAL NUMBER

December 1, 1988

City of Fairmont (West Virginia)
Sewerage System Refunding Revenue Capital Appreication Bonds,
Series 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Internal Revenue Service
Internal Revenue Service Center
Philadelphia, Pennsylvania 19255

Gentlemen:

Enclosed herewith is a completed and executed Internal Revenue Service Form 8038-G and a file copy thereof with regard to the above-captioned bond issue. Please file the original form in the appropriate Internal Revenue Service records and return the copy marked in red as the "File Copy" to me (after acknowledging receipt of the same) in the enclosed self-addressed, stamped envelope. Thank you for your attention to this matter.

Very truly yours,

Steptoe & Johnson

STEPTOE & JOHNSON

Enclosure

11/28/88
FMTSR3-N

Form **8038-G**
(December 1986)
Department of the Treasury
Internal Revenue Service

Information Return for Tax-Exempt Governmental Bond Issues

▶ Under Section 149(e)
(Use Form 8038-GC if issue price is under $100,000.)

OMB No. 1545-0720
Expires 12-31-89

Part I Reporting Authority

Check box if **Amended Return** ▶ ☐

1 Issuer's name: CITY OF FAIRMONT
2 Issuer's employer identification number: 55-6000-171
3 Number and street: City/County Complex, 200 Jackson Street
4 Report number: G198 8 - 1
5 City or town, state, and ZIP code: Fairmont, West Virginia 26554
6 Date of issue: 11/30/88

Part II Type of Issue (check box(es) that applies)

		Issue Price
7	Check box if bonds are tax or other revenue anticipation bonds ▶ ☐	
8	Check box if bonds are in the form of a lease or installment sale ▶ ☐	
9	☐ Education	
10	☐ Health and hospital	
11	☐ Transportation	
12	☐ Public safety	
13	☒ Environment (including sewage bonds) Sewerage System Refunding Revenue	$3,680,321
14	☐ Housing Capital Appreciation Bonds, Series 1988	
15	☐ Utilities	
16	☐ Other. Describe (see instructions) ▶	

Part III Description of Bonds

	(a) Maturity date	(b) Interest rate	(c) Issue price	(d) Stated redemption price at maturity	(e) Weighted average maturity	(f) Yield	(g) Net interest cost
17 Final maturity	11/01/2011	N/A %	133,030	760,000			
18 Entire issue			3,680,321	11,065,000	14.36 years	7.4845%	7.4806%

Part IV Uses of Original Proceeds of Issue (including underwriters' discount)

19 Proceeds used for accrued interest	19	-0-
20 Proceeds used for bond issuance costs (including underwriters' discount)	20	148,606.41
21 Proceeds used for credit enhancement	21	75,592.17
22 Proceeds allocated to reasonably required reserve or replacement fund	22	-0-
23 Proceeds used to refund prior issues	23	3,157,900.00
24 Nonrefunding proceeds of the issue (subtract lines 20, 21, 22, and 23 from line 18, column (c))	24	298,222.42

Part V Description of Refunded Bonds (complete this part only for refunding bonds)

25 Enter the remaining weighted average maturity of the bonds to be refunded ▶ 3.06 years
26 Enter the last date on which the refunded bonds will be called ▶ 11/01/93
27 Enter the date(s) the refunded bonds were issued ▶ 10/16/85

Part VI Miscellaneous

28 Enter the amount (if any) of the state volume cap allocated to this issue ▶ -0-
29 Arbitrage rebate:
a Check box if the small governmental unit exception to the arbitrage rebate requirement applies ☒
b Check box if the 6-month temporary investment exception to the arbitrage rebate requirement is expected to apply ☐
c Check box if you expect to earn and rebate arbitrage profits to the U.S. ☐
30 Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(ii) ▶ $3,680,321
31 Pooled financings:
a Check box if any of the proceeds of this issue are to be used to make loans to other governmental units ▶ ☐ and enter the amount ▶
b Check box if this issue is a loan made from the proceeds of another tax-exempt issue ▶ ☐ and enter the name of the issuer ▶ and the date of the issue ▶

Please Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature of officer: [signature] Date: November 30, 1988 Title: City Manager

For Paperwork Reduction Act Notice, see page 1 of the Instructions.

UNDERWRITER'S CERTIFICATE

This certification is made in connection with the issuance this day by the City of Fairmont, West Virginia (the "City") of its $11,065,000 stated principal amount of Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988 (the "Bonds") under and pursuant to an ordinance duly enacted by the City Council of the City on August 13, 1985, supplemented and amended by a supplemental resolution adopted September 17, 1985, a supplemental and amendatory ordinance enacted October 25, 1988 and a supplemental resolution adopted October 25, 1988 (hereinafter collectively referred to as the "Ordinance"). The undersigned officer of Butcher & Singer Inc. (the "Underwriter") hereby certifies as follows:

1. The Bonds have been sold to maturity in accordance with the provisions of the Ordinance. The Underwriter has sold all of the Bonds to the public at the prices and with the maturity dates set forth on the cover of the Official Statement dated October 25, 1988.

2. A substantial portion of the proceeds of the Bonds will be applied to refund a portion of the City's sewerage system refunding revenue bonds, Series 1985 (the "Prior Bonds"). No more than $100,000 of the original proceeds of the Prior Bonds (without regard for any amounts on deposit in a reasonably required reserve or replacement fund) are invested in higher yielding investments (as defined in Section 148(b) of the Internal Revenue Code of 1986, as amended).

3. The undersigned officer of the Underwriter is the person that has executed, on behalf of the Underwriter, the documents, certificates and agreements purported to be executed on behalf of the Underwriter in connection with the issuance of the Bonds. Such documents, certificates and agreements have been duly authorized by the Underwriter and constitute the valid and binding agreements of the Underwriter.

IN WITNESS WHEREOF, the undersigned officer of Butcher & Singer Inc. has caused this certificate to be executed as of November 30, 1988.

BUTCHER & SINGER INC.

By John S. Regan II
Authorized Officer

ALL-STATE LEGAL SUPPLY CO., ONE COMMERCE DRIVE, CRANFORD, NEW JERSEY 07016

ED 11-2C

AMBAC Indemnity Corporation
One State Street Pla
New York, New York 10004
Telephone: (212) 668-0340

November 28, 1988

AMBAC®

City of Fairmont
Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988

City of Fairmont
City-County Complex
200 Jackson Street
Fairmont, West Virginia 26554

Ladies and Gentlemen:

AMBAC Indemnity Corporation consents to the enactment of a Supplemental and Amendatory Ordinance authorizing the issuance of the City of Fairmont Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988 and, specifically, the amendment permitting the refunding of a portion of one or more series of Bonds issued pursuant to the Ordinance enacted August 13, 1985, as supplemented and amended by a resolution adopted September 17, 1985.

AMBAC Indemnity Corporation

By _____
Its Vice President

JF/ll

41

LAW OFFICES OF
STEVENS & LEE
A PROFESSIONAL CORPORATION
607 WASHINGTON STREET
P. O. BOX 679
READING, PENNSYLVANIA 19603-0679
(215) 376-9781
TELECOPIER (215) 376-5610

November 30, 1988

City of Fairmont
City-County Complex
200 Jackson Street
Fairmont, West Virginia

Re: City of Fairmont, West Virginia, Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988

Gentlemen:

The purpose of this letter is to explain the general legal constraints of Section 148 of the Internal Revenue Code of 1986, as amended, (the "Code") in order to give you guidance in complying with the arbitrage covenants contained in the ordinance (the "Ordinance") and in the escrow deposit agreement (the "Escrow Agreement") of the City of Fairmont (the "Issuer") with respect to the above-referenced financing. Capitalized terms not specifically defined herein have the meanings set forth in the Ordinance and in the Escrow Agreement.

There are three requirements which must be satisfied in order for interest on the Issuer's Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988 (the "Bonds") to continue to enjoy their tax-exempt status; the rebate requirement; restrictions on investment yield and a requirement regarding redemption of that portion of the Prior Bonds being refinanced with proceeds as described in the Escrow Agreement.

REBATE REQUIREMENTS

With respect to the rebate requirement, unless certain narrow exceptions are met (with respect to which you may wish to consult your bond counsel), you are required to rebate to the Internal Revenue Service an amount which equals the excess of the total amount earned from the investment of "gross proceeds" over the amount that would have been earned on the investment of such "gross proceeds" if their yield was equal to 7.4845%, (the "Bond Yield") plus any investment earnings attributable to that excess (collectively referred to herein as the "Rebate Amount"). "Gross Proceeds" is a fairly comprehensive concept which includes original investments of bond proceeds, earnings on original proceeds, amounts pledged to, or reasonably expected to be used

for, the payment of the Bonds and debt service funds. However, for a number of reasons you may be able to ignore the investment of certain of these "gross proceeds" and thus simplify your rebate calculations.

The specific funds of the Issuer which may include "gross proceeds" are discussed below:

1. The Escrow Fund is, in part, funded from proceeds of the Bonds and, to that extent, is technically subject to inclusion in the rebate calculation. However, computations have already been made confirming that the portion of the Escrow Account funded from proceeds of the Bonds does not yield more than 7.4835%. (See YIELD RESTRICTED INVESTMENTS below). Other amounts in the Escrow Fund are funded from non-proceeds and should not be treated as "gross proceeds." Accordingly, you should be able to ignore the Escrow Fund in the rebate calculation.

2. The Sinking Fund (other than the Reserve Account therein) is a debt service fund for the payment of debt service on the Bonds and is generally designed to be cleared of all funds once each year. The Code permits you to ignore this fund for rebate purposes provided its earnings do not exceed $100,000 per year. Unless short term interest rates get very high, this fund should not earn $100,000 per year and thus will not be subject to the rebate calculations.

3. Construction Fund. This fund is funded with original proceeds of the Bonds and is available for capital projects of the Issuer. The Construction Fund is subject to rebate in accordance with the rebate requirements of the Code and any subsequently promulgated regulations.

4. Escrow Fund created when the Prior Bonds were issued and funded with the proceeds of the Prior Bonds does not become proceeds of the Bonds subject to the rebate until such funds become "transferred proceeds" (which becomes gross proceeds only at the time and to the extent, proceeds of the Bonds discharge the Prior Bonds). In conjunction with the issuance of the Bonds, detailed adjustments have been made to reduce the yield on the "transferred proceeds" to the yield on the Bonds. Accordingly, you should be able to ignore this escrow fund in the rebate calculation.

5. Other Issue Funds. Other funds of the Issuer should be excluded from the rebate calculation since they are not

original proceeds of the Bonds and are not expected to be used to pay debt service on the Bonds. However, the IRS has not yet enacted regulations under Section 148 of the Code and there is no clear guidance on this point. Thus, subsequent regulations may force some Issuer funds into the category of "gross proceeds."

The Issuer, at least once a year beginning on the date of issuance of the Bonds and also upon retirement of the last Bond, should make a determination of the Rebate Amount with respect to the Bonds. The first determination of the Rebate Amount should be made on November 30, 1989, the date which is one year after the date of issuance of the Bonds. The determination of the Rebate Amount with respect to the Bonds for each succeeding year should be made on the date which is one year after the date of the previous determination of said Rebate Amount. The determination of the Rebate Amount with respect to the Bonds made each year should be computed for the period beginning on the date of issuance of the Bonds to the date on which the determination of the Rebate Amount is being made. Thus, the calculation is cumulative, with credit being given for "negative" Rebate Amounts in prior years. The amount determined as the annual Rebate Amount should be deposited into a separate "rebate account" and earnings thereon should be credited to such account. In this way you will be able to account for all earnings on the Rebate Amount as required by the Code. Documentation with respect to the calculation of the rebate should be retained by the Issuer until six years after the retirement of the last Bond and copies of each such determination of the Rebate Amount with respect to the Bonds should be made available to the Issuer, the Escrow Agent and Bond Counsel upon reasonable request.

In addition, the Issuer, at least once every five years beginning on the day of issuance of the Bonds, must make installment payments to the United States in an amount equal to 90% of the Rebate Amount with respect to the Bonds. The first installment of the Rebate Amount should be made not later than 30 days after the end of the five-year period beginning on the date of issuance of the Bonds. Each subsequent installment payment should be made no later than five years after the previous payment was made and the last installment payment shall be made no later than 30 days after the date on which the last Bond is paid and should be in an amount sufficient to pay the remaining balance of the Rebate Amount with respect to the Bonds.

Each payment of the Rebate Amount should be (a) filed with the Internal Revenue Service Center, Philadelphia, Pennsylvania

19255, (unless subsequent regulations designate a different location), (b) accompanied by a copy of the IRS Form 8038-G filed with the Internal Revenue Service at the time of the issuance of the Bonds, and (c) accompanied by a statement summarizing the determination by the Issuer of the Rebate Amount being paid.

YIELD RESTRICTED INVESTMENTS

All proceeds used to refund Prior Bonds must be invested at a yield restricted to 7.4845%. Your investment bankers have caused all such investments to be made at a yield not materially in excess of 7.4835%.

REDEMPTION REQUIREMENTS

With respect to the requirement concerning the redemption of that portion of the Prior Bonds being refinanced with Bond proceeds, those bonds (all of which were originally issued prior to January 1, 1986), must be called no later than the earliest redemption date in which the premium is 3% or less. In this instance, the Prior Bonds being refinanced with proceeds of the Bonds must be redeemed no later than November 1, 1993. Because all of the Prior Bonds being refunded with proceeds of the Bonds mature on or prior to November 1, 1993, this requirement should pose no practical problem.

Failure to comply with the above-described arbitrage limitations of Section 148 and Section 149(d)(3) of the Code may result in the Bonds becoming taxable or, you may be able to correct a violation of the rebate requirement by late payment of the rebate due, plus a penalty of 50 percent of the rebate, plus interest thereon.

This letter sets forth our interpretation of Sections 148 and 149(d)(3) of the Code, based on the Code and other limited information available at this time. As of this date, the Internal Revenue Service has not published regulations implementing the rebate provisions of the Code. We understand that the Internal Revenue Service is currently considering a number of possible interpretive rules dealing with the rebate requirements and matters such as computations of bond yield, identification of "gross proceeds" (including such terms as pledged proceeds and transferred proceeds) subject to the rebate requirements and calculation of the Rebate Amount. Accordingly, before making your

first rebate calculation, and from time to time thereafter, you should consult your counsel to evaluate your compliance with the then current requirements of Section 148 of the Code.

Very truly yours,

STEVENS & LEE

Stevens & Lee

ALL-STATE LEGAL SUPPLY CO., ONE COMMERCE DRIVE, CRANFORD SEY 07016

ED 11-2C

WV MUNICIPAL BOND COMMISSION
Suite 337 Building 3
1800 Washington St. E
State Capitol Complex
Charleston, WV 25305
(304) 348-3971

NEW ISSUE REPORT FORM

Date of Report: November 30, 1988

(See Reverse for Instructions)

ISSUE: City of Fairmont Sewerage System Refunding Revenue Capital Appreciation Bonds, Series 1988

ADDRESS: City- County Complex, Fairmont, WV 26554 COUNTY: Marion

PURPOSE OF ISSUE: New Money X Refunding X Refunds issue(s) dated: September 15, 1985 (partial refunding)

ISSUE DATE: November 30, 1988 CLOSING DATE: November 30, 1988

ISSUE AMOUNT: $ 3,680,320.50 RATE: 6.6-7.75%

1st DEBT SERVICE DUE: November 1, 1996 1st PRINCIPAL DUE: November 1, 1996

1st DEBT SERVICE AMOUNT: $500,000 PAYING AGENT: City National Bank of Fairmont

ISSUERS
BOND COUNSEL: Steptoe & Johnson
Contact Person: Vincent A. Collins
Phone: (304)624-8000

UNDERWRITERS
BOND COUNSEL: Stevens & Lee
Contact Person: Michael A. Setley
Phone: (215)376-9781

CLOSING BANK: City National Bank of Fairmont
Contact Person: Robert D. Reynolds
Phone: (304)363-5500

ESCROW TRUSTEE: WV Municipal Bond Commission
Contact Person: R. Witter Hallan
Phone: (304)348-3971

KNOWLEDGEABLE ISSUER CONTACT
Contact Person: Edwin J. Thorne
Position: City Manager
Phone: (304)366-6211

OTHER:
Contact Person:
Function:
Phone:

DEPOSITS TO MBC AT CLOSE:
By X Wire
Check

Accrued Interest: $
Capitalized Interest: $
Reserve Account: $
X Other: Escrow Funding $3,157,900

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By Wire
Check
IGT

To Escrow Trustee: $
To Issuer: $
To Cons. Invest. Fund: $
To Other: $

NOTES: *Bonds are capital appreciation bonds and bear no current interest. Stated value at maturity is $11,065,000.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED:
TRANSFERS REQUIRED: