

CITY OF GRAFTON

**Combined Waterworks and Sewerage System Revenue Bonds,
Series 1994**

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CITY OF GRAFTON

**COMBINED WATERWORKS AND SEWERAGE SYSTEM
REVENUE BONDS, SERIES 1994**

ORDINANCE

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CITY OF GRAFTON

ORDINANCE

ORDINANCE COMBINING THE EXISTING SEPARATE WATERWORKS SYSTEM AND EXISTING SEPARATE SEWERAGE SYSTEM OF THE CITY OF GRAFTON INTO A COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY; PROVIDING FOR THE TRANSFER OF MANAGEMENT, CONTROL AND OPERATION OF THE EXISTING SEPARATE SEWERAGE SYSTEM TO THE CITY AND ABOLISHING THE SANITARY BOARD OF THE CITY; AUTHORIZING THE REFUNDING OF THE OUTSTANDING SEWER REVENUE BONDS, DATED JUNE 1, 1972, OF THE CITY AND THE ACQUISITION AND CONSTRUCTION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE WATERWORKS PORTION OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$3,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1994; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

THE COUNCIL OF THE CITY OF GRAFTON HEREBY ORDAINS:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the

"Bond Legislation") is enacted pursuant to the provisions of Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law.

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

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

B. The Issuer presently owns and operates a municipal waterworks system, consisting of water tanks, distribution lines, booster stations and all appurtenant facilities and properties, and a municipal sewerage system, consisting of a sewage treatment plant, collection and transportation lines and all appurtenant facilities and properties. The existing waterworks system has heretofore been managed by the Issuer, while the existing sewerage system has heretofore been managed by the Sanitary Board of the Issuer, created pursuant to an ordinance enacted July 15, 1970. The Issuer has determined that efficiencies will be achieved by combining its existing waterworks system and its existing sewerage system into a combined waterworks and sewerage system under the management, control and operation of the Issuer and abolishing the Sanitary Board of the Issuer. Pursuant to the Act, whenever a waterworks and sewerage system is included in a combined waterworks and sewerage system and there are unpaid and outstanding revenue bonds, obligations or securities previously issued which are payable solely from the revenues of such waterworks or such sewerage system, such outstanding bonds, obligations or securities may be refunded by the issuance and sale or exchange therefor of revenue bonds of the combined waterworks and sewerage system. Accordingly, the Issuer hereby determines that it is necessary to refund its Prior Bonds (hereinafter defined) by the issuance and sale of its Combined Waterworks and Sewerage System Revenue Bonds, Series 1994 (the "Series 1994 Bonds"). The Issuer further hereby determines that it is necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain extensions, additions, betterments and improvements to the waterworks portion of the combined waterworks and sewerage system of the Issuer, consisting of replacement of approximately 8,500 feet of water line and replacement of service connections on approximately 11,000 feet of existing water line in Grafton; installation of two new booster stations and two water storage tanks to serve Lucretia and Pruntytown; upgrading the St. John booster station; installation of approximately 8,450 feet of water line and a water storage tank near Morosco; installation of a booster station and bladder tank to serve Morosco; conversion of distribution system from three to two pressure zones, elimination of valved connections between pressure zones, and provision of telemetering to the Issuer's garage, together with all appurtenant facilities (collectively, the "Project") (the Project, the combined waterworks and sewerage system of the Issuer, and any further extensions, additions, betterments and improvements thereto are herein called the "System") at an estimated cost of not more than \$3,000,000, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on the Series 1994 Bonds and the sinking fund, reserve account and other payments provided for herein.

D. It is deemed necessary for the Issuer to issue its Series 1994 Bonds in the total aggregate principal amount of not more than \$3,000,000, to be initially represented by a single Bond, to permanently finance the costs of acquisition and construction of the Project and to refund the Prior Bonds (hereinafter defined). Said costs shall be deemed to include the refunding of the Prior Bonds, the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon that portion of the Series 1994 Bonds to be used to finance the acquisition and construction of the Project (the "New Money Proceeds") prior to and during acquisition and construction of the Project and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Series 1994 Bonds Reserve Account (hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority (hereinafter defined), discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 1994 Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof, provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 1994 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

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

F. It is in the best interests of the Issuer that its Series 1994 Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement to be entered into by and between the Issuer and the Authority, in form satisfactory to the Issuer and the Authority, as shall be approved by supplemental resolution of the Issuer.

G. The Issuer has heretofore financed the acquisition and construction of certain additions, extensions and improvements to its sewerage system by issuance of its Sewer Revenue Bonds, dated June 1, 1972 (the "Prior Bonds"), in the original aggregate principal amount of \$865,000, of which \$685,000 will be outstanding as of the date of enactment of this Ordinance. Pursuant to the Act, the Issuer has determined that it is necessary to refund the Prior Bonds to their first redemption date, being December 1, 1994, in the manner set forth herein with proceeds of the Series 1994 Bonds and other moneys of the Issuer. Upon conclusion of the refunding and defeasance of the Prior Bonds on the

Closing Date, there will be no outstanding obligations of the Issuer which will rank senior and prior to, or on a parity with, or junior and subordinate to, the Series 1994 Bonds as to liens, pledge and source of and security for payment.

H. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the acquisition, construction and operation of the Project and the System, refunding of the Prior Bonds, and issuance of the Series 1994 Bonds, or will have so complied prior to issuance of any thereof, including, among other things, the obtaining of a certificate of convenience and necessity from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the date of issuance of the Series 1994 Bonds or such final order will not be subject to appeal.

I. The Issuer is a governmental unit which has general taxing powers to finance operations of or facilities of the nature of the Project and the System; 95% or more of the Net Proceeds of the Series 1994 Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and the Issuer, all subordinate entities, all entities which issue obligations on behalf of the Issuer, and all entities formed or, to the extent provided under Section 148 of the Code, herein defined, availed of, to avoid the purposes of Section 148(f)(4)(D) of the Code and all other entities benefiting thereby reasonably expect to issue less than \$5,000,000 aggregate principal amount of tax-exempt obligations (other than private activity bonds) during the calendar year in which the Series 1994 Bonds are to be issued.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of Series 1994 Bonds by the registered owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Bondholders of any and all of such Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds and by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

"Act" means Chapter 8, Article 20 of the West Virginia Code of 1931, as amended and in effect on the date of enactment hereof.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 1994 Bonds, or any other agency, board or department of the State that succeeds to the functions of the Authority.

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

"Bond Construction Trust Fund" means the Bond Construction Trust Fund established by Section 5.01 hereof.

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

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

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

"Bond Year" means each one-year period (or shorter period from the date of issuance of any Bonds) that ends at the close of business on October 1, unless otherwise required under the Code.

"Bonds" means the Series 1994 Bonds, and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another ordinance of the Issuer.

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

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

"Closing Date" means the date upon which there is an exchange of the Series 1994 Bonds for the proceeds representing the purchase price of the Series 1994 Bonds by the Authority.

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

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

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

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

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

"Depository Bank" means the bank designated as such in the Supplemental Resolution, and its successors and assigns.

"Escrow Agent" means the Escrow Agent under the Escrow Agreement, which shall be the Commission.

"Escrow Agreement" means the Escrow Agreement to be entered into between the Issuer and the Commission, providing for the defeasance and ultimate payment of the Prior Bonds, the deposit therein of proceeds of the Series 1994 Bonds and other moneys of the Issuer, the disposition of moneys in the various funds and accounts under the Prior Ordinance and other matters in connection therewith, the form of which shall be approved by the Supplemental Resolution.

"Escrow Fund" means the Escrow Fund established pursuant to the Escrow Agreement.

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

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

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

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

"Grant Agreement" means a written commitment for the payment of any Grant, specifying the amount of such Grant, the terms and conditions upon which such Grant is made and the date or dates or event or events upon which such Grant is to be paid to the Issuer.

"Grant Receipts" means all moneys received by the Issuer on account of any Grant.

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

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

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

"Investment Property" means any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract, investment-type property or residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan, excluding, however, obligations the interest on which is excluded from gross income, under Section 103 of the Code, for federal income tax purposes other than specified private activity bonds as defined in Section 57(a)(5)(C) of the Code.

"Issuer" means the City of Grafton, a municipal corporation in Taylor County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" means the Loan Agreement to be entered into between the Authority and the Issuer, providing for the purchase of the Series 1994 Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by the Supplemental Resolution.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 1994 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 1994 Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 1994 Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

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

"New Money Proceeds" means that portion of the proceeds of the Series 1994 Bonds to be used to finance the acquisition and construction of the Project.

"Nonpurpose Investment" means any Investment Property which is acquired with the gross proceeds or any other proceeds of the Series 1994 Bonds and is not acquired in order to carry out the governmental purpose of the Series 1994 Bonds.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, operation and maintenance of the System, as hereinafter defined, and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, fees and expenses of the Authority, fiscal agents, the Depository Bank, Registrar and Paying Agent (all as herein defined), other than those capitalized as part of the Costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Series 1994 Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

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

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

"Paying Agent" means the bank or banks or such other entity or authority as may be designated as a paying agent by the Issuer in the Supplemental Resolution.

"Prior Bonds" means the Issuer's Sewer Revenue Bonds, dated June 1, 1972, issued in the original aggregate principal amount of \$865,000.

"Prior Ordinance" means the ordinance of the Issuer adopted May 30, 1972, authorizing the Prior Bonds.

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

"Program" means the Authority's loan program, under which the Authority purchases the water development revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of the water development revenue bonds of the Authority.

"Project" means the acquisition and construction of certain extensions, additions, betterments and improvements to the waterworks portion of the combined waterworks and sewerage system of the Issuer, consisting of replacement of approximately 8,500 feet of water line and replacement of service connections on approximately 11,000 feet of existing water line in Grafton; installation of two new booster stations and two water storage tanks to serve Lucretia and Pruntytown; upgrading the St. John booster station; installation of approximately 8,450 feet of water line and a water storage tank near Morosco; installation of a booster station and bladder tank to serve Morosco; conversion of distribution system from three to two pressure zones, elimination of valved connections between pressure zones, and provision of telemetering to the Issuer's garage, together with all appurtenant facilities.

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

(a) Government Obligations;

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

(c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

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

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

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

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

(h) The West Virginia "consolidated fund" managed by the West Virginia State Board of Investments pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

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

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

"Registrar" means the Bond Registrar.

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

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

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

"Series 1994 Bonds" means the not more than \$3,000,000 aggregate principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1994, of the Issuer.

"Series 1994 Bonds Reserve Account" means the Series 1994 Bonds Reserve Account established in the Series 1994 Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1994 Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1994 Bonds in the then current or any succeeding year.

"Series 1994 Bonds Sinking Fund" means the Series 1994 Bonds Sinking Fund established by Section 5.02 hereof.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the," refers specifically to the supplemental resolution authorizing the sale of the Series 1994 Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 1994 Bonds, and not so included may be included in another Supplemental Resolution.

"System" means the complete combined waterworks and sewerage system of the Issuer, as created by this Ordinance, in its entirety or any integral part thereof, and shall include the Project and any further extensions, additions, betterments and improvements thereto hereafter constructed or acquired from any sources whatsoever.

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

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

ARTICLE II

AUTHORIZATION OF COMBINING WATERWORKS AND SEWERAGE SYSTEMS, REFUNDING OF PRIOR BONDS AND ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Combining Waterworks and Sewerage Systems. The combining of the existing separate waterworks system and existing separate sewerage system of the Issuer into a combined waterworks and sewerage system of the Issuer is hereby authorized and ordered. In connection herewith, it is further authorized and ordered that the Sanitary Board of the Issuer be abolished and that the management, control and operation of the existing separate sewerage system be transferred from the Sanitary Board to the Issuer. On the Closing Date, the Issuer shall (1) transfer the revenue fund from its separate waterworks system and the revenue fund from its separate sewerage system to the Revenue Fund established by Section 5.01 hereof, and (2) transfer the depreciation fund from its separate waterworks system on deposit with Empire National Bank and the depreciation fund from its separate sewerage system on deposit with Chessie Federal Credit Union to the Renewal and Replacement Fund established by Section 5.01 hereof. The sinking fund, the reserve account therein, and all other accounts created on behalf of the Prior Bonds and currently held at the Commission shall, on the Closing Date, be transferred and disposed of in accordance with the Escrow Agreement.

Section 2.02. Authorization of Refunding of Prior Bonds. For the purpose of combining the existing separate waterworks system and the existing separate sewerage system of the Issuer into a combined waterworks and sewerage system of the Issuer, which the Issuer has determined would achieve efficiencies, all Prior Bonds Outstanding as of the date of issuance of the Series 1994 Bonds in the aggregate principal amount of \$685,000 are hereby authorized and ordered to be refunded pursuant to the Act and the terms of the Escrow Agreement, and the pledge of Net Revenues in favor of the Holders of such refunded Prior Bonds imposed by the Prior Ordinance, 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 1994 Bonds, and other moneys available therefor, of the following: (a) if required by the Escrow Agreement, an amount equal to the fiscal and paying agent charges and the Escrow Agent charges to become due and payable in connection with the Prior Bonds and (b) an amount which will be simultaneously invested in Government Obligations bearing interest and having maturities sufficient, together with certain cash which may also be deposited, to provide for the payment of the principal of, interest and redemption premium on such Prior Bonds on the first date upon which the entire aggregate amount of the Prior Bonds shall be redeemed, being December 1, 1994, all as set forth in the Escrow Agreement. Contemporaneously with the deposit of such Series 1994 Bond proceeds into the Escrow Fund, the amounts on deposit in the sinking fund, including the reserve account therein, and all other funds and accounts created and maintained on behalf of the Prior Bonds and currently held at the Commission shall, on the Closing Date, be deposited in the Escrow Fund or such other fund

or account as shall be set forth in the Escrow Agreement, and invested as provided in the Escrow Agreement and this Ordinance.

Section 2.03. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of not to exceed \$3,000,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received bids or entered into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the Authority.

ARTICLE III

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

Section 3.01. Authorization of Bonds. For the purposes of refunding all of the Outstanding Prior Bonds of the Issuer, capitalizing interest on the New Money Proceeds of the Series 1994 Bonds, funding a reserve account for the Series 1994 Bonds, paying costs of the Project not otherwise provided for and paying certain costs of issuance and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the negotiable Series 1994 Bonds of the Issuer. The Series 1994 Bonds shall be issued as a single Bond, designated "Combined Waterworks and Sewerage System Revenue Bond, Series 1994," in the principal amount of not more than \$3,000,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 1994 Bonds remaining after funding of the Series 1994 Bonds Reserve Account (if funded from Bond proceeds) and capitalizing interest on the New Money Proceeds of the Series 1994 Bonds, if any, shall be deposited in or credited to the Bond Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Terms of Bonds. The Series 1994 Bonds shall bear interest at such rate or rates, not exceeding the then legal maximum, payable semiannually on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution. The Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Bonds shall be paid by check or draft of the Paying Agent or its agent, mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 1994 Bonds shall initially be issued in the form of a single bond, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of the Series 1994 Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

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

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

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

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting any of said Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive 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 remain outstanding, the Issuer, through the Bond Registrar or its agent, shall keep and maintain books for the registration and transfer of the Bonds.

The registered Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in

writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Bonds or transferring the registered Bonds are exercised, Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

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

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 1994 Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Gross Revenues derived from the operation of the System as herein provided and amounts, if any, in the Series 1994 Bonds Sinking Fund and the Series 1994 Bonds Reserve Account. No holder or holders of any of the Series 1994 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 1994 Bonds or the interest thereon.

Section 3.08. Bonds Secured by Pledge of Gross Revenues. The payment of the debt service of all Series 1994 Bonds shall be secured forthwith equally and ratably with each other by a lien on the Gross Revenues derived from the System. Such Gross Revenues in an amount sufficient to pay the principal of and interest on and other payments for the

Series 1994 Bonds and to make the payments into the Renewal and Replacement Fund hereinafter established, and all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 1994 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 1994 Bonds to the original purchasers upon receipt of the documents set forth below:

A. If other than the Authority, a list of the names in which the Series 1994 Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;

B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 1994 Bonds to the original purchasers; and

C. The unqualified approving opinion of bond counsel on the Series 1994 Bonds.

Section 3.10. Form of Series 1994 Bonds. The text of the Series 1994 Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF SERIES 1994 BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF GRAFTON
COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND,
SERIES 1994

No. R- _____

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF GRAFTON, a municipal corporation and political subdivision of the State of West Virginia in Taylor County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ DOLLARS (\$ _____), in installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit A.

The interest rate on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning _____ 1, 199 _____. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, dated _____, 199 ____.

This Bond is issued (i) to refund all of the outstanding Sewer Revenue Bonds of the Issuer, dated June 1, 1972 (the "Prior Bonds"), heretofore issued to finance the cost of acquisition and construction of certain additions, betterments and improvements to the sewerage system of the Issuer; (ii) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the waterworks portion of the combined waterworks and sewerage system of the Issuer, which system is being simultaneously combined herewith (the "Project"); (iii) [to pay interest on that portion of the Bonds of this Series (the "Bonds") to be used for acquisition and construction of the Project during the construction of the Project and for not more than 6 months thereafter; (iv) to fund a reserve account for the Bonds; and (v)] to pay certain costs of issuance hereof and related costs. The Project, the combined waterworks and sewerage system of the Issuer, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance duly enacted by the Issuer on _____, 199____, and a Supplemental Resolution duly adopted by the Issuer on _____, 199____ (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, and from moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1994 Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Gross Revenues, the moneys in the Series 1994 Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest on the Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds; provided however, that so long as there exists in the Series 1994 Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any

other obligations outstanding prior to or on a parity with the Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

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

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

IN WITNESS WHEREOF, the CITY OF GRAFTON has caused this Bond to be signed by its Mayor and City Manager, and its corporate seal to be hereunto affixed and attested by its City Clerk, and has caused this Bond to be dated _____, 199____.

[SEAL]

Mayor

City Manager

ATTEST:

City Clerk

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1994 Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 199____.

ONE VALLEY BANK, NATIONAL
ASSOCIATION,
as Registrar

By _____
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

(Form of)

ASSIGNMENT

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

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

Dated: _____, _____.

In the presence of:

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreement. The Series 1994 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous ordinance or resolution, the Mayor and City Manager are specifically authorized and directed to execute the Loan Agreement in the form attached hereto as "Exhibit A" and made a part hereof, and the City Clerk is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed.

Section 3.12. "Amended Schedule A" Filing. Upon completion of acquisition and construction of the Project, the Issuer will file with the Authority a schedule in substantially the form of the "Amended Schedule A" to the Loan Agreement, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

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

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

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

- (1) Series 1994 Bonds Sinking Fund; and
- (2) Within the Series 1994 Bonds Sinking Fund, the Series 1994 Bonds Reserve Account.

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

- (1) The Issuer shall first (i) on the first day of each month, commencing 7 months prior to the first date of payment of interest on the Series 1994 Bonds for which interest has not been capitalized, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Series 1994 Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on the Series 1994 Bonds on the next ensuing semiannual interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1994 Bonds Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date, and (ii) simultaneously with the transfer set forth in subsection 5.03A(1)(i), on the first day of each

month, commencing 13 months prior to the first date of payment of principal on the Series 1994 Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1994 Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on the Series 1994 Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1994 Bonds Sinking Fund and the next annual principal payment date is less than 13 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(2) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal of the Series 1994 Bonds, if not fully funded upon issuance of the Series 1994 Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1994 Bonds Reserve Account, an amount equal to 1/120 of the Series 1994 Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1994 Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1994 Bonds Reserve Requirement.

(3) The Issuer shall next, from the moneys remaining in the Revenue Fund, 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 Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the Series 1994 Bonds Reserve Account [except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof] shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

(4) Thereafter, the Issuer shall, each month, pay from the Revenue Fund current Operating Expenses of the System.

Moneys in the Series 1994 Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 1994 Bonds as the same shall

become due. Moneys in the Series 1994 Bonds Reserve Account shall be used only for the purpose of paying principal of and interest on the Series 1994 Bonds as the same shall come due, when other moneys in the Series 1994 Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 1994 Bonds Sinking Fund and the Series 1994 Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Bond Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment due on the Series 1994 Bonds, and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 1994 Bonds Reserve Account which result in a reduction in the balance of the Series 1994 Bonds Reserve Account to below the Series 1994 Bonds Reserve Requirement shall be subsequently restored from the first Gross Revenues available after all required payments have been made in full to the Series 1994 Bonds Sinking Fund.

As and when additional Bonds ranking on a parity with the Series 1994 Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the appropriate reserve account in an amount equal to the maximum provided and required to be paid into the concomitant sinking fund in any year for account of the Bonds of such series, including such additional Bonds which by their terms are payable from such sinking fund.

The Issuer shall not be required to make any further payments into the Series 1994 Bonds Sinking Fund, or the Series 1994 Bonds Reserve Account therein when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 1994 Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

The Commission is hereby designated as the fiscal agent for the administration of the Series 1994 Bonds Sinking Fund created hereunder, and all amounts required for the Series 1994 Bonds Sinking Fund shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

The payments into the Series 1994 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 Sunday or legal holiday, then such payments shall be made on the next succeeding business day, and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation.

Moneys in the Series 1994 Bonds Sinking Fund and the Series 1994 Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 1994 Bonds Sinking Fund, including the Series 1994 Bonds Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 1994 Bonds and any additional Bonds ranking on a parity therewith that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

B. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Series 1994 Bonds Sinking Fund, including the Series 1994 Bonds Reserve Account therein, and the Renewal and Replacement Fund during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

C. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay the charges, fees and expenses of the Depository Bank, the Commission, the Registrar and the Paying Agent.

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

E. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03, and the Gross Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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

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

ARTICLE VI

BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of any or all of the Series 1994 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 1994 Bonds, there shall first be deposited with the Commission in the Series 1994 Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest on the New Money Proceeds of the Series 1994 Bonds; provided, that such amount may not exceed the amount necessary to pay interest on the Series 1994 Bonds for the period commencing on the date of issuance of the Series 1994 Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 1994 Bonds, there shall be deposited with the Commission in the Series 1994 Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 1994 Bonds Reserve Account.

C. Next, from the proceeds of the Series 1994 Bonds, there shall be deposited with the Commission in the Escrow Fund, the amount set forth in the Escrow Agreement which, together with other moneys or securities deposited therein and the earnings thereon, will be sufficient to accomplish the refunding and defeasance of the Prior Bonds.

D. Next, from the proceeds of the Series 1994 Bonds, there shall first be credited to the Bond Construction Trust Fund and then paid, any and all other borrowings by the Issuer made for the purpose of temporarily financing a portion of the Costs of the Project and any borrowings by the Issuer from the Authority, including interest accrued thereon to the date of such payment, not otherwise paid from funds of the Issuer.

E. The remaining moneys derived from the sale of the Series 1994 Bonds shall be deposited with the Depository Bank in the Bond Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 6.02 hereof.

F. The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Bond Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond

Construction Trust Fund set forth in the Bond Legislation. Moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the Project and until so transferred or expended, are hereby pledged as additional security for the Series 1994 Bonds.

Section 6.02. Disbursements From the Bond Construction Trust Fund. Payments for Costs of the Project shall be made monthly. Except as provided in Section 6.01 hereof, disbursements from the Bond Construction Trust Fund (except for the costs of issuance of the Series 1994 Bonds which shall be made upon request of the Issuer), shall be made only after submission to the Depository Bank of a certificate, signed by an Authorized Officer and the Consulting Engineers, stating:

- (A) That none of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;
- (B) That each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;
- (C) That each of such costs has been otherwise properly incurred;
and
- (D) That payment for each of the items proposed is then due and owing.

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

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

After completion of the Project, as certified by the Consulting Engineers, and all Costs have been paid, the Depository Bank shall transfer any moneys remaining in the Bond Construction Trust Fund to the Series 1994 Bonds Reserve Account, and when fully funded, shall return such remaining moneys to the Issuer for deposit in the Revenue Fund; provided that, in no event shall more than 10% of the proceeds of the Series 1994 Bonds be deposited in the Series 1994 Bonds Reserve Account and any balance in excess of said

amounts shall be returned to the Issuer for deposit in the Revenue Fund. The Issuer shall thereafter, apply such moneys in full, first to the next ensuing interest payments due on the Series 1994 Bonds and thereafter to the next ensuing principal payments due thereon.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 1994 Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 1994 Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 1994 Bonds or the interest thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 1994 Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of the Series 1994 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 1994 Bonds or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Gross Revenues. The payment of the debt service of the Series 1994 Bonds issued hereunder shall be secured forthwith equally and ratably by a lien on the Gross Revenues derived from the operation of the System. The Gross Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Series 1994 Bonds and to make the payments into the Series 1994 Bonds Sinking Fund, including the Series 1994 Bonds Reserve Account therein, and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Rates and Charges. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the water rate ordinance of the Issuer enacted December 22, 1992, and the sewer rate ordinance of the Issuer enacted April 16, 1991, which rates are incorporated herein by reference as a part hereof.

Section 7.05. Sale of the System. Except as otherwise required by law or with the written consent of the Authority, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Bonds Outstanding, or to effectively defease this Bond Legislation in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect

to the Series 1994 Bonds, immediately be remitted to the Commission for deposit in the Series 1994 Bonds Sinking Fund, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Series 1994 Bonds. Any balance remaining after the payment of all the Series 1994 Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$10,000 and not in excess of \$50,000, shall with the written consent of the Authority, be remitted by the Issuer to the Commission for deposit in the Series 1994 Bonds Sinking Fund and shall be applied only to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the par value thereof plus 3% of such par value or otherwise. Such payment of such proceeds into the Series 1994 Bonds Sinking Fund or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Bond Legislation. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of over 50% in amount of the Bonds then Outstanding and the Consulting Engineers. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 1994 Bonds. All obligations issued by the Issuer after the issuance of the Series 1994 Bonds and payable from the revenues of the System, except additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for payment from such revenues and in all other respects, to the Series 1994 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts established by this Bond Legislation have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the 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 Bond Legislation, or upon the System or any part thereof.

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

Section 7.07. Parity Bonds. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of any Bonds pursuant to this Bond Legislation, except under the conditions and in the manner herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 1994 Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the construction or acquisition of extensions, improvements or betterments to the System or refunding the Series 1994 Bonds issued pursuant hereto, or both such purposes.

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the City Clerk a written statement by the Independent Certified Public 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 for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, shall not be less than 115% of the largest aggregate

amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

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

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates enacted by the Issuer, the period for appeal of which has expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the City Clerk prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Consulting Engineers and the said Independent Certified Public Accountants, as stated in a certificate jointly made and signed by the Consulting Engineers and said Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer, the period for appeal of which has expired prior to issuance of such Parity Bonds.

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

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

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Series 1994 Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 1994 Bonds.

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

Notwithstanding the foregoing, or any provision of Section 7.06 to the contrary, additional Parity Bonds may be issued solely for the purpose of completing the Project as described in the application to the Authority submitted as of the date of the Loan Agreement without regard to the restrictions set forth in this Section 7.07, if there is first obtained by the Issuer the written consent of the Authority to the issuance of the Parity Bonds.

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

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

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

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

The Issuer shall file with the Consulting Engineers, the Authority, or any other original purchaser of the Series 1994 Bonds, and shall mail in each year to any Holder or Holders of the Series 1994 Bonds, requesting the same, an annual report containing the following:

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

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 1994 Bonds and shall submit said report to the Authority, or any other original purchaser of the Series 1994 Bonds. Such audit report submitted to the Authority shall include a statement that the Issuer is in compliance with the terms and provisions of the Loan Agreement and this Bond Legislation and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service requirements.

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

Section 7.09. Rates. Equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law,

and copies of such rates and charges so established will be continuously on file with the City Clerk, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Series 1994 Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 1994 Bonds, provided that, in the event that amounts equal to or in excess of the reserve requirements are on deposit respectively in the Series 1994 Bonds Reserve Account and any reserve accounts for obligations prior to or on a parity with the Series 1994 Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest on the Series 1994 Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 1994 Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinance described in Section 7.04.

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

In addition, the Issuer shall annually cause the records of the System to be audited by an Independent Certified Public Accountant, the report of which audit shall be submitted to the Authority and which audit report shall include a statement that the Issuer is in compliance with the terms and provisions of this Bond Legislation and the Loan Agreement and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service requirements.

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

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

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

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

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

Section 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent

permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

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

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

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

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and

Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the contractors and subcontractors, as their interests may appear.

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

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

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

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

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

B. The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect

to works and properties similar to the Project. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear.

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

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

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

The Issuer will obtain all permits required by state and federal laws for the acquisition and construction of the Project and all orders and approvals from the Public Service Commission of West Virginia necessary for the acquisition and construction of the Project and the operation of the System.

Section 7.18. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. **PRIVATE BUSINESS USE LIMITATION.** The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the 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 Bonds during the term thereof is, under the terms of the Bonds or any underlying

arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the 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 Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the 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 Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such Private Business Use is related, all of the foregoing to be determined in accordance with the Code.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of 5% of the Net Proceeds of the Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

D. INFORMATION RETURN. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Bonds and the interest thereon, including, without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer will take any and all actions that may be required of it (including, without limitation, those deemed necessary by the Authority) so that the interest on the Series 1994 Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including, without limitation, those deemed necessary by the Authority), the result of which would adversely affect such exclusion.

Section 7.19. Statutory Mortgage Lien. For the further protection of the Holders of the Series 1994 Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be

valid and binding, shall take effect immediately upon delivery of the Series 1994 Bonds and shall be for the equal benefit of all Holders of the Series 1994 Bonds.

Section 7.20. Compliance with Loan Agreement and Law. The Issuer agrees to comply with all the terms and conditions of the Loan Agreement and all applicable laws, rules and regulations issued by the Authority, or other State, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

ARTICLE VIII

INVESTMENT OF FUNDS; NON ARBITRAGE

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

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

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

Section 8.02. Arbitrage. The Issuer covenants that (i) it shall not take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Series 1994 Bonds which would cause the Series 1994 Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a Federal information return with respect to the Series 1994 Bonds) so that the interest on the Series 1994 Bonds will be

and remain excludable from gross income for Federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 8.03. Small Issuer Exemption from Rebate of Excess Investment Earnings to the United States. In accordance with Section 148 (f)(4)(D) of the Code, the Issuer covenants that it is a governmental unit with general taxing powers; that no part of the Series 1994 Bonds are private activity bonds; that 95% or more of the Net Proceeds of the Series 1994 Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and that the aggregate face amount of all the tax-exempt obligations (other than private activity bonds) issued by the Issuer during the calendar year in which the Series 1994 Bonds are issued does not and will not exceed \$5,000,000, determined in accordance with Section 148(f)(4)(D) of the Code and the Regulations from time to time in effect applicable to the Series 1994 Bonds. For purposes of the first paragraph of Section 8.03 and for purposes of applying Section 148(f)(4)(D) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a governmental unit to make loans to other governmental units with general taxing powers not subordinate to such unit shall, for purposes of applying this first paragraph of Section 8.03 and Section 148(f)(4)(D) of the Code, be treated as not issued by such unit; all obligations issued by a subordinate entity shall, for purposes of applying this first paragraph of Section 8.03 and Section 148(f)(4)(D) of the Code to each 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)(D) of the Code and all other entities benefiting thereby shall be treated as one issuer.

Notwithstanding the foregoing, if in fact the Issuer is subject to the rebate requirements of Section 148(f) of the Code, and not exempted from such requirements, the Issuer covenants to make, or cause to be made, all rebate calculations, computations and payments in the time, manner and as required in Section 148(f) of the Code and the Regulations from time to time in effect and applicable to the Series 1994 Bonds and otherwise covenants and agrees to comply with the provisions of such Section 148(f) of the Code and the Regulations from time to time in effect and applicable to the Series 1994 Bonds. In the event of a failure to pay any such amount or amounts, the Issuer will pay, from any lawful sources available therefor, to the United States an amount equal to the sum of 50% of the amount not paid, plus interest at the required rate on the portion of the amount which was not paid on the required date, beginning on such date, unless waived. In order to provide for the administration of this paragraph, the Issuer may provide for the employment of independent attorneys, accountants and consultants compensated on such reasonable basis as the Issuer may deem appropriate.

The Issuer shall furnish to the Authority, annually, and at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information relating thereto as may be

requested by the Authority. In addition, the Issuer shall cooperate with the Authority in preparing any required rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the Issuer.

The Issuer shall submit to the Authority within 15 days following the end of each Bond Year a certified copy of its rebate calculation or, if the Issuer qualifies for the small governmental issue exception to rebate, the Issuer shall submit a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the Series 1994 Bonds subject to rebate. The Issuer shall also furnish the Authority, at any time, such additional information relating to rebate as may be reasonably requested by the Authority, including information with respect to earnings on all funds constituting "gross proceeds" of the Bonds (as such term "gross proceeds" is defined in the Code).

ARTICLE IX

DEFAULT AND REMEDIES

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

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

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

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

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

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

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

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

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

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

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

ARTICLE X

DEFEASANCE

Section 10.01. Defeasance of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the 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 Bond Legislation, then the pledge of Gross Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest on the Series 1994 Bonds from gross income for federal income tax purposes.

Series 1994 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 either at maturity or at the next redemption date, the principal installments of and interest on such Series 1994 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 1994 Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of and interest due and to become due on said Series 1994 Bonds on and prior to the next redemption date or the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on said Series 1994 Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of and interest to become due on said Bonds on and prior to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. No material modification or amendment of this Bond Legislation, or of any ordinance, resolution or order amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Bonds shall be made without the consent in writing of the Registered Owners of 66-2/3% or more in principal amount of the Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest on the Series 1994 Bonds from gross income of the Holders thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution or the Bonds.

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

Section 11.05. Conflicting Provisions Repealed. All ordinances, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Ordinance do exist, have happened,

have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the City Clerk and members of the Governing Body were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 11.07. Effective Date. This Ordinance shall take effect immediately following public hearing hereon.

Section 11.08. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in the Mountain Statesman, a newspaper published and of general circulation in the City of Grafton, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Bonds, and that any person interested may appear before the Council upon a date certain, not less than ten days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

Passed on First Reading - May 3, 1994

Passed on Second Reading - May 17, 1994

Passed on Final Reading
Following Public
Hearing - June 7, 1994


Daniel E. Mansueti
Mayor

Attest:


City Clerk

Approved and correct as to form:


Frances A. Whitman
City Attorney

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the CITY OF GRAFTON on the 7th day of June, 1994.

Dated: July 27, 1994.

[SEAL]

Shirley M. Dougherty
City Clerk

06/27/94
GRAFC.A4
34572/93001

CITY OF GRAFTON

Combined Waterworks and Sewerage System Revenue Bonds, Series 1994

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1994, OF THE CITY OF GRAFTON; AUTHORIZING AND APPROVING A LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; AUTHORIZING AND APPROVING AN ESCROW AGREEMENT; DESIGNATING A REGISTRAR, PAYING AGENT, DEPOSITORY BANK AND ESCROW AGENT; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the council (the "Governing Body") of the City of Grafton (the "Issuer"), has duly and officially adopted and enacted a bond ordinance, effective June 7, 1994 (the "Bond Ordinance"), entitled:

ORDINANCE COMBINING THE EXISTING SEPARATE WATERWORKS SYSTEM AND EXISTING SEPARATE SEWERAGE SYSTEM OF THE CITY OF GRAFTON INTO A COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY; PROVIDING FOR THE TRANSFER OF MANAGEMENT, CONTROL AND OPERATION OF THE EXISTING SEPARATE SEWERAGE SYSTEM TO THE CITY AND ABOLISHING THE SANITARY BOARD OF THE CITY; AUTHORIZING THE REFUNDING OF THE OUTSTANDING SEWER REVENUE BONDS, DATED JUNE 1, 1972, OF THE CITY AND THE ACQUISITION AND CONSTRUCTION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE WATERWORKS PORTION OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE

THAN \$3,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1994; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Bond Ordinance provides for the issuance of Combined Waterworks and Sewerage System Revenue Bonds, Series 1994, of the Issuer (the "Bonds" or the "Series 1994 Bonds"), in the aggregate principal amount not to exceed \$3,000,000, and has authorized the execution and delivery of a loan agreement relating to the Bonds to be dated the date of delivery of the Bonds (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), all in accordance with Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"); and in the Bond Ordinance it is provided that the form of the Loan Agreement and the exact principal amount, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

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

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

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and that the Loan Agreement be approved and entered into by the Issuer, that the exact principal amount, the date, the maturity date, the redemption provision, the interest rate, the interest and principal

payment dates and the sale price of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

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

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Combined Waterworks and Sewerage System Revenue Bonds, Series 1994, of the Issuer, originally represented by a single Bond, numbered R-1, in the principal amount of \$2,830,000. The Series 1994 Bonds shall be dated the date of delivery thereof, shall finally mature October 1, 2033, shall bear interest at the rate of 6.75% per annum, payable semiannually on April 1 and October 1 of each year, first interest payable October 1, 1994, shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, as long as the Authority shall be the registered owner of the Series 1994 Bonds, and shall be payable in installments of principal on October 1 in each of the years 1995 through 2033, inclusive, all as set forth in "Schedule X" attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Issuer shall, if requested by the Authority, exchange the Bond for one or more series of Bonds as provided herein and in the Bond Ordinance; provided that, the aggregate principal amount and the net interest cost amount of the exchanged Bonds do not exceed \$2,830,000 and 6.75% respectively, and the exchanged Bonds have in the aggregate substantially similar principal installments.

Section 2. All other provisions relating to the Bonds shall be as provided in the Bond Ordinance, except that the FORM OF SERIES 1994 BOND set forth in Section 3.10 of the Bond Ordinance is hereby amended and shall be as set forth in EXHIBIT A attached hereto and incorporated herein. In addition, the second paragraph of Section 3.02 of the Bond Ordinance is hereby amended to read as follows:

Unless otherwise provided by the Supplemental Resolution, the Series 1994 Bonds shall initially be issued in the form of a single bond, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of the Series 1994 Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Bonds shall be exchangeable at the option and expense of the Registered Owner for one or more series of fully registered Bonds in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, substantially corresponding to the principal installments or maturities of the Bonds being exchanged; provided that, the net interest cost amount on the exchanged Bonds shall not exceed the net interest cost amount on the Bonds

being exchanged; provided further that, the Authority shall not be obligated to pay any expenses of such exchange.

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

Section 4. The Issuer does hereby appoint and designate One Valley Bank, National Association, Charleston, West Virginia, as Registrar (the "Registrar") for the Bonds and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, in substantially the form attached hereto, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, approved and directed.

Section 5. The Issuer does hereby appoint and direct the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds, and to serve as Escrow Agent in connection with the refunding of the Prior Bonds.

Section 6. The Issuer does hereby appoint First Community Bank, Inc., Grafton, West Virginia, as Depository Bank under the Bond Ordinance.

Section 7. Series 1994 Bonds proceeds in the amount of \$0- shall be deposited in the Series 1994 Bonds Sinking Fund, as capitalized interest.

Section 8. Series 1994 Bonds proceeds in the amount of \$207,249 shall be deposited in the Series 1994 Bonds Reserve Account.

Section 9. Series 1994 Bonds proceeds in the amount of \$250,000, together with other moneys of the Issuer, shall be deposited in the Escrow Fund to refund the Prior Bonds to their first redemption date, being December 1, 1994.

Section 10. The balance of the proceeds of the Series 1994 Bonds shall be deposited in or credited to the Bond Construction Trust Fund as received from time to time for payment of Costs of the Project, including costs of issuance of the Series 1994 Bonds.

Section 11. The Issuer hereby determines to pay, on the date of delivery of the Bonds and receipt of proceeds thereof, all borrowings of the Issuer heretofore incurred for the purpose of temporarily financing a portion of the Costs of the Project, if any,

including, but not limited to, all borrowings from the Issuer's general fund or from the Authority.

Section 12. The Mayor, City Manager and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the refunding of the Prior Bonds, the issuance of the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered on or about July 27, 1994, to the Authority pursuant to the Loan Agreement. The Mayor, City Manager and City Clerk are also hereby authorized and directed to exchange and execute the Bonds as provided herein and in the Bond Ordinance if requested by the Authority.

Section 13. The acquisition and construction of the project and the financing thereof in part with proceeds of the Bonds is in the public interest, serves a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 14. The Issuer hereby determines that it is in the best interest of the Issuer to invest all moneys in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such repurchase agreements or time accounts, until further directed in writing by the Issuer. Moneys in the Series 1994 Bonds Sinking Fund, including the Series 1994 Bonds Reserve Account therein, shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 15. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder or under any predecessor thereto (the "Code"), by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions necessary to comply with the Code and Treasury Regulations to be promulgated thereunder.

Section 16. The Issuer is a governmental unit with general taxing powers to finance operations of or facilities of the nature of the Project and the System; no part of the Bonds are private activity bonds; 95% or more of the net proceeds of the Bonds are to be used for local governmental activities of the Issuer; and the Issuer reasonably expects to issue less than \$5,000,000 aggregate principal face amount of tax-exempt obligations (other than private activity bonds) during the calendar year 1994, being the calendar year in which the Bonds are to be issued. For purposes of this Section and for purposes of applying Section 148(f)(4)(D) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a governmental

unit to make loans to other governmental units with general taxing powers not subordinate to such unit shall, for purposes of applying this Section and Section 148(f)(4)(D) of the Code, be treated as not issued by such unit; all obligations issued by a subordinate entity shall, for purposes of applying this Section and Section 148(f)(4)(D) of the Code to each 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)(D) of the Code and all other entities benefiting thereby shall be treated as one issuer.

Section 17. The Issuer does hereby authorize, approve and accept the Escrow Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the Escrow Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, directed and approved.

Section 18. The Escrow Agent is hereby authorized and instructed to purchase the Government Securities listed on Schedule A of the Escrow Agreement in accordance with the provisions of the Escrow Agreement.

Section 19. The Escrow Agent is hereby authorized and directed to transfer from the sinking fund and reserve account therein, and the depreciation account created for the Prior Bonds, and held by the West Virginia Municipal Bond Commission, the amounts set forth in the Escrow Agreement, to the Escrow Fund.

Section 20. The firm of Smith, Cochran & Hicks, Certified Public Accountants, Charleston, West Virginia, is hereby engaged for the purposes of verifying the yield of the Bonds, the yield and sufficiency of the Escrow Fund, and savings, if any, resulting from the refunding of the Prior Bonds.

Section 21. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 19th day of July, 1994.

CITY OF GRAFTON

Daniel E. Mansuis
Mayor

Attest:

Shirley McDougherty
City Clerk

Approved and correct as to form:

Frances P. Whittemore
City Attorney

EXHIBIT A

(FORM OF SERIES 1994 BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF GRAFTON
COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND,
SERIES 1994

No. R-_____

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF GRAFTON, a municipal corporation and political subdivision of the State of West Virginia in Taylor County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ DOLLARS (\$ _____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit B hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit B.

The interest on such advances shall run from the date of each such advance, and such interest shall be payable on April 1 and October 1 in each year, beginning _____ 1, 199 _____. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, dated _____, 199_____.

This Bond is issued (i) to refund all of the outstanding Sewer Revenue Bonds of the Issuer, dated June 1, 1972 (the "Prior Bonds"), heretofore issued to finance the cost of acquisition and construction of certain additions, betterments and improvements to the sewerage system of the Issuer; (ii) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the waterworks portion of the combined waterworks and sewerage system of the Issuer, which system is being simultaneously combined herewith (the "Project"); (iii) [to pay interest on that portion of the Bonds of this Series (the "Bonds") to be used for acquisition and construction of the Project during the construction of the Project and for not more than 6 months thereafter; (iv) to fund a reserve account for the Bonds; and (v)] to pay certain costs of issuance hereof and related costs. The Project, the combined waterworks and sewerage system of the Issuer, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance duly enacted by the Issuer on _____, 199_____, and a Supplemental Resolution duly adopted by the Issuer on _____, 199_____, (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, and from moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1994 Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Gross Revenues, the moneys in the Series 1994 Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of

and interest on the Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds; provided however, that so long as there exists in the Series 1994 Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

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

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

IN WITNESS WHEREOF, the CITY OF GRAFTON has caused this Bond to be signed by its Mayor and City Manager, and its corporate seal to be hereunto affixed and attested by its City Clerk, and has caused this Bond to be dated _____, 199____.

[SEAL]

Mayor

City Manager

ATTEST:

City Clerk

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1994 Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 199____.

ONE VALLEY BANK, NATIONAL
ASSOCIATION,
as Registrar

By _____
Its Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$		(7) \$	
(2) \$		(8) \$	
(3) \$		(9) \$	
(4) \$		(10) \$	
(5) \$		(11) \$	
(6) \$		(12) \$	
	TOTAL	\$	<u><u> </u></u>

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

(Form of)

ASSIGNMENT

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

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

Dated: _____, _____.

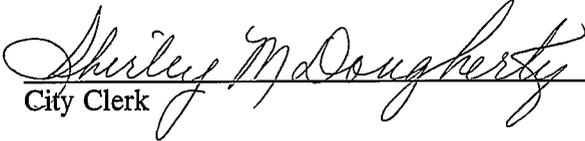
In the presence of:

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the CITY OF GRAFTON on the 19th of July, 1994.

Dated: July 27, 1994.

[SEAL]


City Clerk

07/19/94
GRAFC.I4
345720/93001

LOAN AGREEMENT

THIS LOAN AGREEMENT, Made and entered into in several counterparts, by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), and the governmental agency designated below (the "Governmental Agency").

CITY OF GRAFTON
(Governmental Agency)

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of Chapter 20, Article 5C, of the Code of West Virginia, 1931, as amended (the "Act"), the Authority is empowered to make loans to governmental agencies for the acquisition or construction of water development projects by such governmental agencies and to issue water development revenue bonds of the State of West Virginia (the "State") to finance, in whole or in part, by loans to governmental agencies, one or more water development projects, all subject to such provisions and limitations as are contained in the Act;

WHEREAS, the Governmental Agency constitutes a governmental agency as defined by the Act;

WHEREAS, the Governmental Agency is authorized and empowered by the statutes of the State to construct, operate and improve a water development project, as defined by the Act, and to finance the cost of constructing or acquiring the same by borrowing money to be evidenced by revenue bonds issued by the Governmental Agency;

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

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

WHEREAS, having reviewed the Application and made all findings required by Section 5 of the Act and having available sufficient funds therefor, the Authority is willing to lend the Governmental Agency the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Governmental Agency with proceeds of certain water development revenue bonds of the State issued by the Authority pursuant to and in accordance with the provisions of the Act and a certain general revenue bond resolution adopted by the Board of the Authority (the "General Resolution"), as supplemented, subject to the Governmental Agency's satisfaction of certain legal and other requirements of the Authority's water development loan program (the "Program") as hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Governmental Agency and the Authority hereby agree as follows:

ARTICLE I

Definitions

1.1 Except where the context clearly indicates otherwise, the terms "Authority," "water development revenue bond," "cost," "governmental agency," "water development project," "wastewater facility" and "water facility" have the definitions and meanings ascribed to them in the Act.

1.2 "Consulting Engineers" means the professional engineer, licensed by the State, who shall not be a regular, full-time employee of the State or any of its agencies, commissions or political sub-divisions, and designated in the Application and any qualified successor thereto.

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

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

1.5 "Local Bonds" means the revenue bonds to be issued by the Governmental Agency pursuant to the provisions of the Local Statute, as hereinafter defined, to evidence the Loan and to be purchased by the Authority with a portion of the proceeds of its water development revenue bonds, all in accordance with the provisions of this Loan Agreement.

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

1.7 "Origination Fee" means the fee paid by a Governmental Agency with respect to its participation in the State's Revolving Fund program established pursuant to Title VI of the Water Quality Act of 1987, to provide funds for the acquisition and construction of wastewater Projects.

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

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

1.10 "System" means the water development project owned by the Governmental Agency, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

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

ARTICLE II

The Project and the System

2.1 The Project shall generally consist of the construction and acquisition of the facilities described in the Application, to be, being or having been constructed in accordance with plans, specifications and designs prepared for the Governmental Agency by the Consulting Engineers, the Authority having found, to the extent applicable, that the Project is consistent with the applicable comprehensive plan of water management approved by the Director of the West Virginia Division of Natural Resources* (or in the process of preparation by such

* Now administered by the West Virginia Division of Environmental Protection.

Director), has been approved by the West Virginia Bureau of Public Health and is consistent with the standards set by the West Virginia Water Resources Board for the waters of the State affected thereby.

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

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

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

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

2.6 The Governmental Agency agrees that it will permit the Authority and its agents and representatives to have access to the records of the Governmental Agency pertaining to the operation

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

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

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

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

2.10 The Governmental Agency agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The Governmental Agency agrees that qualified operating personnel properly certified by the State will be retained to operate the System during the entire term of this Loan Agreement.

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

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

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

(a) The Governmental Agency shall have performed and satisfied all of the terms and conditions to be performed and satisfied by it in this Loan Agreement;

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

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

Engineers to such effect the form of which certificate is attached hereto as Exhibit A;

(d) No Loan shall be made for the purpose of refinancing any outstanding long-term indebtedness of a Governmental Agency unless an opinion of counsel is received by the Authority to the effect that such refinancing is permitted by the Act and the Resolution, and that such refinancing will not cause a violation of any covenant, representation or agreement of the Authority contained in the Resolution or Tax Regulatory Agreement with respect to the exclusion of the interest on the Bonds from gross income of the holder thereof for federal income tax purposes;

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

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

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

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

(i) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsection 4.1(b)(ii) hereof, and the Authority shall have received a certificate of the

accountants for the Governmental Agency, or such other person or firm experienced in the finances of governmental agencies and satisfactory to the Authority, to such effect; and

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

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

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

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

3.5 The Governmental Agency understands and acknowledges that it is one of several governmental agencies which have applied

to the Authority for loans to finance water development projects and that the obligation of the Authority to make any such loan is subject to the Governmental Agency's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing and to the right of the Authority to make such loans to other governmental agencies as in the aggregate will permit the fullest and most timely utilization of such proceeds to enable the Authority to pay debt service on the water development revenue bonds issued by it. The Governmental Agency specifically recognizes that the Authority will not purchase the Local Bonds unless and until it has available funds sufficient to purchase all the Local Bonds and that, prior to such execution, the Authority may commit to and purchase the revenue bonds of other governmental agencies for which it has sufficient funds available. The Governmental Agency further specifically recognizes that during the last 90 days of a period to originate Loans from its water development revenue bond proceeds, the Authority may execute Loan Agreements, commit moneys and close Local Bond sales in such order and manner as it deems in the best interest of the Program.

ARTICLE IV

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

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

(a) That the revenues generated from the operation of the System will be used monthly, in the order of priority listed, as set forth on Schedule Y attached hereto and incorporated herein by reference. The gross revenues of the System shall always be used for purposes of the System.

~~(b) Covenants substantially as follows:~~

(i) That the Local Bonds shall be secured by the gross or net revenues from the System, as more fully set forth in Schedules X and Y attached hereto;

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

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

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

(iv) That, except as otherwise required by State law or with the written consent of the Authority, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Local Bonds outstanding, with further restrictions on the disposition of portions of the System as are normally contained in such covenants;

(v) That the Governmental Agency shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and on any obligations secured by a lien on or payable from the revenues of the System prior to the Local Bonds; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

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

(vii) That the Governmental Agency will not render any free services of the System;

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

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

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

(xi) That the Governmental Agency shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority, which report shall include a statement that the Governmental Agency is in compliance with the terms and provisions of the Local Act and this Loan Agreement and that the Governmental Agency's revenues are adequate to meet its operation and maintenance expenses and debt service requirements;

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

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

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

Authority, the proceeds of the Local Bonds may be used to fund all or a portion of the Reserve Account, on which the owner of the Local Bonds shall have a lien as provided herein;

(xv) That, as long as the Authority is the owner of any of the Local Bonds, the Governmental Agency shall not authorize redemption of any Local Bonds by it without the written consent of the Authority and otherwise in compliance with this Loan Agreement;

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

(xvii) That the Governmental Agency shall take any and all action, or shall refrain from taking any action, as shall be deemed necessary by the Authority to maintain the exclusion from gross income for Federal income tax purposes of interest on the Authority's water development revenue bonds;

(xviii) That the Governmental Agency shall have obtained the certificate of the Consulting Engineer in the form attached to the Loan Application, to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority, the Project is adequate for the purposes for which it was designed and the funding plan as submitted to the Authority is sufficient to pay the costs of acquisition and construction of the Project;

(xix) That the Governmental Agency shall, to the full extent permitted by applicable law and the rules and regulations of the West Virginia Public Service Commission, terminate the services of any water facility owned by it to any customer of the System who is delinquent in payment of charges for services provided by the System and will not restore the services of the water facility until all delinquent charges for the services of the System have been fully paid or, if the water facility is not owned by the Governmental Agency, then the Governmental Agency shall enter into a termination agreement with the water provider; and

(xx) That the Governmental Agency shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the Local Bonds (as that

term is defined in the Code) from time to time as the Authority may request.

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

4.2 The Loan shall be secured by the pledge and assignment by the Governmental Agency, as effected by the Local Act, of the fees, charges and other revenues of the Governmental Agency from the System as further set forth by and subject only to such reservations and exceptions as are described in Schedules X and Y hereto or are otherwise expressly permitted in writing by the Authority.

4.3 An Origination Fee Account shall be established with the Trustee to hold the portion of the proceeds of any Loan established to fund an Origination Fee. Amounts on deposit in an Origination Fee Account shall belong to the Governmental Agency receiving the related Loan, but such amounts may only be disbursed from the Account to pay the Origination Fee as and when required to satisfy the requirements of the State's Revolving Fund program established pursuant to Title VI of the Water Quality Act of 1987 or for such other purposes as the Authority may approve in writing.

4.4 The principal of the Loan shall be repaid by the Governmental Agency annually on the day and in the years provided in Schedule X hereto. Interest payments on the Loan shall be made by the Governmental Agency on a semiannual basis as provided in said Schedule X.

4.5 The Loan shall bear interest from the date of the delivery to the Authority of the Local Bonds until the date of payment thereof, at the rate or rates per annum set forth on Schedule X hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

4.6 The Local Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Governmental Agency. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series, as reflected by Schedule X hereto.

4.7 The Governmental Agency agrees to pay from time to time, as required by the Authority, the Governmental Agency's allocable share of the reasonable administrative expenses of the Authority relating to the Program. Such administrative expenses shall be as determined by the Authority and shall include without limitation Program expenses, legal fees paid by the Authority and fees paid to the trustee and paying agents for the water development revenue bonds. The Authority shall provide both the Governmental Agency and the trustee for the water development revenue bonds with a schedule of such fees and charges, and the Governmental Agency shall pay such fees and charges on the dates indicated directly to the trustee. The Governmental Agency hereby specifically authorizes the Authority to exercise the powers granted it by Section 9.06 of the General Resolution.

4.8 The Governmental Agency agrees to expend the net proceeds of the Local Bonds for the Project within 3 years of the issuance of the Authority's bonds.

4.9 As long as the Authority is the owner of any of the Local Bonds outstanding, the Governmental Agency shall not redeem any of such Local Bonds outstanding without the written consent of the Authority, and any such redemption of Local Bonds authorized by the Authority shall provide for the payment of interest to the first allowable redemption date for the applicable water development revenue bonds, the redemption premium payable on the applicable water development revenue bonds redeemable as a consequence of such redemption of Local Bonds and the costs and expenses of the Authority in effecting any such redemption, all as further prescribed by Section 9.11 of the General Resolution. Nothing in this Loan Agreement shall be construed to prohibit the Authority from refunding applicable water development revenue bonds, and such refunding need not be based upon or result in any benefit to the Governmental Agency.

ARTICLE V

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

5.1 The Governmental Agency hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Governmental Agency hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System, as set forth in

the Local Act and in compliance with the provisions of Subsection 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the minimum sums set forth in the Local Act, the Governmental Agency hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges so as to provide funds sufficient to produce the minimum sums set forth in the Local Act and as required by this Loan Agreement.

5.3 In the event the Governmental Agency defaults in the payment of any fees due to the Authority pursuant to Section 4.6 hereof, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

5.4 The Governmental Agency hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Governmental Agency, the Authority may exercise any or all of the rights and powers granted under Section 6a of the Act, including without limitation the right to impose, enforce and collect directly charges upon users of the System.

ARTICLE VI

Other Agreements of the Governmental Agency

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

6.2 At the option of the Authority, the Governmental Agency shall issue and sell to the Authority additional, subordinate bonds to evidence the Governmental Agency's obligation to repay to the Authority any grant received by the Governmental Agency from the Authority in excess of the amount to which the Governmental Agency is entitled pursuant to applicable policies or rules and regulations of the Authority. Also at the option of the

Authority, the Governmental Agency may issue and sell to the Authority additional, subordinate bonds for such purposes as may be acceptable to the Authority.

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

6.4 The Governmental Agency hereby agrees to repay on or prior to the Date of Loan Closing any moneys due and owing by it to the Authority for the planning or design of the Project, and such repayment shall be a condition precedent to the Authority's making the Loan.

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

6.6 Notwithstanding Section 6.5, the Authority may at any time, in its sole discretion, cause the rebate calculations prepared by or on behalf of the Governmental Agency to be monitored or cause the rebate calculations for the Governmental Agency to be prepared, in either case at the expense of the Governmental Agency.

6.7 The Governmental Agency hereby agrees to give the Authority prior written notice of the issuance by it of any other obligations to be used for the Project, payable from the revenues of the System or from any grants for the Project or otherwise related to the Project or the System.

6.8 The Governmental Agency hereby agrees to file with the Authority upon completion of acquisition and construction of

the Project a schedule in substantially the form of Amended Schedule A to the Application, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE VII

Miscellaneous

7.1 Additional definitions, additional terms and provisions of the Loan and additional covenants and agreements of the Governmental Agency are set forth in Schedule Z attached hereto and incorporated herein by reference, with the same effect as if contained in the text of this Loan Agreement.

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

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

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

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

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

7.7 By execution and delivery of this Loan Agreement, notwithstanding the date hereof, the Governmental Agency specifically recognizes that it is hereby agreeing to sell its Local Bonds to the Authority and that such obligation may be

specifically enforced or subject to a similar equitable remedy by the Authority.

7.8 This Loan Agreement shall terminate upon the earlier of:

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

(ii) termination by the Authority pursuant to Section 6.3 hereof; or

(iii) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Governmental Agency to the Authority.

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

City of Grafton
[Proper Name of Governmental Agency]

(SEAL)

By: Daniel E. Mansino
Its: Mayor

Attest:

Shirley McDougherty
Its: City Clerk

By: Donna C. Hoyle
Its: City Manager
Date: July 27, 1994

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

(SEAL)

By: Daniel B. Yorks
Director

Attest:

Barbara B. Meadows
Secretary-Treasurer

Date: July 27, 1994

WDA-5X
(May 1993)

SCHEDULE X
DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds \$2,830,000.00
Purchase Price of Local Bonds \$2,830,000.00

Interest on the Local Bonds is payable on April 1 and October 1 in each year, beginning with the first semiannual interest payment date after delivery of the Local Bonds to the Authority, until the Local Bonds are paid in full, at the rate of 6.75 % per annum. Principal of the Local Bonds is payable on October 1 in each year as set forth on Exhibit 1 attached hereto and incorporated herein by reference.

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

As of the date of the Loan Agreement, the Local Bonds are subordinate as to source of and security for payment to the following obligations:

West Virginia Water Development Authority
 Bridge Financing Program
 Debt Service Schedule - City of Grafton

Closing July 27, 1994
 Total Amount Borrowed: \$2,830,000.00

Avg Coup = 6.75%
TIC = 6.752767%
NIC = 6.750000%
Yield = 6.752767%
WAM = 27.68 yrs.

Date	Coupon	Principal	Interest	Total Debt Service
10/1/94	6.75%	0.00	33,960.00	33,960.00
10/1/95	6.75%	16,223.49	191,024.98	207,248.47
10/1/96	6.75%	17,318.57	189,929.89	207,248.46
10/1/97	6.75%	18,487.57	188,760.89	207,248.46
10/1/98	6.75%	19,735.48	187,512.98	207,248.46
10/1/99	6.75%	21,067.62	186,180.84	207,248.46
10/1/00	6.75%	22,489.68	184,758.78	207,248.46
10/1/01	6.75%	24,007.73	183,240.73	207,248.46
10/1/02	6.75%	25,628.26	181,620.21	207,248.47
10/1/03	6.75%	27,358.17	179,890.30	207,248.47
10/1/04	6.75%	29,204.85	178,043.62	207,248.47
10/1/05	6.75%	31,176.17	176,072.29	207,248.46
10/1/06	6.75%	33,280.57	173,967.90	207,248.47
10/1/07	6.75%	35,527.00	171,721.46	207,248.46
10/1/08	6.75%	37,925.07	169,323.39	207,248.46
10/1/09	6.75%	40,485.01	166,763.45	207,248.46
10/1/10	6.75%	43,217.75	164,030.71	207,248.46
10/1/11	6.75%	46,134.95	161,113.51	207,248.46
10/1/12	6.75%	49,249.06	157,999.40	207,248.46
10/1/13	6.75%	52,573.37	154,675.09	207,248.46
10/1/14	6.75%	56,122.07	151,126.39	207,248.46
10/1/15	6.75%	59,910.32	147,338.15	207,248.47
10/1/16	6.75%	63,954.26	143,294.20	207,248.46
10/1/17	6.75%	68,271.17	138,977.29	207,248.46
10/1/18	6.75%	72,879.47	134,368.99	207,248.46
10/1/19	6.75%	77,798.83	129,449.63	207,248.46
10/1/20	6.75%	83,050.25	124,198.21	207,248.46
10/1/21	6.75%	88,656.14	118,592.32	207,248.46
10/1/22	6.75%	94,640.43	112,608.03	207,248.46
10/1/23	6.75%	101,028.66	106,219.80	207,248.46
10/1/24	6.75%	107,848.10	99,400.37	207,248.47
10/1/25	6.75%	115,127.84	92,120.62	207,248.46
10/1/26	6.75%	122,898.97	84,349.49	207,248.46
10/1/27	6.75%	131,194.65	76,053.81	207,248.46
10/1/28	6.75%	140,050.29	67,198.17	207,248.46
10/1/29	6.75%	149,503.68	57,744.78	207,248.46
10/1/30	6.75%	159,595.19	47,653.28	207,248.47
10/1/31	6.75%	170,367.86	36,880.60	207,248.46
10/1/32	6.75%	181,867.69	25,380.77	207,248.46
10/1/33	6.75%	194,143.76	13,104.70	207,248.46
		<u>\$2,830,000.00</u>	<u>\$5,286,650.02</u>	<u>\$8,116,650.02</u>

Prepared 7/8/94

SCHEDULE Y
REVENUES

In accordance with Subsection 4.1(a) of the Loan Agreement, the revenues generated from the operation of the System will be used monthly, in the order of priority listed, as follows:

(i) to the extent not otherwise limited by an outstanding local ordinance, indenture or other act or document, as reflected on Schedule X to the Loan Agreement, and beginning seven (7) months prior to the first date of payment of interest on the Local Bonds from revenues and thirteen (13) months prior to the first date of payment of principal of the Local Bonds, respectively, to provide debt service on the Local Bonds by depositing in a sinking fund one-sixth (1/6) of the interest payment next coming due on the Local Bonds and one-twelfth (1/12) of the principal payment next coming due on the Local Bonds and, beginning thirteen (13) months prior to the first date of payment of principal of the Local Bonds, if the Reserve Account was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof (which, with an approving opinion of bond counsel to the Governmental Agency, may be with a letter of credit) in an amount equal to the Reserve Requirement, by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) (or such other amount as shall be acceptable to the Authority and as shall fund the Reserve Account over not more than ten (10) years) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

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

(iii) to provide debt service on and requisite reserves for any subordinate indebtedness of the Governmental Agency held or owned by the Authority;

(iv) to pay Operating Expenses of the System; and

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

SCHEDULE Z

Additional and Supplemental Definitions

1. "Local Statute" means Chapter 8, Article 19, of the Code of West Virginia, 1931, as amended.

2. "System" means the waterworks system owned by the Governmental Agency in its entirety or any integral part thereof, including mains, hydrants, meters, valves, standpipes, storage tanks, pump tanks, pumping stations, intakes, wells, impounding reservoirs, pumps, machinery, purification plants, softening apparatus and all other facilities necessary, appropriate, useful, convenient or incidental in connection with or to a water supply system, and any additions, betterments or improvements thereto hereafter constructed or acquired from any sources whatsoever and includes the Project.

Additional Conditions and Covenants

1. As a condition precedent to the Authority's making the Loan, the Governmental Agency shall have obtained, among other permits required, a permit from the West Virginia Bureau of Public Health.

2. The Local Act shall contain a covenant substantially as follows:

That the Governmental Agency will, to the full extent permitted by applicable law and the rules and regulations of the PSC, discontinue and shut off the services and facilities of the System to all users of services of the System delinquent in payment of charges for the services of the System and will not restore the services of the System until all delinquent charges for the services of the System have been fully paid.

3. Subject to any prior or parity obligations described in Schedules X and Y attached to the Loan Agreement, the gross revenues derived from the operation of the System are pledged to the payment of the principal of and interest on the Local Bonds.

4. The paying agent for the Local Bonds shall be the West Virginia Municipal Bond Commission or any successor to the functions thereof.

5. As a condition precedent to the Authority's making the Loan, the Governmental Agency shall deliver to the Authority a certificate representing the following:

- (a) The Governmental Agency expects to enter into a contract within six months of the date thereof for the construction of the Project, and the amount to be expended pursuant to such contract exceeds the lesser of 2-1/2 percent of the estimated total Project cost financed with proceeds from the sale of the Local Bonds or \$100,000;
- (b) Work with respect to the construction of the Project will proceed with due diligence to completion. Construction is expected to be completed within three years from the date of issuance of the Authority's water development revenue bonds;
- (c) All of the proceeds from the sale of the Local Bonds which will be used for payment of costs of the Project will be expended for such purpose within three years from the date of issuance of the Authority's water development revenue bonds; and
- (d) The Governmental Agency does not expect to sell or otherwise dispose of the Project, in whole or in part, prior to the last maturity date of the Local Bonds.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: June 21, 1994

FINAL
7-11-94

CASE NO. 94-0072-W-CN

CITY OF GRAFTON, a municipal corporation, Taylor County.

Application for a certificate of convenience and necessity to construct and complete a water distribution system in the City of Grafton, Taylor County, and for approval of financing incidental thereto.

RECOMMENDED DECISION

On February 2, 1994, the City of Grafton (City or Applicant), a municipal corporation, Taylor County, filed an application, duly verified, for a certificate of convenience and necessity to construct and complete a corrective action to its municipal water distribution system at Grafton, Taylor County. The City estimates that construction will cost approximately \$2.5 million and will be financed by a construction loan through the Water Development Authority (WDA). The City advised that its water rates and charges will remain unchanged as a result of the project.

By Order issued February 2, 1994, the City of Grafton was directed to give notice of the filing of the application by publishing a copy of the February 2, 1994 Order in a newspaper, duly qualified by the Secretary of State, published and of general circulation in the City of Grafton, making due return to the Commission of proper certification of publication immediately after publication. The notice indicated that anyone desiring to make objection to the application must do so, in writing, within thirty (30) days after the publication of the notice to P. O. Box 812, Charleston, West Virginia 25323. The Order further indicated that, if no protests were received within the thirty-day protest period, the Commission could waive formal hearing and grant the application of the City of Grafton based upon the evidence submitted with the application and its review.

On February 18, 1994, Southwestern Water District (Southwestern), Taylor County, filed a petition to intervene in this matter. Southwestern purchases water from the Taylor County Public Service District which is transported by the City of Grafton. The City of Grafton charges a transportation rate of \$0.30 per 1,000 gallons. The District wishes to intervene in hopes that alternative arrangements can be made between the parties to provide transportation service at a competitive transportation rate.

On February 23, 1994, Commission Staff filed its Initial Joint Staff Memorandum recommending that the proceeding be referred to the Division of Administrative Law Judges.

By Order entered February 28, 1994, this matter was referred to the Division of Administrative Law Judges for a decision to be rendered on or before August 30, 1994.

On March 22, 1994, Commission Staff filed its Final Joint Staff Memorandum indicating that it was reviewing the matter and had forwarded a Request for Information to the City of Grafton. Further, Staff recommended that Southwestern's petition to intervene be granted.

On April 8, 1994, the City of Grafton requested a waiver of the requirement that the City submit an entire Rule 42 Exhibit, since the City was not requesting a water increase in addition to the certificate of convenience and necessity.

By correspondence received April 11, 1994, Southwestern advised the Commission that it intends to seek a certificate of convenience and necessity to construct a bypass facility in order to eliminate any transportation costs associated with the transportation of water to Southwestern.

On May 17, 1994, Commission Staff filed a Further Joint Staff Memorandum recommending that the City's request for a waiver of the requirement of filing a Rule 42 Exhibit in the matter be granted. Staff noted that it was reviewing the information submitted by the City and would file its recommendation as soon as possible.

By Order issued June 1, 1994, this matter was set for hearing to be held on June 23, 1994, to commence at 11:00 a.m., in the Albert B. Shaffer Conference Room, Taylor County Courthouse, Grafton, West Virginia.

On June 7, 1994, the City of Grafton provided Staff with additional financial information pursuant to Staff's request.

On June 9, 1994, counsel for Southwestern Water District requested a continuance of the hearing scheduled to be held on June 23, 1994.

On June 13, 1994, the City of Grafton filed a Response in Opposition to Intervenor's Motion to Continue Hearing and Motion to Dismiss Intervenor from the Pending Case. The City of Grafton objected to the continuance of the hearing. The City noted that Southwestern did not protest the project but wishes to renegotiate a different transportation rate since the City of Grafton transports water Southwestern purchases from Taylor County Public Service District. The City advised that its present transportation rate is imposed by Ordinance 598 passed on December 22, 1992, which became effective February 5, 1993, by Order of the Public Service Commission.

On June 16, 1994, Commission Staff filed its Further Final Joint Staff Memorandum. Staff recommended that the application for a certificate of convenience and necessity be granted. Staff also advised that no protests were received to the application and that Southwestern's petition to intervene states only that it may discontinue using the City's system for the transportation of water. Since the City has submitted additional financial information which Staff believes indicates that the City will be able to provide sufficient funds for the proposed project, Staff feels Southwestern has not raised a valid protest. Staff recommended that the motion for a continuance be denied and that the hearing be cancelled.

Attached to the Further Final Joint Staff Memorandum was a Utilities Division Staff Recommendation prepared by James E. Spurlock, II, Staff Engineer, and William W. McCrary, III, Senior Utilities Analyst. Staff indicated that the project has been approved by the State Office of Environmental Health Services by Permit No. 12,019. Total project cost is estimated to be approximately \$2,367,268 and is to be funded by a loan from the Water Development Authority not to exceed \$3,000,000.

Staff explained that the project will help reduce the City's unaccounted-for water, which is in excess of 40%. Unaccounted-for water is a concern of the City since it purchases its water. The project will also help the City with pumping, storage, connections between pressure zones, and transmission mains. Staff noted that Southwestern filed a petition to intervene to alert the Commission to the possibility of a loss of revenue to the City if Southwestern is able to construct a line directly to Taylor County Public Service District avoiding transportation charges being collected by the City of Grafton. Staff feels that the possible loss of revenues from Southwestern does not have a bearing on this case. Staff further noted that an oil refinery may be built in the future and may have a water demand of approximately 300,000 gallons per day.

Staff recommended that the application be approved without a hearing. Staff further recommended that, if the project scope or required financing changes, or if bids exceed the bond issuance of \$2,820,000, the City be required to submit the modified project information for Commission approval.

On June 18, 1994, the City of Grafton advised the Commission that it had opened bids on June 16, 1994, and that acceptable low bids were slightly under the estimate.

By Procedural Order issued June 21, 1994, Southwestern was denied intervenor status, and the hearing scheduled for June 23, 1994, was cancelled.

FINDINGS OF FACT

1. On February 2, 1994, the City of Grafton, a municipal corporation, Taylor County, filed an application, duly verified, for a certificate of convenience and necessity to construct and complete a corrective

action to its municipal water distribution system which includes installation of approximately 18,000 linear feet of water mains, service line replacements along Main Street, construction of a booster station, water line, and 100,000 gallon water storage tank at Lucretia, a 500,000 gallon water storage tank and booster station at Morasco, rehabilitation of the St. John Street booster pump station, and construction of a 100,000 gallon water storage tank at Pruntytown, Taylor County. (See, Application).

2. After review of the application, Staff recommended approval of the application subject to bids not exceeding the \$3,000,000 loan from the Water Development Authority. (See, Further Final Joint Staff Memorandum received June 16, 1994).

3. The estimated cost of the project is \$2,367,268, which is to be financed by a loan from the Water Development Authority not to exceed \$3,000,000. (See, Further Final Joint Staff Memorandum received May 17, 1994).

4. Publication of the proposed project was given by the City of Grafton in accordance with West Virginia Code §24-2-11. (See, Affidavits of Publication).

5. The only "protest" was a Petition to Intervene filed by Southwestern Water District. However, that Petition does not actually protest the project and was denied by Procedural Order entered on June 21, 1994. (Petition filed February 18, 1994; Procedural Order of June 21, 1994).

; CONCLUSIONS OF LAW

1. The public convenience and necessity require the proposed project.

2. The proposed project is adequately financed and economically feasible.

3. The City's present rates and charges are sufficient, but not more than sufficient, to cover the reasonable and necessary operating expenses and debt service coverage needed to support the proposed project, which is to be financed by a loan from the Water Development Authority and will not require a rate increase or increase in customer rates.

- ORDER

IT IS, THEREFORE, ORDERED the application filed by the City of Grafton on February 2, 1994, for a certificate of convenience and necessity to construct and complete a corrective action to its municipal water distribution system at Grafton, Taylor County, be, and hereby is, approved.

IT IS FURTHER ORDERED that the project cost of \$2,367,268 provided by a construction loan through the Water Development Authority not to exceed \$3,000,000, be, and hereby is, approved, inasmuch as no rate increase or increase in customer charges will occur as a result of the project.

IT IS FURTHER ORDERED that the Applicant's request to waive all requirements contained in Rule 42, be, and hereby is, granted.

IT IS FURTHER ORDERED that, if there is a change in any of the terms, conditions or scheduling of the project or the financing, then the City of Grafton shall notify the Public Service Commission immediately and it shall file for Commission approval of the revised project or financing.

IT IS FURTHER ORDERED that the City of Grafton promptly notify the Commission of the date the construction of the project approved by this order is actually completed.

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

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

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

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

Susan A. Murensky

Susan A. Murensky
Administrative Law Judge

SAM:dfs



Public Service Commission

Richard E. Hitt, General Counsel



101 Brooks Street, P.O. Box 812
Charleston, West Virginia 25323

Phone: (304) 340-0317
FAX: (304) 340-0325

July 22, 1994

Ms. Francesca Tan, Esquire
Steptoe & Johnson
P. O. Box 2190
Bank One Center
Clarksburg, West Virginia 26302-2190

Re: Case No. 94-0072-W-CN
City of Grafton

Dear Ms. Tan:

This is in response to your request for a letter indicating that the Commission Staff will not appeal to the Supreme Court of Appeals of West Virginia the Recommended Decision entered in the above-referenced proceeding, on June 21, 1994.

The Commission Staff has no authority, statutory or otherwise, to appeal Public Service Commission orders and thus does not intend to appeal the decision in this proceeding.

If you need anything further please let me know.

Sincerely,

Susan J. Riggs/cbd

SUSAN J. RIGGS
Staff Attorney

SJR/cg
TXTCGRAL/TAN

CITY OF GRAFTON

Combined Waterworks and Sewerage System Revenue Bonds, Series 1994

CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS

The undersigned, BARBARA B. MEADOWS, Secretary-Treasurer of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, and DANIEL E. MANKINS, Mayor of the City of Grafton (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the 27th day of July, 1994, the Authority received the entire original issue of \$2,830,000 in aggregate principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1994, of the Issuer (the "Bonds"), issued as a single, fully registered Bond, numbered R-1, and dated July 27, 1994.

2. At the time of such receipt of the Bonds upon original issuance, all of the Bonds had been executed by Daniel E. Mankins, as Mayor of the Issuer, Donna C. Hoyler, as City Manager of the Issuer, and Shirley M. Dougherty, as City Clerk of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been affixed upon the Bonds.

3. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Bonds, of \$600,000, being a portion of the principal amount of the Bonds. The balance of the principal amount of the Bonds will be advanced by the Authority to the Issuer as acquisition and construction of the Project progresses.

WITNESS our respective signatures on this 27th day of July, 1994.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

By Barbara B Meadows
Secretary-Treasurer

CITY OF GRAFTON

By Daniel E. Mansins
Mayor

07/11/94
GRAFC.J3
345720/93001

CITY OF GRAFTON

Combined Waterworks and Sewerage System Revenue Bonds, Series 1994

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

One Valley Bank, National Association,
as Bond Registrar
Charleston, West Virginia

Ladies and Gentlemen:

There are delivered to you herewith:

- (1) Bond No. R-1, constituting the entire original issue of the City of Grafton Combined Waterworks and Sewerage System Revenue Bonds, Series 1994, in the principal amount of \$2,830,000, dated July 27, 1994 (the "Bonds"), executed by the Mayor, City Manager and City Clerk of the City of Grafton (the "Issuer") and bearing the official seal of the Issuer, authorized to be issued under and pursuant to a Bond Ordinance duly enacted by the Issuer on June 7, 1994, and a Supplemental Resolution duly adopted by the Issuer on July 19, 1994 (collectively, the "Bond Legislation");
- (2) A copy of the Bond Legislation authorizing the above-described Bond issue, duly certified by the City Clerk of the Issuer;
- (3) Executed counterparts of the loan agreement, dated July 27, 1994, by and between the West Virginia Water Development Authority (the "Authority") and the Issuer (the "Loan Agreement"); and
- (4) An executed opinion of nationally recognized bond counsel regarding the validity of the Loan Agreement and the Bonds.

You are hereby requested and authorized to deliver the Bonds to the Authority upon payment to the Issuer of the sum of \$600,000, representing a portion of the principal amount of the Bonds, in accordance with the transfers set forth in the Supplemental Resolution. Prior to such delivery of the Bonds, you will please cause the Bonds to be authenticated and registered by an authorized officer, as Bond Registrar, in accordance with the form of Certificate of Authentication and Registration thereon.

6

Dated this 27th day of July, 1994.

CITY OF GRAFTON

By Daniel E. Mansins
Mayor

07/11/94
GRAFC.K3
345720/93001

(SPECIMEN BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF GRAFTON
COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND,
SERIES 1994

No. R-1

\$2,830,000

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF GRAFTON, a municipal corporation and political subdivision of the State of West Virginia in Taylor County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of TWO MILLION EIGHT HUNDRED THIRTY THOUSAND DOLLARS (\$2,830,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit B hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit B.

The interest on such advances shall run from the date of each such advance, and such interest shall be payable on April 1 and October 1 in each year, beginning October 1, 1994. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, dated July 27, 1994.

This Bond is issued (i) to refund all of the outstanding Sewer Revenue Bonds of the Issuer, dated June 1, 1972 (the "Prior Bonds"), heretofore issued to finance the cost of acquisition and construction of certain additions, betterments and improvements to the sewerage system of the Issuer; (ii) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the waterworks portion of the combined waterworks and sewerage system of the Issuer, which system is being simultaneously combined herewith (the "Project"); (iii) to fund a reserve account for the Bonds of this Series (the "Bonds"); and (iv) to pay certain costs of issuance hereof and related costs. The Project, the combined waterworks and sewerage system of the Issuer, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance duly enacted by the Issuer on June 7, 1994, and a Supplemental Resolution duly adopted by the Issuer on July 19, 1994 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, and from moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1994 Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Gross Revenues, the moneys in the Series 1994 Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest on the Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds; provided however, that so long as there exists in the Series 1994 Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other

obligations outstanding prior to or on a parity with the Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

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

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

IN WITNESS WHEREOF, the CITY OF GRAFTON has caused this Bond to be signed by its Mayor and City Manager, and its corporate seal to be hereunto affixed and attested by its City Clerk, and has caused this Bond to be dated July 27, 1994.

[SEAL]

Mayor

City Manager

ATTEST:

City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1994 Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: July 27, 1994.

ONE VALLEY BANK, NATIONAL
ASSOCIATION,
as Registrar

By _____
Its Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

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

EXHIBIT B - SCHEDULE OF ANNUAL DEBT SERVICE

West Virginia Water Development Authority
 Bridge Financing Program
 Debt Service Schedule - City of Grafton

Closing July 27, 1994

Total Amount Borrowed: \$2,830,000.00

Avg Coup = 6.75%
TIC = 6.752767%
NIC = 6.750000%
Yield = 6.752767%
WAM = 27.68 yrs.

Date	Coupon	Principal	Interest	Total Debt Service
10/1/94	6.75%	0.00	33,960.00	33,960.00
10/1/95	6.75%	16,223.49	191,024.98	207,248.47
10/1/96	6.75%	17,318.57	189,929.89	207,248.46
10/1/97	6.75%	18,487.57	188,760.89	207,248.46
10/1/98	6.75%	19,735.48	187,512.98	207,248.46
10/1/99	6.75%	21,067.62	186,180.84	207,248.46
10/1/00	6.75%	22,489.68	184,758.78	207,248.46
10/1/01	6.75%	24,007.73	183,240.73	207,248.46
10/1/02	6.75%	25,628.26	181,620.21	207,248.47
10/1/03	6.75%	27,358.17	179,890.30	207,248.47
10/1/04	6.75%	29,204.85	178,043.62	207,248.47
10/1/05	6.75%	31,176.17	176,072.29	207,248.46
10/1/06	6.75%	33,280.57	173,967.90	207,248.47
10/1/07	6.75%	35,527.00	171,721.46	207,248.46
10/1/08	6.75%	37,925.07	169,323.39	207,248.46
10/1/09	6.75%	40,485.01	166,763.45	207,248.46
10/1/10	6.75%	43,217.75	164,030.71	207,248.46
10/1/11	6.75%	46,134.95	161,113.51	207,248.46
10/1/12	6.75%	49,249.06	157,999.40	207,248.46
10/1/13	6.75%	52,573.37	154,675.09	207,248.46
10/1/14	6.75%	56,122.07	151,126.39	207,248.46
10/1/15	6.75%	59,910.32	147,338.15	207,248.47
10/1/16	6.75%	63,954.26	143,294.20	207,248.46
10/1/17	6.75%	68,271.17	138,977.29	207,248.46
10/1/18	6.75%	72,879.47	134,368.99	207,248.46
10/1/19	6.75%	77,798.83	129,449.63	207,248.46
10/1/20	6.75%	83,050.25	124,198.21	207,248.46
10/1/21	6.75%	88,656.14	118,592.32	207,248.46
10/1/22	6.75%	94,640.43	112,608.03	207,248.46
10/1/23	6.75%	101,028.66	106,219.80	207,248.46
10/1/24	6.75%	107,848.10	99,400.37	207,248.47
10/1/25	6.75%	115,127.84	92,120.62	207,248.46
10/1/26	6.75%	122,898.97	84,349.49	207,248.46
10/1/27	6.75%	131,194.65	76,053.81	207,248.46
10/1/28	6.75%	140,050.29	67,198.17	207,248.46
10/1/29	6.75%	149,503.68	57,744.78	207,248.46
10/1/30	6.75%	159,595.19	47,653.28	207,248.47
10/1/31	6.75%	170,367.86	36,880.60	207,248.46
10/1/32	6.75%	181,867.69	25,380.77	207,248.46
10/1/33	6.75%	194,143.76	13,104.70	207,248.46
		<u>\$2,830,000.00</u>	<u>\$5,286,650.02</u>	<u>\$8,116,650.02</u>

Prepared 7/8/94

ASSIGNMENT

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

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

Dated: _____, _____.

In the presence of:

STEPTOE & JOHNSON

ATTORNEYS AT LAW

SIXTH FLOOR

BANK ONE CENTER

P. O. BOX 2190

CLARKSBURG, W. VA. 26302-2190

(304) 624-8000

FACSIMILE (304) 624-8183

July 27, 1994

SEVENTH FLOOR, BANK ONE CENTER
P. O. BOX 1588
CHARLESTON, W. VA. 25326-1588
(304) 353-8000
FACSIMILE (304) 353-8180

1000 HAMPTON CENTER
P. O. BOX 1616
MORGANTOWN, W. VA. 26507-1616
(304) 598-8000
FACSIMILE (304) 598-8116

126 EAST BURKE STREET
P. O. BOX 2629
MARTINSBURG, W. VA. 25401-5429
(304) 263-6991
FACSIMILE (304) 263-4785

104 WEST CONGRESS STREET
P. O. BOX 100
CHARLES TOWN, W. VA. 25414-0100
(304) 725-1414
FACSIMILE (304) 725-1913

THE BRYAN CENTRE
P. O. BOX 570
82 WEST WASHINGTON STREET, FOURTH FLOOR
HAGERSTOWN, MARYLAND 21740-0570
(301) 739-8600
FACSIMILE (301) 739-8742

FOURTH FLOOR - RILEY BUILDING
14TH AND CHAPLINE STREETS
P. O. BOX 150
WHEELING, W. VA. 26003-0020
(304) 233-0000
FACSIMILE (304) 233-0014

WRITER'S DIRECT DIAL NUMBER

City of Grafton Combined Waterworks and Sewerage System Revenue Bonds, Series 1994

West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the City of Grafton (the "Issuer"), a municipal corporation and political subdivision organized and existing under the laws of the State of West Virginia, of its \$2,830,000 Combined Waterworks and Sewerage System Revenue Bonds, Series 1994, dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a loan agreement, dated July 27, 1994, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority") and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are originally issued in the form of one bond, registered as to principal and interest to the Authority, with interest payable April 1 and October 1 of each year, commencing October 1, 1994, at the rate of 6.75% per annum, and with principal installments payable on October 1 in each of the years 1995 through 2033, inclusive, all as set forth in "Schedule X" attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), for the purposes of (i) refunding all of the outstanding Sewer Revenue Bonds, dated June 1, 1972 (the "Prior Bonds"), of the Issuer, heretofore issued to finance the cost of acquisition and construction of certain additions, betterments and improvements to the sewerage system of the Issuer; (ii) paying a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the waterworks portion of the combined waterworks and sewerage system of the Issuer, which system is being simultaneously

combined herewith (the "Project"); (iii) funding a reserve account for the Bonds; and (iv) paying certain issuance and other related costs in connection therewith.

We have also examined the applicable provisions of the Act, the Bond Ordinance duly enacted by the Issuer on June 7, 1994, as supplemented by a Supplemental Resolution duly adopted by the Issuer on July 19, 1994 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the Loan Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the Loan Agreement.

In connection with the issuance of the Bonds, the Issuer has executed a Certificate as to Arbitrage, dated as of the date hereof (the "Certificate as to Arbitrage"), which, among other things, sets forth restrictions on the investment and expenditure of the Bond proceeds and earnings thereon, to ensure that the arbitrage requirements of the Internal Revenue Code of 1986, as amended, and regulations thereunder (collectively, the "Code"), necessary to establish and maintain the excludability of interest on the Bonds from gross income for federal income tax purposes, are and will continue to be met.

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

1. The Issuer is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to combine its existing separate waterworks system and existing separate sewerage system into a combined waterworks and sewerage system (the "System"), to operate and maintain the System and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

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

3. The Bond Legislation and all other necessary ordinances and resolutions have been duly and effectively enacted and adopted by the Issuer and constitute valid and binding obligations of the Issuer enforceable upon the Issuer. The Bond Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

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

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 of the owners thereof for federal income tax purposes pursuant to the Code and (b) is not an item of tax preference for purposes of the federal alternative minimum tax imposed upon individuals and corporations under the Code. It should be noted, however, that interest on the Bonds is

included in the adjusted current earnings of certain corporations for purposes of computing the alternative minimum tax that may be imposed with respect to corporations. The opinions set forth above are subject to the condition that the Issuer comply, on a continuing basis, with all requirements of the Code that must be satisfied subsequent to issuance of the Bonds for interest thereon to be or continue to be excludable from gross income for federal income tax purposes and all certifications, covenants and representations which may affect the excludability from gross income of the interest on the Bonds set forth in the Bond Legislation and the Certificate as to Arbitrage, and other certificates delivered in connection with the issuance of the Bonds. Failure to comply with certain of such Code provisions or 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. We express no opinion regarding other federal tax consequences arising with respect to the Bonds.

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

7. The Prior Bonds have been paid within the meaning and with the effect expressed in the Prior Ordinance, and the covenants, agreements and other obligations of the Issuer to the holders and owners of such Prior Bonds have been satisfied and discharged. In rendering the opinion set forth in this paragraph 7, we have relied upon the verification report of certain independent certified public accountants relating to the sufficiency of the maturing principal of and interest to be earned on the United States Treasury Obligations deposited in the Escrow Fund established with the Escrow Agent, which together with any other moneys on deposit in said Escrow Fund, will provide for the payment of the principal of, interest and redemption premium on such Prior Bonds as the same become due, to and including the first redemption date thereof.

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

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

Very truly yours,

Stephoe & Johnson

STEPTOE & JOHNSON

FRANCES C. WHITEMAN, ATTORNEY AT LAW

211 Adams Street, Suite 100 ■ P.O. Box 936 ■ Fairmont, WV 26555-0936
Phone (304)366-2116 ■ Fax (304)366-8461

July 27, 1994

City of Grafton
Combined Waterworks and Sewerage System Revenue Bonds, Series 1994

West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, WV 25064

Steptoe & Johnson
P.O. Box 2190
Clarksburg, WV 26302

Ladies and Gentlemen:

I am counsel to the City of Grafton, in Taylor County, West Virginia (the "Issuer"). As such counsel, I have examined copies of the approving opinion of Steptoe & Johnson, as bond counsel, a loan agreement dated July 27, 1994, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the West Virginia Water Development Authority (the "Authority") and the Issuer, a Bond Ordinance duly enacted by the Issuer on June 7, 1994, as supplemented by a Supplemental Resolution duly adopted by the Issuer on July 19, 1994 (collectively, the "Bond Legislation"), and other documents relating to the above-captioned Bonds of the Issuer (the "Bonds"). Terms used in said opinion, Bond Legislation and Loan Agreement and not otherwise defined herein have the same meanings as therein when used herein.

I am of the opinion that:

1. The Loan Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the Authority, constitutes a valid and binding agreement of the Issuer enforceable in accordance with its terms.
2. The Escrow Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the West Virginia Municipal Bond Commission, constitutes a valid and binding agreement of the Issuer enforceable in accordance with its terms.
3. The Issuer has been duly created and is validly existing as a municipal corporation and political subdivision of the State of West Virginia, and the Mayor, Recorder and members of the council of the Issuer have been duly and properly elected or appointed, as applicable, have taken

the requisite oaths, and are authorized to act on behalf of the Issuer in their respective capacities.

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

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

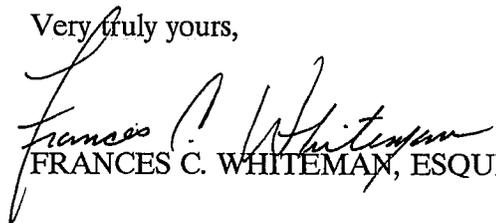
6. The Issuer has full power and authority under the Act to combine its existing separate waterworks system and existing separate sewerage system into a combined waterworks and sewerage system (the "System") and such System is legally in effect. The Issuer has received all permits, licenses, approvals and authorizations necessary for the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges for use of the System, including, without limitation, the receipt of all requisite orders and approvals from the Public Service Commission of West Virginia, and has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of ordinances prescribing such rates and charges. The time for appeal of such rate ordinances have expired prior to the date hereof without any appeal. The Issuer has received the Final Order of the Public Service Commission of West Virginia entered on June 21, 1994, in Case No. 94-0072-W-CN, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project, and approving the financing for the Project. The time for appeal of the Final Order in Case No. 94-0072-W-CN has not expired prior to the date hereof. However, the staff of the Public Service Commission of West Virginia has indicated that it does not intend to appeal such Final Order. The Issuer has certified that it does not intend to appeal such Final Order. The Issuer and the Public Service Commission of West Virginia are the only parties to Case No. 94-0072-W-CN. The Final Order is not subject to appeal, further hearing, reopening, or rehearing by any customer, protestant, intervenor or other person not a party to the original application.

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

West Virginia Water Development Authority, et al.
Page 3

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

Very truly yours,


FRANCES C. WHITEMAN, ESQUIRE

CITY OF GRAFTON

Combined Waterworks and Sewerage System Revenue Bonds, Series 1994

GENERAL CERTIFICATE OF ISSUER AND ATTORNEY ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. CERTIFICATION OF COPIES OF DOCUMENTS
6. INCUMBENCY AND OFFICIAL NAME
7. LAND AND RIGHTS-OF-WAY
8. MEETINGS, ETC.
9. CONTRACTORS' INSURANCE, ETC.
10. [RESERVED]
11. LOAN AGREEMENT
12. RATES
13. SIGNATURES AND DELIVERY
14. BOND PROCEEDS
15. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE
16. PUBLIC SERVICE COMMISSION ORDER
17. PRIVATE USE OF FACILITIES
18. NO FEDERAL GUARANTY
19. IRS INFORMATION RETURN
20. SPECIMEN BONDS
21. CONFLICT OF INTEREST
22. INVESTMENT OF ESCROW FUND AND DISCHARGE OF LIEN OF PRIOR BONDS
23. COMBINED WATERWORKS AND SEWERAGE SYSTEM IN EFFECT

We, the undersigned MAYOR, CITY MANAGER and CITY CLERK of the City of Grafton, in Taylor County, West Virginia (the "Issuer"), and the undersigned Counsel to the Issuer, hereby certify in connection with the \$2,830,000 aggregate principal amount of the City of Grafton Combined Waterworks and Sewerage System Revenue Bonds, Series 1994 (the "Bonds"), dated the date hereof, as follows:

1. **TERMS:** All capitalized words and terms used in this General Certificate and not otherwise defined shall have the same meaning as in the Bond Ordinance of the Issuer enacted June 7, 1994, and a Supplemental Resolution adopted July 19, 1994 (collectively, the "Bond Legislation").

2. **NO LITIGATION:** No controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the issuance, sale

or delivery of the Bonds, the refunding and defeasance of the Prior Bonds, the acquisition and construction of the Project, the operation of the System, the receipt of the Gross Revenues, or in any way contesting or affecting the validity of the Bonds or any proceedings of the Issuer taken with respect to the issuance or sale of the Bonds, the refunding and defeasance of the Prior Bonds, the pledge or application of the Gross Revenues or any other moneys or security provided for the payment of the Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, sale and issuance of the Bonds, the refunding and defeasance of the Prior Bonds, the acquisition and construction of the Project, the operation of the System, or such pledge or application of moneys and security or the collection of the Gross Revenues or pledge thereof.

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

4. **NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS:** There has been no adverse change in the financial condition of the Issuer since the approval and execution and delivery by the Issuer of the Loan Agreement, and the Issuer has met all conditions prescribed in the Loan Agreement entered into between the Issuer and the Authority.

For the purpose of combining the existing separate waterworks system and the existing separate sewerage system of the Issuer into a combined waterworks and sewerage system of the Issuer, the Issuer will be using a portion of the proceeds of the Bonds, together with other moneys of the Issuer, to refund the Prior Bonds to their first redemption date, being December 1, 1994, in the manner set forth in the Escrow Agreement. Upon conclusion of the refunding and defeasance of the Prior Bonds on the Closing Date, there will be no outstanding obligations of the Issuer which will rank senior and prior to, or on a parity with, or junior and subordinate to, the Bonds as to liens, pledge, source of and security for payment.

5. **CERTIFICATION OF COPIES OF DOCUMENTS:** The copies of the below-listed documents hereto attached or delivered herewith or heretofore delivered are true, correct and complete copies of the originals of the documents of which they purport to be copies, and such original documents are in full force and effect and have not been

repealed, rescinded, amended or changed in any way unless modification appears from later documents also listed below:

City Charter.

Oaths of Office of Officers and Councilmembers.

Bond Ordinance.

Supplemental Resolution.

Water Rate Ordinance.

Sewer Rate Ordinance.

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

Affidavit of Publication of Water Rate Ordinance and Notice of Public Hearing.

Affidavit of Publication of Sewer Rate Ordinance and Notice of Public Hearing.

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

Minutes on Adoption and Enactment of Water Rate Ordinance.

Minutes on Adoption and Enactment of Sewer Rate Ordinance.

Loan Agreement.

Public Service Commission Final Order entered June 21, 1994.

Escrow Agreement.

Verification Report of Certified Public Accountant Regarding Bond Yield, Escrow Fund Yield, Sufficiency of Escrow Fund and Savings.

Prior Ordinance.

Notice of Redemption of Prior Bonds, and Instructions to Escrow Agent.

6. **INCUMBENCY AND OFFICIAL NAME:** The proper corporate title of the Issuer is the "City of Grafton." The Issuer is a municipal corporation in Taylor County and is presently existing under the laws of, and a political subdivision of, the State of West Virginia. The governing body of the Issuer is its Council, consisting of 5 councilmembers, all duly elected, qualified and acting, one of whom is elected by Council to serve as Mayor for a term of two years. The names and dates of commencement and termination of current terms of office are as follows:

<u>Name</u>	<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
Thomas R. Gillespie - Councilmember	July 1, 1992	June 30, 1996
Beryl E. Riley - Councilmember	July 1, 1994	June 30, 1998
Daniel E. Mankins - Councilmember	July 1, 1994	June 30, 1998
Thomas L. Horacek - Councilmember	July 1, 1994	June 30, 1998
Chesley R. Rogers, Jr. - Councilmember	July 1, 1992	June 30, 1996

The Council has elected Daniel E. Mankins to serve as Mayor of the Issuer from July 1, 1994, to June 30, 1996. The duly appointed and acting City Manager and City Clerk of the Issuer are Donna C. Hoyler and Shirley M. Dougherty, respectively.

The duly appointed and acting Counsel to the Issuer is Frances C. Whiteman, Esquire, Fairmont, West Virginia.

7. **LAND AND RIGHTS-OF-WAY:** All land in fee simple and all rights-of-way and easements necessary for the acquisition and construction of the Project and the operation and maintenance of the System have been acquired or can and will be acquired by purchase, or, if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which may have to be acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

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 acquisition, construction, operation and financing of the Project or the System were authorized or adopted at regular or special meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes, including, particularly and without limitation, Chapter 6, Article 9A, of the West Virginia Code of 1931, as amended, and a quorum of duly elected or appointed, as applicable, qualified and acting members of the Governing Body was

present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

9. **CONTRACTORS' INSURANCE, ETC.:** All contractors have been required to maintain Worker's Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Bond Legislation. All insurance for the System required by the Bond Legislation is in full force and effect.

10. [RESERVED]

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

12. **RATES:** The Issuer has duly enacted a water rate ordinance on December 22, 1992, and a sewer rate ordinance on April 16, 1991, setting rates and charges for the services of the System. The time for appeal of such rate ordinances has expired prior to the date hereof without any appeal, and both such ordinances are currently in effect.

13. **SIGNATURES AND DELIVERY:** On the date hereof, the undersigned Mayor and City Manager did officially sign all of the Bonds of the aforesaid issue, all dated July 27, 1994, by their respective manual signatures, and the undersigned City Clerk did officially cause the official seal of the Issuer to be affixed upon each of said Bonds and to be attested by her manual signature, and the Registrar did officially authenticate and deliver the Bonds to a representative of the Authority as the original purchaser of the Bonds under the Loan Agreement. Said official seal is also impressed above the signatures appearing on this certificate.

14. **BOND PROCEEDS:** On the date hereof, the Issuer received \$600,000 from the Authority, being a portion of the principal amount of the Bonds and more than a de minimis amount of the proceeds of the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

15. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE:

Upon adoption of the Bond Ordinance, an abstract thereof, determined by the Governing Body to contain sufficient information as to give notice of the contents thereof, was published once each week for 2 successive weeks, with not less than 6 full days between each publication, the first such publication occurring not less than 10 days before the date stated below for the public hearing, in the Mountain Statesman, a newspaper published and of general circulation in the City of Grafton, together with a notice to all persons concerned, stating, among other things, that the Bond Ordinance had been adopted and that the Issuer contemplated the issuance of the Bonds described in such Bond Ordinance, stating that any person interested may appear before the Council at the public hearing held at a public meeting of Council on the 7th day of June, 1994, at 6:30 p.m., in the Council Chambers of the City Hall of the City of Grafton and present protests, and stating that a certified copy of the Bond Ordinance was on file at the office of the City Clerk of the Issuer for review by interested parties during the office hours of the Issuer. At such hearing all objections and suggestions were heard by the Governing Body and the Bond Ordinance became finally adopted, enacted and effective as of the date of such public hearing, and remains in full force and effect.

16. PUBLIC SERVICE COMMISSION ORDER:

The Issuer has received the Final Order of the Public Service Commission of West Virginia entered on June 21, 1994, in Case No. 94-0072-W-CN, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project, and approving the financing for the Project. The time for appeal of the Final Order in Case No. 94-0072-W-CN has not expired prior to the date hereof. However, the staff of the Public Service Commission of West Virginia has indicated that it does not intend to appeal such Final Order. The Issuer hereby certifies that it will not appeal such Final Order. The Issuer and the Public Service Commission of West Virginia are the only parties to Case No. 94-0072-W-CN. The Final Order is not subject to appeal, further hearing, reopening, or rehearing by any customer, protestant, intervenor or other person not a party to the original application.

17. PRIVATE USE OF FACILITIES:

The Issuer shall at all times take, and refrain from taking, and shall not fail to take, any and all actions necessary in order to assure the initial and continued tax-exempt status of the Bonds and the interest thereon. Less than 10% of the proceeds of the Bonds will be used, directly or indirectly, for any private business use, and less than 10% of the payment of principal of, or the interest on, such issue, under the terms of such issue or any underlying arrangement, is, directly or indirectly, secured by any interest in property used or to be used for a private business use, payments in respect of such property, or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use. None of the proceeds of the Bonds will be used, directly or indirectly, for any private business use which is not related to the governmental use of the proceeds of the Bonds, including the disproportionate related business use of the proceeds of the Bonds, and none of the payment of principal on, or the interest on, such issue, under the terms of any underlying arrangement, is, directly or indirectly, secured by any interest in property used,

or to be used for a private business use, payments in respect of such property or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use with respect to such private business use, which is not related to any government use of such proceeds, including the disproportionate business use of the issue of the Bonds. None of the proceeds of the issue of the Bonds will be used, directly or indirectly, to make or finance loans to persons other than governmental units. For purposes of this paragraph, private business use means use, directly or indirectly, in a trade or business carried on by any person, including related persons, other than a governmental unit or other than use as a member of the general public. All of the foregoing shall be determined in accordance with and within the meaning of the Internal Revenue Code of 1986, as amended, including any successor provisions and rules and regulations thereunder (the "Code").

18. **NO FEDERAL GUARANTY:** The Bonds are not and will not be, in whole or part, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

19. **IRS INFORMATION RETURN:** On the date hereof, the undersigned Mayor did officially sign a properly completed IRS Form 8038-G and will cause such executed Form 8038-G to be filed in a timely manner with the Internal Revenue Service Center, Philadelphia, Pennsylvania.

20. **SPECIMEN BONDS:** Delivered concurrently herewith is a true and accurate specimen of the Bond.

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

22. **INVESTMENT OF ESCROW FUND AND DISCHARGE OF LIEN OF PRIOR BONDS:** The funds on deposit in the Escrow Fund established by the Escrow Agreement between the Issuer and the West Virginia Municipal Bond Commission, as Escrow Agent, dated July 27, 1994, have been invested as provided in the Escrow Agreement and the amount of such invested funds (together with certain cash amounts therein, if any) is sufficient to fully pay the principal of, redemption premium and interest on the Prior Bonds on December 1, 1994, being the redemption date thereof.

23. **COMBINED WATERWORKS AND SEWERAGE SYSTEM IN EFFECT:** Upon the defeasance of the Prior Bonds on the date hereof, the combining of the

Issuer's existing separate waterworks system and existing separate sewerage system into a combined waterworks and sewerage system, authorized and ordered by the Bond Legislation, is legally in effect. The Sanitary Board of the Issuer has been abolished and the management, control and operation of the existing separate sewerage system has been transferred from the Sanitary Board to the Issuer pursuant to the Bond Legislation.

WITNESS our signatures and the official seal of the CITY OF GRAFTON on this 27th day of July, 1994.

[CORPORATE SEAL]

<u>SIGNATURE</u>	<u>OFFICIAL TITLE</u>
<u>Daniel E. Mansina</u>	Mayor
<u>Anna C. Hoyle</u>	City Manager
<u>Murley McDougherty</u>	City Clerk
<u>Frances C. Whitman</u>	Counsel to Issuer

07/22/94
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CITY OF GRAFTON

Combined Waterworks and Sewerage System Revenue Bonds, Series 1994

CERTIFICATE AS TO ARBITRAGE

We, Daniel E. Mankins, Mayor of the City of Grafton, in Taylor County, West Virginia (the "Issuer"), and Donna C. Hoyler, City Manager of the Issuer, being the officials of the Issuer duly charged with the responsibility for the issuance of \$2,830,000 aggregate principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1994, of the Issuer, dated July 27, 1994 (the "Bonds" or "Series 1994 Bonds"), hereby certify as follows:

1. This certificate is being executed and delivered pursuant to Section 148 of the Internal Revenue Code of 1986 and applicable regulations (the "Code"). We are the officers of the Issuer duly charged with the responsibility of issuing the Bonds. We are familiar with the facts, circumstances, and estimates herein certified and are duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the same meaning as set forth in the bond ordinance authorizing the Bonds duly enacted by the Issuer on June 7, 1994 (as supplemented, the "Bond Ordinance").

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

3. The Issuer has not been notified by the Internal Revenue Service of any listing or proposed listing of it as an issuer that may not certify its bonds or the certification of which may not be relied upon by holders of obligations of the Issuer or that there is any disqualification of the Issuer by the Internal Revenue Service because a certification made by the Issuer contains a material misrepresentation.

4. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on July 27, 1994; the date on which the Bonds are to be physically delivered in exchange for more than a de minimis amount of the principal amount of the Bonds, and to the best of our knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

5. The Bonds were sold on July 27, 1994, to the West Virginia Water Development Authority (the "Authority") for a purchase price of \$2,830,000 (100% of par), at which time, the Issuer received \$600,000 from the Authority, being more than a de minimis amount of the principal amount of the Bonds. No accrued interest has been or will be paid on the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

//

6. The Issuer has covenanted in the Bond Ordinance to not take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Bonds which would cause any of the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code. The Issuer has, therefore, covenanted to not intentionally use any portion of the proceeds of the Bonds to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except as otherwise allowed under Section 148 of the Code. The Issuer, in the Bond Ordinance, has further covenanted that it will take all actions that may be required of it so that the interest on the 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.

7. The Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) refunding all of the outstanding Sewer Revenue Bonds, dated June 1, 1972 (the "Prior Bonds"), of the Issuer, heretofore issued to finance the cost of acquisition and construction of certain additions, betterments and improvements to the sewerage system of the Issuer; (ii) paying a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the waterworks portion of the combined waterworks and sewerage system of the Issuer, which system is being simultaneously combined herewith (the "Project"); (iii) funding a reserve account for the Bonds; and (iv) paying certain issuance and other related costs in connection therewith.

8. The Issuer will, on the date hereof or immediately hereafter, enter into agreements which require the Issuer to expend in excess of \$100,000 on the Project constituting a substantial binding commitment, or has already done so. Acquisition, construction and equipping of the Project will commence immediately and will proceed with due diligence to completion, and, with the exception of proceeds constituting capitalized interest (if any), proceeds deposited in the reserve account for the Bonds (if any), all of the proceeds from the sale of the Bonds, together with any investment earnings thereon, will be expended for payment of Costs of the Project on or before February, 1995. Construction of the Project is expected to be completed by February, 1995.

9. The total cost of the Project (including all costs of issuance of the Bonds) is estimated at \$2,855,000. Sources and uses of funds for the Project are as follows:

SOURCES

Gross Proceeds of Bonds	\$2,830,000
Investment Earnings	<u>25,000</u>
Total Sources	<u>\$2,855,000</u>

USES

Acquisition and Construction of Project	\$2,377,751
Refund Prior Bonds	250,000
Capitalized Interest	-0-
Fund Reserve Account	207,249
Costs of Issuance	<u>20,000</u>
Total Uses	<u>\$2,855,000</u>

The amount of Project costs is estimated to be at least equal to the gross proceeds of the Bonds and the anticipated investment earnings stated above. Except for the proceeds of the Bonds and the anticipated investment earnings stated above, no other funds of the Issuer will be available to meet costs of the Project, and no balances are available to meet such costs in any account which may, without legislative or judicial action, be invaded to pay such expenditures without a legislative, judicial or contractual requirement that such account be reimbursed.

10. Pursuant to Article V of the Bond Ordinance, the following special funds or accounts have been created:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Bond Construction Trust Fund; and
- (4) Series 1994 Bonds Sinking Fund, and within the Series 1994 Bonds Sinking Fund the Series 1994 Bonds Reserve Account.

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

- (1) Bond proceeds in the amount of \$-0- will be deposited in the Series 1994 Bonds Sinking Fund as capitalized interest on the New Money Proceeds of the Bonds and applied to payment of interest on the Bonds during

acquisition and construction of the Project and for not more than six months thereafter.

(2) Bond proceeds in the amount of \$207,249 will be deposited in the Series 1994 Bonds Reserve Account.

(3) Bond proceeds in the amount of \$250,000, together with other moneys of the Issuer, will be deposited in the Escrow Fund to accomplish the refunding and defeasance of the Prior Bonds.

(4) The balance of the proceeds of the Bonds will be deposited in the Bond Construction Trust Fund and applied solely to payment of costs of the Project, including costs of issuance of the Bonds and related costs.

The Issuer has entered into an Escrow Agreement, dated July 27, 1994 (the "Escrow Agreement"), by and between the Issuer and the West Virginia Municipal Bond Commission, as Escrow Agent. Provision will be made for the payment of the Prior Bonds by placing into the Escrow Fund established under the Escrow Agreement, certain securities in the form of United States Treasury Obligations set forth in the Escrow Agreement, which will provide funds sufficient to pay on the first redemption date thereof, being December 1, 1994 (the "Redemption Date"), the entire principal amount of the Prior Bonds then outstanding and the redemption premium and interest accrued thereon to the Redemption Date. On the Closing Date, the Escrow Fund will be funded with (i) \$250,000 from a portion of the Bond proceeds, (ii) \$369,165.41 from the sinking fund, the reserve account therein and the depreciation account established for the Prior Bonds and held by the West Virginia Municipal Bond Commission, and (iii) \$95,726.76 from the Issuer's own funds, and thereupon such funds will be applied to the purchase of United States Treasury Obligations. The yield on the United States Treasury Obligations will not be higher than the yield on the Bonds.

Amounts in the Bond Construction Trust Fund, if invested, will be invested without yield limitation for a period necessary to complete the Project, not to exceed 3 years, except as otherwise set forth herein. All of such moneys are necessary for such purpose.

None of the proceeds of the Bonds will be used to reimburse the Issuer for costs of the Project previously incurred and paid by the Issuer with its own or other funds.

12. Moneys held in the Series 1994 Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on moneys in the Series 1994 Bonds Sinking Fund and Series 1994 Bonds Reserve Account, if any, will be withdrawn therefrom and deposited into the Bond Construction Trust Fund during construction of the Project, and following completion of the Project, will be deposited, not

less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Ordinance.

13. Except for the Series 1994 Bonds Sinking Fund and the Series 1994 Bonds Reserve Account, there are no other funds or accounts established or held by the Issuer which are reasonably expected to be used to pay debt service on the Series 1994 Bonds or which are pledged as collateral for the Series 1994 Bonds and for which there is a reasonable assurance that amounts therein will be available to pay debt service on the Series 1994 Bonds, if the Issuer encounters financial difficulties. The Issuer does not expect that moneys in the Renewal and Replacement Fund will be used or needed for payments upon the Series 1994 Bonds. Except as provided herein, no funds which have been or will be used to acquire directly or indirectly securities, obligations, annuity contracts, investment-type property or any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved designation plan producing a yield in excess of the yield on the Bonds have been or will be pledged to payment of the Bonds. Less than 10% of the moneys received from the sale of the Series 1994 Bonds, if any, will be deposited in the Series 1994 Bonds Reserve Account or any other reserve or replacement fund. The amounts deposited in the Series 1994 Bonds Reserve Account from time to time by the Issuer will not exceed the maximum annual principal of and interest on the Series 1994 Bonds and will not exceed 125% of average annual principal of and interest on the Series 1994 Bonds. Amounts in the Series 1994 Bonds Reserve Account, not to exceed 10% of the proceeds of the Series 1994 Bonds, if invested, will be invested without yield limitation. The establishment of the Series 1994 Bonds Reserve Account is required by the Authority, is vital to its purchase of the Series 1994 Bonds, and is reasonably required to assure payments of debt service on the Series 1994 Bonds.

Because amounts in the Renewal and Replacement Fund may be expended for other purposes, there is no reasonable assurance that any such amounts would be available to meet debt service if the Issuer encounters financial difficulties; thus, such amounts may be invested without yield limitation.

14. The Issuer will, on the date hereof or immediately hereafter, enter into a contract for the construction of the Project, and the amount to be expended pursuant to such contract exceeds the lesser of 2 1/2% of the estimated total Project cost financed with proceeds from the sale of the Bonds or \$100,000.

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

16. Except for a reasonable temporary period until such proceeds are needed for the purpose for which such issue was issued or as otherwise allowed, no portion of the proceeds of the Bonds will be used, directly or indirectly, to acquire higher yielding

investments, or to replace funds which were used, directly or indirectly, to acquire higher yielding investments, all within the meaning of Section 148 of the Code.

17. The Issuer will comply with the provisions of the Code, for which the effective date precedes the date of delivery of its Bonds to the Authority.

18. With the exception of the amount deposited in the Series 1994 Bonds Sinking Fund for payment of interest on the Bonds, if any, and the amounts deposited in the Series 1994 Bonds Reserve Account, if any, all of the proceeds of the Bonds will be expended on the Project within 6 months from the date of issuance thereof.

19. The Issuer does not expect to sell or otherwise dispose of the Project in whole or in part prior to the last maturity date of the Bonds.

20. The Series 1994 Bonds Sinking Fund (other than the Series 1994 Bonds Reserve Account therein) is intended primarily to achieve a proper matching of payments of debt service on the Series 1994 Bonds each year. The Series 1994 Bonds Sinking Fund (other than the Series 1994 Bonds Reserve Account therein) will be depleted at least once a year except for a reasonable carryover amount not in excess of the greater of 1/12th of annual debt service on the Series 1994 Bonds, or 1 year's interest earnings on the Series 1994 Bonds Sinking Fund (other than the Series 1994 Bonds Reserve Account therein). Except as otherwise allowed, any money deposited in the Series 1994 Bonds Sinking Fund for payment of the principal of or interest on the Series 1994 Bonds (other than the Series 1994 Bonds Reserve Account therein), will be spent within a 13-month period beginning on the date of receipt and will be invested without yield limitation, and any moneys received from the investment of amounts held in the Series 1994 Bonds Sinking Fund (other than in the Series 1994 Bonds Reserve Account therein) will be spent within a 1-year period beginning on the date of receipt.

21. All the proceeds of the Bonds which were used for the payment of costs of the Project will be expended for such purposes within three years of July 27, 1994.

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

23. All property financed with the proceeds of the Bonds will be held for federal income tax purposes by (or on behalf of) a qualified governmental unit.

24. The Issuer shall file Form 8038-G or 8038-GC in a timely fashion with the Internal Revenue Service Center, Philadelphia, Pennsylvania 19455.

25. No more than 10% of the proceeds of the Bonds will be used (directly or indirectly) in any trade or business carried on by, and less than 5% of the proceeds of

the Bonds have been or will be used to make or finance loans to, any person who is not a governmental unit.

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

27. The Issuer shall use the Bond proceeds solely for the Project, and the Project will be operated solely for a public purpose as a local governmental activity of the Issuer.

28. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from treatment afforded by Section 103(a) of the Code by reason of classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions and refrain from taking such actions as shall be necessary to comply with the Code in order to ensure the interest on the Bonds is excludable from gross income for federal income tax purposes.

29. The Bonds are not and will not be, in whole or in part, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

30. The Issuer is a governmental unit and has general taxing powers; no Bonds are private activity bonds; 95% or more of the net proceeds of the Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and the aggregate face amount of all tax-exempt bonds or obligations (other than private activity bonds) issued by the Issuer during the calendar year 1994, the calendar year in which the Bonds are issued, is not reasonably expected to exceed \$5,000,000, determined in accordance with Section 148(f)(4)(D) of the Code. For purposes of this paragraph and for purposes of applying such Section 148(f)(4)(D) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a governmental unit to make loans to other governmental units with general taxing powers not subordinate to such unit shall, for purposes of applying this paragraph and Section 148(f)(4)(D) of the Code, be treated as not issued by such unit; all obligations issued by a subordinate entity shall, for purposes of applying this paragraph and Section 148(f)(4)(D) of the Code, to each 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)(D) of the Code and all other entities benefiting thereby shall be treated as one issuer.

The Issuer believes that the Authority exclusively lends bond proceeds in a manner that does not result in its bonds being private activity bonds, as defined in the Code, and the Issuer believes that the use of the proceeds by each borrower from the Authority

would not result in those proceeds being private activity bonds (if viewed as a separate issue).

31. The Issuer has retained the right to amend or supplement its authorizing documents if such amendment or supplement is necessary to preserve the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

32. The Issuer shall comply with the yield restriction on Bond proceeds as set forth in the Code.

33. The Issuer has either (a) funded the Series 1994 Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year with the proceeds of the Bonds, or (b) created the Series 1994 Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 1994 Bonds Reserve Account holds an amount equal to the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year. Moneys in the Series 1994 Bonds Reserve Account and the Series 1994 Bonds Sinking Fund (established for the annual payment of principal and interest) will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

34. The Issuer shall submit to the Authority within 15 days following the end of each bond year a certified copy of its rebate calculation or, if the Issuer qualifies for the small governmental issuer exception to rebate, the Issuer shall submit a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the bond year which would make the Bonds subject to rebate. The Issuer covenants and agrees to comply with the rebate requirements of the Code if not exempted therefrom, and with all other requirements of the Code necessary, proper or desirable to maintain the tax-exempt status of the Bonds and any interest thereon.

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

36. The transactions contemplated herein do not represent an exploitation of the difference between taxable and tax-exempt interest rates and the execution and delivery of the Bonds is not occurring sooner than otherwise necessary, nor are the Bonds in principal amounts greater than otherwise necessary or to be outstanding longer than otherwise necessary.

37. The Issuer will rebate to the United States the amount required by the Code and to take all steps necessary to make such rebates. In the event the Issuer fails to

make such rebates as required, the Issuer shall pay any and all penalties and obtain a waiver from the Internal Revenue Service in order to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

38. The Issuer covenants and agrees to comply with the rebate requirements of the Code if not exempted therefrom, and with all other requirements of the Code necessary, proper or desirable to maintain the tax-exempt status of the Bonds.

39. On the basis of the foregoing, it is not expected that the proceeds of any of the Bonds will be used in a manner that would cause any of the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

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

41. Steptoe & Johnson is entitled to rely upon the representations, expectations, covenants, certifications and statements contained herein in rendering its opinions regarding the tax-exempt status of interest on the Bonds.

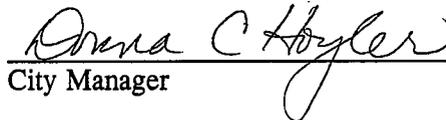
42. To the best of our knowledge, information and belief, the foregoing expectations are reasonable.

WITNESS our signatures this 27th day of July, 1994.

CITY OF GRAFTON



Mayor



City Manager

07/22/94
GRAFJ.O6
345720/93001

CITY OF GRAFTON

Combined Waterworks and Sewerage System Revenue Bonds, Series 1994

ENGINEER'S CERTIFICATE

I, ROBERT G. MCCALL, Registered Professional Engineer, West Virginia License No. 1015, of Kelley, Gidley, Blair & Wolfe, Inc., Charleston, West Virginia, Consulting Engineer, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain extensions, additions, betterments and improvements to the existing waterworks portion of the combined waterworks and sewerage system (the "Project") for the City of Grafton (the "Issuer") to be constructed primarily in Taylor County, West Virginia, which acquisition and construction are being financed in part by the proceeds of the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words used herein and not otherwise defined herein shall have the meaning set forth in the Bond Ordinance enacted by the Issuer on June 7, 1994, and the Loan Agreement, by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), dated July 27, 1994.

2. The Bonds are being issued for the purposes of (i) refunding all of the outstanding Sewer Revenue Bonds, dated June 1, 1972 (the "Prior Bonds"), of the Issuer, heretofore issued to finance the cost of acquisition and construction of certain additions, betterments and improvements to the sewerage system of the Issuer; (ii) paying a portion of the costs of acquisition and construction of the Project; (iii) funding a reserve account for the Bonds; and (iv) paying certain issuance and other related costs in connection therewith.

3. The undersigned hereby certifies that (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the application submitted to the Authority requesting the Authority to purchase the Bonds (the "Application") and approved by all necessary governmental bodies, (ii) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least 40 years, (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application and my firm will ascertain that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds will be verified by my firm for accuracy, (iv) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project, (v) the rates and charges for the System as adopted by the Issuer are sufficient to comply with the

provisions of Subsection 4.1(b) of the Loan Agreement, (vi) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project as set forth in the Application, and (vii) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature and seal on this 27th day of July, 1994.

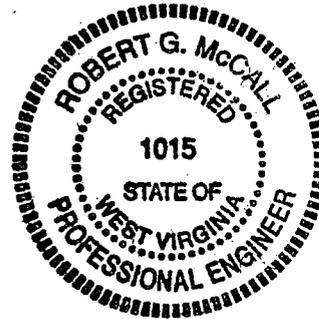
KELLEY, GIDLEY, BLAIR & WOLFE,
INC.

(SEAL)



West Virginia License No. 1015

07/11/94
GRAFC.P3
345720/93001



DATE: July 27, 1994

AMENDED SCHEDULE A

NAME OF GOVERNMENTAL AGENCY: City of Grafton
TOTAL COST OF PROJECT, SOURCES OF FUNDS AND COST OF FINANCING

A. Cost of Project

1.	Construction	\$ 1,820,122	
2.	Technical Services	\$ 288,818	
3.	Legal and Fiscal	\$ 34,000	
4.	Administrative	\$	
5.	Site and Other Lands	\$ 30,000	
6.	Step I and/or Step II (Design) or Other Loan Repayment (Specify Type: Repayment of Sewer Bonds)	\$ 250,000	
7.	Interim Financing Costs	\$	
8.	Contingency	\$ 204,811	
9.	Total of Lines 1 through 8		\$ 2,627,751

B. Sources of Funds

10.	Federal Grants: ¹ (Specify Source)	\$	
11.	State Grants: (Specify Source)	\$	
		\$	
		\$	
12.	Other Grants: (Specify Source)	\$	
13.	Any Other Source ² (Specify)	\$	
	Est. Earnings	\$ 25,000	
14.	Total of Lines 10 through 13		\$ 25,000
15.	Net Proceeds Required from Bond Issue (Line 9 less Line 14)		\$ 2,602,751

¹ Attach supporting documentation not previously submitted. If not yet available, state such and expectations as to availability.

² For example, interest earnings during construction, if applicable. Include the proceeds of any parity or subordinate bond issue to be used for such purpose and attach supporting documentation if available (if not yet available, state such and expectations as to availability).

C. Cost of Financing

16. Capitalized Interest (Construction period plus six months)	\$ <u>0</u>	
17. Funded Reserve Account ³	\$ <u>207,249</u>	
18. Other Costs ⁴	\$ <u>20,000</u>	
19. Total Cost of Financing (Lines 16 through 18)		\$ <u>227,249</u>
20. Size of Bond Issue (Line 15 plus Line 19)		\$ <u>2,830,000</u>

Additional or explanatory material may be provided on additional sheets attached to Amended Schedule A.

Orma C. Hoyle
SIGNATURE OF AUTHORIZED
OFFICER OF APPLICANT

R. M. Cole
SIGNATURE OF ENGINEER

³ Consult with bond counsel and the Authority before assuming a funded reserve.

⁴ For example, fees of bond counsel for the Governmental Agency.



Smith, Cochran & Hicks
Certified Public Accountants

Charles S. Smith, CPA
Dennis R. Hicks, CPA
Jill E. Patterson, CPA
Todd F. Dingess, CPA

400 Capitol Street, Suite 200
Charleston, West Virginia 25301
Tel 304 345-1151 FAX 304 346-6731

West Virginia Water Development Authority
Dunbar, West Virginia

\$2,830,000
City of Grafton, West Virginia
Combined Waterworks and Sewerage System Revenue Bonds
Series 1994

Based upon the rates and charges as set forth in the water rate ordinance of the City of Grafton (the "Issuer") finally enacted December 22, 1992, and the sewer rate ordinance of the Issuer finally enacted April 16, 1991, and projected operation and maintenance expenses and anticipated customer usage as furnished to us by Kelley, Gidley, Blair & Wolfe, Inc., consulting engineer, and as provided to us in the proforma financial statements prepared by the Issuer, it is our opinion that as of the date of issuance of the Bonds such rates and charges will be sufficient to provide revenues which, together with other revenues of the combined waterworks and sewerage system of the Issuer, will pay all repair, operation and maintenance expenses and leave a balance each year equal to at least 110% of the maximum amount required in any year for debt service on the Combined Waterworks and Sewerage System Revenue Bonds, Series 1994 (the "Bonds"), to be issued to the West Virginia Water Development Authority.

Charleston, West Virginia
July 27, 1994

GRAFTON CITY CHARTER
ADOPTED AT A SPECIAL ELECTION
APRIL 30, 1985

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INCORPORATION

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2. Boundaries and Wards
3. Form of Government
4. Powers of City Generally

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6. Qualification
7. Salaries
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34. Chief of Fire Department, Appointment, Qualification
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37. Department of Development
38. Board of Zoning Appeals: Creation, Membership, Terms, Vacancies
39. Board of Zoning Appeals: Powers, Authority and duties
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41. City Hospital

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Article I INCORPORATION

Section 1

NAME

The inhabitants of the City of Grafton, within the corporate limits as heretofore established and detailed in Section Two (2) hereof, or as hereinafter 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 Grafton."

Section 2

BOUNDARIES AND WARDS

*Editor's Note

The City boundaries are outlined on the official map of the City, which is maintained on file in the office of the City Clerk. The said City shall be divided into four Wards, each ward consisting of two voting precincts. Ward One (1) shall consist of Precincts 14 and 22; Ward Two (2) shall consist of Precincts 23 and 26; Ward Three (3) shall consist of Precincts 12 and 25; Ward Four (4) shall consist of Precincts 29 and 31, until changed by Ordinance.

Section 3

FORM OF GOVERNMENT MANAGER PLAN

1. There shall be a Council of not less than five (5) members, One (1) nominated and elected from each geographical Ward, and one at-large, as established by this Charter, and the Charter may empower the Council to change, from time to time, such Wards without amending the Charter provided, however, that the changes of such Wards shall not take effect during the term of office of the members of such Council making such change.
2. There shall be a Mayor elected by Council from among its membership, who shall serve as the presiding officer of the Council, and a City Manager who shall be appointed by the Council.
3. The Council shall be the Governing Body.

*Editor's Note: West Virginia Code 8-3-2, Plan 4

Section 3 (con't)

4. The City Manager shall be the Administrative Authority. The City Manager shall manage the affairs of the City under the supervision of the Council and shall be responsible to such Council. The City Manager shall appoint or employ, in accordance with this Charter, all subordinates and employees for whose duties or work that the City Manger is responsible to the Council.

Section 4

POWERS OF CITY GENERALLY

The City have all the powers granted to municipal corporations and to Cities by the Constitution and general laws of this State, together with all the powers granted. The City may acquire property within or without its corporate limits for any City purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interests may require, and except as prohibited by the Constitution of this State or restricted by this Charter. The City shall have right to abandon alleys and rights-of-ways however, Council shall ascertain that no citizen be injured as a result of the abandonment, and the City of Grafton will benefit by the abandonment.* The City shall and may exercise all municipal powers, functions, right, privileges and immunities of every name and nature, whatsoever. The enumeration of particular powers by this Charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the City shall have and may exercise all powers which, under the Constitution and general laws of this State, it would be competent for this Charter, specifically to enumerate.

*Editor's Note: State Code 8-11-3

Article II

THE COUNCIL

Section 5

COMPOSITION

Council shall have five (5) members: Councilmembers shall be nominated each from and by the respective voters of the Ward of which they reside. The City shall be divided into four (4) voting Wards, subject to change by Council when the Wards become unequal in population. One (1) Councilmember shall be nominated and elected by voters of the City at-large. The Councilmember from each Ward be elected by the voters of the City at-large. The Council shall be elected in the manner provided in Section 58 for a term of four (4) years. However, terms of office for Councilmembers are to be staggered as follows: in the first City Election to be held the first Tuesday in May, nineteen hundred and eighty-six, the candidate

from Ward One (1) and the at-large candidate will serve for a two (2) year term and the candidates from Wards Two (2), Three (3) and Four (4) will serve for a four year term. In the City Election to be held the first Tuesday in May, nineteen hundred and eighty-eight, candidates from Ward one (1) and the at-large candidate will serve for a full four (4) year term.

Section 6

QUALIFICATION

The Councilmember to be elected at-large as provided in Section 58 shall be a qualified elector of the City. The Councilmember to be elected from a Ward, as provided in Section 58, shall be a qualified elector of the City and a resident of the Ward from which he/she is to be elected. No Councilmember shall hold any other elective public office, nor be an employee of the City during his/her term of office. If a Councilmember shall cease to possess any of these qualification or shall be convicted of any crime involving moral turpitude, his/her office shall immediately become vacant. No Councilmember shall hold office more than four consecutive terms.

Section 7

SALARIES

The salary of Councilmember shall be fifty dollars (\$50) per meeting and shall not exceed one-hundred dollars (\$100) per month, unless changed by ordinance but shall not be increased during the current term of Councilmember enacting such ordinance. The salary of the Mayor shall be sixty dollars (\$60) per meeting, not to exceed one-hundred twenty (\$120) per month until changed by ordinance.

Section 8

CONFLICTS OF INTEREST

No member of Council shall vote upon or participate in the furtherance of any matter in which that Councilmember has, either directly or indirectly, a substantial personnel interest as a member, manager, officer, bondholder or stockholder of any partnership, business, firm or corporation. Such interest shall include, but not be limited to, an interest in any contract furnishing material, services or supplies to the City or to any contractor or workmen for the City, any sale of land to or from the City, any lease to or from the City, annulment of any street or any special privilege or right which may inure to the benefit of such Councilmember directly or indirectly, except as such privilege may benefit him/her generally as a citizen of the community. Any Councilmember who willfully conceal such or willfully violate the requirements of this section shall be guilty of malfeasance in office and shall forfeit his office. Violation of this section with the knowledge express or

implied of the person, or of the corporate officer, agent or employee contracting with the City, shall render voidable by action of the City Council, any transaction prohibited by the preceding paragraph. Removal by any Councilmember for violation of the provisions of this section shall be accomplished in the following manner: The Council shall hold an administrative hearing and make a determination which may be appealed to the proper court.

Section 9

MAYOR GENERALLY

The Mayor preside at meetings of the Council, and shall be recognized as head of the City government for all ceremonial purposes, by the Governor for purposes of Military law, and for all other purposes required by law, but shall have no regular administrative duties. The Council shall choose for a term of two (2) years one of its members who shall have the title of Mayor. The Council shall also choose an Assistant Mayor who shall act as Mayor during the absence or disability of the Mayor, and if vacancy occurs, shall become Mayor for the completion of the unexpired term. The Mayor shall have the right to vote on all matters in which a vote of Council is required. The Mayor shall appoint a sergeant-at-arms for all regular and special Council meetings.

Section 10

POWERS OF THE CITY TO BE VESTED IN COUNCIL

All powers of the City and the determination of all matters of policy shall be vested in the Council, except as otherwise provided by State law or by this Charter.

Section 11

CITY MANAGER APPOINTMENT, QUALIFICATIONS, COMPENSATION

The Council shall appoint a City Manager for an indefinite term and fix his/her compensation. The City Manager shall be appointed solely on the basis of executive and administrative qualifications with particular emphasis on education and experience in City Government. The City Manager need not be a resident of the City or State at the time of appointment, but must reside within the County while in office however, the City Manager must at all times maintain a Grafton telephone exchange. The City Council shall evaluate the City Manager at least annually.

Section 12

CITY MANAGER VACANCIES/REMOVAL

The Council may remove the City Manager from office in accordance with the following procedures:

- (1) The Council shall adopt by affirmative vote a majority of all its members a preliminary resolution which must state the reason for removal and may suspend the City Manager from duty for a period not to exceed 30 days.
- (2) Within five (5) days after the copy of the resolution is delivered to the City Manager, he/she may file with the Council a written request for a public hearing. This meeting shall be held at a Council meeting not earlier than ten (10) days nor later than fifteen (15) days after the request is filed.
- (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 (5) days from the date when a copy of the preliminary resolution was delivered to the City Manager, if the City Manager has not requested a public hearing, or at any time after the public hearing if he/she has requested one. The City Manager shall continue to receive his/her salary until the effective date of a final resolution of removal.
- (4) If the Council finds it necessary to suspend the City Manager, then an administrative officer of the City shall be appointed by Council to fill the vacancy until a replacement is found.
- (5) Upon permanent removal of the City Manager, the City Council shall designate a resident citizen of Taylor County with administrative experience, preferably a City Official, to serve as acting City Manager for a period not to exceed sixty (60) days.

Section 13

COUNCIL NOT TO INTERFERE WITH APPOINTMENT OR REMOVAL

Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately. Any Councilmember violating the provisions of this section or voting for a resolution or ordinance in violation of this section shall be subject to removal from office by a majority vote of Council.

Section 14

VACANCIES

If a seat in Council becomes vacant or not filled at an election as provided in Article 7, it shall be filled for the remainder of the unexpired term by a majority vote of the remaining members of the Council and with the exception of the at-large Councilmember, the seat shall be filled by a resident of the Ward in which the vacancy exists. Any vacancy in Council shall be filled by a majority vote of all the remaining members who, within thirty (30) days following the occurrence of the vacancy, shall appoint a qualified person to fill the vacancy. If the Council fail to do so within thirty (30) days following the occurrence of the vacancy, then the City Manager shall fill the vacant seat within the next thirty (30) days.

If three (3) or more seats in the Council should be filled by appointment, the election authorities shall call a special election of members to serve for the remainder of the unexpired term of the appointees, except that if a regular election has already been held, or is to be held not more than sixty (60) days after, the occurring of the vacancies such a special election need not be held and the members elected to the Council at the regular election shall take office forthwith or as soon as the regular election is completed.

Section 15

FORFEITURE OF OFFICE

A Councilmember shall forfeit his/her office if he/she:

- (1) Lack at any time during his/her term of office any qualification for the office prescribed by this Charter or by law.
- (2) Violates any express prohibition of this Charter.
- (3) Is convicted of a crime involving moral turpitude.
- (4) Fail to attend three (3) consecutive, regular meetings of the Council without being excused by the Council, either before or after such failure of attendance.

Section 16

CREATION OF NEW DEPARTMENT OR OFFICES CHANGE OF DUTIES

The Council by ordinance may create, change and abolish offices, departments or agencies established by this Charter. The Council by ordinance may assign additional function or duties of offices, departments or agencies established by this

Charter.

Section 17

INDUCTION INTO OFFICE MEETINGS

The first meeting of the newly elected Councilmembers for induction into office shall be held at ten o'clock (10 AM) in the morning on the first day (1st) of July, if the first day of July is on Saturday or Sunday then the first work day in July following their election., after which the Council shall meet regularly at such times as may be prescribed by its rules, but not less frequent than once each month. Special meetings may be held at any time upon call of the Mayor or any two Councilmembers and upon such notice as the Council may by rule prescribe.

Section 18

TO BE JUDGE OF QUALIFICATIONS OF ITS MEMBERS

The Council shall be the judge of the election and qualification of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of the Council in any case shall be subject to review by the courts.

section 19

RULES OF PROCEDURE JOURNAL

The Council shall determine its own rules and order of business. It shall keep a journal of its proceedings and the journal shall be open to the public inspection. A quorum shall consist of three (3) members.

Section 20

ORDINANCES

In addition to such acts of the Council as are required by statute or by this Charter to be by ordinance, every act of Council establishing a fine or other penalty or for the contracting of indebtedness, shall be by ordinance. The enacting clauses of all ordinances shall be:

"The Council of the City of Grafton hereby ordains." Ordinance procedure shall be in accordance with State Code, Chapter 8, Article 11, Section 3.

Section 21

CODIFICATION OF ORDINANCES

Council will direct the City Clerk to maintain a journal of all current ordinances in effect at the writing of this Charter and all future ordinances passed by the Council of the City of Grafton. Such journal will be codified and kept in a manner that can be efficiently updated.

Section 22

AUTHORITY TO AUDIT CITY FINANCES

In addition to regular annual audit made by the State Tax Commissioner, the Council may, at any time it is deemed necessary, employ qualified Public Accountants to make a special, independent audit of the finances of the City or the accounts of any City Officer.

ARTICLE III CITY MANAGER

Section 23

POWERS AND DUTIES OF THE CITY MANAGER

The City Manager shall be the Chief Administrative Officer of the City. The City Manager shall be responsible to the Council for the administration of all City affairs placed in the City Manager's charge by or under this Charter. The City Manager shall have the following powers and duties:

(1) The City Manager shall appoint, and when deemed 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. However, the City Manager may not fire anyone without first obtaining a written opinion from the City Attorney. The City Manager may authorize any administrative officer who is subject to the City Manager's direction and supervision to exercise the powers with respect to subordinates in that officer's department, office or agency.

(2) The City Manager shall direct and supervise the administration of all departments, offices, or agencies of the City, except as otherwise provided by this Charter or by law.

- (3) The City Manager shall attend all Council meetings and shall have the right to take part in discussion, but may not vote.
- (4) The City Manager shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by the City Manager or by officers subject to the City Manager's directions and supervision are faithfully executed.
- (5) The City Manager shall be responsible for the preparation and submission of the annual budget and capital program to the Council.
- (6) The City Manager shall propose a uniform personnel policy, and the Council may, by ordinance, adopt it with or without amendments.
- (7) The City Manager shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.
- (8) The City Manager shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to the City Manager's direction and supervision.
- (9) The City Manager shall keep the Council fully-advised as to the financial condition and future needs of the City and make such recommendations to Council concerning the affairs of the City as the City Manager deems desirable.
- (10) The City Manager shall prepare and mail to each Councilmember a proposed agenda of the next regular Council meeting at least three (3) days prior to the Council meeting.
- (11) The City Manager shall perform such other duties as are specified in this charter or may be required by the Council.

Section 24

CITY MANAGER VACANCIES

By letter filed with the City Clerk, the City Manager shall designate, subject to the approval of the Council, a qualified City Administrative Officer to exercise the powers and perform the duties of a City Manager during his 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 City Manager shall return or his/her disability shall cease however, in the event that the City Manager has failed to designate an acting City Manager, the Council shall, by resolution, appoint an officer of the City to perform the duties of the City Manager until he/she shall return or his/her disability shall cease. In the event of a permanent absence or disability of the City Manager, the City Council shall designate a resident of Taylor County with administrative experience preferably a City Official to serve as acting City Manager for a period not to exceed sixty (60) days, at which

time Council shall appoint a new City Manager.

ARTICLE IV ADMINISTRATIVE DEPARTMENT AND AGENCIES

Section 25

CITY CLERK

The Council shall appoint a resident of the County to serve as City Clerk at the will and pleasure of the Council, except as otherwise provided in this Charter and subject to the supervision of the City Manager, the City Clerk shall have power, and it shall be his/her duty, to:

- (1) Give notice of and attend all meetings of the City Council, keep the journal of its proceedings, authenticate by his/her signature and record in full on a book kept for the purpose all ordinances and resolutions of the Council, prepare and keep up-to-date an index of all such ordinances and resolutions, and keep all such records available for public inspection.
- (2) Make and certify copies of any ordinances, resolution on 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/she may make.
- (3) Prepare and cause to be served all notices required to be given any person, firm or corporation, and after the proper service and return of any notice, he/she shall file and preserve the same.
- (4) Have custody of, and keep available for public inspection, the permanent records of the City and file properly, 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/her by this Charter, by general law, or by City ordinances or order of the City Manager not inconsistent with this Charter or with general law.

Section 26

CITY CLERK VACANCIES

Council shall appoint someone within thirty (30) days, should the seat become vacant.

Section 27

CITY ATTORNEY

The Council shall appoint a City Attorney to serve at its will and pleasure. The City Attorney shall be a duly licensed attorney-at-law. The City Attorney's salary shall be fixed by the City Council. The City Attorney shall perform all duties and exercise all powers which shall be conferred upon the City Attorney by ordinance or resolution of the Council, and except as otherwise provided in this Charter, the City Attorney shall have the power and it shall be the City Attorney's duty to:

- (1) Act as legal advisor and counsel for the City Council and for all administrative boards and offices thereof with respect to their official duties. Upon request, the City Attorney shall furnish to the City Council or to such officers a written opinion upon any question concerning their respective powers and duties.
- (2) Prosecute and defend all suits for or against the City, and prepare all ordinance and all contracts, bonds, or other writings in which the City is concerned, and endorse on each his/her approval of the form and correctness thereof.
- (3) Prosecute all cases brought or appealed from the police court, and perform the same duties so far as they are applicable thereto, as are required by law of prosecuting Attorney.

Whenever the existence of the business of the City require such action, the City Manager with the approval of the City Council shall have the right to employ special counsel to assist the City Attorney.

Section 28

POLICE COURT AND JUDGE JURISDICTION PRACTICE & PROCEDURE

The police court now existing shall be continued and shall have criminal jurisdiction over violations of City ordinances and the criminal jurisdiction of a County Magistrate with respect to offense committed.

Section 29

QUALIFICATIONS OF POLICE JUDGE

Said judge shall be a duly licensed attorney, if such be available for such service and appointed and acceptable to serve at the will and pleasure of Council, and if no attorney be so available and acceptable to the Council, then such person as the Council shall deem qualified for such service and appointment. In the event, and

during the temporary absence or disability of the Police Judge, the Council shall appoint a qualified person or the Mayor to preside over said court and perform the duties of the Police Judge thereof until a person described hereinabove be found and the Police Judge's salary shall be transferred to and paid such temporary Police Judge for the time he/she serves as such. The Mayor may serve no longer than sixty (60) days.

Section 30

POLICE JUDGE

The Police Judge shall issue warrants upon complaints under oath of any City Officer for the arrest of anyone charged with any offense within the jurisdiction of the Police Court. The Police Judge shall try and determine all criminal cases, over which the court has jurisdiction, and enforce the various laws of the municipality. The Police Judge shall have the power to summon witnesses for trials and to require of the chief of police the enforcement of all judgments to orders entered by the Police Judge in the exercise of his powers as Police Judge, and to issue executions for all fines, penalties and costs imposed by the Police Judge. The proceedings for the recovery of fines or for the enforcement of penalties fixed by any ordinance or law shall conform to the regulations, as far as they are applicable, prescribed by general law.

A person convicted in the Police court shall have the same right to an appeal and a trial de novo as is provided by law for appeals for the County Magistrate.

Section 31

POLICE JUDGE SALARY

The salary of the Police Judge shall be fixed by the City Council.

Section 32

CHIEF OF POLICE APPOINTMENT QUALIFICATIONS

The Chief of Police shall be appointed by the City Manager to serve for an indefinite term. The Chief of Police shall be a resident of the State at the time of appointment, but shall reside within the County during tenure of office. The Chief of Police shall be a person of proven executive and administrative ability with experience or training in law enforcement.

Section 33

POLICE CHIEF POWERS & DUTIES

Subject to the direction and control of the City Manager, the Chief of Police shall be responsible for the supervision and administration of the Police Department and shall require of all police officers the proper discharge of their duties. The Chief of Police shall see to the protection of property and the preservation of peace, order and public safety throughout the City, and to that end, shall cause all violators of City ordinances and of general law to be apprehended and brought to trial before the Police Court or other proper tribunal. Under the direction of the City Manager, the Chief of Police shall also perform such duties as may be required of the Chief of Police by this charter, by general law or by ordinance or by order of the City Manager not inconsistent with this Charter or with general law.

Section 34

CHIEF OF FIRE DEPARTMENT APPOINTMENT QUALIFICATION

The Chief of Fire Department shall be appointed by the City Manager to serve for an indefinite term. The Fire Chief shall be a resident of the State at the time of appointment, and must reside within the County during tenure of office. The Fire Chief shall be a person of proven executive and administrative ability with experience or training in the suppression and prevention of fires.

Section 35

CHIEF OF FIRE DEPARTMENT POWERS & DUTIES

Subject to the direction and supervision of the City Manager, the Chief of the Fire Department shall be responsible for the supervision and administration of the Fire Department, and shall require of all firemen the proper discharge of their duties. The Fire Chief shall make such inspections of buildings and property throughout the City as may be necessary to discover fire hazards, shall keep an accurate record of all fires, inspections and fire hazards within the City. Under the direction of the City Manager, the Fire Chief shall also perform such other duties as may be required of the Fire Chief 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.

BUILDING INSPECTOR ZONING OFFICER

The City Manager shall appoint a Building Inspector for an indefinite term. Subject to the direction and control of the City Manager, the Building Inspector shall be responsible for the supervision and administration of the department of Building Inspection. In addition, except as otherwise provided in the Charter, and subject to the supervision of the City Manager, he shall have the power and it shall be his duty to:

- (1) Inspect the construction or repair of all buildings, the installation of all electrical wiring or equipment, and the installation of all plumbing to the extent that such activities are controlled or regulated by the City, for the purpose of seeing that all City regulations are obeyed.
- (2) Issue permits for the construction or repair of homes and other buildings upon the payment of such fees as may be fixed by Council, but he shall issue no such permits unless the proposed construction or repair is in conformity with City Zoning laws and regulations.
- (3) Supervise all work done by any contractor for the City while the work is being performed.
- (4) Make surveys, fix grades and prepare plats, plans and specifications for all improvements which may be undertaken by the City, when required to do so by the City Manager.
- (5) Furnish on the demand of any resident the grade of any street or sewer, upon the payment of such fees as may be fixed by Council.
- (6) Make complete maps of all streets, alleys, lanes, parks and public property owned by the City. Keep such maps on file in his office and available for public inspection, and furnish a copy thereof to the City Manager.
- (7) Require that all pavements, sidewalks, curbs, gutters and sewers in the City are kept clean and repaired.
- (8) Perform other such duties as may be required 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 37

DEPARTMENT OF DEVELOPMENT

The Council shall provide for the establishment and the financial support of a City Department of Development as provided in Article 24, Chapter 8, of the Official Code of West Virginia, as amended.

The Department of Development shall be composed of seven (7) members and five (5) shall be appointed by the Council. The five (5) appointed members of the Department of Development shall be freeholders of the City. The Department of Development shall have the powers and shall be the responsibility of the Department of Development to prepare comprehensive plans for the future development of the City, including recommendations concerning needed streets, bridges, parks, parkways, playgrounds, public buildings, and other public improvements. Such plans and recommendations shall be submitted to the City Manager and to Council and other appropriate agencies of the City for such action as the Council or other agencies may deem proper. In addition, members shall be:

One (1) person from each Ward; One (1) person at-large. The City Manager and the Building Inspector shall be ex-officio.

The Department of Development shall submit annually to the City Manager, no later than March 1st (each year) a list of recommended capital improvements, which, in the opinion of the Department of Development, are necessary or desirable to be constructed during the forthcoming five (5) year period. Such list shall be arranged in order of preference, with recommendations as to which projects shall be constructed in which year. The Department of Development shall also act as the board for zoning, and as such, shall have the authority and shall perform the duties prescribed by general law, including the authority and duty to prepare and recommend to Council for enactment any revisions or amendments of the City Zoning ordinance it may deem advisable.

Section 38

BOARD OF ZONING APPEALS CREATION, MEMBERSHIP, TERMS & VACANCIES

As part of the zoning ordinance, the governing body of the municipality shall create a board of zoning appeals, consisting of five (5) members to be appointed by the City Council.

The members of the board of zoning appeals shall be individuals who are freeholders and residents of the municipality and at least three-fifths of such members must have been residents of the municipality for at least ten (10) years preceding the time of their appointment. No member of the board of zoning appeal shall be a member of the planning commission, nor shall any member hold other

elective or appointive office in the municipal government. Members of the board shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.

Upon the creation of the board of zoning appeals, the members shall be appointed for the following terms: One (1) for a term of one (1) year; two (2) for a term of two (2) years; (2) for a term of three (3) years. Their term shall expire on the first day of January of the first, second and third year, respectively, following their appointment. Therefore, as their term expires, each new appointment shall be for a term of three (3) years.

If a vacancy occurs, by resignation or otherwise, among the members of the board of zoning appeals, the governing body of the municipality shall appoint a member for the unexpired term.

Section 39

BOARD OF ZONING APPEALS POWERS AUTHORITY AND DUTIES

The Board of Zoning Appeals shall;

(1) Hear and determine appeals from and review any order, requirement, decision or determination made by an administrative official or board changed with the enforcement of any ordinance or rule and regulation adopted pursuant to Chapter 8, Article 24, Section 39-49 of the West Virginia State Code.

(2) Permit and authorize exceptions to the district rules and regulations only in the classes of cases or in particular situations, as specified in the ordinance.

(3) Hear and decide special exceptions to the terms of the ordinance upon which the board is required to act under the ordinance.

(4) Authorize upon appeal in specific cases such variance from the terms of the ordinances will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

In exercising its powers and authority, the board of Department of Development may reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from as in its opinion ought to be done in the premises, and to this end, shall have all the powers and authority of the official or board from whom or which the appeal is taken.

ENFORCEMENT AGENCY

The City Council shall adopt ordinances regulating the repair, alteration or improvement, or the vacating and closing or removal or demolition, or any combination thereof, of any dwellings or other buildings unfit for human habitation due to delapidation, defects increasing the hazard of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities or any other conditions prevailing in any dwellings or building, whether used for human habitation or not, which would cause such dwellings or other buildings to be unsafe, unsanitary, dangerous or detrimental to the public welfare.

The City Council, informally adopting such ordinance, shall designate the Enforcement Agency, which shall consist of the City Manager, Mayor, Building Inspector, and two members at-large, to be selected by, and to serve, at the will and pleasure of the Mayor. The ranking County Health Officer and Fire Chief shall serve as ex-officio members of such Enforcement Agency.

Any ordinance adopted pursuant to the provisions of this section shall provide fair and equitable rules of procedure and any other standards deemed necessary to guide the Enforcement Agency, or its agents, in the investigation of dwelling or building conditions, and in conducting hearings. Provided, that any entrance upon premises for the purpose of making examinations shall be made in such manner as to cause the least possible inconvenience to the persons in possession.

Any ordinance adopted pursuant to the provisions of this section shall provide for the assessment of the cost of such repairs, alterations or improvements or such vacating and closing or removal or demolition, or combination thereof, by order of the Enforcement Agency, and said cost, after the sale for any and all salvaged material is credited to the account, shall be a lien against the real property upon which such cost were incurred. All complaints or orders issued by the Enforcement Agency shall be served with due process and in accordance with the laws of this State.

However, no ordinance shall be adopted without providing therein for the right to apply to the Circuit Court for a temporary injunction restraining the Enforcement Agency pending final disposition of the case. In the event such application is made, a hearing thereon shall be held within twenty (20) days or as soon thereafter as possible, and the court shall enter such final order or decree as the law and justice may require. Cost shall be imposed in such manner as in the discretion of the court shall deem proper. The Enforcement Agency shall meet regularly once each month.

CITY HOSPITAL BOARD

There shall be a City Hospital Board, which shall consist of not less than six (6) members and not more than twelve (12) members, who shall be residents of Taylor County, said board to be non-partisan in character and the members of said board to serve without compensation. At all times, at least fifty percent (50%) of said board members must reside within the City limits. The Mayor of Grafton shall be an ex-officio member without vote, except in case of a tie of said board, and the Mayor's term of office as an ex-officio member shall run concurrent with term of office as Mayor. The members of said hospital board were appointed by the Mayor of the City of Grafton by ordinance No. 160 and shall serve for an indefinite period.

In case of vacancies created by any cause whatsoever, that vacancy shall be filled by a majority vote of the City Hospital Board. In case said vacancy or vacancies are not filled by the board within a period of ninety (90) days, said vacancy or vacancies shall be filled by the Mayor, ex-officio member of said hospital board.

The City Hospital Board shall hold at least monthly meetings and at times specified in the by-laws. Special meetings may also be called by a majority of the board members. Officers of the board shall be elected or appointed in accordance with the current by-laws

The Hospital Board shall have complete management of the Grafton City Hospital and, subject to the laws of West Virginia, shall fix a schedule of rates to be charged for service to patients and all other services rendered by said hospital, and shall examine from time-to-time such practices with a view to making necessary adjustments.

The said City Hospital Board shall employ an administrator of said hospital and shall fix the salary of said administrator and prescribe the duties thereof, and shall employ all necessary nurses, employees and agents to conduct said hospital and shall fix the schedule of salaries to be paid said employees.

All powers and duties of said City Hospital Board as hereinbefore set forth shall be exercised and performed subject to, and in conformity with, the provisions and requirements of existing Bond Ordinance Numbers 309 & 339, and amendments thereto, and providing for the rights of the bondholders thereof.

ARTICLE V
BUDGET BUDGET MESSAGE
COUNCIL ACTION

Section 42

FISCAL BUDGET

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

Section 43

SUBMISSION OF BUDGET
AND BUDGET MESSAGE

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

Section 44

BUDGET MESSAGE

The City Manager shall explain the budget both in fiscal terms and in terms of the work program. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any Mayor 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 City Manager deems desirable.

Section 45

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 City Manager deems desirable or the Council may require. In organizing the budget, the City 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 and shall show in detail all estimated income, indicating the purposed tax levy and all proposed expenditures, including debt service for the ensuing fiscal year and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the

preceding fiscal year. It shall indicate in separate section:

(a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures.

(b) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing such capital expenditure.

The Total of proposed expenditures shall not exceed the total of estimated income.

Section 45

CAPITAL PROGRAM

Submission to Council:

The City Manager shall prepare and submit to the Council a five (5) year capital program prior to the final date for submission of the budget.

Contents:

The capital program shall include:

1. A clear, general summary of its contents.
2. A list of all capital improvements which are proposed to be undertaken during the five (5) 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.
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 46

COUNCIL ACTION ON BUDGET

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 (1) or more news papers of general circulation in the City a notice stating:

The time and places where copies of the message and budget are available for inspection by the public.

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

Amendment Before Adoption:

After the public hearing, the Council may adopt the budget with or without amendment.

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. The budget shall be adopted by ordinance not later than the third Tuesday in April..

Section 48

COUNCIL ACTION ON CAPITAL PROGRAM

The Council shall make known, no less than one month prior to adoption of the Capital Program, the time and place where copies of the Capital Program are available for inspection by the public.

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 49

PUBLIC RECORDS

Copies of the Budget and the Capital Program as adopted shall be public record and shall be made available to the public at suitable places in the City.

Section 50

AMENDMENT AFTER ADOPTION

Supplemental Appropriations:

If during the fiscal year the City 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.

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 resolution.

Reduction of Appropriations:

If at any time during the year it appeared probable to the City Manager that the revenues available will be insufficient to meet the amount appropriated, City Manager shall report to the Council without delay, indicating the estimated amount of the deficit, and remedial action taken by him/her and recommendation 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.

Transfer of Appropriation:

At any time during the fiscal year, the City Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and upon written request by the City Manager, the Council may, by resolution, transfer part or all of any encumbered appropriation balance from one department, office or agency to another.

Limitations & Effective Date:

No appropriations for debt service may be reduced or transferred and no

appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer or appropriations authorized by this section may be made effective immediately upon adoption.

Section 51

LAPS OF APPROPRIATIONS

Every appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned, the purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation.

Section 52

ADMINISTRATION OF BUDGET

Work Programs and Allotments:

At such time as the City 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 City Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. The City Manager may revise such allotments during the year if the City Manager deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations made pursuant to Section 48, subsection Supplemental or Emergency appropriations.

Payment & Obligations Prohibited:

No payments shall be made or obligation incurred against any allotment or appropriation except in accordance with the appropriations duly made, and unless the City Manager or 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 /she shall 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.

ARTICLE VI DEPARTMENT OF FINANCE

Section 53

FINANCE DIRECTOR QUALIFICATIONS & APPOINTMENT

The City Manager shall appoint a director of finance, who shall be a person experienced in accounting and budgeting to serve for an indefinite term.

Section 54

FINANCE DIRECTOR POWERS & DUTIES

Under the direction and control of the City Manager and subject to the provisions of this Charter, the Director of Finance shall be responsible for the proper administration of the financial affairs of the City, and except as otherwise provided by this Charter, or by general law, shall have the power and shall be required to:

Collect:

(1) Collect all taxes, special assessments, license fees and other revenues of the City and receive all other monies payable to the City.

Responsible:

(2) Responsible for the billing of all monies due the City for providing police, fire, sewer, water and garbage services. The Finance Director shall also be responsible for the billing of surcharges, present and future. The Finance Director shall be responsible for the billing and collection of monies due the City for any other purpose not mentioned above.

Have Custody:

(3) Have custody of all funds of the City or of any office, department or agency thereof, and deposit such funds in the financial institution or financial institutions designated by the City Council.

Supervise:

(4) Supervise the purchase, storage and distribution of all equipment and supplies used by any office, department or agency of the City.

(5) Supervise the receipt and disbursement of all monies and control all expenditures to ensure that budget appropriations are not exceeded. No proposed expenditure shall be made unless the Director of Finance shall certify there is available for the purpose an unencumbered balance in the proper item of appropriation.

Maintain:

(6) Maintain a general accounting system for the City and each of its offices, departments and agencies, and keep a separate account for each item of appropriation, the amount paid therefrom, the unpaid obligations charged thereto, and the unencumbered balance.

Prepare:

(7) Prepare for submission to the City Council by the City Manager, a cumulative monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the City and each of its offices, departments and agencies.

(8) Prepare for submission to the City Council by the City Manager a complete financial statement and report as of the end of each fiscal year.

Compile:

(9) Compile for use by the City Manager in the preparation of the budget, an estimate of anticipated revenues during the coming year and an estimate of probable expenditures for current expenses and capital improvements.

Perform:

(10) Perform such other duties as may be required of him/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.

(11) The Finance Director, within 90 days after the beginning of each year, shall prepare on a form to be prescribed by the State Tax Commissioner and cause to be published a sworn statement revealing:

(1) The receipts and expenditures of the City during the previous fiscal year arranged under descriptive headings.

(2) The name of each person who received more than \$50.00 from any fund during the previous fiscal year, together with the amount received and the purpose for which paid.

(3) All debts of the City, the purpose for which each debt was contracted, its due date, and to what date the interest thereon has been paid. Such statement shall be published as a Class I legal advertisement in compliance with the provisions of Article 3, Chapter 59 of the Code of West Virginia, and the publication area for such publication shall be the City.

Editor Note: For State law and penalties for failure of City officers to perform their prescribed duties thereunder, see WV Code 8-13-23.

Section 55

FINANCE DIRECTOR SALARY

The salary of the Director of Finance shall be set by the City Council.

Section 56

CONTRACT AND PURCHASES

All contracts and purchases by any City officer, department or agency shall be void unless made in conformity with all applicable provisions of general law and of this Charter and with all rules and regulations made as provided in this section.

SEALED COMPETITIVE BIDDING

Sealed competitive bidding shall be required in the case of:

1. All contracts for any improvement costing twenty-five hundred dollars (\$2500.00) or more.
2. All purchases of supplies or materials costing fifteen hundred dollars (\$1500.00) or more.
3. All purchases of equipment costing one thousand dollars (\$1000.00) or more.
4. All contracts for personal services involving the expenditure of five hundred dollars (\$500.00) or more.

SEALED BIDDING PROCEDURE

Section 54

In the case of contracts for the construction of any improvement, sealed competitive bids shall be obtained by notice published at least once each week for two (2) successive weeks in two (2) newspapers in the local area. The notice shall refer to necessary specifications and plans, shall invite the submission of bids, and shall specify the date on which the bids will be opened. In the case of contracts and purchases covered by subsections 2, 3 and 4 of Section 53, sealed competitive bids shall be obtained either (a) by published notice inviting bids as in the case of contracts for the construction of improvements or (b) by mailed notice stating the necessary specifications, inviting submission of bids, and stating the date on which the bids will be opened. The first of these methods shall be used unless the Council shall enter an order of record authorizing the use of the second method and stating the reason why such method was authorized. Whether or not it is so stated in the published notice, all bids may be rejected. No City officer, department or agency shall subdivide any contract or purchase for the purpose of evading the requirements of this section with respect to competitive bidding.

The City Council, with respect to any improvements, extensions or additions to the water system, and the Council, with respect to City improvements, under its jurisdiction, shall cause to be prepared accurate and complete maps, plans and specifications therefor, and shall have the authority to cause such work to be done either by the employment of labor and the furnishing of material, or by entering into a contract for the performance of the labor and for the material. If a contract is let for any improvement, the Council shall require the contractor to give sufficient bond with corporate surety to guarantee the faithful performance of the contract and the payment for all labor performed and all materials furnished in the performance of the contract, as provided Section 39, Article 2, Chapter 38 of the Official Code of West Virginia, as amended. Any change or alteration in the contract after it is entered into shall be made only upon resolution passed by the City Council, and shall not be effective until the price to be paid for the work and material or both under the altered or modified contract, shall have been agreed upon in writing and such agreement signed by the contractor and the general manager **with** the approval of the City Manager with the Council, as the case may be.

The City Council, with respect to contracts and purchases of the Water Department and with respect to contracts and purchases of other city offices, departments and agencies, may by resolution prescribe additional rules and regulations governing the making of contracts and purchases, not inconsistent with general law or with the provisions of this Charter.

In case of an emergency, the City Council may by resolution setting forth the facts constituting the emergency dispense with the requirement of competitive bidding

and with the requirements of its rules and regulations governing contracts and purchases.

Any officer or employee of the City who shall be directly or indirectly interested in any contract with the City or in the profits to be derived therefrom, shall forthwith forfeit his/her office or employment, and in addition thereto, any such contract shall be void and unenforceable against the City. The acceptance by any officer or employee of any interest in such contract or of any gift or gratuity from any person, firm or corporation dealing with the City which might influence the officer or employee and in the discharge of his/her duties shall forever disqualify such officer or employee from holding any office or employment in the City government, and in addition, he/she shall be subject to criminal prosecution as provided by general law or by City ordinance.

ARTICLE VII ELECTIONS INITIATIVE REFERENDUM & RECALL

Section 57

CITY ELECTIONS

Regular City elections shall be held on the first Tuesday in May, one-thousand nine hundred eighty-six, (1986) and on the first Tuesday in May of every second year thereafter. Special elections shall be held at such times as may be fixed by the City Council in accordance with the provisions of this Charter and general law.

The ballot to be used in City elections shall be prepared by the City Council and shall have set forth thereon in one division the names of all properly nominated candidates for election to membership on the City Council. In the printing of the ballots, the position of the names of the candidates shall be changed in like manner as is provided by general law for the printing of official primary ballots. The ballots shall state that the election is non-partisan and shall clearly indicate the number of candidates for each office for whom the voter is entitled to vote. At least ten (10) days before the election, a sample ballot showing the names of all properly nominated candidates shall be published once in two (2) newspapers published in the City in the same manner as provided by law for the publication of the list of nominations in a general election.

Except as otherwise provided in the Charter, City elections shall be conducted and the result determined and certified in accordance with the provisions of general law with respect to primary, general and special elections, so far as they are applicable, except that the duties devolving upon the County Court and the Clerk thereof under the general laws for conducting elections shall be performed by the City Council and the City Clerk. The City Council shall appoint three (3) commissioners and two (2) Clerks to serve as election officials in each precinct in the City. At least

three (3) days before the date of the election, the City Clerk shall procure deem the Clerk of the County Court the necessary registration records and other election supplies and shall deliver them, together with the ballots, to the election officials. The election officials shall, as soon as possible after the closing of the polls on election day, return to the City Clerk the ballots, tally sheets, certificates of the results of the election, registration records, ballot boxes and other election supplies. On the first Monday following the election, the City Council shall canvass the returns of the election and declare the result. In the case of a contest, the City Council shall be the judge of the election and qualifications of all City officials.

Election Cost:

The cost incurred in holding and conducting regular City elections, after deducting all nomination fees received in connection therewith, shall be paid out of the City General Fund Revenues. The cost of conducting special election shall be paid out of City General Fund Revenues.

Section 58

NOMINATION OF CANDIDATES FILING OF PETITIONS NOMINATION FEE

Any person eligible to hold the office of councilmember may be nominated as a candidate therefor by petition of not less than twenty five (25) nor more than fifty (50) qualified voters of the Ward in which they reside. The Councilmember at-large shall present the same type of petition but the signatures shall be from the City at large. If a petition is signed by more than fifty (50) persons, the last signature in excess of that number shall be disregarded even though some of the other signatures are void.

The petition, substantially in the form set forth in the following section, shall be personally signed by each of the voters, shall give his home address and the date on which he signed, shall state that he is a qualified voter of the City, and shall state that he has signed no other petition nominating a candidate for the same office in the coming election. If a voter signs petitions for more than one (1) candidate for the same office, his signature shall be invalid, except as to the first such petition signed by him/her. Any signature made earlier than the first day of February. next preceding the election shall be void. The signatures to a nominating petition need not be appended to one (1) paper but to each separate paper there shall be attached the affidavit of the circulator thereof stating that each signature thereon was made in his/her presence, that to the best of his/her knowledge and belief each signer is a qualified voter of the City and that no signature was made earlier than the first day of February preceding.

The complete petition, including the necessary affidavits, together with a nomination fee of twenty-five dollar (\$25.00) and a signed statement of the

candidate that he/she is a qualified voter of the City and has resided therein for at least one (1) year and that he/she accepts the nomination and will serve if elected, shall be filed with the City Clerk not earlier than the first day of March nor later than 5:00 PM on the fifteenth day of March preceding the election. The City Clerk shall make a record of the exact time each petition was filed and the name and address of the person by whom it was filed.

Each petition so filed shall, within ten days thereafter, be submitted by the City Clerk to the City Council for its immediate determination as to its sufficiency. If a petition or any of its accompanying papers is found by the City Council to be insufficient because of a failure to meet any of the requirements of this section, the City Clerk shall, within three (3) days thereafter, return the petition to the person who filed it with a statement setting forth the reason for its return. At any time not later than the fifth day of April preceding the election, the petition may be amended and filed again as a new petition or a different petition may be filed for the same candidate.

In case there shall not be nominated by petition a number of candidates for any officer equal to the number of persons to be elected to such office at any election, then the City Council, for the office of councilmember, shall on or before the twenty-fifth (25th) day preceding the election make by appropriate resolution such additional nominations of candidates for the office as may be necessary to provide the number of candidates to be elected to such office. The nomination of any person by such resolution shall, however, not be completed unless the person so nominated pay to the City Clerk a nomination fee of twenty-five dollars (\$25.00) and file with the City Clerk a signed statement that he/she is a qualified voter of the City and has resided therein for at least one (1) year before his nomination and that he/she accepts the nomination and will serve if elected.

All nomination fees shall be deposited by the City Clerk in the general fund of the City and used to help defray the costs of the election.

In the case of the first election held under this Charter, all duties of the City Council and City Clerk, with respect thereto, shall be performed by the existing City Council and City Clerk.

Section 59

FORM OF NOMINATING PETITION AND ACCEPTANCE OF NOMINATION

The City Clerk shall prepare and furnish printed forms for nominating petitions and for the acceptance of nominations, substantially in the form set forth in this section.

(see next two pages for samples)

NOMINATING PETITION

We, the undersigned qualified voters of the City of Grafton, West Virginia hereby nominate _____, whose residence is _____, Grafton, West Virginia, as a candidate for the office of member of the City Council of the City of Grafton, West Virginia, to be voted for at the election to be held on the _____ day of May, 19 _____.

We individually certify that we are qualified voters of the City of Grafton, that we have not signed any other petition nominating a candidate for the office of member of the City Council to be voted for at such election. We further certify that we have each affixed opposite our signature, the correct address of our residence in the City of Grafton.

Name

Street and Number

Date

(SPACES FOR SIGNATURES AND REQUIRED DATA)

_____, residing at _____
in the City of Grafton, being duly sworn, deposes and says that he/she is the circulator of this paper, being part of a nominating petition, that the signatures appended thereto were made in his presence and are the genuine signatures of the person who signed the petition, that, to the best of his knowledge and belief, such persons are qualified voters of the City, and that no signature was made before the first day of February of this year.

Signature of Circulator

Taken, subscribed and sworn to before me this ___ day of _____ 19_____.

Notary Public

My Commission Expires: _____

ACCEPTANCE OF NOMINATION

I, _____, whose residence is _____
_____, Grafton, West Virginia, hereby accept
nomination as a candidate for the office of member of the City Council of the City
of Grafton, and I agree to serve if elected to the office at the election to be held on
the _____ day of May, 19_____.

I further certify that I am a qualified voter of the City of Grafton, and that I have
resided therein for at least one year prior to this date. Given under my hand this____
day of _____, 19_____.

Signature of Candidate

Section 60

POWER OF RECALL

The qualified electors shall have the power to recall any member of City Council, whether elected by popular vote or selected to fill a vacancy, and may exercise such power by filing with the City Clerk a petition signed by qualified electors of the City equal in number to at least twenty (20) percent of the registered voters at the last general municipal election. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a demand for the removal of the Councilmember or members, and shall contain a general statement of the reasons for which the removal is sought.

Section 61

ELECTION UNDER RECALL
PETITION

The City Clerk shall, in the manner hereinafter provided for initiative and referendum petitions, certify to City Council the sufficiency of the recall petition. Thereafter, City Council shall cause a special election to be held in not less than forty-five (45) days nor more than ninety (90) days from the date of such certification/ The published notice of such special election shall contain the reason for demanding the recall in not more than two Hundred (200) words and a justification by the Councilmember within the same limits; however, if the petition seeks to recall more than one councilmember, each councilmember may provide a justification of not more than one hundred (100) words. Ballots shall be in the format:

"Shall _____ be removed from
the City Council of the City of Grafton?

_____ "for" the recall of _____

_____ "against" the recall of _____

Upon notification by City Council of the results of the election, if a majority of those voting on the question have favored recall, the office of the Councilmember so recalled shall be vacant. Provisions of this Charter with respect to general municipal election shall determine election procedure insofar as applicable.

Section 62

FILLING COUNCIL VACANCY CAUSED BY RECALL

When a vacancy occurs as the result of a recall election or when a councilmember resigns after a recall petition certified by the City Clerk to be sufficient is presented to City Council, the vacancy shall be filled in accordance with the provisions of Section 14 of this Charter.

Section 63

POWERS OF INITIATIVE

The electors shall have power to propose any ordinance, except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiated ordinance may be submitted to the City Council by a petition signed by qualified electors of the City equal in number to at least ten (10) percentum of the registered votes at the last regular municipal election.

Section 64

POWER OF REFERENDUM

The electors shall have power to approve or reject at the polls any ordinance passed by the City Council or submitted by the City Council to a vote of the electors, such power being known as the referendum. Ordinances submitted to the City Council by initiative petition and passed by the City Council without change shall be subject to the referendum in the same manner as other ordinances. Within twenty (2) days after the enactment by the City Council of any ordinance which is subject to a referendum, a petition signed by qualified electors of the City equal in number to at least ten (10) percentum of the registered votes at the last preceding regular municipal election may be filed with the City Clerk requesting that any such ordinance be either repealed or submitted to a vote of the electors.

Section 65

FORM OF PETITIONS COMMITTEE OF PETITIONERS

All petition papers circulated for the purpose of an initiative or referendum shall be uniform in size and style. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petition need not all

be appended to one paper but to each separate petition there shall be attached a statement to the circulator thereof as provided by this section.

Each signer of any such petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number or other description sufficient to identify the place. There shall appear on each petition the names and addresses of the same five (5) electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition paper, there shall be an affidavit of the circulator thereof that he/she and only he/she, personally circulated the foregoing paper, that it bears a stated number of signatures, that all signatures appended thereto were made in his/her presence, and that he/she believes them to be the genuine signatures of the persons whose names they purport to be.

Section 66

PETITIONS EXAMINATION AND CERTIFICATION

All petition papers comprising an initiative or referendum petition shall be assembled and filed with the City Clerk as one (1) instrument. Within twenty (20) days after petition is filed, the City Clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The City Clerk shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing his/her examination of the petition, the City Clerk shall certify the result thereof to the City Council at its next regular meeting. If he/she shall certify that the petition is insufficient he/she shall set forth in his/her certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his/her findings.

Section 67

SAME AMENDMENTS

An initiative or referendum petition may be amended at any time within ten (10) days after the notification of insufficiency has been sent by the City Clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition.

The City Clerk shall, within five (5) days after such an amendment is filed, make

examination of the amended petition, and if the petition be still insufficient, he/she shall file his/her certificate to that effect in his/her office and notify the committee of the petitioners of his/her findings and no further action shall be had on such insufficient petition. The findings on the insufficiency of the petition shall not prejudice the filing of a new petition for the same purpose.

Section 68

SAME EFFECT

When a referendum petition or amended petition, as defined in Section 65 of this Charter has been certified as sufficient by the City Clerk, the ordinance specified in the petition shall not go into effect or further action thereunder shall be suspended if it shall have gone into effect until and unless approved by the electors, as hereinafter provided.

Section 69

SAME CONSIDERATION BY COUNCIL

Whenever City Council receive a certified initiative or referendum petition from the City Clerk, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The City Council shall take final action on the ordinance not later than sixty (60) days after the date on which such ordinance was submitted to the City Council by the City Clerk. A referred ordinance shall be reconsidered by the City Council and its final vote, upon such reconsideration, shall be upon the question, "Shall the ordinance specified in the referendum petition be repealed?"

Section 70

SAME SUBMISSION TO ELECTORS

If the City Council shall fail to pass an ordinance proposed by initiative petition or shall pass it in a form different from that set forth in the petition therefor, or if the City Council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors not less than thirty (30) days nor more than one (1) year from the date the City Council takes its final vote thereon. The City Council may, if no regular election is to be held within such period, provide for a special election.

Section 71

FORM OF BALLOT FOR INITIATED & REFERRED ORDINANCES

Ordinances submitted to vote of the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title, which shall be prepared in all cases by the City Attorney of the City. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance. The ballot title the following propositions, one above the other, in the order indicated: "FOR THE ORDINANCE " and "AGAINST THE ORDINANCE." Immediately at the left each proposition, there shall be a square in which by making a cross (x), the elector may vote for or against the ordinance. Any number of ordinances may be voted on at the same election and may be submitted on the same ballot. A ballot used for voting thereon shall be for that purpose only.

Section 72

AVAILABILITY OF LIST OF QUALIFIED ELECTORS

If any organization or group requests it for the purpose of circulating descriptive matter relating to the ordinance to be voted on, the board of electors of City Clerk or other office, department or agency of the City having the list of qualified electors shall either permit such organization or group to copy the names and addresses of the qualified electors or furnish it with a list thereof.

Section 73

RESULTS OF ELECTION

If a majority of the electors voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the City. A referred ordinance which is not approved by a majority of the electors voting thereon shall thereupon be deemed repealed. If conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Section 74

PUBLICATION OR REPEAL
OF ORDINANCES

Initiative and referendum ordinance adopted or approved by the electors shall be published and be amended or repealed by the City Council, as in the case of other ordinances.

ARTICLE VIII
GENERAL PROVISIONS

Section 75

GENERAL PROVISIONS
FOR SERVICES

The City of Grafton shall at all times provide adequate police and fire protection, water and sewage service, and garbage collection for all City residents.

Section 76

RIGHT OF CITY MANAGER
& OTHER OFFICERS IN COUNCIL

The City Manager, the head of all departments, and such other officers of the City as may be designated by vote of the City Council, shall be entitled to seats in the Council but shall have no vote therein. The City Manager shall have the right to take part in the discussion of all matters coming before the City Council, and the directors and other officers shall be entitled to take part in all discussions of the City Council relating to their respective offices, departments or agencies.

Section 77

INVESTIGATION BY COUNCIL
OR BY CITY MANAGER

The City Council and the City Manager or any person or committee authorized by either of them, shall have power to inquire into the conduct of any office, department, agency or officer of the City and make investigation as to municipal affairs and do any and all things in the conduct of such inquiry as may be prescribed by law.

Section 78

CITY RECORDS TO BE PUBLIC

All records and accounts of every office, department or agency of the City shall be open to inspection by any citizen, any representative of a citizens' organization or any representative of the press at all reasonable times and under reasonable regulations established by the City Council, except records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish.

Section 79

BONDS OF OFFICERS, EMPLOYEES AND MEMBERS OF COUNCIL

All officers, employees and members of City Council shall give bond in such amounts and with such surety as may be approved by the City Council. The premiums on such bonds shall be paid by the City.

Section 80

OATH OF OFFICE

Every officer of the City shall, before entering upon the duties of his/her office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the City Clerk.

"I _____ name _____ solemnly swear (or affirm) that I will support the constitution and will obey the laws of the United States and the State of West Virginia, that I will, in all respects, observe the provisions of this Charter and ordinances of the City of Grafton and will faithfully discharge the duties of the office of _____."

Section 81

EFFECT OF CHARTER

This Charter shall entirely supersede the present Charter of the City of Grafton. All legislative and administrative acts or rules theretofore adopted by the governing body and administrative agencies of the City of Grafton which are inconsistent or in conflict with this Charter, shall continue in force for sixty (60) days after the effective date of the Charter, unless sooner modified or repealed by competent authority, but at the end of this period, shall be the extent, of such inconsistency or conflict, be of no further force or effect.

Insofar as the provisions of this Charter are the same in terms in substance and effect as provisions of law in force when this Charter shall take effect, relating to or affecting the City of Grafton, the provisions of this Charter are intended to be not a new enactment but a continuation of such provisions of law, and this Charter shall be so construed and applied.

Section 82

AMENDMENT TO CHARTER

Amendments of this Charter shall be made in accordance with the general laws of this State.

Section 83

SEVERABILITY OF CHARTER PROVISIONS

If any section or part of section of this Charter shall be held invalid by a court or competent jurisdiction, such holdings shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Section 84

FUNDING SERVICES; COMMITTEES; COMMISSIONS

By virtue of this Charter, City Council is hereby charged with the responsibility of adequately funding all services, committees and commissions of the City of Grafton to the best of their prudent ability. Services including water, police, fire, garage, etc. shall be budgeted separately (line item) in the annual budget of the City of Grafton.

City Council may have created or will create by ordinance other committees, commissions boards, etc. City Council shall also provide adequate funds and support for these groups and budget for them separately (line item) in the annual City budget.

Through the year, the City of Grafton, has acquired many valuable assets. City Council shall also provide adequate funding for the protection and preservation of all major City assets.

ARTICLE IX SUCCESSION

Section 85

RIGHTS OF OFFICERS AND EMPLOYEE PRESERVED

Nothing in the Charter contained, except as specifically provided, shall affect or impair the rights and privileges of officers or employees of the City or of any office, department or agency existing at the time when this Charter shall take effect, or any provision of law in force at the time when this Charter shall take effect and not inconsistent with the provisions of this Charter in relation to the personnel, ranks, grades, tenure of office, promotion, removal, pension and retirement rights, civil rights or any other rights or privileges of officers or employees of the City or any office, department or agency thereof.

Section 86

CONTINUANCE OF OFFICERS

All persons holding administrative office at the time this Charter takes effect shall continue in office and in the performance of their duties until provision shall have been made in accordance therewith for the performance of such duties or the discontinuance of such office. The powers conferred and the duties imposed upon any office, department or agency of the City by the laws of the State shall, if such office, department or agency, be abolished by this Charter, or under its authority, be thereafter exercised and discharged by the office, department or agency designated by the Council unless otherwise provided herein.

Section 87

TRANSFER OR RECORDS AND PROPERTY

All records, property and equipment whatsoever of any office, department or agency or part thereof, all the powers and duties of which are assigned to any other office, department or agency by this Charter, shall be transferred and delivered to the office, department or agency to which such powers and duties are so assigned. If part of the powers and duties of any office, department or agency or part thereof are by this Charter assigned to another office, department or agency, all records, property and equipment relating exclusively thereto shall be transferred and delivered to the office, department or agency to which such powers and duties are so assigned.

Section 88

CONTINUITY OF OFFICERS DEPARTMENTS OR AGENCIES

Any office, department or agency provided for in the Charter with a name or with powers and duties the same or substantially the same as those of an office, department or agency heretofore existing shall be deemed to be a continuation of such office, department or agency and shall exercise its powers and duties in continuation of their exercise by the office, department or agency by which the same were heretofore exercised and shall have power to continue any business, proceeding or other matter within the scope of its regular powers and duties commenced by an office, department or agency by which such powers and duties were heretofore exercised. Any provision in any law, rule, regulation, contract, grant or other document relating to such a formerly existing office, department or agency shall, so far as not inconsistent with the provisions of this Charter, apply to such office, department or agency provided for by this Charter.

Section 89

CONTINUANCE OF CONTRACTS AND PUBLIC IMPROVEMENTS

All contracts entered into by the City or for its benefit prior to the taking effect of this Charter shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or Charter provisions existing at the time this Charter takes effect may be carried to completion as nearly as practicable in accordance with the provisions of such existing laws and Charter provisions.

Section 90

PENDING ACTIONS AND PROCEEDINGS

No action or proceeding, civil or criminal, pending at the time when this Charter shall take effect, brought by or against the City or any office, department or agency or officer thereof, shall be affected or abated by the adoption of this Charter or by anything therein contained, but all such actions or proceedings may be continued notwithstanding that functions, powers and duties of any office, department or agency or officer party thereto may by or under this Charter be assigned or transferred to another office, department or agency or officer, but in that event the same may be prosecuted or defended by the head of the office, department or agency to which such functions, powers and duties have been assigned or transferred by or under this Charter.

Section 91

EFFECTIVE
DATE OF CHARTER

Upon the adoption of this Charter, its provisions shall immediately be in force for the purpose of doing all things required for the nominating and electing of members of the City Council, the special election to be held on Tuesday, April 30, 1985. The Councilmembers in office under the present Charter shall continue in office until July 1, 1986.

ARTICLE X
DISORDERLY CONDUCT, ETC.

Section 92

DISORDERLY CONDUCT, ETC.
PROHIBITED AT
MEETINGS OF CITY COUNCIL
ADMINISTRATIVE BOARDS
& COUNCIL COMMITTEES

(A) It shall be unlawful for any person to behave in a boisterous or disorderly manner at any meeting of the City Council, Council committee or administrative board thereof, or cause a disturbance thereat whether by force, shouting or other words or actions tending to disrupt such meetings, or fail or refuse to obey any ruling or order of the officer presiding at such meeting relative to the orderly procedure thereof.

(B) Boisterous or disorderly behavior within the purview of subsection (A) of this section shall include, but is not limited to, any of the following acts:

1. Contemptuous or insolent behavior towards the presiding officer or any member of the City Council, council committee or administrative board of the City Council or its City Clerk, sergeant-at-arms or any other officer, while the City Council, council committee or administrative board is in session.

2. Any breach of peace, willful disturbance or indecent conduct in the presence of such council, committee or administrative board while so engaged or so near as to obstruct its proceedings.

3. Violence or threats of violence to any member of such City Council, council committee, administrative board or any officer, witness or party going to, attending or returning from any City Council, council committee or administrative board

proceeding in respect to anything done or to be done in the course of such proceedings.

○ 4. Willful resistance to any lawful order of the presiding officer or sergeant-at-arms at any such meeting.

○

SUMMARY OF CHARTER CHANGES

Boundaries and Wards: descriptive wording omitted and an editor's note used to inform map is on file in City Clerk's office.

Form of Government: complete description given for "manager plan" as outlined in State Code.

Powers of City generally: kept much the same, except the sentence "The City shall have the right to abandon alleys and rights-of-ways, however City Council shall ascertain that no citizen be injured as a result of the abandonment and the City of Grafton will benefit by the abandonment.

City Council: City Council to serve staggered four (4) year terms, to be nominated from Wards, elected by voters of the City at large Election in May, 1986 persons in Ward one (1) and the at-large candidate would serve two (2) years. Wards 2, 3, and 4 would serve four (4) years and in the next election Ward one (1) and the at-large candidates would serve a full four (4) year term, and etc.

Salaries: \$50 per meeting for councilmembers not to exceed \$100 per month, and \$60 per meeting for the Mayor, not to exceed \$120 per month.

Conflicts of interest and penalties: new section.

Mayor: given right to vote on all matters in which a vote of council is required. Mayor shall appoint a sergeant-at-arms for all council meetings.

If at any time three (3) members of council are serving by appointment, they a special election will be held to re-elect the council.

City Manager: remains much the same except residency requirement changed. New Charter states he must reside within county while in office. Also must be evaluated by Council at least annually. Descriptive procedure given for removal. Rules outlined for naming an acting City Manager.

Forfeiture of office: new section.

City Clerk: must reside within county while in office and the duties are outlined.

Codification of ordinances: journal of ordinances must be kept on all ordinances in effect at time of new Charter plus any future ordinances.

Article 4: Administrative Boards new section includes police judge, police chief, fire chief, building inspector, city planning commission, Board of zoning appeals, enforcement agency, city hospital board, and board of parks and recreation.

Article 5 Budget: almost totally rewritten and includes a capital program.

Article 6 Department of Finance: item #11, concerning financial statement, is a new addition.

Contracts and improvements: bidding required for improvements costing over \$2,500; supplies and materials costing over \$1,500; equipment costing over \$1,000; and personal services over \$500. A new section was added which explains in detail all action on contracts and improvements.

Power of Recall: new section.

Election under recall petition: new section.

General provisions for services: new section.

Article 10 Disorderly conduct prohibited: new section disorderly conduct will be prohibited at all meetings of City Council, boards, or committees. This includes boisterous or disorderly manner whether by shouting, force, willful disturbance, and etc. Complete outline given in Charter.

NEW SECTION ADDED TO CHARTER INCLUDES:

Conflicts of interest and penalties
Forfeiture of office
Codification of ordinances
Administrative boards
Budget (nearly completely revised)
Contracts and improvements
Power of Recall
Election under recall petition
General provisions for services
Disorderly conduct.

OATH OF OFFICE

WEST VIRGINIA, TAYLOR COUNTY)
)
)
CITY OF GRAFTON)

TO WIT:

I, Thomas R. Gillespie, do solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and the State of West Virginia, that I will, in all respects, observe the provisions of this charter and ordinance of the City of Grafton and will faithfully discharge the duties of the office of Councilman (Ward I).

SIGNATURE:

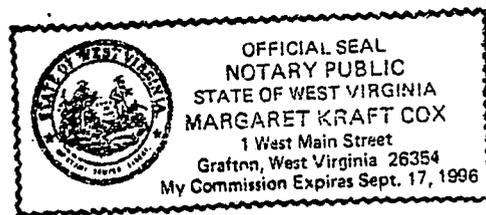
Thomas R. Gillespie

DATE:
May 19, 1992

Taken, subscribed and sworn before me this 19th DAY OF May, 19 92.

Margaret Kraft Cox
Notary Public

My Commission Expires:
September 17, 1996



OATH OF OFFICE

WEST VIRGINIA, TAYLOR COUNTY)
)
)
CITY OF GRAFTON)

TO WIT:

I, Chesley R. Rogers, Jr., do solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and the State of West Virginia, that I will, in all respects, observe the provisions of this charter and ordinance of the City of Grafton and will faithfully discharge the duties of the office of Councilman (At Large).

SIGNATURE:

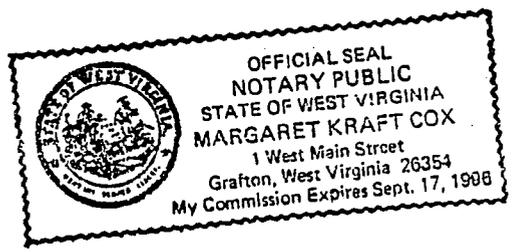
Chesley R Rogers Jr

DATE:
May 19, 1992

Taken, subscribed and sworn before me this 19th DAY OF
May, 19 92.

Margaret Kraft Cox
Notary Public

My Commission Expires:
Sept. 17, 1996



OATH OF OFFICE

WEST VIRGINIA, TAYLOR COUNTY)
CITY OF GRAFTON)

TO WIT:

I, DONNA C. HOYLER, do solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of West Virginia, that I will, in all respects, observe the provisions of the Charter and ordinances of the City of Grafton and will faithfully discharge the duties of the office of City Manager. So help me God.

Donna C Hoyle

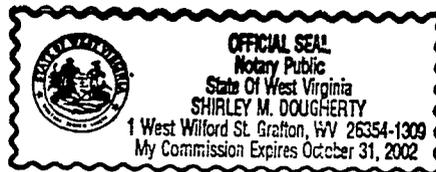
Taken, subscribed and sworn before me this 7th day of

June, 19 94.

Shirley M. Dougherty
Notary Public

My Commission Expires:

31 October 2002



OATH OF OFFICE

WEST VIRGINIA, TAYLOR COUNTY)
)
CITY OF GRAFTON)

TO WIT:

I, SHIRLEY M. DOUGHERTY, do solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of West Virginia, that I will, in all respects, observe the provisions of the Charter and ordinances of the City of Grafton and will faithfully discharge the duties of the office of City Clerk. So help me, God.

Shirley M. Dougherty

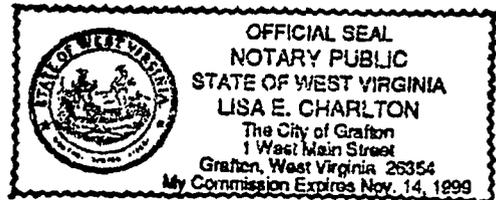
Taken, subscribed and sworn before me this 9th day of

June, 1994.

Lisa E. Charlton
Notary Public

My Commission Expires:

November 14, 1999



AN ORDINANCE INCREASING AND ESTABLISHING JUST AND EQUITABLE RATES OR CHARGES FOR THE USE OF AND SERVICES RENDERED BY THE WATER SYSTEM OF THE CITY OF GRAFTON, WEST VIRGINIA, FOR THE PURPOSE OF MEETING THE COSTS OF PROVIDING THESE SERVICES INCLUDING BUT NOT LIMITED TO, OPERATIONS, MAINTENANCE OF THE WATER WORKS SYSTEM AND METERING

WHEREAS, it is necessary that just and equitable rates and charges be established for the use and services rendered by the water system of the City of Grafton in order to produce necessary revenues for expenses of operation, repair, and maintenance of said system.

WHEREAS, rates and charges for such use and services have not been increased to meet the intended rate increases proposed by the Taylor County Public Service Commission. Said increase will establish the City of Grafton in a inequitable financial stature in regards to the Taylor County Public Service District's proposed rate increase.

WHEREAS, the City of Grafton having concluded that when said rate increases take effect the consequence will precipitate a diametric increase as to forestall a deficit position on behalf of the City of Grafton.

NOW, THEREFORE, the Council of the City of Grafton hereby ordains that:

A schedule of just and equitable rates or charges for use of and services by the water system of the City of Grafton be, and the same hereby is, established as follows:

MINIMUM CHARGES PER MONTH APPLICABLE TO ALL METERED SERVICE SHALL BE AS FOLLOWS:

RATE SCHEDULE 1

FIRST	10,000 gallons used per month	\$3.72 per 1,000 gallons
NEXT	20,000 gallons used per month	\$3.02 per 1,000 gallons
NEXT	30,000 gallons used per month	\$1.82 per 1,000 gallons
ALL OVER	60,000 gallons used per month	\$1.52 per 1,000 gallons

MINIMUM CHARGE

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

5/8 inch meter	\$5.58 per month
3/4 inch meter	\$8.37 per month
1 inch meter	\$13.95 per month
1 1/2 inch meter	\$27.90 per month
2 inch meter	\$44.64 per month
3 inch meter	\$83.70 per month
4 inch meter	\$139.50 per month
6 inch meter	\$279.00 per month

TAP FEE
\$275.00

TESTING OR RE-READING OF WATER METER
\$8.00

RECONNECTION
\$25.00

RATE SCHEDULE 2

ALL NON-METERED SERVICE

<u>RATE</u>	Domestic service:	\$10.40 per month per customer
	Commercial service:	\$22.61 per month per customer

16A

RATE SCHEDULE 3

PUBLIC AND PRIVATE FIRE PROTECTION

<u>RATE</u>	<u>MONTHLY</u>	
Fire hydrants, each		\$10.00
Sprinkler Heads (600 Heads or Less)		\$10.00
Additional Sprinkler Heads, each		\$ 1.70
Hose Connections for Fire Use Only 2½ inch openings or less, each		\$ 5.05

MINIMUM CHARGE

One Hundred Twenty Dollars (\$120.00) per annum

RATE SCHEDULE 4

TRANSPORTATION CHARGE

RATE

\$0.30 per 1,000 gallons sold to the resale customers of Taylor County Public Service District.

The foregoing Ordinance was duly and regularly adopted at a meeting of the Council of the City of Grafton, West Virginia, held on the 22nd day of December, 1992, after due notice, publication, and hearing thereon in the manner described by law. This ordinance shall take effect upon the date of passage.

Carole J. Klepfel
Mayor
Margaret Knapp Cox
City Clerk

FIRST READING: November 17, 1992
SECOND READING: December 22, 1992
PUBLIC HEARING: December 22, 1992
ADOPTION: December 22, 1992
PUBLICATION: November 23, 1992
November 30, 1992

Readvertised due to change in meeting night:
December 4, 1992
December 11, 1992

Eff - 393. Billing.

Howard Cunningham

P. S. C. Form 3
1M

P. S. C. W. Va. No. 11

Canceling P. S. C. W. Va. No. 10

CITY OF GRAFTON, a municipal utility
(Name of Utility)

OF

Grafton, West Virginia
(Location of Office)

Rates, Rules and Regulations for Furnishing WATER

AT

Grafton, Taylor County, and Vicinity, West Virginia.

Public Service Commission
on W.V. Tariff Office

JAN 27 1993

Special Studies Section
RECEIVED

Filed with THE PUBLIC SERVICE COMMISSION
OF
WEST VIRGINIA

Issued December 22, 1992

Effective February 5, 1993

Passed by City Council.

Issued by CITY OF GRAFTON
(Name of Utility)

By *Carole F. Kleppel*

Mayor

RATE SCHEDULE 1

All metered general, domestic, commercial and industrial service.

(A) RATE

FIRST	10,000 gallons used per month	\$3.72 per 1,000 gallons
NEXT	20,000 gallons used per month	\$3.02 per 1,000 gallons
NEXT	30,000 gallons used per month	\$1.82 per 1,000 gallons
ALL OVER	60,000 gallons used per month	\$1.52 per 1,000 gallons

(A) MINIMUM CHARGE

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

5/8 inch meter	\$5.58 per month	1
3/4 inch meter	\$8.37 per month	2
1 inch meter	\$13.95 per month	3
1 1/2 inch meter	\$27.90 per month	5
2 inch meter	\$44.64 per month	6
3 inch meter	\$83.70 per month	7
4 inch meter	\$139.50 per month	8
6 inch meter	\$279.00 per month	9

DELAYED PAYMENT PENALTY

The above tariff is net. On all accounts not paid in full within twenty (20) days of billing date, ten percent (10%) will be added to net amount shown. The delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

TAP FEE
\$275.00

TESTING OR RE-READING OF WATER METER
\$8.00

(A) RECONNECTION
\$25.00

(A) Indiatess advance

RATE SCHEDULE 2
ALL NON-METERED SERVICE

<u>RATE</u>		
Domestic service:	\$10.40	per month per customer
Commercial service:	\$22.61	per month per customer

*Stay
same*

RATE SCHEDULE 3

PUBLIC AND PRIVATE FIRE PROTECTION

<u>RATE</u>	<u>MONTHLY</u>	
Fire hydrants, each		\$10.00
Sprinkler Heads (600 Heads or Less)		\$10.00
Additional Sprinkler Heads, each		\$ 1.70
Hose Connections for Fire Use Only 2½ inch openings or less, each		\$ 5.05

MINIMUM CHARGE

One Hundred Twenty Dollars (\$120.00) per annum

RATE SCHEDULE 4

TRANSPORTATION CHARGE

- (A) RATE \$0.30 per 1,000 gallons sold to the resale customers of Taylor County Public Service District.

(A) Indicates advance

ORDINANCE NO. 575

AN ORDINANCE REPEALING ORDINANCE NO. 445 AND INCREASING THE RATES FOR SEWER SERVICE AS OPERATED BY THE CITY OF GRAFTON.

WHEREAS, That in February 1991, State Auditor, Don Summers, prepared for the Grafton Sanitary Sewer Board, an exit conference with recommendations for a proposed rate increase, based on the PSC report; and

WHEREAS, The Grafton Sanitary Sewer Board, after review of the current and projected Financial Statement, recommends and finds that rates for sewer service, as currently charged by the City of Grafton, are inadequate to provide sufficient revenues to meet reasonable and necessary operating expenses and taxes, debt requirements, and costs of extensions, replacement or emergencies; and

WHEREAS, in March 1991, the said financial statement and proposed rates were presented to City Council, which financial statement and proposed rates are hereby ORDERED filed and made a part of the record in this matter; and

WHEREAS, it is necessary that just and equitable rates or charges be established for the use and services rendered by such sewer system in order to produce the sufficient revenues for meeting reasonable and necessary operating expenses and taxes, debt requirements, and costs of extensions, replacement or emergencies.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GRAFTON, WEST VIRGINIA that the following rate schedule is hereby established and that the same shall apply to the entire territory served by the City of Grafton.

Available for general, domestic, commercial and industrial service.

RATE:

0-2000 gal.	\$7.40 minimum billing
2100-5000 gal.	\$4.31/thousand gal. over 2000
5000-10,000 gal.	\$3.10/thousand gal. over 5000
10,000-30,000 gal.	\$2.28/thousand gal. over 10,000
30,000-60,000 gal.	\$1.70/thousand gal. over 30,000
60,000-100,000 gal.	\$1.43/thousand gal. over 60,000
100,000-1,000,000 gal.	\$1.31/thousand gal. over 100,000
all over 1,000,000 gal.	\$1.05/thousand gal. over 1,000,000

MINIMUM CHARGE: No bill will be rendered for less than \$7.40 per month.

DELAYED PAYMENT PENALTY: The above tariff is net. On all accounts not paid in full within twenty (20) days of date of bill, ten percent (10%) will be added to the net amount shown.

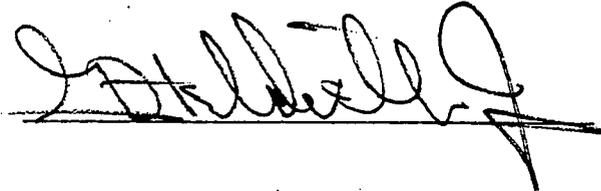
CONNECTION FEE: A connection fee of \$275.00 will be charged for a four inch line to the property line up to 60 ft. Over 60 ft. the charge will be \$4.00/foot. A connection fee of \$500.00 will be charged for a six inch line to the property line up to 60 ft. Over 60 ft. the charge will be \$5.00/foot.

MISCELLANEOUS CHARGES: A service charge of \$20.00 will be charged on all checks returned to the City of Grafton for insufficient funds.

CONTRACTS: Any and all contracts (Pruntytown Correctional Center) will be based on gallon usage with a minimum monthly bill of \$575.00.

This Ordinance shall be effective forty-five (45) days after adoption, or as soon thereafter as legally possible.

This Ordinance repeals Ordinance No. 445.



Attest: Margaret Kraft Coy

First Reading: 3-19-91

Second Reading: 4-16-91

Public Hearing: 4-16-91

Passed: 4-16-91

EFFECTIVE DATE: 5-31-91

Publications: 3-22-91 and 3-29-91

Eff July 91 Billing

P. S. C. W. Va. No. 8

Cancels P. S. C. W. Va. No. 7

Public Service Commission
on W.V. Tariff Office

MAY 30 1991

Special Studies Section
RECEIVED

CITY OF GRAFTON, a municipal corporation

OF

Grafton, West Virginia

Rates, Rules and Regulations for Furnishing

SEWERAGE AND SEWAGE DISPOSAL SERVICE

AT

Grafton and vicinity, Taylor County, West Virginia

Filed with THE PUBLIC SERVICE COMMISSION

OF

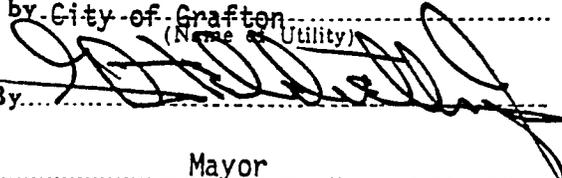
WEST VIRGINIA

Issued...April 16....., 1991

Effective ..June 1....., 1991

Passed by City Council

Issued by City of Grafton
(Name of Utility)

By 

Mayor

Available for general, domestic, commercial and industrial service.

(A) RATE:

0-2000 gal.	\$7.40 minimum billing.
2100-5000 gal.	\$4.31/thousand gal. over 2000
5000-10,000 gal.	\$3.10/thousand gal. over 5000
10,000-30,000 gal.	\$2.28/thousand gal. over 10,000
30,000-60,000 gal.	\$1.70/thousand gal. over 30,000
60,000-100,000 gal.	\$1.43/thousand gal. over 60,000
100,000-1,000,000 gal.	\$1.31/thousand gal. over 100,000
all over 1,000,000 gal.	\$1.05/thousand gal. over 1,000,000

(A) MINIMUM CHARGE: No bill will be rendered for less than \$7.40 per month.

DELAYED PAYMENT PENALTY: The above tariff is net. On all accounts not paid in full within twenty (20) days of date of bill, ten percent (10%) will be added to the net amount shown.

(C) CONNECTION FEE: A connection fee of \$275.00 will be charged for a four inch line to the property line up to 60 ft. Over 60 ft. the charge will be \$4.00/foot. A connection fee of \$500.00 will be charged for a six inch line to the property line up to 60 ft. Over 60 ft. the charge will be \$5.00/foot.

(N) MISCELLANEOUS CHARGES: A service charge of \$20.00 will be charged on all checks returned to the City of Grafton for insufficient funds.

(N) CONTRACTS: Any and all contracts (Pruntytown Correctional Center) will be based on gallon usage with a minimum monthly bill of \$575.00.

- (A) indicates Advance
(C) indicates Change
(N) indicates New

- I. Rules and Regulations for the Government of Sewerage Utilities, adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto and modifications thereof hereafter made by said Commission.

REGULAR MEETING
GRAFTON CITY COUNCIL
TUESDAY, NOVEMBER 17, 1992
CITY COUNCIL CHAMBERS
6:30 P.M.

I. Invocation by Father Mascioli

II. Pledge of Allegiance

III. ROLL CALL

Present were Mayor Carole Klepfel, Vice-Mayor Daniel Mankins, Councilman Russell Rockhold, Councilman Thomas Gillespie, and Councilman Chesley Rogers.

Also attending were City Manager Rick Clay; City Clerk Peggy Cox; Finance Director Larry Richman; Bluemont Cemetery Sexton Sam Wright; City Garage Supervisor Gerald Weber; David Holcomb and Keith Nuzum, Grafton Police Department; Dan Cox, Grafton Fire Department; and Darl Miller, Chairman, Urban Renewal Authority.

IV. DENNIS R. VAUGHAN, JR. (WV MUNICIPAL LEAGUE EMPLOYMENT SECURITY PROGRAMS)

Dennis R. Vaughan, Jr., Vaughan & Withrow, Attorneys and Counsellors at Law, introduced by City Manager Clay. Clay explained that Vaughan was here to speak on WV Municipal League's Employment Security Program, which Clay said he was suggesting City Council adopt.

Presented to council by Vaughan were copies of payments to WV Municipal League 1st and 2nd and 3rd quarters of 1992; statement of charges 1st, 2nd and 3rd quarters 1992; and WML Unemployment Financial Report July 31, 1992 and August 31, 1992. Vaughan stated he had served as General Council to Municipal League for past 20 years.

Vaughan said sixty-five municipalities have enjoyed a 10% minimum savings over other like towns and cities who are not a part of WV Municipal League Insurance Trust Fund Unemployment Security Program. This is a minimum percent savings and they have guaranteed this figure to City of Grafton. Many of the municipalities taking part in program are enjoying premium savings of up to 45% as compared to what they would have paid had they stayed within state program. Vaughan's office serves as the Program Administrator for WV Municipal League Employment Security Program.

Program was explained by Vaughan who went over documents he had presented to council. He said they have projected that some where near three quarters of a million dollar mark this program can and will become self sustained (it will pay for its own cost of administration). Vaughan said they found past claims being paid which should never have been paid. He said they found out by litigation on behalf of the program they could save program substantial monies. Vaughan had spoken to City Manager Clay at great length about this program to explain to him where the benefit lie. It is possible to self insure. Vaughan said they have had cities to experience up to a 40% savings immediately. This is a program which City of Grafton would own.

Vaughan explained history of WV Municipal League and its benefits. He left with City Manager forms which council would need to fill out, one of which is a resolution adopting into program. He said, if council wishes to take part in program in 1993, they would need to fill out forms no later than November 30, 1992. The month of December would be used to transfer out of state and into this program.

Enrollment rate is .84. Richman said state rate is now 1.9.

V. MINUTES OF REGULAR COUNCIL MEETING OCTOBER 20, 1992
MINUTES OF EMERGENCY COUNCIL MEETING, NOVEMBER 4, 1992
MINUTES OF EMERGENCY COUNCIL MEETING, NOVEMBER 6, 1992
MINUTES OF EMERGENCY COUNCIL MEETING, NOVEMBER 10, 1992

Motion to approve minutes of the four listed council meetings by Vice-Mayor Mankins.
Second by Councilman Rockhold. Roll Call Vote showed: Rockhold-Yes; Rogers-Yes; Mankins-Yes; Gillespie-Yes; Klepfel-Yes. MOTION CARRIED.

VI. CITIZEN'S VOICE

A. ALLEN COLLINS

Allen Collins, former police chief, 3 Monroe Street, addressed council regarding back-pay for holidays and vacation days he had not been compensated for when he left his position in June of 1991.

According to Collins, he had requested that then City Manager Margaret Pike pay him for the time he had accumulated during his service. Collins said he was told that as a department head, he did not have to be paid for holidays and that Pike did not want to discuss the matter.

Collins told council, "She said just leave and don't come back," when he wished to discuss the back-pay.

Collins received a check from the city for 52 hours of back-pay in 1991.

After this Collins was advised to contact the West Virginia Department of Labor which he did.

The DOL conducted an investigation and in September of 1992 Collins received a check for the majority of time. Collins said the DOL had indicated he should be paid for 53 days but 51 hours had been deducted from the check he received.

According to Collins, there is a time frame in which these actions need to be carried out and, "this was not done in my case."

Collins said if the allotted amount is not paid within the specified time frame the individual can collect a day's wages for every day it is not paid up to a limit of 30 days.

"I feel I am entitled to the thirty day penalty," said Collins. "I feel this matter could have been avoided by a qualified and competent City Manager," he said. Collins asked if he was going to get these 30 days or not.

City Manager Clay said he would handle Collins' case the same way he had handled Don Waggoner's case but would not be able to sit down with Collins until December.

"I'm not going to rush into a decision that affects my administration. If mistakes were made, I won't compound those with another mistake that puts the city in worse financial shape," said Clay.

Clay said he would sit down with the City Attorney and then with Collins and conduct a thorough investigation into the events and would base a decision on this information.

Collins said he had been waiting since June 1991 and would like to sit down with Clay as soon as possible. "I would like to get this out of the way," Collins said.

Clay suggested that Collins put together his case with any information he has to present to him. Clay will also contact the Department of Labor.

B. JIM SHACKELFORD

Shackelford said he resided in Pruntytown but owned property within City of Grafton. He said he had heard the City of Grafton was planning to hire a part-time police officer. He said one of the names mentioned needed to have a back ground check run. He said this individual has been involved in some things he felt should be checked into. Shackelford will talk with City Manager Clay privately about this matter.

Motion to go into Executive Session to discuss litigation and personnel by Rockhold. Second by Gillespie. Vote was unanimous. MOTION CARRIED. Regular meeting adjourned into Executive Session at 7:00 p.m. Present were Mayor Carole Klepfel, Vice-Mayor Daniel Mankins, Councilman Chesley Rogers, Councilman Thomas Gillespie, Councilman Russell Rockhold, City Manager Rick Clay, City Clerk Peggy Cox, and Finance Director Larry Richman. Regular meeting called back into session at 8:03 p.m. Mayor Klepfel explained that litigation and personnel problems had been discussed in Executive Session.

VIII. CITY MANAGER'S REPORT

City Manager Clay asked council's permission to allow a company doing renovation at the Elizabeth Cather Towers to place a construction trailer, to house tools and an office, on Haislop Street for a period of approximately one month. Since trailers are not allowed in City of Grafton by ordinance, Clay said he came to council for their permission. Motion to allow trailer to be placed on Haislop Street by Mankins. Second by Rogers. Roll Call Vote showed: Rogers-Yes; Rockhold-Yes; Mankins-Yes; Gillespie-Yes; Klepfel-Yes. MOTION CARRIED.

Clay said he wanted City Council and public to know Pension Board of Trustees and Relief Fund has gone for a declaratory judgment and have been presented a summons. City Attorney has answered summons, a copy of which has been sent to CNA. Higinbotham has filed his answer to our answer.

Donna Gallaher, State Road, had contacted Clay. Traffic changes previously approved by City Council at city garage are scheduled to take effect December 1. In the mean time change will be put out to the media.

Clay said there had been a request for an alley abandonment which would be addressed later in meeting under New Business.

Clay said an ordinance increasing water rates would be introduced tonight. He said once this ordinance has been submitted he was going to propose a decrease in sewer rates to offset increase in water rates.

Clay said there had been some questions about ordinance to be presented about Bluemont Cemetery. Clay said perpetual care would not be eliminated by this ordinance. The ordinance now on record was passed in 1927. It gave sexton authority to carry a weapon and called for a Cemetery Board which was never established. This new ordinance would put sexton and any Bluemont staff directly under control of City Manager. Ordinance to be submitted will strike all previous ordinances and fee schedules. When this ordinance is adopted there will be another ordinance presented to do a whole new administrative outlook on Bluemont Cemetery and set up new fee registry.

Clay had discussed Christmas lights on Main Street with Main Street Committee and Chamber of Commerce. He said City of Grafton would be assisting with light bill which will cost approximately \$300.00. He had instructed them to set this up so we would be paying for only a 30 day period.

Clay will be developing plan for changing street lights as mandated by power company. A packet had been prepared by Pat Burns. Clay will set up meeting with Burns to develop plan.

Clay said city had problems with some old structures. He had been discussing this with Mr. Hill. He said there were two pieces of property upon which the city can now act. He listed these structures as the house across from former Musgrove's Grocery and old Southern States on Latrobe Street. If these buildings have not been sold by state, Clay said city would have a bond fire and clean the lots.

Darl Miller, Chairman of Urban Renewal, stated this authority has power to buy or sell without bidding process. Miller asked that City Manager Clay attend December Urban Renewal meeting.

Clay also discussed three structures on Front Street. Have been able to get contract to tear down two of these structures. Clay said third structure would probably be burned.

Mayor Klepfel asked about dirt for caboose lot. Weber stated there was no top soil available at this time. Clay said this is being worked on.

VIII. COMMUNICATIONS

A. United States of America Federal Energy Regulatory Commission, Order Granting Extension Of Time, read aloud by Mayor Klepfel. Deadlines to commence and complete project construction, as required by Article 301 of the license, are extended until April 15, 1995 and April 15, 1997, respectively. Communication was written by J. Mark Robinson, Director, Division of Project Compliance and Administration.

Clay said he wished to re-examine contract. Mankins explained this was the license granted to the company with whom City of Grafton has a contract. Mankins agreed the contract should be looked at. Marge Gerkin said we should be sure we are going to get gross profit not net. Clay hopes to work closely with Gerkin and former Mayor John Murray on this project.

B. Letter from Taylor County Inter Agency, dated November 9, 1992, read aloud by Mayor Klepfel. Announced a meeting in Community Room, First Community Bank, November 20, 1992, 10 a.m. to discuss development of former Willard Hotel and B & O Complex. Several key state leaders have expressed an interest as well as a group of local representatives. Letter was signed by Carol Stockett, Community Projects Co-ordinator, Tygart Valley Development Authority. Mayor Klepfel and City Manager Clay plan to attend this meeting.

C. Letter from Century Cable, dated November 6, 1992, read aloud by Mayor Klepfel. Announced a November 16, 1992 teacher's workshop, 7 p.m. Morgantown High School, Room 312 to outline educational program offerings found on cable networks.

D. Mayor Klepfel read communication from City Manager Rick Clay to Commander of veteran's organization requesting a wreath be placed at Bluemont Cemetery which has been done.

E. Communication, dated October 31, 1992, to Daniel E. Mankins, read aloud by Mayor Klepfel. Complimented Mankins and Finance Director Larry Richman for assistance in alleviating problem at Bluemont Cemetery. Communication signed by Eleanor Jacobs Griffin.

F. City Manager Clay stated he had located a home in City of Grafton and would be moving his family this weekend.

G. West Virginia Grant Application and Guidelines For The Administration, Natural Resource Development Program, Tree Planting Initiative 1993. Anyone interested can contact City Manager Clay.

IX. COMMISSION, COMMITTEE AND BOARD REPORTS

A. RE-APPOINTMENT OF LOWE, MAYLE AND THORP TO B.Z.A.

Motion by Rockhold to re-appoint Lowe, Mayle and Thorp to a three year term on Board of zoning Appeals by Rockhold. Second by Gillespie. Roll Call Vote showed: Gillespie-Yes; Mankins-Yes; Rockhold-Yes; Rogers-Yes; Klepfel-Yes. MOTION CARRIED. They will be notified of re-appointment by City Clerk.

B. APPOINTMENT TO RECREATION COMMISSION (RESIGNATION OF KIM PISINO)

Motion to accept resignation of Kim Pisino by Mankins. Second by Rogers. Roll Call Vote showed: Rogers-Yes; Mankins-Yes; Rockhold-Yes; Gillespie-Yes; Klepfel-Yes. MOTION CARRIED.. Appointment to be tabled until next regular council meeting. Media to point out there is a vacancy on Recreation Commission.

C. ANNOUNCEMENT OF CITY PLANNING COMMISSION MEETING NOVEMBER 19, 1992

Meeting has been set for November 19, 1992. All members have been notified by mail of this meeting.

X. OLD BUSINESS

A. Mayor Klepfel asked if there was a report on hydro electric plant. Clay asked if there was a set committee or the group was just working together. In addition to Gerkin and Murray, Rockhold and Mankins represent City Council. City Manager Clay is also involved with the project. Clay suggested monthly meetings of the group. Mayor Klepfel stated Jess Kossak had talked with her about coming to Grafton to conduct a workshop. He had also mentioned a tour of a hydro plant in Pennsylvania. Mankins felt hands-on tour was a good idea.

B. Mayor Klepfel questioned city building repairs. Clay said we are working on it. He is trying to secure engineering study. He had received compliance recommendations from WV Board of risk. We are being asked to develop a plan for repairs to front of city building. Clay said he is looking into possible renovation, structural repairs.

XI. NEW BUSINESS

A. BOARD OF TRUSTEES/FIREMAN'S PENSION AND POLICEMAN'S PENSION AND RELIEF FUND V CITY OF GRAFTON

This was previously discussed under City Manager's Report.

B. RESOLUTION (SUSPEND PAY EQUALIZATION RESOLUTION)

Resolution read aloud by City Clerk. Motion to accept resolution by Vice-Mayor Mankins. Second by Rockhold. Roll Call Vote showed: Rockhold-Yes; Gillespie-Yes; Mankins-Yes; Rogers-Yes; Klepfel-Yes. MOTION CARRIED.

C. PAYING OF BILLS

Motion to pay bills by Rockhold. Second by Rogers. Roll Call Vote showed: Rogers-Yes; rockhold-Yes; Gillespie-Yes; Mankins-Yes; Klepfel-Yes. MOTION CARRIED.

D. FIRST READING, ORDINANCE #596 (OUTLINING PENALTIES FOR UNLAWFUL DISCLOSURE OF INFORMATION)

ORDINANCE NO. 596

AN ORDINANCE OUTLINING PENALTIES FOR UNLAWFUL DISCLOSURE OF INFORMATION

Motion to accept first reading of Ordinance #596 by Rockhold. Second by Gillespie.
Roll Call Vote showed: Gillespie-Yes; Rogers-Yes; Rockhold-Yes; Mankins-Yes; Klepfel-Yes.
MOTION CARRIED.

E. FIRST READING, ORDINANCE #597 (SUSPEND ALL ORDINANCES AFFECTING OPERATION/ADMINISTRATION OF BLUEMONT CEMETERY)

ORDINANCE NO. 597

AN ORDINANCE TO SUSPEND ALL ORDINANCES THAT DIRECTLY OR COLLATERALLY AFFECTS THE OPERATION AND ADMINISTRATION OF BLUEMONT CEMETERY THAT WAS CONSTITUTED BY ORDINANCE PRECEEDING THE ADOPTION OF THIS ORDINANCE

Motion accept first reading of Ordinance #597 by Mankins. Second by Rogers. Roll Call Vote showed: Mankins-Yes; Rockhold-Yes; Gillespie-Yes; Rogers-Yes; Klepfel-Yes. MOTION CARRIED.

✓ F. FIRST READING, ORDINANCE #598 (WATER RATE INCREASE)

ORDINANCE NO. 598

AN ORDINANCE INCREASING AND ESTABLISHING JUST AND EQUITABLE RATES OR CHARGES FOR THE USE OF AND SERVICES RENDERED BY THE WATER SYSTEM OF THE CITY OF GRAFTON, WEST VIRGINIA, FOR THE PURPOSE OF MEETING THE COSTS OF PROVIDING THESE SERVICES INCLUDING BUT NOT LIMITED TO, OPERATIONS, MAINTENANCE OF THE WATER WORKS SYSTEM AND METERING

Marge Gerkin asked if this increase could be held off until PSD rate increase hearing was held to see the outcome, Richman said, if this increase is approved, it will increase our rates over \$30,000 per year. He feels it will pass. Clay said we have petitioned against this PSD increase but he feels it will be approved. Mankins said he understood they had petitioned for a 4 cent rate but the County Commission had given them an eight cent rate. Clay is looking into master meter.

Motion by Mankins to accept first reading of Ordinance #598. Second by Rogers. Roll Call Vote showed: Mankins-Yes; Rockhold-Yes; Rogers-Yes; Gillespie-Yes; Klepfel-Yes. MOTION CARRIED.

G. ~~FIRST READING, ORDINANCE #599 (SUSPEND AMENDMENT OF AMENDED ORDINANCE TO POLICEMEN'S PENSION AND RELIEF FUND AND ELIMINATE EARLY RETIREMENT PROVISO OF ORDINANCE NO. 128, 546~~

ORDINANCE NO. 599

AN ORDINANCE TO SUSPEND AMENDMENT OF AMENDED ORDINANCE TO POLICEMEN'S PENSION AND RELIEF FUND AND ELIMINATE EARLY RETIREMENT PROVISO OR ORD. 128, 546

Motion to accept first reading of Ordinance #599 by Rockhold. Second by Rogers.
Roll Call Vote showed: Mankins-Yes; Gillespie-Yes; Rogers-Yes; Rockhold-Yes; Klepfel-Yes. MOTION CARRIED.

H. FREE DECEMBER MAIN STREET PARKING

Council had asked that City Manager Clay talk to local business owners concerning advantages and disadvantages of free parking during December. Clay did not think it would accomplish anything

to allow free parking. Clay said he had instructed police officers to start tagging vehicles and checking meters. Motion that City of Grafton does not give free parking for December by Rockhold. Second by Rogers. Roll Call Vote showed: Rockhold-Yes; Rogers-Yes; Mankins-Yes; Gillespie-Yes; Klepfel-Yes. MOTION CARRIED.

I. REVISION TO 1992-1993 BUDGET

Motion to accept revision to 1992-1993 budget by Rockhold. Second by Mankins. Roll Call vote showed: Mankins- Yes; Gillespie-Yes; Rockhold-Yes; Rogers-Yes; Klepfel-Yes. MOTION CARRIED.

J. EMPLOYEE'S CHRISTMAS BONUS

Motion by Vice-Mayor Mankins that each city employee receive a \$100.00 Christmas bonus. Second by Rockhold. Roll Call Vote showed: Rogers-Yes; Mankins-Yes; Rockhold-Yes; Gillespie-Yes; Klepfel-Yes. MOTION CARRIED. Richman said funds are available.

K. ABANDONMENT UNNAMED ALLEY (KNOTTS ADDN.)

City Clerk read aloud communication, dated November 12, 1992, from Charles A. Patterson and Vera V. Nestor requesting abandonment of 18 foot alley between lots 95 and 110 and lots 96 and 109 Knotts Platt. \$100.00 fee had been paid to City Clerk. This information will be sent to City Attorney Clay for ordinance preparation.

XII. COUNCIL MEMBER'S HEARING

Councilman Gillespie reported he had attended a meeting of County Planning Commission on November 12, Court House Complex. Theme of meeting was, "Where Is The County Going In The Next Ten Years?" Discussed Sub-division Law and I-79 Impact Study. Expect Harrison County representatives to attend next regular meeting, December 10, 1992, 7 p.m. Doug Moats was elected chairman; John Masey, co-chairman; Jenny Carder, secretary. Will hold bi-monthly meetings. City Clerk to mark City Manager's calendar with date of next meeting as he plans to attend.

Vice-Mayor Mankins asked if some lighting could be looked into coming from Rt. 50 onto Fetterman Bridge. Could be looked into when re-negotiating lights with power company.

Mankins, member of Hospital Board, said there were some fire hydrants at hospital which need to be replaced. This had been discussed with former City Manager Pike approximately a year ago but no action was taken. City Manager Clay will get in touch with Grafton City Hospital Administrator Randy Roberts.

XIII. ADJOURNMENT

Meeting adjourned at 9:17 p.m.

Mayor Carole Klepfel

ATTEST:

Margaret Kraft Cox
CITY CLERK

Approved 22 Dec 92

City Manager Clay explained that ordinance was actually request from State Tax Commission to all municipalities and dealt with disclosure of tax information and penalties for disclosing information. "The ordinance is constitutionally correct," said Clay.

Former Mayor John Murray said he had same question as Pike. He did not know what the thing was all about either. He said it sounded to him as if they were trying to beat Freedom of Information Act to death and if that was the case, they were wrong.

Don Knotts stated his agreement with Murray on Freedom of Information Act.

Betty Walls asked if ordinance has been checked by City Attorney Crane. Clay said the ordinance had been checked by Crane.

Motion to pass second reading of Ordinance #596 by Mankins. Second by Gillespie. Roll Call Vote showed: Mankins-Yes; Gillespie-Yes; Rockhold-Yes; Rogers-Yes; Klepfel-Yes. MOTION CARRIED.

V. SECOND READING, PUBLIC HEARING, ORDINANCE #597, SUSPEND ALL ORDINANCES THAT DIRECTLY OR COLLATERALLY AFFECTS OPERATION/ADMINISTRATION OF BLUEMONT CEMETERY

ORDINANCE #597

AN ORDINANCE TO SUSPEND ALL ORDINANCES THAT DIRECTLY OR COLLATERALLY AFFECTS THE OPERATION AND ADMINISTRATION OF BLUEMONT CEMETERY THAT WAS CONSTITUTED BY ORDINANCE PRECEEDING THE ADOPTION OF THIS ORDINANCE

Mayor Klepfel opened floor for discussion of Ordinance #597. Betty Walls asked that ordinance be explained. "Some of us have our heritage up there," she said.

Linda Cross stated she had family members buried at Bluemont Cemetery and she wanted to know what was going on.

Wanda Miller stated her sister was buried in Bluemont Cemetery but officials had not been able to locate the grave.

City Manager Clay explained that ordinance would suspend all existing ordinances pertaining to cemetery but operations would not change. He said key changes will include bringing Sexton, or Superintendent, under City Manager's control and increasing penalties for lewd and excessive misuse of roads. Clay said there would be no change whatsoever in operations.

Citizens questioned what would happen in interim between ordinance that repeals all existing ordinances and passage of a new ordinance. John Murray commented, "You're going to be swinging in the wind." Margaret Pike asked what would happen if a person was buried during this period and the family refused to pay because there was no ordinance in effect. Elizabeth Larrick commented, "You're not giving the citizens enough," to City Manager Clay. Clay responded that citizens could come to him at any time to obtain copies of any ordinance.

Councilman Gillespie said, "I've been here this whole night and seen some citizens come in with chips on their shoulders. We're here to do business, not chastise everything because you don't like the City Manager or council. We need to work together."

Former Mayor Murray said, "No one can have an opinion other than yours." At this time Mayor Klepfel asked for his removal from meeting.

Pike continued by saying that cemetery ordinances needed changed. "Those old ordinances include provisions that the Sexton have blood relations buried in cemetery and that he can carry a gun. These could get the city in trouble."

Rockhold moved to amend Section four of the ordinance to take effect on date of passage of a new ordinance rather than on date of passage of #597. Second by Mankins. Roll Call Vote showed: Gillespie-Yes; Mankins-Yes; Rockhold-Yes; Rogers-Yes; Klepfel-Yes. MOTION CARRIED.

* VI. SECOND READING, PUBLIC HEARING, ORDINANCE #598, INCREASING JUST AND EQUITABLE RATES OR CHANGES FOR USE OF AND SERVICES RENDERED BY WATER SYSTEM

ORDINANCE #598

AN ORDINANCE INCREASING AND ESTABLISHING JUST AND EQUITABLE RATES OR

CHARGES FOR THE USE OF AND SERVICES RENDERED BY THE WATER SYSTEM
OF THE CITY OF GRAFTON, WEST VIRGINIA, FOR THE PURPOSE OF MEETING
THE COSTS OF PROVIDING THESE SERVICES INCLUDING BUT NOT LIMITED TO,
OPERATIONS, MAINTENANCE OF THE WATER WORKS SYSTEM AND METERING

Mayor Klepfel opened floor for discussion of Ordinance #598. Marge Gerkin asked that ordinance be read aloud. Council complied. Ordinance read aloud by City Clerk.

City Manager Clay said increase would be used to upgrade water system. Tentative plans include replacing the tank at Bluemont Cemetery, adding a 10 thousand gallon tank in Lucretia, and upgrading Main Street line. Ordinance will eliminate deficit the proposed increase by P.S.D. would have created.

Clay said we are not losing \$20,206 per year. With this rate increase we will be able to generate revenues of \$157,000 per year. If ordinance is not passed it will increase our indebtedness by \$31,000 plus \$20,206 if P.S.D. increase goes into effect. Clay said we are required by West Virginia Bond Commission to put 2 1/2% of gross water proceeds into Sinking Fund each year which has not been done for a long time. That account is for upgrading system.

Pike asked overall percentage of rate increase. Clay answered .46% overall.

Rockhold suggested doing away with pump stations. Clay said he was looking at moving tank to a higher elevations which would eliminate three, possibly four, lift stations. Clay said he was looking at several possible revenue sources to do these upgrades.

Clay said there was just one fire hydrant at City Hospital which is antiquated. He had discussed with Randy Robers the possible addition of three more hydrants.

Motion to pass Ordinance #598 by Mankins. Second by Gillespie. Roll Call Vote showed: Rogers-Yes; Gillespie-Yes; Mankins-Yes; Rockhold-Yes; Klepfel-Yes. MOTION CARRIED.

VII. SECOND READING, PUBLIC HEARING, ORDINANCE #599, ORDINANCE TO SUSPEND AMENDMENT OF AMENDED ORDINANCE TO POLICEMEN'S PENSION AND RELIEF FUND AND ELIMINATE EARLY RETIREMENT PROVISOR OR ORDINANCE NO. 128, 546

ORDINANCE #599

AN ORDINANCE TO SUSPEND AMENDMENT OF AMENDED ORDINANCE TO POLICEMEN'S PENSION AND RELIEF FUND AND ELIMINATE EARLY RETIREMENT PROVISOR OF ORD. 128, 546

Floor opened for discussion of Ordinance #599 by Mayor Klepfel. This deals with both fire and police. Citizens were assured that this ordinance would not affect existing pension funds. Clay said when previous ordinance was passed it was with understanding city set up a separate pension fund to pay for early retirement. This was not done and is a violation of state code. Pension funds will remain the same. This eliminates only the proviso. Clay said this ordinance takes away City's liability.

Motion by Mankins to pass Ordinance #599. Second by Rockhold. Roll Call Vote showed: Rogers-Yes; Gillespie-Yes; Mankins-Yes; Rockhold-Yes; Klepfel-Yes. MOTION CARRIED.

Mayor Klepfel announced that there would be no increase in parking fees.

Meeting adjourned at 7:25 p.m.

Mayor Carole Klepfel

Margaret Kraft Cox
City Clerk

REGULAR MEETING

GRAFTON CITY COUNCIL

TUESDAY, MARCH 19, 1991

6:30 P.M.

I. Invocation by the Rev. Bob Smith.

II. Pledge of Allegiance

III. ROLL CALL

Present were Mayor G. D. Heldreth, Jr., Assistant-Mayor Billy G. Workman, Councilwoman Lela Mullinax, and Councilman Russell Rockhold.

Also attending were Acting City Manager Allen Collins; City Clerk Peggy Cox; Jim Pennington, Sewer Plant Operator; Mary Gabbert, Secretary/Bookkeeper, Sanitary Sewer Board; Larry Richman, Finance Director; Lou Ann Holland, City Attorney; Fire Chief Bill Roy; Bruce Miller, High Way Safety Co-Ordinator; Beryl Riley, member Sanitary Sewer Board; Darl Miller, Co-Chairman Urban Renewal; Bob Baker, Gerald Weber and Jeff Johnston, city employees.

IV. MINUTES OF REGULAR COUNCIL MEETING MARCH 5, 1991

With no additions or corrections, minutes of regular council meeting, March 5, 1991, will stand as presented.

MINUTES OF SPECIAL COUNCIL MEETING MARCH 8, 1991

With no additions or corrections, minutes of special council meeting, March 8, 1991, will stand as presented.

Letter of resignation, dated March 8, 1991, from Billy E. Pierson, councilman from Ward II, was read aloud by City Clerk. Resignation was effective March 8, 1991. Motion to accept resignation of Pierson by Councilwoman Mullinax. Second by Assistant-Mayor Workman. MOTION CARRIED.

Motion by Councilman Rockhold to appoint Margaret Perks to the unexpired term of Pierson. Second by Mullinax. There were no further nominations. MOTION CARRIED. UNANIMOUS VOTE. Rockhold said Perks had two years of college and young people were needed on council. At this time Oath of Office was administered to Perks by City Clerk.

Letter from Don Summers, State Auditor, dated March 11, 1991, addressed to Mayor G. D. Heldreth, Jr., was read aloud by City Clerk at request of Mayor Heldreth. Summers indicated he hadn't received co-operation from City Attorney in obtaining documentation of possible liability costs to the City of Grafton pending lawsuits although he had contacted her by letter and phone in addition to being available at City Hall.

Attached to Summers' letter was Note 9 to State of West Virginia stating City Manager was absent due to illness most of time auditor was on site and a lack of co-operation on part of City Attorney to provide requested information, it was impossible to determine if any lawsuits had been filed against the city, the possible outcome of such lawsuits and the possible amount of damages that the city might be held liable for. Therefore, any potential liability, material or immaterial, cannot be included in the report as presented and the amounts used in the report may be affected by the decision of the court.

Holland's public statement was that she had completed work on the information requested by the state auditor and apparently the two items crossed in the mail. She said council had been informed of this by memo she had issued in their packets.

Heldreth stated, "We have a personnel problem in reference to the City Attorney and at this time we could either conduct it in the open or we could go into Executive Session, whichever she wishes." Holland said, "I request an Executive Session." Motion to go into Executive Session by Workman. There was no second to the motion. Heldreth said, "I do not hear a second to that motion so I guess we will conduct a hearing as is." Holland said, "I request an Executive Session. It is a personnel matter and I have a right to have the matter held in Executive Session." Heldreth and Mullinax stated Holland should be granted this right if requested. Mullinax said she would second the motion to adjourn into Executive Session. Voting to go into Executive Session were Perks, Workman, Rockhold and Mullinax. Heldreth did not vote. MOTION CARRIED. Adjourned into Executive Session at 6:45 p.m.

Attending Executive Session were Acting City Manager Allen Collins, City Attorney Lou Ann Holland, Mayor G. D. Heldreth, Jr., Assistant-Mayor Billy G. Workman, Councilwoman Lela Mullinax, Councilwoman Margaret Perks, Councilman Russell Rockhold. Bruce Miller was present for a period of time. Mayor Heldreth asked that City Clerk be allowed to come in and take notes but this request was refused by Holland. Also during Executive Session an attorney from Steptoe and Johnson was called in and excused before session ended.

Regular meeting called back into session at 8:10 p.m. Mayor Heldreth announced that it was the contention of council to delay personnel problem one council meeting. There will be a decision made at next council meeting. Heldreth asked for a motion to that effect. Rockhold said he had a motion he would like to make. "I would like the discharge of the City Attorney because I don't like what the auditor said. He was on site, this location, and he lacked the co-operation of the City Attorney. I don't like to see things like that. I would like to see the attorney dismissed." "Every week it gets worse," said Heldreth. "I've felt all along we weren't getting our money's worth from the City Attorney." At that point, Heldreth handed his gavel to Assistant-Mayor Workman so he could second Rockhold's motion to remove Holland. Roll Call Vote showed: Perks - Yes; Workman - No; Rockhold - Yes; Mullinax - No; and Heldreth - Yes. MOTION CARRIED.

Gavel taken back by Mayor Heldreth. Heldreth said that the motion had been approved by a majority of council and instructed Holland, who was seated in the audience, to return all official paperwork to the city.

Heldreth said another situation had been discussed in Executive Session in reference to Allen Collins. Statement had been read and presented to Collins. Heldreth said he felt it was illegal for Collins to act in dual capacity of City Manager and Police Chief carrying his gun and badge. Heldreth said a strong attorney's opinion had been secured stating that if Collins had become involved in a situation on the street, he could shoot someone and really put the city into a financial bind.

Heldreth said, "I would like to see Collins step back down to his position as Chief of Police or hear council make a motion to that effect." He said, "This city has gone haywire under recent administration" Rockhold made motion for Collins to return to his post of Police Chief. Second by Perks. Roll Call Vote showed: Perks - Yes; Workman - No; Rockhold - Yes; Mullinax - No; Heldreth - Yes. MOTION CARRIED. Mullinax said she voted no because she heard Bowman was coming back by April 2 or at least by then she would know what she was going to do.

Collins said, "If that's council's wishes. Thank you very much for the opportunity to serve." Collins picked up his papers from council table and left council chambers.

V. CITIZEN'S HEARING

A. MARCE GERKIN

Gerkin said she was still having problems with fact City Manager is being paid for 60 days when she had not worked for City of Grafton for one full year. Perks stated she had looked into this information and Bowman was to compile $1\frac{1}{2}$ days per month for each month she worked. "They have been paying her, from my understanding, and that is a violation of the personnel policy," said Perks. "As far as I am concerned, she ought to have to pay the difference back," said Perks.

"Or work it until she has made it up. You wouldn't do that for some city worker over in the city garage if he broke his leg and couldn't work. You wouldn't pay for him while he couldn't work. She is a city employee and should be protected under the personnel policy just like the rest of them," added Perks.

Heldreth referred to city office employee whose pay stopped the day she left her position and gave birth. Heldreth read portion from personnel policy stating, "This personnel policy is intended to be the personnel policy of all hourly and salaried employees of the City of Grafton." Anyone on salary is covered by the personnel policy the same as anyone on an hourly rate

Gerkin said she also has a problem with vacation which was given Bowman in December to go to Colorado. Gerkin said she had specifically asked at that time whether this was to be a paid vacation. She said she was told it was unpaid vacation. "You have to work a year before you get five days vacation," said Gerkin. Gerkin said she felt somebody had better pay for the vacation. Heldreth said Bowman had also gone to Ft. Myers, Florida, for a visit with her mother. Gerkin said she was not aware of this.

Perks asked, "Did she authorize this paid vacation herself? I need some information here." Heldreth said the only thing he knew was that Bowman said she had the tickets to Colorado and Assistant-Mayor Workman responded, "If you have the tickets, go ahead and go." "Is Mr. Workman going to pay for that vacation?" asked Gerkin. No comment from Workman.

Gerkin said she was a tax payer and was paying the salaries and didn't feel citizens ought to pay them. Gerkin also questioned the time off of an employee she didn't publicly name. She questioned if the time off was accumulated sick leave or vacation time. Gerkin referred to city garage employee who had surgery, used all his sick leave, was unable to return to work and went without pay until he was able to return to work. Gerkin said a precedent had been set and asked if the same thing would be done for all other employees. Heldreth said if this was allowed to happen, a precedent would be set and all employees in the future given the same benefits.

Heldreth said, "This city has run loose every since Bowman has been gone due to excessive telephone calls of which he had the records." He said as many as eight calls per day were made, four to the hospital when they absolutely issued a n order that no one was to contact the hospital. Memo to this effect was read aloud by Heldreth. Heldreth said calls were made to the hospital and to Bowman's sister in Virginia Beach. Heldreth said excuse was used that they wanted to know her condition. "Someone should answer for all those telephone calls," said Heldreth. He said he had mentioned it to Finance Director. "He stuttered and stammered and said he thought they would pay for the calls." Heldreth said, "If you go out and rob a bank, you don't go back three months later and return the money and say you are sorry. That does not release you of all responsibility." Heldreth said he felt the telephone system in Grafton has been misused. We are paying \$150.00 per month for telephones at City Garage office. We could have one removed and save \$75.00 per month. Heldreth said if we get on the ball on a sound operating basis we might not need a sewer or garbage increase.

Mayor Heldreth called for the fish pond at Bluemont Cemetery to filled in and planted with flowers as the city has been billed \$147.00 per month for water at the pond.

Mayor Heldreth suggested that a pay phone be installed in the hallway of City Hall for personal calls during working hours.

Heldreth said he did not favor an increase in either the garbage or sewer fees at least not before the city starts to operate in the red in these areas. Mayor Heldreth said the losses indicated the the auditor are mainly paper losses shown only in depreciation accounts.

Heldreth said only full trucks of garbage should be taken to landfill. He said he felt if the City of Grafton would have a good City Manager, that would tighten things down, we would have a town we could be proud of. He said we are the laughing stock of the entire nation and it is now

time to get it straightened up.

Gerkin said she will still pressure council members to see that Bowman has a doctor's release before she comes back to Grafton. Perks said it was the understanding of council this evening that Bowman has been released to a cardiologist and it is her intention to obtain a doctor's release by the first part of April. Gerkin would like this checked out when it is obtained.

Heldreth said, as a private citizen, he had sent a letter to Bowman wishing her quick recovery and ask her if she had idea when she might be back to work. Bowman has never once contacted him in any way telling him her condition or when she thought she might return to work. He said he personally felt the Mayor should be one of the first ones to be informed.

Heldreth said he was told quite a while ago that he was in violation of the charter. He said, at that time, he would get right. He said he felt everyone working for the city should also be right with the charter and personnel policy too. He said it made no difference to him if he stayed on the council another day as he had nothing to gain except he resides in the city and is trying to get it straightened out.

Finance Director Richman stated the City Manager was receiving full pay as of today. He said it was in the minutes that the council had agreed to continue her wages. No motion was ever taken to that effect.

Mayor Heldreth stated in one respect he hadn't respected former Mayor John Murray but now he respects the hard nosed approach Murray used as Mayor.

Perks said we were in violation of the personnel policy because City Manager Bowman is being paid right now. She has not accumulated enough sick days to get it. Perks asked who authorized the pay. Richman said it was in the minutes that the council had agreed to continue Bowman's wages. Never a motion made to that effect. Heldreth said this must be in the form of a motion in order for it to stand. Heldreth said he feels Bowman should be removed from the payroll until she returns with a doctor's slip. Perks said she felt all council needed to do was to explain to Bowman that they were in violation of the personnel policy whether it was a mistake on the part of council, excluding her, as she was not a member of council at that time, so Bowman needs to make it up somehow. Motion by Perks that Bowman's pay stop as of now. Second by Rockhold. Heldreth repeated motion, "Bowman's pay stop until she returns with a doctor's slip as a full time City Manager." Abstaining were Workman and Mullinax. MOTION CARRIED. Perks said she would also like to have it noted that Finance Director was present when this motion was made.

John Murray questioned on what grounds Mullinax and Workman were abstaining? Workman responded, "On my grounds, John. If I want to abstain, I will abstain." Rockhold said he would also like that question answered. Workman called for the Sergeant At Arms to remove Murray from the council room. Heldreth stated that only the Mayor has the right to have an individual removed from Council Chambers. Workman said he would make a motion that Murray be removed. Heldreth said point of abstaining should be clarified. By abstaining, Rockhold felt Mullinax and Workman did not believe in the personnel policy. Perks said, "Or they don't believe we are in violation when it is right here in black of white." Intent of Personnel Policy was read aloud by Perks. Last sentence states, this personnel policy is intended to be the personnel policy of all hourly and salaried employees of the City of Grafton." Bowman is a salaried employee.

Heldreth said every way had been tried to railroad him because he made one little violation. He was man enough to apologize when he called an illegal meeting or so they said. All employees should go by the state code, charter and personnel policy. Perks said you get into trouble when exceptions are made. Perks stated paid sick leave is a benefit and thus must be earned. Bowman did not earn the sick pay except for what ever she had compiled. "I don't see how anybody that could read, could disagree," said Perks. "Peggy, I would like it to be noted that Larry Richman was also present when we decided to discontinue the City Manager's salary until she returns," said Perks. "Larry, the council voted to discontinue her wages until she returns to the city full time," said Mayor Heldreth.

B. ELIZABETH LARRICK

Larrick suggested, along with the pay telephone, a time clock be installed. Heldreth said he agreed with this 100%. He said he knew of employees who went to lunch at 11:30 and didn't get back until 1:30 or 2:00 in the afternoon. This is not only one employee. Citizens up and down Main Street have observed this happening. This has been called to the attention of Heldreth by these citizens. Heldreth said a time clock would work only as good as the honesty of the people. Larrick suggested somebody to check on the checker.

C. LOUISE HICKMAN

Hickman asked who is going to pay wages which have already been paid out to Bowman. Perks answered, "She will have to agree to make it up is the only way I can see to make it fair. If she doesn't come to that agreement, it will be a small loss, but it won't happen again." Hickman asked what would happen with the other employees in the same situation. Perks said this was something she was going to have to look into because she was not aware there had been situations such as this. Perks said there will be no more exceptions to the rule. You stop it right now before it happens again. Perks said Bowman should make up the time she got paid for without pay or she is going to have to accept some other alternative. Citizens can expect an answer sometime after Bowman returns and council has had time to consider the matter.

D. DONALD KNOTTS

Knotts said most of his questions had already been answered. He felt \$1.50 garbage rate increase was ridiculous. He hasn't seen where any landfills have raised their rates yet so why raise the garbage rates until they do. Heldreth said council, more or less decided, no vote has been taken, not to raise the garbage or sewage until it has to be done. When the time comes that the city is not operating in the black, citizens can expect an increase in garbage and sewage. Knotts agreed with elimination of attorney fees as they had been paying two attorneys.

E. DARL MILLER

Miller said nearly everything he wanted to cover had been taken care of. He said he doubted there were 1,100 minimum bills going out each month as stated in the newspaper. He said he felt there were some bad meters and they should be checked. Miller said Hickman's permit for car wash was held up six months but a permit was immediately issued for a man to build a garage down on West Main Street over old gas tanks. He said if the E.D.A. decides they want the gas tanks out, the City of Grafton just bought themselves a garage. Darl Miller said council should begin to legislate and mandate which he thinks is beginning to be done.

Pennington said the 1,100 minimum bills was an itemized printout on record for billing.

Pike asked how often city was required to check operation of meters. PSD bases this on size of meter. Perks asked Weber, who had replaced her meter last year, just how reliable the meters are. Weber replied that the majority of the meters do work properly from his experience. Pennington said it was hard to check door to door. He felt citizens knew history and should report any situation where they suspected meters were being tampered with. Pennington said he could not check the water department when he is in the sewer department. Perks said there was a big lack of communication. Pennington felt there was no communication.

Margaret Pike asked for a point of order. She asked why the meter reader was not responsible for checking these things and reporting back. Perks said the meters cannot be checked while on the houses. Must be removed and taken to city garage. Pike said surely the meter reader could tell if there had been a big drop in the bill.

Bob Baker, meter reader, said there were situations where the meter was located inside with the readout on the outside. There are meters which he has never seen as long as the readout functions. Until he sees a substantial decrease in usage or it stops, he then goes in and investigates. If he sees a substantial rise, he investigates to see if there is a leak.

Gerkin asked, "Were we mandated three years ago when there was a raise it was stipulated that

the meters would be put in the wells. Baker said this was being done but there is a cost factor there. Cost of a new meter is \$35.00. Heldreth said he felt with the co-operation of the meter reader, girls in the office, and Department of Public Works, this problem can be resolved.

F. JOHN MURRAY

Murray said council had gotten more done tonight than they had in the last year. He said he never could see paying the City Attorney paid for going to see about hydroelectric. He felt more good would be done if the Mayor and one of the councilmembers went to see Senator Byrd. Felt council got rid of a lot of expense they did not need. Murray asked when the contract ran out with Jeff Kossak. Heldreth said he thought an extension had been granted on the contract. Murray felt this had better be checked into. This had not cost the city a cent. All costs were taken care of by Kossak, attorney fees and even long distance telephone calls.

G. GREG GOODWIN

Goodwin said Collins was to have introduced something tonight in behalf of the city employees but he had stepped down as Acting City Manager. Goodwin said that the minimum wage would increase to \$4.25 the first of April. Goodwin said a plan had been devised by city employees which could offer fringe benefits such as medical insurance for families instead of a monetary increase.

Mayor Heldreth said he had long favored implementing a uniform wage policy.

Goodwin asked if council would like to discuss this plan in Executive Session. Asked if council would like this plan presented at tonight's meeting so they could take a look at it. Mayor Heldreth did not feel this would be an appropriate time for presentation. He asked that employees wait until council gets things leveled off. Heldreth asked that they check with council at next regular meeting. Goodwin will get this information to City Clerk who will make copies and present to council prior to next meeting.

H. PEGGY POE

Peggy Poe said she would like to congratulate Margaret Perks on her appointment to council. "However, I don't think you could have picked a worse night to put her in," said Poe. "You said it. I should have brought an ax with me," replied Perks.

VI. CITY MANAGER'S REPORT

None

VII. COMMUNICATIONS

A. Bruce Miller was unable to stay for this portion of meeting but had left material on 911 for council members' consideration.

B. Letter received from WV Memorial Day Parade Committee asking if council members wished to participate in this year's parade. Heldreth said he felt council should be represented. All members of council agreed to participate. Form was signed by Mayor Heldreth to be filled out by City Clerk and returned to committee.

C. Council will not purchase space in American Legion, Department of WV, State Convention Program book. Smallest ad was \$125.00 for 1/5 column.

VIII. COMMISSION, COMMITTEE AND BOARD REPORTS

A. PRUNIETOWN LINE EXTENSION - JIM PENNINGTON

Councilwoman Perks said she wondered what council's intentions were to fill the vacancies created tonight until City Manager comes back. "We have an attorney who has worked with us. He would go ahead and work with us I am sure, Lloyd Spring, temporary until we advertise for an attorney," said Heldreth.

Perks asked if council had any plans to correspond with Mrs. Bowman between now and whenever?" "Personally, I feel she communicate with us. She should keep us informed," said Heldreth. "I feel that when her pay check stops she will get in touch with the council," said Heldreth.

"That should be an incentive anyway," said Perks.

Pennington said a project was started in Pruntytown June 30, 1990. E.D.A. had grant for approximately \$18,000. Final design completed. Came up with agreement to go as far as \$18,000 would carry us to get service into Pruntytown area. Pennington would like council's permission to release project. There will be no cost to city. MOTION to proceed by Rockhold. Second by Mullinax. Roll Call Vote showed: Perks said she would like to abstain because she did not have enough information. Workman - Yes; Mullinax - Yes; Rockhold - Yes; Heldreth - Yes. MOTION CARRIED.

B. Councilwoman Mullinax reported State Health Department, DNR and Industrial Waste Section met and decided Health Officer did not have anything to do with Fancers Meat situation. DNR will handle. Nestor passed test for Sanitation III. Public Health Clinical Teaching is April 25 and 26 in Charleston.

IX. OLD BUSINESS
None

X. NEW BUSINESS

A. FIRST READING, ORDINANCE #575, SEWER RATE INCREASE

ORDINANCE #575

AN ORDINANCE REPEALING ORDINANCE NO. 445 AND INCREASING THE RATES FOR SEWER SERVICE AS OPERATED BY THE CITY OF GRAFTON

Motion to accept first reading on Ordinance #575 by Councilman Rockhold. Second by Mullinax. Roll Call Vote showed: Perks - No; Workman - Yes; Rockhold - Yes; Mullinax - Yes; Heldreth - No. MOTION CARRIED.

B. FIRST READING, ORDINANCE #576, CREATING BOARD OF PARK AND RECREATION COMMISSION FOR CITY OF GRAFTON

ORDINANCE #576

AN ORDINANCE CREATING A BOARD OF PARK AND RECREATION COMMISSION FOR THE CITY OF GRAFTON

Councilwoman Mullinax had requested first reading of this ordinance be held this evening but asked that advertising and second reading be delayed until it was reviewed by Recreation Commission to see if any changes were desired.

Motion to accept first reading of Ordinance #576 by Mullinax. Second by Rockhold. Roll Call Vote showed: Perks - Yes; Workman - Yes; Rockhold - Yes; Mullinax - Yes; Heldreth - Yes. MOTION CARRIED.

XI. COUNCIL MEMBER'S HEARING

Councilwoman Mullinax said it had been brought to her attention that boat ramp at city park is in need of repairs. She said since it is being leased it is up to leasee to repair ramp. Had received note from DNR that repairs are needed. Lt. Broadstock stated he had been sent with note to Tom Mason with respect to boat ramp. Mason advised Broadstock to let Allen Collins, Acting City Manager, know that he did not have control of that boat ramp. Mason said DNR or Corp of Engineers took care of it last time. Murray said this was originally installed by Corp of Engineers. "If they put it in, unless they turned it over to the city, then it should be their responsibility," said Heldreth. Mullinax felt it was leasee, Tom Mason's, responsibility. Heldreth said this needs to be checked into. Should check Mason's lease.

Councilwoman Perks said, "I just hope that I can be an asset to this council." Councilwoman Mullinax said she was glad Perks was on board. Mayor Heldreth welcomed Perks aboard being more of a youth of the community and second member of female sex. (Round of applause from the audience).

Mayor Heldreth thanked all citizens for attending meeting and assured them, as he had in the past, that he would try to keep council informed. He said council would like to have cooperation of citizens. Would like to get this thing on a straight and level basis for the betterment of city. Hope to get city going in uniform manner. (Round of applause from audience).

Motion to adjourn at 9:17 p.m. by Councilman Rockhold.

Mayor G. D. Heldreth, Jr.

Margaret Kraft Cox
CITY CLERK

Approved 16 April 1991

up, deeded the property to the city. Heldreth, Rockhold and Mullinax will meet tomorrow to look at property and make report back to council. Bowman said council needed to check with Ferris to see if property needed to go up for bid. Heldreth said there would be no money exchanged.

C. Letter to Howard M. Ferris, dated April 11, 1991, RE: Case No. 90-251-FWD-PC, stating PSC received via fax machine City of Grafton's exceptions to recommended decision of March 29, 1991 in above named case proceeding. Upon expiration of 15-day period for filing exceptions, City of Grafton exceptions and any others received will be forwarded to PSC for its review and decision. Letter was signed by Howard M. Cunningham, Executive Secretary.

D. Letter addressed to City of Grafton Enforcement Agency, dated April 11, 1991, stating a complaint about house located at 170 Lincoln Street. Was brought to attention of Fire Chief Bill Roy and he was referring it to council. Letter stated house was open in rear and it is believed that someone may be sleeping in it at night. Trash is laying on floor and concern is that someone may set fire to this and damage house next door. Roy asked that Enforcement Agency take action about this situation. L. N. Thorp is property owner next to this house. Letter was signed by Fire Chief Bill Roy. Mayor Heldreth said this should be turned over to City Manager Bowman to be brought up at next Enforcement Agency meeting which is scheduled for the second Tuesday in May. Rockhold felt action should be taken immediately. Rockhold asked if police had checked to see if there was someone sleeping in this house at night. Police Chief Collins had not been aware of the situation but will check.

E. Memorandum from City Manager Bowman to Enforcement Agency, dated April 10, 1991, RE: Lutheran Church/West Washington Street. Stated Mrs. McGinnis, resident of W. Washington Street, phoned with complaint concerning Lutheran Church on W. Washington Street, owned by Ruby Foley, Maple Avenue. Storm blew roofing, window glass and other debris into McGinnis yard from church. McGinnis requests that Foley be notified to board up windows and secure building so cats cannot go in and out and debris will not blow into her yard from building.

Bowman said Enforcement Agency should contact Foley. Bowman said she was ex officio member of Enforcement Agency. James Hearst, Louise Hickman's attorney, stated that according to Section 40 of the charter only Fire Chief and Police Chief are ex officio members.

F. Hand written communication from Haymond Elementary School, dated April 16, 1991, to members Grafton City Council. Letter was signed by Phyllis Leonard, Principal. Leonard said it had come to her attention that there may be a vote to eliminate DARE Program from schools of Taylor County. She said, "We at Haymond feel that this is a worthwhile project and hope you will vote to keep it for youth in our county." She asked that council consider our children when they vote.

Perks said her response was that county was going to pick up the program so it would be implemented.

G. City Clerk stated she had secured price quotes from three companies for printing of City License for the year 1991-1992. Casto and Harris submitted a cost of \$269.00 for 500; Creative Printing in Morgantown, \$200.00 for 500; Morgantown Printing and Binding Company, \$243.00 for 500.

Motion by Mullinax to purchase from Creative Printing. Second by Perks. Roll Call Vote showed: Perks - Yes; Workman - Yes; Mullinax - Yes; Rockhold abstained due to relative owning Creative Printing; Heldreth - Yes. MOTION CARRIED.

VIII. COMMISSION, COMMITTEE AND BOARD REPORTS

A. TAYLOR COUNTY HEALTH DEPARTMENT - COUNCILWOMAN MULLINAX

Councilwoman Mullinax reported that Mrs. Brown is working up budget for next year but can not complete until levy rates received. Voted to have a new porch roof installed on Health Department.

IX. OLD BUSINESS

A. SECOND READING, PUBLIC HEARING, ORDINANCE #575, INCREASE SEWER SERVICE FEES

AN ORDINANCE REPEALING ORDINANCE NO. 445 AND INCREASING THE RATES FOR SEWER SERVICE AS OPERATED BY THE CITY OF GRAFTON

Ordinance #575 read aloud by City Clerk. Mayor Haldreth opened the floor for comments as provided as a Public Hearing.

Don Knotts stated he didn't think charging sewer rates on the basis of water consumption was fair. He cited examples such as washing cars and watering lawns in the summer, saying that water doesn't go into the sewer system. He was strictly against increase.

Jack Hunt also explained to council costs incurred by a neighbor who had a water leak on her property. The woman had to pay for water and sewage costs due to the leak.

Louise Hickman questioned why the city couldn't go back to the old way of charging a flat rate for water and sewage based on number of spigots in house. "We had worlds of money then," said Hickman. She did not feel we needed a sewer rate increase until they could show her something other than depreciation.

John Murray asked if an extra sewer line was to be put in at Pruntytown. Jim Pennington said eventually there will be 23 tap ons on this line. Murray did not feel there was a need for a sewer rate increase. "We have been raised enough in the past year people," said Murray.

Marge Gerkin asked if Pruntytown resident's rate would be the same as our rate once they were hooked on. Rates are within and without the city limits according to ordinance establishing Sewer Board.

Betty Walls stated as of last week there was still a water problem at the new Blueville Methodist Church parsonage.

Beryle Riley stated that in 1969 we did not have 3½ million dollar indebtness. The sewers went right into creeks and rivers. Will be paying bond issue until year 2012.

Pennington explained flat rates are no longer allowed by the bonding commission as the City of Philippi was ordered several years ago to put in meters.

"Basically," said Pennington, "the sewer department has more mechanical parts than anything else in the city. We have an annual electric bill between \$89,000 and \$96,000."

Pennington said staff has been cut by three persons since 1989. The board now takes bids on different items as cost-saving measure. Certain factors, such as chlorine, just can't be reduced.

"This city system is going wrong fast," said Pennington. He listed many sewer mains and lines already broken or nearing shutdown.

Mulligan Avenue was cited in November 1990 and more than 290 feet of line still awaits replacement. Two river crossings are in need of repair, one at Maple Avenue and one at Fetterman Avenue. A 24-inch line on Lincoln Street from the Blueville area is in danger of collapse.

Pennington said records indicate more than \$10,000 has been spent since June 1990 due to damage from grit and rocks going into the sewer system. There are four creeks that go directly into the system when it rains; two on Fanny Street and one each on Maple Avenue and Ross Street.

A 24-inch line on Maple Avenue is presently 3/4 full of grit. "When it overflows, there are big expenses there," said Pennington.

The rate increase will be to refurbish the system and for maintenance and repairs. "Hopefully when the plant is paid for, it will be making money for the city in 2013. Of course, I can't actually predict anything," said Pennington. He said he had five and ten year plans. He said the plant is hard pressed to keep up with treating the sewage in the system now, even with three pumps.

Pennington stated City Manager Bowman had a grant proposal to present later in meeting which may be able to alleviate some of the problems.

Will be \$1.00 increase per month to low users. Last increase was in 1982. "Everything has been going up since that time. Who couldn't afford a \$1.00 increase?" asked Rockhold. Intention is for part of increase to go toward refurbish. Pennington said he does not plan on raises to employees from now on out. Purpose of increase is to bring lines into perspective as to when bond payments are paid off, the city will be making money. Gerkin said Jim Pennington has done an excellent job. Auditor was to attend tonight's meeting but had not been notified of meeting date and time by Pennington. Would have discussed paper loss. Rockhold said this increase would amount to 11¢ per year since they had not had an increase in nine years.

Motion to accept Ordinance #575 by Mullinax. Second by Assistant-Mayor Workman. Roll Call Vote showed: Perks - No; Workman - Yes; Rockhold - Yes; Mullinax - Yes; Haldreth - No.
MOTION CARRIED.

STATE OF WEST VIRGINIA, COUNTY OF TAYLOR, ss:

Tim Bolyard Advertising Manager
Mountain Statesman, a newspaper published at Grafton in said county, do
hereby certify that the annexed Legal 4824

Public Notice
City of Grafton

was published once a week for 2 successive weeks
in said Mountain Statesman newspaper published as aforesaid,
commencing on 3-22, 3-29 days of 1991.

Given under my hand this March 29 day of 1991.

Tim Bolyard Advertising Manager

Printers Fee \$ 19.35

WEST VIRGINIA, TAYLOR COUNTY, TO-WIT:

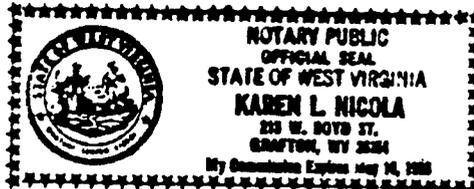
Subscriber and sworn to before me this 29 day of
March 1991.

Karen L. Nicola Notary Public

My commission expires May 16, 1998

8 Legal Notices

PUBLIC NOTICE
Grafton City Council will conduct a Public Hearing and Second Reading on Ordinance #575 on April 16, 1991 at 6:30 P.M. in City Council Chambers, 1 West Main Street, Grafton, WV.
ORDINANCE #575
AN ORDINANCE REPEALING ORDINANCE NO. 445 AND INCREASING THE RATES FOR SEWER SERVICE AS OPERATED BY THE CITY OF GRAFTON
Citizens wishing to submit written comments may mail to City Hall or present at the Public Hearing. Recommendations and suggestions from citizens are welcome. Copies of the Ordinance may be obtained and viewed at City Hall.
Margaret Kraft Cox
City Clerk
Legal 4825
3-22, 3-29



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569
36.23+
36.23*
25.66+
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Invoice No. 5250

Amount Remitted

Ordinances 596, 597, 598 & 599

Purchase Order #2388

Insertion Dates: December 4 & 11, 1992

Amount Due \$25.66

Legal Rate Information: 5¢ per word for the first insertion and 1¢ per insertion thereafter. FEIN #363672215

LEGAL NOTICE

Grafton City Council will conduct a public hearing and second reading on Ordinance #596, Ordinance #597, Ordinance #598, and Ordinance #599 on December 22, 1992 at 6:30 p.m. in City Council Chambers, 1 West Main Street, Grafton, WV.

ORDINANCE #596
Ordinance outlining penalties for unlawful disclosure of information

ORDINANCE #597
An Ordinance to suspend all ordinances that directly or collaterally affects the operation and administration of Blount Cemetery that was constituted by ordinance preceding the adoption of this ordinance

ORDINANCE #598
An Ordinance increasing and establishing just and equitable rates or charges for the use of and services rendered by the water system of the City of Grafton, West Virginia, for the purpose of meeting the costs of providing these services including but not limited to, operations, maintenance of the water works system and metering

ORDINANCE #599
An Ordinance to suspend amendment of amended Ordinance to policeman's pension and relief fund and eliminate early retirement proviso of Ordinance No. 128, 546

Citizens wishing to submit written comments may mail them to City Hall or present them at the public hearing. Recommendations and suggestions from citizens are welcome. Copies of the Ordinances may be obtained and viewed at City Hall.

Margaret Kraft Cox
City Clerk
Legal 5250
12-4, 12-11

\$354

\$1.00

0072 State of West Virginia, County of Taylor, ss:

Mr. Jim Clark Advertising Manager

Mountain Statesman, a newspaper published at Grafton in said county, do hereby certify that the annexed

Legal 5250 - Ordinances 596, 597, 598 & 599

Purchase Order #2388

was published once a week for two successive weeks in

said Mountain Statesman newspaper as aforesaid, commencing on the

December 4 days of 1992

Given under my hand this December 18 days of 1992

Advertising Manager

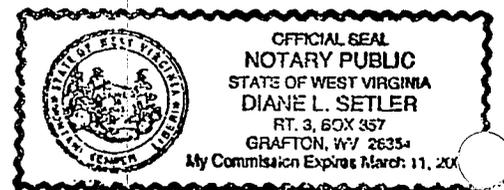
Printers fee \$ 25.66

WEST VIRGINIA, TAYLOR COUNTY, TO-WIT:

Subscribed and sworn to before me this 18th day of December 92 day of 1992

Diane L. Setler Notary Public.

My Commission Expires March 11, 2002



Regular Meeting
Grafton City Council

Tuesday, 3 May 1994
City Council Chambers

I. The regular meeting of Grafton City Council was called to order by Mayor Daniel Mankins at 6:30 P.M. The invocation was given by Councilman Tom Gillespie.

II. The pledge of allegiance was recited by those present.

III. Roll Call

The following were present: Councilman Chesley Rogers, Councilman Beryl Riley, Councilman Thomas Gillespie, Vice-Mayor Russell Rockhold, Mayor Daniel Mankins.

Also present were: City Manager Donna Hoyler, Finance Director Larry Richman and City Clerk Shirley Dougherty.

IV. Minutes of Regular Meeting, 19 April 1994 and Special Meeting, 26 April 1994

Motion by Councilman Riley to accept the minutes of the regular meeting, 19 April 1994 and special meeting, 26 April 1994. Seconded by Councilman Gillespie. Motion carried.

V. City Manager's Report

A. Spring Clean-up will be held from May 16th - 20th, noon to 8 p.m. Will accept ordinary household appliances, etc. No tire, building materials, batteries, 55 gallon drums, gas, oil or hazardous materials. Disabled persons may call Wednesday and Thursday for pick-up. Due to cost and budget situation a fee will be charged - \$5.00 for a car load up to 6' pickup truck load level with top of bed; \$10.00 for larger pick-up truck. Cash only, no checks.

B. Ordinances: Completed entering all in Book 1 and 2. Back-up copies are stored in the basement vault at First Community Bank. As ordinances are passed, will continue to put a copy in the vault.

C. Pot Hole Repairs - finished Fetterman and Walnut Street. Started on Latrobe today and when finished will do Thayer Street.

~~D. New water shut-off procedures were tried on April 27th. Decided to try without police escort. Director of Public Works and City Manager went with the shut-off people. Procedures have been written.~~

E. Water line problem's - Two major breaks slowed up other projects.

F. Policy on locking front door except on council meetings and when Mr. McVicker was on duty. There have been some complaints from citizen's. We still want to keep the door locked outside of meetings. Have worked out with dispatch that they will be notified of scheduled meetings. They will unlock the door fifteen minutes prior to the meeting. It is asked that when the meeting is over, dispatch be notified to re-lock the door. The reason for starting the procedure - there was a break in in the investigator's rrom. and a couple of times people have been sleeping on the floor.

G. Sewers - have been replacing lines. Barrett street lines were laying along the street, not buried. Trying to get rights-of-way in order to move the lines.

H. City Park - the Taylor County Workshop signed the lease today and have obtained insurance. They have started getting things ready. All of the people involved were working today. As far as a community project, it is one of the nicest. The way they were working, should have the park spotless by tomorrow.

Had the surveyor's in and they will be submitting a report to us this week, about the location of the grocery. Council will receive copies of the official report. Cannot locate the owner's of two trailers. Have a vehicle ID number but was incorrect, so will have to recheck it. The small white trailer may have to be moved, if the owner can't be found. Nothing has been heard in reference to the back rent owed.

I. Small Cities Block Grant - Region VI has begun preparation of the grant. Applying to replace water lines that run under the river, some of which are 100 years old and other's 30-40 years old. Kelly, Gidley, Blair and Wolfe are preparing an estimate on what it would cost to replace them. Currently, we are running an income survey - the 1990 census wasn't really correct. Hope to have the entire grant package ready by the end of May.

Sewer department is currently replacing sewer line on Route 50 near Valley Mental Health.

VI. Communications - none.

VII. Commission, Committee and Boards

A. Sewer Board met in April. Discussed retirement of the sewer bonds, Phillips development project, generally discussed Rosa Enterprises project. May meeting will be the last meeting of the board. We are going to invite some of the original members (third Wednesday).

VIII. Old Business

A. Engineering Specifications for Maple Avenue

Mr. Pigott - needs to spend one more day on the spec's. Go ahead and start the legal advertising. Will bring the spec's over Thursday. Street is 5600 feet long. Residents told him that the storm drains are not carrying the water away.

Mrs. Hoyler - Advertisement has already been run. Extended the bid date until 17 May.

Mr. Pigott - Mill old street to brick, put on a tack coat and then concrete/tar coat.

IX. New Business

A. Paying of the Bills

Motion by Councilman Gillespie to pay the bills as submitted. Seconded by Councilman Riley. Motion carried.

B. Water Week

Annual event that honors water and sanitary sewer board personnel during the National Water Week of 1-7 May. This year's theme is "Local Water Professionals - We Stand Behind Every Drop".

C. Water Distribution Project

City Manager gave an overview of the project. Bond Ordinance has been prepared. The first reading is tonight, second reading-May 17th, Public Hearing and Third reading - June 7th. If bond ordinance is passed, it will approve \$2,820,000.00 for construction of water tanks at Pruntytown, Lucretia and Morasco Addition; three pumping stations; replacement of service lines on Main Street; also to pull down old tanks and put in any metering systems required. Will not do replacement of major water lines. The project has two goals - one is to equalize pressure throughout the city and two - to provide a back-up in case we lose water. It will help prolong the life of the lines, and give a 10% reduction in water loss. Water rates should not have to be raised for two years.

✓ (1) First Reading, Ordinance #619

Heading of ordinance was read by the City Clerk.

Motion by Vice-Mayor Rockhold to accept the first reading of Ordinance \$619. Seconded by Councilman Riley. Motion carried.

(2) Approval to Request Bids on Project as of May 12, 1994

Gerald Weber and City Manager will go to Charleston Thursday, 5 May to review the final design. The package will be ready to go out May 16th.

Mr. Mankins requested they provide a copy to put up on council walls.

Motion by Councilman Rogers for Mrs. Hoyler to allow Kelly, Gidley, Blair and Wolfe to request bids on the project. Seconded by Councilman Gillespie. Motion carried.

(3) Additional \$49,418.41 for Sewer Bond Retirement

Mr. Riley - How did the difference in figure's come up?

Mrs. Hoyler - Difference is due to not applying additional interim payments and interest. Interest has to be paid for an additional six months, since the final reading of the Ordinance isn't until after 1 June. The money will come back to go into the water depreciation account.

Motion by Councilman Riley to approve the additional \$49,418.41 from sewer and water for retirement of the sewer bonds. Seconded by Councilman Rogers. Motion carried.

(4) Designation of Bond Construction Funds Deposits and Revenues

It has been requested we select a bank to hand the funds. If at all possible, should keep the business in town.

Motion by Councilman Riley to accept First Community Bank. Seconded by Councilman Rogers. Councilman Rogers withdrew his second. Motion was amended by Councilman Riley to state: Request proposals from the three local banks. Seconded by Councilman Rogers. Motion carried.

D. funds for East Main Drainage

Department of Highways requested a co-op funding to correct the drainage problem. The total project will cost \$7,000-10,000.00. They have requested the city furnish \$3,000.00 toward the cost. City would have to pave around one drain.

Motion by Councilman Gillespie to allot \$3,000.00 instead of \$2,000.00 for this project. Seconded by Councilman Rogers. Motion carried with on dissenting vote.

E. Water-Gun Meter Replacement

One hundred new digital read-out meters are needed to replace old ones at a cost of \$5,400.00. Fifty percent of the old one check out bad. The new ones have a face reading and can be installed in pits.

Mr. Mankins - how long to replace meters from read-out to pit meters.

Mr. Riley - How long will it take to install the meters.

Mrs. Hoyler - Installation should take 5-6 weeks. Replacement of the meters will be over a 7-10 year period.

Mr. Mankins - Was tampering one of the concerns? Yes

Motion by Vice-Mayor Rockhold to approve \$5,400.00 for replacement of read-out meters with digital meters. Seconded by Councilman Rogers. Mr. Riley requested a progress report from time to time. Motion carried.

F. Roy Quillen Trailer Request

Mr. Quillen is requesting he be allowed to keep his trailer at City Park until the end of July 1994.

Motion by Vice-Mayor Rockhold to allow Mr. Quillen to keep his trailer at City Park until completion of project in Flemington (July 94). Seconded by Councilman Rogers. Motion carried.

G. Summer Food Service Contract

A request to allow the Recreation Commission to sponsor food services for children was received. Commendable project that is needed in the summertime. The City is not in shape to administer the program.

Motion by Vice-Mayor Rockhold to not approve the project. Seconded by Councilman Rogers. Mr. Riley - there are to many trying to get in on recreation and not goind any good. Motion carried.

X. Citizen's Voice

A. Charlene Davis - Light on School Street was taken down. She had called to have it replaced. It was replaced in another area. She stated she feared for her children - they do foster care. Asked council to reconsider the request.

Mr. Rockhold stated he had checked the area and feels the light should go back.

Mrs. Hoyler - Had put in the order to put up a light. It was put in the wrong place. Will check later this month. All the lights on School Street will need to be relocated.

XI. Council Member's Hearing

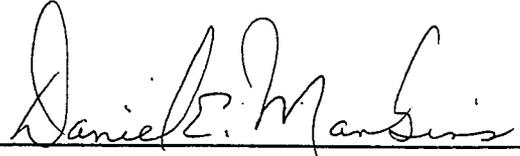
A. Mr. Riley - wanted to know if a schedule had been submitted on maintaining the playgrounds and parks. Mrs. Hoyler replied no, she would check with Sam Wright.

B. Mr. Rockhold - reference the Walnut Street playground. The residents stated it if wasn't mowed in the next couple of days, they would get a crew in and mow it and send the bill to the City.

Citizen Fred Ford asked is the basketball and tennis courts could be re-paved. The high school uses the tennis courts for their matches.

Mr. Mankins - may be a good idea to get an estimate and approach the County Commission.

XII. Meeting was adjourned at 7:50 p.m.



DANIEL E. MANKINS, MAYOR

ATTEST:


SHIRLEY M. DOUGHERTY, CITY CLERK

Bills approved for payment are listed on pages 84 - 89.

Regular Meeting
Grafton City Council

Tuesday, 17 May 1994
City Council Chambers

I. The regular meeting of Grafton City Council was called to order by Vice-Mayor Rockhold at 6:30 p.m. The invocation was given by Kenneth Litzinger.

II. The pledge of allegiance was recited by those present.

III. Roll Call

The following were present: Councilman Chesley Rogers, Councilman Beryl Riley, Councilman Tom Gillespie and Vice-Mayor Russell Rockhold. Mayor Mankins was absent. Motion was made by Councilman Rogers to accept Mayor Mankins absence. Seconded by Councilman Gillespie. Motion carried.

Also present were: City Manager Donna Hoyler, Finance Director Larry Richman, City Clerk Shirley Dougherty, City Engineer George Pigott and newly elected councilman Thomas Horacek.

IV. Minutes of Regular Meeting, 3 May 1994

Motion by Councilman Riley to accept the minutes of 3 May 1994. Seconded by Councilman Rogers. Motion carried.

V. City Manager's Report

A. Reported that paperwork is being provided to Tom Horacek, the new councilman, to have him up to speed on issues, when he starts on council in July.

B. Spring clean-up is in progress. To date we have not made quite enough to pay for the dumpsters.

C. Garbage trucks - both are broke down. It was going to take another \$3,000.00 or so to repair the one truck. The new truck will be delivered the beginning of June. It didn't make sense to have the old one repaired, so we are not going ahead with the repairs. For the last two weeks, we haven't been able to do anything with the pothole side, because the trucks are being used to collect garbage. Also incurred a little bit of overtime, in order to catch up - one half hour overtime. As soon as we get back the one garbage truck, we will start on pot holes again, weather permitting. We will be working on Thayer Hill to finish that up.

D. Main Street clean-up: As part of cleaning up Main Street for Memorial Day activities. Next week First Community Bank, some teachers and business people are going to be out helping to clean-up Main Street. Probably next year, we will want to propose a volunteer clean-up week, where citizens, students, all of us pitch in and help clean-up. Maybe we can have coincide with spring clean-up.

E. Weed and Debris: Notices have been sent out. The Building Inspector has been out inspecting facilities and we've been sending out all kinds of notices on that. We are starting to see clean-up in progress or people promising to clean-up prior to Memorial Day.

F. Small Cities Block Grant - met with Jim Hall this morning at Region VI meeting. The income survey was submitted. A requirement for the grant is that 50% of the population be below a certain income based on the number of

members in the household. We could not use the 1990 census because it did not give true figures for the Grafton area. The results show we are eligible for the grant. We expect to have the Engineer estimate tomorrow - cost for replacement of river water line. It is required we have a public hearing, which I have requested council to please schedule on May 24th at 6:30 p.m. Jim Hall of Region VI will be here. The purpose is to have an open hearing on the Small Cities Block Grant. It looks like this year we do stand a chance for the grant. A public notice is going in the paper tomorrow, Friday and Monday for the Public Hearing.

G.. We have been having a lot of trouble with water leaks. One major leak on Latrobe where they were filling the CSX water tank. The contractor dug into a line and caused problems over the weekend. Also a leak at the old Southern States building where we had to replace an 8" valve. Continuing to put pit meters in, changing the existing read-out meters. Busty will be giving monthly reports on the status of the number of read-out meters we are replacing. Each time we're finding more and more problem's with the meters that are reading slow. About 90% of cases with these meters, we are having to replace them.

H. Sewer - working on a lot of stoppages due to the weather we've had. Sewer personnel have a backlog they are working on.

I. Police have all been recertified on all weapons that are used.

J. Fire - We're looking at a fire ordinance change. Fran has prepared a basic ordinance and Bill Roy, Laura Lafferty and City Manager are looking at the ordinance. It's basically to separate it from water usage, where now fire fee depends on whether or not you have a water meter or not. That is being changed - that will be a separate fee. As far as rates - the regular residential rates will not change. Looking at changing commercial rates to correspond with others that have been approved by the state, based on square footage. Hope to have ready to present to council at the June 7th meeting.

K. Met with Bruch Miller from Tygart Development Authority. He is requesting that council meet and have a work session to discuss recreation, E911 and city lot issues. A date and time is needed. E911 proposal will ready by the end of this week. Both county and city will need to discuss it and present it.

L. Last week I meet with Congressman Alan Mollohan and North Central Community Action. Discussed the possibility of getting funding to renovate the Williard Hotel and B&O station. Congressman Mollohan seems to feel that Grafton might be in a better position to get some renovation grants. He has formed a task force with North Central Community Action, state ARC people, project specialist from his staff, and myself to do a feasibility study. We have the Railroad Heritage Committee in the loop and are all working together to find out feasibility costs, etc. for the restoration. Congressman Mollohan will support it, if the feasibility study looks promising. He thinks he may be able to get some funds for the project. The major issue = it would have to sustain itself once the renovations are complete. Ideas talked about for the hotel include - renting of business space (Community Action and other state agencies are interested), conference room, resturant/deli, middle income apartments, etc. Mollohan will get other support for this project if it is feasible.

Council agreed to meet with Bruce Miller on Thursday, 26 May at 4:00 p.m.

VI. Communications.

- A. Letter from research historian with Institute for History Technology, requesting support for a project.
- B. Letter regarding West Virginia Senior Sports Classic, June 17 & 18
- C. Letter from West Virginia Development office.
- D. Proclamation making week of May 15th National Family Week.

VII. Commission, Committee, Boards - none

VIII. Old Business

- A. Maple Avenue Paving Bids - postponed until 7:00 p.m.
- B. Small Cities Block Grant - covered under City Manager's report.
- C. Water Distribution Project

- (1) Second Reading of Ordinance 619

Motion by Councilman Rogers to accept the second reading of Ordinance 619. Seconded by Councilman Gillespie. Motion carried.

- (2) Bank Proposals for Deposit Accounts

Tables until special meeting, 24 May

- D. Central Playground Tree Trimming Bids

One bid was received from J&J Tree Service for \$3,500.00. It will be paid for from council contingency fund.

Motion by Councilman Gillespie to accept J&J Tree Service bid. Seconded by Councilman Rogers. Motion carried.

- A. Maple Avenue Paving Bids

Three bids were received:

- | | |
|--|-------------------------|
| (1) Mountaineer Contractors, Morgantown | \$80,626.55 |
| (2) Ohio Valley Paving, St. Clairsville | \$98,622.45 |
| (3) Dodd General Contracting Corp, Bridgeport | \$ 87,817.95 |

plus 12% to City Engineer. Estimated total cost \$90,000.00 plus.

Mr. Riley - Was there an estimated cost on the project?

Mrs. Hoyler - Bids that came in last fall, the lowest was \$65-67,000.00. To correct the drainage situation, plans are to turn the present sewer line into a storm drain and install a new sewer line.

Mr. Pigott - payment is due, when the work is completed and accepted.

Mrs. Hoyler - There are additional funds that can be transferred. There was \$65,000.00 budgeted plus \$25,000.00 that can be put in, to make up the difference.

Motion by Councilman Rogers to accept the bid from Mountaineer Contractors. Seconded by Councilman Riley. Motion carried.

IX. New Business

A. Paying of Bills

Councilman Riley questioned the purchases and bond for Howell. Mrs. Hoyler replied bonding is required to carry a weapon. Mr. Riley wanted to know when Howell' probation period was up. Mrs. Hoyler replied that it was extended until the third week of July, due to the fact he was on Workman's Comp for fifty-four days.

B. American Disabilities Conference

City Manager requested approval to attend the conference on 20 May in Sutton at a cost of \$10.00 plus gas. Permission was granted.

C. Main Street Clean-up

Mr. Rockhold stated he went past Grafton High School on Saturday and a group of students were cleaning up.

Pat Harryman a business owner on Main Street stated some of the owner's do clean up their shops. Younger citizens of this community don't help. The old McCrory's building is falling apart.

Mr. Riley stated that many of the building owners live out of town, and they don't care about their property.

Louise Hickman stated if you sit where I do, you see a lot of things. Police officers are not a money making organization. There should be a few more watcher's and a few less thrower's (litterer's). Main Street should be cleaned up.

Mr. Rockhold replied - Lip service, no action.

Kenneth Litzinger stated there was a need for a place to put litter on Main Street like the litter bins we had before.

Mrs. Hoyler requested permission to have 2 prisoners and 1 police officer for three days starting May 24th for clean-up. Permission was granted.

D. Litzinger Request for Alley Abandonment

Requesting abandonment of a 9' wide alley.

Motion by Councilman Gillespie to have the City Attorney prepare an ordinance to abandon the alley. Seconded by Councilman Rogers. Motion carried.

E. Executive Session

Meeting was adjourned at 7:43 for an Executive Session. Present were: Councilmen Rogers, Riley, Gillespie; Vice-Mayor Rockhold and City Manager Hoyler.

Meeting was called back to order at 7:58 p.m. Personnel issues were discussed.

X. Citizen's Voice

A. Kenneth Litzinger - presented a certificate of appreciation to Mr. Rockhold for his tenure as councilman, mayor and vice-mayor, on behalf of the many concerned residents of Grafton.

B. Pat Harryman - brought a petition/signed request by the store owners on Main Street, requesting, that something be done about the parking on Main Street. For three and one-half hours places in front of the store on Saturday were occupied by four separate cars with nothing being put in the meters. Not only on Saturday, but everyday of the week. Mrs. Harryman stated the City Manager suggested having the ordinance changed to limit parking to two hours. If we're going to keep business downtown, something must be done about keeping the flow of traffic through the town. We can't survive without parking downtown.

Mrs. Hoyler replied: Because of cut-back on the police force, we cannot monitor the meters as before. They are monitored the best we can with the shortage of personnel.

Mrs. Hickman asked why the officer on duty couldn't walk the beat?

Mr. Riley stated that something is right on the parking meters - one on West Main hasn't worked since February. Someone is shirking their job.

Mrs. Hoyler - Meters are checked. There are no funds for parking meter repair.

Mr. Gillespie asked if we didn't have two officers on each shift. Mrs. Hoyler replied no. Plus the walkie-talkies do not work. The police must be in radio contact with dispatch.

Mrs. Harryman - Asked that members of the Fire Department park somewhere else instead of on Main Street.

Mrs. Hickman - Very few times have I seen a police officer walk the beat.

C. Louise Hickman

(1) Was budget published in the newspaper. Mrs. Hoyler replied yes.

(2) If someone comes in to the city clerk's office for a bid a month ago, is anything kept from the newspaper? Is there actual proof it was put in the newspaper. Mr. Richman replied that a certified copy of the ad is filed with the original purchase order.

(3) When you allocate money for a project, is it used for anything else? Mr. Richman explained the procedures. Mrs. Hoyler stated they are not line items. Separate accounts are maintained for special projects.

D. Marge Gerkin

(1) When the spouting was replaced on the city garage was there a charge? Yes. Why wasn't the contractor held responsible? Because the snow brakes hadn't been installed.

(2) Water bills - have we received anything from the collections on them? Mrs. Hoyler replied yes, we are collecting on delinquent accounts. Liens have also been put on property where people have not paid B&O taxes for years. Mr. Riley replied he had checked with Laura on what you are asking. On a full sheet of names, 3 names were left. Laura stated you have to call them. Mrs. Hoyler - In the last month five were shut-off, previous month there were twenty shut off.

(3) What kind of funding is going to be used for the water/sewer project? Larry Richman replied - water/sewer revenue bonds.

(4) Where is the money coming from for the bids on removing the trees. Mrs. Hoyler replied from the council contingency fund.

(5) What is the status on the trailers at city park?

Mrs. Hoyler - Larger trailer is supposed to have been moved, will follow up on it. One trailer the council approved to stay there until the end of July. Just found out the name of the owner of the other trailer and called them. They will have it removed by the end of June. They are from out of state. The only one remaining is the little white one, near the large pavilion. We have no idea who it belongs to.

Mr. Riley - Last June there was a party in and out of that trailer.

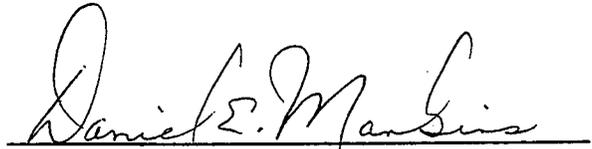
(6) If there was to be a meter main hired, does she have to be qualified? Mrs. Hoyler - No, it would not be a civil service position. It is a budget item that would need to be discussed.

(7) Why are some of the meters not working? Mrs. Hoyler replied that a lot of them work, but the spring in them is going bad. There are maybe five that do not work. Part of the problem with the parking situation is that business people park on the street.

XI. Council Member's Hearing

A. Mr. Riley - If we have any extra money, could we get a clock for the council room. Mrs. Hoyler stated that the next time she went to Sam's, she would purchase one.

XII. Meeting was adjourned at 8:30 p.m.



DANIEL E. MANKINS, Mayor

ATTEST:


SHIRLEY M. DOUGHERTY, City Clerk

Bills approved for payment are listed on pages 95 thru 97

Regular Meeting
Grafton City Council

Tuesday, 7 June 1994
City Council Chambers

I. The regular meeting of Grafton City Council was called to order by Mayor Daniel Mankins at 6:30 p.m. on 7 June 1994. The invocation was given by Councilman Tom Gillespie.

II. The pledge of allegiance was recited by all present.

III. Roll Call

Present were: Mayor Daniel Mankins, Vice-Mayor Russell Rockhold, Councilman Chesley Rogers, Councilman Beryl Riley and Councilman Tom Gillespie.

Also present were: City Manager Donna Hoyler, City Attorney Fran Whiteman, City Clerk Peggy Cox, Finance Director Larry Richman, Fire Chief Bill Roy, Acting City Clerk Shirley Dougherty, and Police Patrolman Ted Stevens.

IV. Minutes of Regular Meeting 17 May, Special Meeting 24 May and Special Meeting 31 May 1994

Motion by Councilman Rogers to accept all three sets of minutes as presented. Seconded by Councilman Gillespie. Motion carried.

V. City Manager's Report

A. There will be a report for the Memorial Day Committee later on. I wanted to give special thanks to First Community Bank for cleaning up Latrobe Street. Also, to the Volunteer Fire Department. They spent a lot of time cleaning up the parage route, cleaning the streets. They put a lot of effort into it. City employees who volunteered their time in assisting in clean-up along Main Street. It was nice to have someone volunteer and we hope going forward to have regularly scheduled clean-up. Certainly to coincide with the city clean-up. During the rest of the year, around the 4th of July and Labor Day, have some additional clean-up utilizing volunteers. The high school has indicated they would also be interested.

B. Maple Avenue Paving

The contractor was supposed to start milling, but was delayed because he was finishing a project in Charleston. They are going to start either June 9th or 10th. We are to be notified tomorrow as to what day. We will be asking residents not to park on the street while this is going on. We will notify residents in advance.

C. Spring Clean-up

Sixteen dumpsters were collected. Fees collected will pay about two-thirds of the cost of the dumpsters.

D. Pot Holes

The garbage truck is back in service as of last week. Were able to complete pot holes on Thayer Hill. This week we have men on military service, re-cycling, so we are not going to be able to do pot holes. We will start again next week, with Maple Avenue, Knotts Avenue, Wilford Street, hillside area and the Lucretia area.

E. Personnel appraisal forms have been redesigned. The last form did not give the employees any information on how they were doing. Ratings of 1-10 in different categories, no supervisor's comments. Hope to finalize by the end of this week. They will be more objective type form and allow the supervisor and employee comments.

F. Water Distribution Project

General status - received notice from Public Service Commission. There will be a public hearing on June 23rd at 11:00 a.m. at the Taylor County courthouse. Originally filed, at the PSC request a combined water/sewer proforma income statement. Recently, we received a request from PSC to separate the proforma income statement into water and sewer. Randy Vernon finished preparation of that yesterday, and it was faxed to PSC today. The City Attorney has prepared the formal application to the WV Development Authority. It will be filed along with the proforma statements and income statements for the past two years. Jim Pennington and Busty Weber are at a meeting tonight in Clarksburg - explanation and discussion of this combined PSC district proposal.

Sewer system - had to replace a 6" line by the National Cemetery. Fixed a problem with the lift station - having some flooding. Completed the work near Biggies with the exception of reseeding. Installed a tap for the new Community building at Grafton Homes.

G. McCrory's Building - received a telephone call this afternoon from Delores Travis. They own the McCrory's building. They wondered if the city would accept the building as a donation or if the council knew of some charitable organization or other organization's that would be interested in it. They are unable to secure financing to repair the building. They want to donate the building to a suitable charitable organization.

H. Monongahela Power - They will be doing tree trimming around the city this summer. Fifty percent of all power outages are caused by trees. If a tree is removed from residential property, the owner will be given a tree voucher to purchase a new tree, that won't interfere with power lines.

VI. Communications

A. WV Municipal League - information on annual state conference. Gave to City Manager

VII. Commission, Committee and Board Reports

A. Memorial Day Committee - Shirley Dougherty reported on behalf of "Shaky" Paugh chairman and members of the committee expressed their appreciation to all city employees that helped get the city ready for the parade. Especially the city council for authorizing the use of the inmates from Pruntytown. The dinner had the largest attendance to date - 128.

Mr. Mankins stated it was one of the smoothest operating parades that he had seen in some time. All of the planning was evident. Mother nature couldn't have cooperated with us any better. He heard all kinds of positive comments.

VIII. Old Business

A. Third Reading/Public Hearing Ordinance # 619 - Combined Water and Sewer System and Water Distribution Project.

Ordinance heading was read by Peggy Cox.

Citizens hearing:

(1) Everett Keener: had several questions concerning the project -

(a) What kind of interest rate are we going to be able to get?

(b) How many years?

(c) What does this represent in dollars to residential families. In other words, how much are you indebting each family.

(d) How much, benefits waterline in the city limits, how much is outside.

(e) In the future, near future, you're going to have to increase the water rates, sewer rates to cover the revenue bonds. Is this going to be proportioned.

(f) Do w have water lines coming down both sides of the river - four crossings - are they effective.

(g) Are you considering putting in a meter that will meter the flow you are getting into your water lines.

Mr. Mankins - Filtration plant, river crossings, etc. have nothing to do with the water and sewer project. It will be covered under the Small Cities Block Grant.

Mrs. Hoyler - Current interest rate is 5 3/4% for Water Distribution Auth. There will be no rate increase for two years. Average customer increase about \$2.00 a month - hopefully less than that. Everything is within the city limits with the exception of the Pruntytown tank and will benefit the city limits less the Prunty town tank.

Mr. Keener - When that tank goes in, will the one that was repaired to taken out of service.

Mrs. Hoyler - Yes, it will probably be turned into a storage area.

Mr. Keener - How many water customers do we have in the city.

Mrs. Hoyler - 2876 water customers

Mr. Keener - So you're obligating each resident approximately \$2500.00 over thirty years.

Mrs. Hoyler - Realisticly about \$1.00 per month increase.

Mr. Keener - Normal usage per day - how much is the storage tank - one day, 2 days.

Mrs. Hoyler - ~~With the new storage tanks, if everything collapsed, and we had to depend on the storage tanks, it is estimated about four hours with normal usage.~~

(2) Marge Gerkin

(a) Does the sewer fund have a budget? Yes.

(b) Has the sewer board been done away with? (Not yet. Are you asking how much there is in the depreciation account? \$210 - 215,000.00 in depreciation. \$120,000. will be sued to retire the sewer bond).

(c) What bank will be handling the bonds? (One Valley Bank in Charleston)

(d) What is your underwriting fee. (Have not seen a figure on that)

(e) How much water money is taken in each month? (\$715,000. July 1 - April 30. It would work out to about \$850,000. for the year-gross revenue)

(f) Status of the water fund will pretty much take care of the sales of bonds. What's the point of the sewer then? (In order to get a good AAA bond rating, we needed to combine water and sewer, to show gross revenue, to get a better rating. At the suggestion of the WV Development Authority sewer and water will not be combined - only for

(g) Questioned the wording of the resolution. (For purposes of the Small Cities Block Grant, Region VI recommended that we indicate both on the resolution, even though we applying for water only.)

(h) If the city goes into this without full knowledge of some of these questions, they will be at the mercy of the city without knowing all the details. (We have all that information)

(i) Have you already filed for the bonds? (Fran Whiteman - we have filed a pre-application with the WV Water Development Authority. They have indicated to us that they will go to the bond market and sell bonds. Asked for a formal application with more information than they requested before. Has been formulated and will be sent in)

✓ Motion by Councilman Riley to accept the third reading of Ordinance #619. Seconded by Councilman Rogers. Motion carried, with one discenting vote.

B. City Clerk Position

Mr. Mankins asked that this item be added to tonights agenda. The last meeting there were misunderstandings and indeundos. Asked Mrs. Hoyler to state again what she was asking council to do.

[Mrs. Hoyler replied that she is asking that Shirley Dougherty be appointed to part time city clerk and part time in the Finance office. Peggy Cox would be the ADA coordinator and building inpspector/fire clerk.

Mr. Mankins read from the city charter Article 4, Section 25 and the personnel policy, in reference to the city clerk position. Any employee who has attained a permanent full time position may be transferred to another position in another department, provided they neet the minimum qualifications applicable to said position. Family and Medical Leave Act - employee be restored to an equivilant position, with equivilant pay and benefits.

Mr. Gillespie feels we're awfully lucky to have Donna. She made a situation that is beneficial to everybody. She the best of a situation and it will benefit the city.

Motion by Councilman Gillespie that Margaret Cox be transferred from the position of city clerk to clerk for the building inspector/fire and ADA coordinator. Seconded by Councilman Rogers. Motion carried with one discenting vote.

✓ Motion by Councilman Gillespie that Shirley Dougherty be appointed city clerk for the city of Grafton. Seconded by Councilman Rogers. Motion carried with one discenting vote. To be effective at the City Managers discretion.

C. First Reading-Ordinance #620 Abandoning Unnamed Alley

Ordinance was read by Peggy Cox.

The City Attorney explained that there never was an alley there. This will clear up any discrepancies on the county tax maps.

Motion by Councilman Gillespie to accept the first reading of Ordinance #620. Seconded by Councilman Riley. Motion carried.

IX. New Business

A. Paying of Bills

Councilman Rockhold questioned a bill for \$589.74 to Grafton Auto Parts. Mrs. Hoyler explained it was for the sewer department. Council will be approving all sewer bills. Mr. Rockhold questioned 1000 business card. Bill Roy replied that are passed out to individuals. Mr. Riley asked about the read-out wire. Mrs. Hoyler replied it is used for installation of the new read-out meters.

Motion by Councilman Riley to pay the bills as submitted. Seconded by Councilman Rogers. Motion carried.

B. Main Street Parking

Mrs. Hoyler - Petition was received from many business owners on Main Street to change the ordinance limiting parking on Main Street to two hours. It would require police to be out on Main Street to check the meters. Recommends the ordinance be prepared to change the parking on Main Street. The police would have to do chalk marking.

Motion by Vice-Mayor Rockhold to have the attorney write a change to the ordinance. Seconded by Councilman Rogers. Motion carried.

C. Recreation Commission Appointments

There are two vacancies formally held by Greg Layfield and Pat Burns. Recreation Commission requests that Alan DePiano and Robby Neason be appointed.

Motion by Councilman Gillespie to appoint Alan DePiano and Robby Neason to the Recreation Commission. Seconded by Councilman Rogers. Motion carried.

D. E911 Service

Mrs. Hoyler - Cost would be \$.99 per month to county telephone users. The city would pay a one time charge of \$30,000.00. Changes recommended by the county include - dispatchers would be located at the jail instead of the hospital, city dispatchers would be hired, and the sheriff would be in charge of the dispatchers. We have been asked to pass a resolution in support of the proposal. It will be put on the November ballot.

Mr. Mankins read the resolution.

Motion by Councilman Rogers to adopt the resolution. Seconded by Councilman Gillespie. Motion carried with one dissenting vote.

E. Revision to 1993-94 General Fund Budget

Motion by Vice-Mayor Rockhold to accept the revisions to the 1993-94 budget. Seconded by Councilman Gillespie. Motion carried.

F. Parkview Sewage Treatment

Some residents have contacted Jim Pennington interested in having sewer service. On May 18th the sanitary sewer board requested that the City Council hold a public hearing to determine the number interested in a sewer system. A health hazard exists, only a few of the 100-125 residents have septic systems. Is technically possible. A very, very rough estimate of cost would be \$150,000-\$175,000.00 Public hearing to determine if community is interested and desires service. If there is interest, perhaps we could go through Region VI for funding. The City Manager to set up the hearing before the end of summer.

G. Diving Classes

Apparently an agreement was made with the Volunteer Fire Department and Rick Clay that the city would pay for the courses to train divers and in return we would use their services for recovery operations. In order to complete program individuals need to attend search and recovery at \$100.00 each and rescue at \$150.00 each for a total of \$500.00 each to complete.

Question was raised if there was any guarantee that these two people will stay any longer than six months after they complete the courses.

Mr. Gillespie stated initially, one stated that if they went and took the course they would be certified. That was the first \$500.00.

Mr. Mankins replied that he didn't feel bound by any agreement made by Mr. Clay with the gentlemen. Again, \$500.00 more probably is not a lot to spend, if we get the use of it. How do you guarantee that.

Mrs. Cox stated she had seen a copy of an agreement with one diver.

Bill Roy stated the agreement was that they be certified to work with the city on water leaks, search and recovery, and work with the Police Department on evidence recovery.

Mr. Mankins replied that council knew nothing about a contract. He would want a contract.

Tabled until the contract is found and discuss at the next council meeting.

H. Volunteer Fire Department Request

Ken List - reference memo from City Manager dated 18 May. Has had citizens come up and ask which fireman or police officer was fired for urinating on the street. Wanted to know why they were doing it.

Mr. Mankins - There is nothing wrong with the memo. If somebody can't read, its a mis-interpretation.

Mr. List - In reference to parking - when there is an emergency, we do not have time to find a place to park. We need to get in, get a truck and get out as fast as possible.

Mr. Mankins - Do all of the volunteers have stickers on their vehicles

Mr. List - Yes, emergency vehicle stickers.

Mr. Mankins - I would hope the police know what they look at and that the vehicles would not be ticketed.

I. City Part Hot Water Heater

Mrs. Hoyler stated that Sandy Poling of the Taylor County Workshop reported that the hot water heater broke down. Submitted an estimate of \$270.00 for an electric 50 gallon heater. She wondered if it was something the city would be willing to pay for or whether they would be bound by their agreement.

Mr. Riley - Whoever leases the park, should be responsible for draining the tank.

Mr. Mankins suggested that the health department look at the situation for camping site. I agree with Russell it is a permanent fixture and its out responsibility to replace it. We probably should replace it with the right quality adn right size.

Tabled until more information is received. City Manager to check out and handle.

J. Lease of Social Center for Child Care

Request from C&W Enterprises, Inc. to rent the social center for purposes of a summer camp child care program June 13-July 29. Understand from North Central Community Action that they will be providing lunch meals under a grant during July. Mr. Wayne Frewen, the administrator would administre the program.

The City Attorney and City Manager met with Mr. Frewen yesterday in reference to a contract that would release the City from liability. Require them to have liability insurance in the amount of one million dollars.

According to West Virginia State Code, any lease must have a public hearing and approved by council. This is something the Recreation Commission cannot authorize. They wanted to start Monday, but without the public hearing it would not be possible.

Motion by Councilman Rogers to hold a public hearing on lease of the Social Center for summer to C&W Enterprises, Inc. Seconded by Councilman Gillespie. Motion carried. Hearing is set for 6:00 p.m. Tuesday, 14 June.

Mrs. Hoyler stated they had one other request - wanted to know if it would be possible for them to go in and sanitize the kitchen and have the health department inspect.

Mr. Mankins suggested we wait until after Tuesday night.

X. Citizen's Hearing

A. Peggy Robinson

Resented comment made by Mr. Gillespie ie: normally there is nothing happening, only a couple of people are at the meeting and why were the people here for political reasons tonight. I don't think that's right.

I'm real happy tonight - first night in seven months I haven't heard anybody say anything about Rick Clay.

A couple of months ago there was an advertisement in the paper for a temporary full time position. What position is that and how temporary is it?

Mrs. Hoyler - when Mary Gabbert left that position was changing. We needed an account's payable clerk. At that time it was not known if Peggy Cox was returning or not. It would be permanent full time or permanent part time. It will become a permanent part time position for Carolyn Fowler and Shirley Dougherty will perform that function the rest of the half time.

B. Jack Hunt

You stated to we, hwich really disturbed me, you sent a letter to Ruth Lake on the other two (Gladys McVicker and Tootsie Robinson).

Fran Whiteman - McVicker is the caretaker, receiving reduced rent per month. I found it to be a conflict of interest. Tootsie Robinson has a son who works for the Housing Authority, who does not live with her, so she does not receive direct benefit from his employment - not a conflict of interest.

Mr. Hunt - Ruth Lake is hired by the board. She should not be contacted on any of those matters. It should be between you and the board. By Judge Waters, only the City Manager can deal with board members. Ruth Lake has nothing in it. I have heard from realible sources that Gladys McVicker went to her daughter and told her they asked her to resign. All you have to do is send Gladys a letter stating she has been officially removed from that board. She doesn't have to resign.

Mrs. Hoyler - I told her she could either relinquish her position as caretaker or resign. I felt that was a courtesy.

Mr. Hunt - In my dealings with the woman, she is not going to relinquish the job, as she is only paying \$25.00 a month. She gets a \$75.00 deduction in rent.

Mrs. Hoyler - Then she will be removed.

Mr. Hunt - Back to Tootsie Robinson. In the spring of 1992, she seconded the motion to hire her son. She was told she could not vote and why not. She stated "Well, if you put it that way, I vote yes". They were living in the same household, that makes it nepotism.

Ms. Whiteman - If they were living in the same household at the time, she should have excused herself. She shouldn't have been on the board.

Mr. Hunt - In all fairness to the rest, she should be removed too. Things should be done right. I suggest you do a little checking on Mrs. Robinson. What about the PILOT case?

Ms. Whiteman - Progressing toward a trial date in September. We're in a discovery period now. Other than that I cannot really discuss it at this time.

Mr. Hunt - Not to long ago, Ms. Lake had a maintenance man turn off the heat. Within one week eleven tenants were in the hospital with pneumonia. They won't turn the air conditioner on until the temperature is so high. This is pure nonsense. I asked them a year and a half ago to look into getting a grant to put in individual air conditioners. Excuse was its all wired with aluminum and it won't carry the air conditioning. In July 1992; they were awarded a grant of \$60,000.00 to blacktop Sunset Terrace. \$55,000.00 went for water pipes. When this was finished, it was to late for blacktop. In 1993 they did a water line. The blacktop has never been done yet, why? Before I went on the Housing Authority, I was told she didn't give a damn about those people.

C. Richard Nestor

In reference to the comment made earlier about the businesses in the city being gone - there are a lot more things going to happen. We ain't got no businesses coming in - I don't think this its going to happen - we don't have any politicians. I'd like to know how much B&O that you accumulated in 1993, and how much this year, to see how much it has dropped.

D. Everett Keener

The city owns city park, correct. Why don't we incorporate Parkview into the city. I was going to bring up the Police Department protections fee. Because, I think right now until its resolved, the citizen's of the town could bring a class action suit, for being discriminated against, by having to pay that - when not all residents are having to pay that. I would not be against that motion being made by the concerned citizens to bring it up.

Police Department - I've heard the rumor's that the police department has several suits against the city. Is that true?

Ms. Whiteman - There are no suits filed by the Police Department against the city

Mr. Keener - Does one lady have a suit against-

Ms. Whiteman - She does - alone individually.

Mr. Keener - Do other individuals have a suit against the city.

Ms. Whiteman - Not to my knowledge.

Mr. Keener - My comment to that was going to be - lets do away with the Police Department and move everything to the Sheriffs Department. It would save us money in the long run. There is no reason why we need two law enforcement,

really three, in a county this small. I think this is some of the things the city should look at with the county commission. This is the only way I can see that the county and city fathers can reduce their costs.

EMS service - at one time, I think the Fire Department used to handle all this. I think we ought to consider moving the Fire Department and EMS, training those people, they're paid. I do understand we have two fire department's in this building - one paid and one volunteer - that's hard for me to conceive, that's beside the point. E911 - still has a lot to be resolved - as far as emergency services driver response. Is there anyway the citizen's can put before you a motion to be considered, or do we have to contact a councilman to do this?

Mr. Mankins - You can bring up anything you want to - you cannot make a motion. You can do what you're doing now or bring it up to one of us.

E. Steven Freeman Jr.

I want to protest the street light being moved from our street (109 Betty Ave). It has been there 15-20 years. People come down there and use it for a turn around. Possibly they could back over a hill, or come flying down there and go over the hill. I was told today that you don't light houses, only areas. I'd like it to be rechecked.

Mr. Mankins - There have been probably thirty citizens who protested when the lights were moved. We have looked at everyone of them. Some of them have been very legitimate and honest and we have replaced them. If it is checked out and feel it shouldn't be moved, that will be the end of it. If it is not satisfactory, then some move will be made. You can always petition, if it wasn't to your satisfaction. Get citizens and neighbors in your area to sign the petition.

F. Marge Gerkin

Has the emergency squad backed out of it - not paying their \$15,000.00 over three years.

Mr. Mankins - Nothing discussed at our work session on that one way or another.

Mrs. Gerkin - County commission had not obligated anything.

Mr. Mankins - They have removed the maintenance now, if this goes thru.

Mrs. Gerkin - It will be specified, the city portion will be \$30,000.00. What is the city's communication budget now?

Mrs. Hoyler - \$70,000.00

Mrs. Gerkin - So that's going to be \$20,000.00 less. That's for a year.

~~Mrs. Hoyler - Yes. We're still going to have some sort of dispatch for water, sewer, etc. We're going to save at least \$35-40,000.00 depending on how they set up dispatch.~~

Mr. Mankins - Telephone company will start collecting the money probably within thirty days. If it passes, the city's money would go in, within 10-12 months.

Mrs. Gerkin - In reference to the divers - wouldn't it be cheaper to hire them when needed.

Mr. Mankins - Probably not. Rates are \$100.00 per hour plus.

Mrs. Gerkin - We've had this dam up here for fifty-four years. How many times have we used a diver?

Mr. Riley - Used them this winter up in the Bluemont tank.

Mrs. Gerkin - I still say it would be much simpler and cheaper. I feel-

Mr. Gillespie - You remember when Kitzmiller went to the State Police

Academy - he dived. He was qualified. We've had a few drownings.

Mrs. Gerkin - I have a problem with Peggy not going back. Donna, did you ever really talk to Peggy before you made this decision.

Mrs. Hoyler - No. My recommendation was based on Mrs. Dougherty performance.

Mrs. Gerkin - Peggy was still to be worked

Mrs. Hoyler - On leave of absence, no she was not performing that job. Mrs. Dougherty was performing the job.

Mrs. Gerkin - Isn't there a law that a person that goes back to a job, their job is there also.

Mrs. Hoyler - No. That was the law Mayor Mankins read - a comparable position - not the same one. It's called the Family and Medical Leave Act. That only allows for up to twelve weeks leave. The city granted a six month leave of absence.

Mrs. Gerkin - I can't believe that this can be done. I just can't believe it. That this job can be taken. You're creating another job. Does the building inspector pay extra ?

Mrs. Hoyler - This is clerk to the building inspector, which is part time. The clerk to the building inspector, Shirley has been doing part time; acting city clerk and secretary to me - all three positions.

Mrs. Gerkin - But, you never saw the performance of Peggy Cox. That's what I can't understand. How you can say this decision, on something you didn't see.

Mrs. Hoyler - It was not my decision. I was asked for a recommendation by council.

Mrs. Gerkin - Who asked council to make a decision.

Mrs. Hoyler - It is council's decision - the position reports to council. The city clerk serves at the will and pleasure of council.

Mrs. Gerkin - I just think that Peggy was given the shaft. I really feel she got the shaft. She worked seven and a half years without any problem, I just can't understand.

Mr. Riley - Personally, to me, I wasn't here when she left. I have nothing against her work, I don't know anything about her work. But, you can do it - you can bring you back and put you on another job, as long as the rate of pay and benefits aren't changed. A conductor is sitting behind you. Did you ever go on vacation and come back and your job wasn't there?

Mr. Murray - My job was always there.

Mr. Riley - If you have good years seniority - it was always there.

Mrs. Gerkin - I really feel you didn't do right, so do a lot of people. I've nothing against Shirley, I like Shirley. I just feel that Peggy was shafted. Last time we talked about codification - the man that came in here to do the codification. I understand he caused all the turmoil, shuffle of things, piles and stacks. I have never seen such a mess. I could go into Peggys office and ask for something, and I would have it right now.

G. John Murray

Where's Jeff Kossack - did he leave the country? Do you ever hear anything from him?

Mr. Mankins - Yes

Mrs. Hoyler - There is no change in status. They still have not been able to find someone

Mr. Murray - That's what I don't like. Has anybody jumped him about it.

Mrs. Hoyler - I talked to him about it. They are still talking to companies. They cannot find anyone who will sign a commitment at this time.

Mr. Murray - When does the permit expire?

Mr. Mankins - It's a while yet, I don't know the exact date. I don't have the exact date. Which permit are you talking about? The one they got the extension on?

Mr. Murray - Yeah, right.

Mr. Mankins - There are two or three permits out there. I wasn't sure which one you were referring to (start construction, to have the hydro put in).

Mr. Murray - I would like someone to talk to Jeff and ask him what's going on. What is he doing. I hate to see this thing go down the tubes. It will never be, unless someone stirs Jeff Kossack up.

Mr. Mankins - There are no more companies out there that are anymore anxious to do it than National Renewable Resources. Right now the climate isn't good for it - power companies are still lobbying and doing everything they can to stop this from happening - that's what we're up against. That's why he's not able to find customers for the power.

Mr. Murray - How much did the codification cost?

Mr. Mankins - You're talking about the gentleman from the university. That wasn't a true codification - it was an indexing.

Mrs. Hoyler - It cost \$3500.00 for indexing and computerizing.

H. Don Knotts

Like Marge and John, I think Peggy got the shaft. It was an awful mistake when you hired that Rick Clay. For awhile, this council was being run by that certain, councilman weren't being informed on what was going on. That it was being run by certain individuals.

Whenever I got a burning permit - it was good from 4 o'clock in the evening and I was to see that the fire was out before I left. Recently, some have been burning early in the morning and burning all day and all night. They were in plain view.

What is being done about building permits. There's a lot of building going on around here and you don't see no permits. I think someone is being lax, they're not checking up on them.

Mr. Gillespie - I've sat here several times. I've seen certain number of council members voted for a lot of things and passed them and going into executive session for practically every meeting for personnel. I would say it was personnel tonight - there was no executive session tonight.

I. Elizabeth Larrick

Peggy Cox has worked under the following mayor's (listed the mayors). In all that time, did she ever receive a poor evaluation? I thought executive session was personnel problem's and litigation. I have attended council meetings from 1973 until now and I find this tonight concerning Peggy Cox very disgusting. I would like to ask Mr. Gillespie if he ever came to council before he was on council. (Mr. Gillespie replied yes) Not very often. We've all been coming. We come here - whether we like what happens or not.

XI. Council Member's Hearing

Mr. Riley - I had no part of installing Mr. Clay and I want you to remember that. Jeff Kossack-it might be advisable to ask him to come and sit in front of the citizens and let him tell himself what is happening.

XII. Meeting was adjourned at 9:15 p.m.



Daniel E. Mankins
Daniel E. Mankins, Mayor

ATTEST:


Shirley M. Dougherty
Shirley M. Dougherty, City Clerk

[Bills approved for payment are listed on pages 119 through 125

Regular Meeting
Grafton City Council

Tuesday, 19 July 1994
6:30 P. M.

I. The regular meeting of Grafton City Council was called to order by Vice-Mayor Thomas Horacek at 6:30 p.m. on 19 July 1994. The invocation was given by Councilman Thomas Gillespie.

II. Pledge of Allegiance

The pledge of allegiance was recited by all present.

III. Roll Call

Roll call found the following present: Councilmen Chesley Rogers, Beryl Riley, Tom Gillespie and Vice-Mayor Tom Horacek. Mayor Dan Mankins was absent.

Also present were: City Manager Donna Hoyler, City Attorney Frances Whiteman, Finance Director Larry Richman, City Clerk Shirley Dougherty, Chief Tom Broadstock, LT Robert Dougherty, Sgt Lisa Ozales, Patrolmen Pete Shipp, E.T. Howel, Robert Beltner and Ted Stevens of the Police Department.

IV. Minutes of Regular Council Meeting, 5 July 1994

Motion by Councilman Gillespie to accept the minutes as presented, changing the date to July the 5th. Seconded by Councilman Rogers. Motion carried.

V. City Manager's Report

A. Hydroelectric Project - Spoke with Jeff Kossack yesterday. He is planning to be here August 16th to give us an update. They are still talking with power companies. He told me that by the mid-August time frame, he should have something more positive.

B. Water - There have been eleven water leaks since June 20th. Friday night there was a main water break under the Fetterman bridge and we were forced to turn off the water to Pruntytown for a few hours in order to fix the leak. Last night we had a service line leak on Maple Avenue in the 300 block. The street crew has promised to very carefully repair the street where they had to cut it.

Replaced nineteen gun read-out meters since the June report. Hopefully, in another month we should have finished with the replacement of the gun read-out meters with regular read-out meters.

C. Sewer - Installing new taps and sewer line repair. We have gathered some information on Parkview district in preparation to try and hold a hearing to find out if Parkview is interested. Expect to hold that around the end of August or the beginning of September. Received information from the Department of Environmental Protection Agency, that they need more information on the combined sewer overflow plan. We will need some additional engineering assistance. Kelly, Gidley, Blair and Wolfe have helped get the plan together and will have to help with the revisions. We will need council approval to get additional assistance. to meet the requirements of the Department of Environmental Protection.

D. Streets

(1) Maple Avenue - paving is completed. There are two minor problems which Busty Weber is getting in touch with the City Engineer George Pigott on. In

the 400 block, the crowning is insufficient, so water was laying in the street. Also, they paved over two of the sewer manholes.

(2) Pot holes - working around Bluemont Cemetery area. Starting on Anna Jarvis, Piedmont, McGraw. Then will go to Lucretia and Blueville section.

E. Garbage - The new garbage truck has been received and put in service.

F. Water Distribution Project - Closing on July 26th on the bond issue. The paperwork is pretty well in order. Received final certification from the Public Service Commission - giving us our certificate of convenience and public necessity, to do the project. Contractors are scheduled to sign the construction contract on July 29th. Hope to begin sometime around the beginning of August. Bank accounts have been set-up for the bond fund. The bond issuance is going to be done in two phases. WV Development Authority has to get more more funding from the public and will be doing that sometime in August. At closing time, we requested \$600,000.00. That is all we will need for a couple of months, to pay for property acquisition, deeds, etc. It will save us interest. In September we will get the remaining 2.2 million. The mayor, city clerk, and myself are required to be there to sign the paperwork.

G. Building Inspection

(1) Eighteen new weed and debris notices have been sent out, plus follow-up letters on others. Thanked all of the citizens that participated and called in on problems in the community. It has been a big help to us. People are starting to respond and clean-up their property. It is appreciated.

(2) Requested bids for removal of the four story porches at 112 East Washington Street. They are due in for the August 2nd meeting.

H. I have been in touch with the WV Housing Development Authority. I will meet with them this week to discuss some cap financing for housing development in Grafton, to auction off land for builders to come in and develop. From previous talks they are willing to give us some money to get some projects going in Grafton.

Motion by Councilman Gillespie to have the City Manager contact Kelly, Gidley, Blair and Wolfe for additional information to complete the combined water/sewer project. Seconded by Councilman Rogers. Motion carried.

VI. Communications - none

VII. Commission, Committee and Board Reports

A. Recreation Commission

At the last meeting, we met with Judy Collett, the county assessor. Discussed putting a levy on the ballot in November to have a combined City/County Board of Recreation. Mrs. Collett has figured the levy on \$100,000.00 estimate, which is about what we figured was needed to fund the recreation board. In addition to about \$35,000.00, which the present recreation commission brings in in revenue. Looking at a total budget of \$135,000.00. With the \$100,000.00 levy, it worked out to 2.5 cents per \$100.00 of property valuation. We are waiting for the county commission to meet and give approval to put it on the ballot. It must be put together and approved by the commission very shortly. Projects discussed were: filtration system for the pool, tennis courts, walking trail, bocce ball, horseshoes, and spruce up all the playgrounds/parks. This would also involve having a recreation director.

VIII. Old Business

A. First Reading of Parking Meter Ordinance Number 621

Motion by Councilman Riley to accept the first reading of parking meter ordinance #621. Seconded by Councilman Gillespie. Motion carried.

B. Resolution for Intervention in the PEIA Law Suit

Fran Whiteman - Last meeting I recommended the city cease its payments to PEIA and intervene in the law suit that is currently pending in Kanawha County. I talked with the Municipal Leagues attorney, Dennis Vaughn or Vaughn & Withrow, and indicated to him that Grafton wished to intervene on the suit. After discussion, it was decided that one attorney was better than twenty. Dennis Vaughn will be heading up the law suit as legal counsel for all counties, municipalities, involved. The amount of legal expenses would be proportioned between all the counties and municipalities. Total cost wouldn't be much for the city - might have \$200.00-500.00 in legal fees. The City needs to pay up front a retainer of \$750.00. What is not used will be reimbursed to the city.

Motion by Councilman Riley to pass the resolution to intervene in the PEIA law suit. Seconded by Councilman Gillespie. Motion carried.

C. City Manager Contract

A four year contract for Mrs. Hoyler. On the second page, it includes a 5% raise starting in July 1995 and each year thereafter.

Councilman Riley - No reflection on the city manager, I'm proud of the way she does her job. Truthfully, can we project raises and feel free to do so between 1 July 1995 and 1 July 1997. I'd rather vote on a pay raise yearly. My question- I don't think you can do this, can you?

Fran Whiteman - In so far as we are offering a four year contract, we can also offer a pay incentive.

Riley - How do you project what the City's going to have in the budget?

Mr. Horacek - I think Mr. Riley's concern in offering a raise in this fashion, in advance, when the money is not budgeted could be a problem.

Mr. Rogers - What should we do?

Mr. Riley - Offer a yearly salary - next year it comes up again. The same as you - getting a yearly raise. What do you do for other city employees?

Mrs. Hoyler - There is not an automatic raise every year.

Mr. Gillespie - I really have no problems with it. It gives you an incentive. With the contract the City of Grafton is covered.

Motion by Councilman Rogers to go with the contract. Seconded by Councilman Gillespie. Motion carried with one dissenting vote.

IX. New Business

A. Paying of the Bills

Mrs. Hoyler explained the payments to the State of West Virginia social security payments. The city received a request from social security to look at the wages for 1983. The city had underpaid social security wages, to FICA for \$4,031.00. We have also received one for 1984 for \$1100.00.

Motion by Councilman Riley to pay the bills as presented. Seconded by Councilman Gillespie. Motion carried.

Motion by Councilman Gillespie to pay for the removal of twenty ton of solid waste by Refuse Control System at a cost of \$1,068.00. Seconded by Councilman Rogers. Motion carried.

B. Supplemental Resolution for Water/Sewer System Bond Issue

Minor changes to the original resolution.

Motion by Councilman Riley to accept the resolution. Seconded by Councilman Rogers. Motion carried.

C. West Virginia Municipal League Conference

The conference will be held August 25 - 27 in Martinsburg. One representative should attend the meeting.

Motion by Councilman Gillespie to allow the City Manager to attend the conference. Seconded by Councilman Rogers. Motion carried.

D. Video System for Police Cruiser

Mrs. Hoyler - There is a video we will watch after the meeting. The Police Department has been incurring some significant cases, where they could have been in very dangerous situations. They have also been occasional conflicts on various incidents. They need to have a video system to tape arrests where a crime has occurred. In talking with the Fraternal Order of Police, they are proposing to their membership, that they buy one video system on a trial basis to be tried by the city, county and state police. Police Department and myself are recommending a trial and purchase of at least one unit - camcorder with wireless mike and a tripod. It would cost approximately \$1,000.00 to 11,000.00. Would greatly assist in presenting cases, and be a training tool.

Motion by Councilman Rogers that we purchase a video system. Died for lack of a second.

Ivan Wagner - Who did you talk to from the local FOP and when?

Mrs. Hoyler - Spoke with Paul George and David Holcomb today. They are to bring to the membership next week to vote on.

Patrolman Howell - The FOP is to call a special meeting for Thursday to vote on it.

Motion by Councilman Riley to table until after viewing the tape and the FOP meets and votes to purchase one. Postponed to next meeting.

E. Revision to 1994-95 Coal Severance Budget

Mr. Richman explained that is a \$9,359.00 roll over to street and capital improvements.

Motion by Councilman Gillespie to adopt the resolution. Seconded by Councilman Rogers. Motion carried.

F. Revision to 1994-95 General Fund Budget

Mr. Richman there is a \$179,277.00 rollover to contractual (paving of Maple Avenue) and capital outlay (garbage truck and engineering and survey fee). The funds were earmarked for projects not completed in 1994-94. No actual cash on hadn.

Motion by Councilman Rogers to adopt the resolution. Seconded by Councilman Riley. Motion carried.

X. Executive Session - Legal Issues

Motion by Councilman Rogers to go into executive session. Seconded by Councilman Riley. Motion carried. Adjourned at 7:50 p.m.

Meeting was reconvened at 8:30 p.m. A discussion was held about a number of legal issues.

Motion by Councilman Gillespie to allow the City Manager to make offers on property we need to acquire for the water project. Seconded by Councilman Rogers. Motion carried.

XI. Citizen's Voice

A. Peggy Robinson - not present

B. Ken Litzinger

Concerning City Manager Mrs. Hoyler - I suppose it is very easy to get on the good side of the news media. It comes in handy I'm sure. I'm not here to pat you on the back - you need to listen to the people - you have not been representing all the best interest of the citizens of the City of Grafton. She has been polite and very pleasant to talk to. However, as much as she means well, the truty of the matter is that progress is not ongoing as it should be - responsibility of main interests are not taken friendly or being accomplished. In short Mrs. Hoyler is not working out.

(1) To be specific, in my opinion, it was very unwise to install a ramp to the police department. More consideration should have been given.

(2) To be specific, I could mention, in my opinion, the ruining of the parking deck. I would have rather seen the overhang, if it could have been maintained. I'm sure you did the best you could under the circumstances.

(3) Concerned about the siding peeling off of the garage on Front Street.

(4) Possible accident site at the corner of Bridge Street bridge and Barrett Street near the Save-a-Lot parking lot. I've brought this up time after time after time. I've talked to every department I know to get a stop sign put up there.

(5) Question for the City Attorney - Settlement over the civil suit brought by Lisa Ozales against the Grafton Police Department, City of Grafton adn former city manager Carl R. Clay, Jr. I feel that the public should be allowed to know the amount of money awarded to Sgt Ozales.

Fran Whiteman - I would like to address most of all the issues.

(1) Settlement that was reached with Sgt Ozales - is a matter of record at the courthouse. The settlement offer that was accepted was \$10,000.00 on behalf of the cities group insurance carrier.

(2) Cement ramp - that had to be put in. We have a handicapped dispatcher. It was part of the Federal guidelines and law that it was necessary to install the ramp.

(3) Parking deck - it was considered a safety hazard by the engineering people.

Mr. Rogers - You want a stop sign put on Barrett Street - that's what you called me about one time. We can't do it - it is a state road. Coming across the bridge, if you're going under the bridge, you don't have the right-of-way. You can't make it that way either. You have to cross a lane of traffic! You can't cut across in front of traffic. You and I have talked about this two or three times on the telephone. The police catch you, they'll give you a ticket. The problem has already been tackled.

Litzinger - If you come from the bridge and you run into me when I'm making a sharp left hand turn.

Rogers - You'll get the ticket, it will be your fault. If you come across the bridge when I'm coming down Barrett, I'll show you.

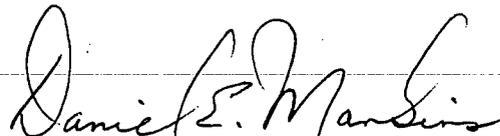
Lt. Dougherty - I think I might be able to elaborate on this problem. The state road is the one that made the change over there. I've talked to the people at the state road. They're trying to purchase a little bit of property there to change the one way street back to two way to the city garage and make Henderson Alley a two-way street. That way you can make a right hadn turn and you're there. They are looking into it.

Mr. Rogers - What he's saying, you come across the bridge and cut under the bridge, everybody else is supposed to stop.

Dougherty - Wrong. People coming from Barrett to Bridge Street have the right-of-way.

XII. Council Member's Hearing - none

XIII. Meeting adjourned at 8:45 p.m. Council viewed video tape on the video system for the Police Department.


Daniel E. Mankins, Mayor

ATTEST:


Shirley M. Dougherty, City Clerk

MOUNTAIN STATESMAN

"Serving Grafton and the Heartland of Northern West Virginia"

914 West Main Street, Grafton, West Virginia 26354

Phone: (304) 265-3333

LEGAL ADVERTISING INVOICE

5/31/94

Date

City of Grafton
1 West Main Street
Grafton, WV 26354

Invoice No. 5663 Amount Remitted \$ _____

Re: Ordinance # 619
P.O. #4146

Insertion Dates: May 20 & 27, 1994

Amount Due \$54.34

Legal Rate Information: 5¢ per word for the first insertion and 75¢ per insertion thereafter. FEIN #363672215

NOTICE OF PUBLIC HEARING ON CITY OF GRAFTON ORDINANCE NO. 619
A public hearing will be held on the following-entitled Ordinance at a regular meeting of the Council of the City of Grafton to be held on June 7, 1994, at 6:30 p.m. in the Council chambers at the Grafton City Hall, 1 West Main Street, Grafton, West Virginia, and at such hearing any person interested may appear before the Council and present protests and all protests and suggestions shall be heard by the Council and it shall then take such actions as it shall deem proper in the premises upon an Ordinance entitled:
Ordinance concerning the installing separate waterworks system and existing separate sewerage system of the City of Grafton into a combined waterworks and sewerage system of the city; providing for the transfer of management, control and operation of the existing separate sewerage system to the city and abolishing the sanitary board of the city; authorizing the refunding of the outstanding sewer revenue bonds, dated June 1, 1972, of the city and the acquisition and construction of extensions, additions, betterments and improvements to the waterworks portion of the combined waterworks and sewerage system of the city and the financing of the cost, not otherwise provided, thereof through the issuance by the city of not more than \$3,000,000 in aggregate principal amount of covered waterworks and sewerage system bonds, series 1994, providing for the redemption of such bonds; authorizing the sale and conveyance of all documents relating to the issuance of such bonds; approving, ratifying and confirming a loan agreement relating to such bonds; authorizing the sale and providing for the terms

354

1.00

State of West Virginia, County of Taylor, ss:

08

Mr. James Clark Advertising Manager

Mountain Statesman, a newspaper published at Grafton in said county, do hereby certify that the annexed _____

Legal 5663 - Ordinance No. 619

P.O. # 4146

was published once a week for two successive weeks in

said Mountain Statesman newspaper as aforesaid, commencing on the _____

May 20 _____ days of 19 94

Given under my hand this May 31 days of 19 94

[Signature] Advertising Manager

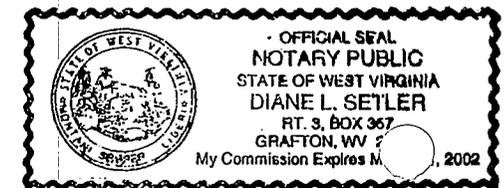
Printers fee \$ 54.34

WEST VIRGINIA, TAYLOR COUNTY, TO-WIT:

Subscribed and sworn to before me this 31st day of May day of 19 94

Diane L. Setler Notary Public

My Commission Expires March 11, 2002



**NOTICE OF PUBLIC HEARING ON
CITY OF GRAFTON ORDINANCE
NO. 818**

A public hearing will be held on the following-entitled Ordinance at a regular meeting of the Council of the City of Grafton to be held on June 7, 1994, at 6:30 p.m. in the Council chambers at the Grafton City Hall, 1 West Main Street, Grafton, West Virginia, and at such hearing any person interested may appear before the Council and present protests and all protests and suggestions shall be heard by the Council and it shall then take such actions as it shall deem proper in the premises upon an Ordinance entitled:

Ordinance combining the existing separate waterworks system and existing separate sewerage system of the City of Grafton into a combined waterworks and sewerage system of the city; providing for the transfer of management, control and operation of the existing separate sewerage system to the city and abolishing the sanitary board of the city; authorizing the refunding of the outstanding sewer revenue bonds, dated June 1, 1972, of the city and the acquisition and construction of extensions, additions, betterments and improvements to the waterworks portion of the combined waterworks and sewerage system of the city and the financing of the cost, not otherwise provided, thereof through the issuance by the city of not more than \$3,000,000 in aggregate principal amount of combined waterworks and sewerage system revenue bonds, series 1994; providing for the rights and remedies of and security for the registered owners of such bonds; authorizing execution and delivery of all documents relating to the issuance of such bonds; approving, ratifying and confirming a loan agreement relating to such bonds; authorizing the sale and providing for the terms and provisions of such bonds and adopting other provisions relating thereto.

The above-entitled Ordinance was adopted by the Council of the City of Grafton on May 17, 1994.

The above quoted title of the Ordinance describes generally the contents thereof and the purposes of the Bonds contemplated thereby. The City of Grafton contemplates combining its heretofore separate waterworks system and sewerage system into a combined waterworks and sewerage system, transferring the management, control and operation of the existing sewerage system to the City and abolishing the Sanitary Board of the City, refunding its outstanding Sewer Revenue Bonds, dated June 1, 1972, and issuing the Bonds described in said Ordinance. The proceeds of the Bonds will be used to refund the outstanding Sewer Revenue Bonds of the City and to provide permanent financing of a portion of the costs of acquisition and construction of extensions, additions, betterments and improvements to the waterworks portion of the combined waterworks and sewerage system of the City. The Bonds are payable solely from revenues to be derived from the ownership and operation of the combined waterworks and sewerage system of the City. No taxes may at any time be levied for the payment of the Bonds or the interest thereon.

A certified copy of the above-entitled Ordinance is on file with the Council at the office of the City Clerk of the City of Grafton for review by interested parties during regular office hours.

Following said public hearing, the Council intends to enact said Ordinance upon final reading.

Dated: May 19, 1994.

Shirley G. Dougherty
City Clerk
Legal 5863
5/20, 5/27

STEPTOE & JOHNSON

ATTORNEYS AT LAW

SIXTH FLOOR

BANK ONE CENTER

P. O. BOX 2190

CLARKSBURG, W. VA. 26302-2190

(304) 624-8000

FACSIMILE (304) 624-8183

July 27, 1994

SEVENTH FLOOR, BANK ONE CENTER
P. O. BOX 1588
CHARLESTON, W. VA. 25326-1588
(304) 353-8000
FACSIMILE (304) 353-8180

1000 HAMPTON CENTER
P. O. BOX 1616
MORGANTOWN, W. VA. 26507-1616
(304) 598-8000
FACSIMILE (304) 598-8116

126 EAST BURKE STREET
P. O. BOX 2629
MARTINSBURG, W. VA. 25401-5429
(304) 263-6991
FACSIMILE (304) 263-4785

104 WEST CONGRESS STREET
P. O. BOX 100
CHARLES TOWN, W. VA. 25414-0100
(304) 725-1414
FACSIMILE (304) 725-1913

THE BRYAN CENTRE
P. O. BOX 570
82 WEST WASHINGTON STREET, FOURTH FLOOR
HAGERSTOWN, MARYLAND 21740-0570
(301) 739-8600
FACSIMILE (301) 739-8742

FOURTH FLOOR - RILEY BUILDING
14TH AND CHAPLINE STREETS
P. O. BOX 150
WHEELING, W. VA. 26003-0020
(304) 233-0000
FACSIMILE (304) 233-0014

WRITER'S DIRECT DIAL NUMBER

City of Grafton
Combined Waterworks and Sewerage System Revenue Bonds, Series 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Internal Revenue Service
Internal Revenue Service Center
Philadelphia, Pennsylvania 19255

Ladies and 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 bonds. 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,

Step toe & Johnson

Step toe & Johnson

Enclosures

Copy of letter with enclosures to:

Samme L. Gee, Esquire
Frances C. Whiteman, Esquire
Donna C. Hoyler, City Manager

06/27/94
8038.LTR
345720/93001

Part I Reporting Authority If Amended Return, check here

1 Issuer's name: City of Grafton
2 Issuer's employer identification number: 55 6000182
3 Number and street (or P.O. box if mail is not delivered to street address): 1 West Main Street
4 Report number: G1994 - 1
5 City, town, state, and ZIP code: Grafton, West Virginia 26354
6 Date of issue: July 27, 1994
7 Name of Issue: Combined Waterworks and Sewerage System Revenue Bonds, Series 1994
8 CUSIP Number: None

Part II Type of Issue (check applicable box(es) and enter the issue price)

9 Education (attach schedule-see instructions)
10 Health and hospital (attach schedule-see instructions)
11 Transportation
12 Public safety
13 Environment (including sewage bonds) [X]
14 Housing
15 Utilities
16 Other. Describe (see instructions)
17 If obligations are tax or other revenue anticipation bonds, check box
18 If obligations are in the form of a lease or installment sale, check box
Issue price: \$ 2,830,000

Part III Description of Obligations

Table with 7 columns: (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. Row 19: Final maturity, 10/1/2033, 6.750%, 194,143.76, 194,143.76, 27.680 years, 6.753%, 6.750%. Row 20: Entire issue, 2,830,000, 2,830,000, 27.680 years, 6.753%, 6.750%.

Part IV Uses of Original Proceeds of Bond Issue (including underwriters' discount)

Table with 2 columns: Description, Amount. Row 21: Proceeds used for accrued interest, -0-. Row 22: Issue price of entire issue, 2,830,000. Row 23: Proceeds used for bond issuance costs, 20,000. Row 24: Proceeds used for credit enhancement, -0-. Row 25: Proceeds allocated to reasonably required reserve or replacement fund, 207,249. Row 26: Proceeds used to refund prior issues, 250,000. Row 27: Total, 477,249. Row 28: Nonrefunding proceeds of the issue, 2,352,751.

Part V Description of Refunded Bonds (complete this part only for refunding bonds)

29 Enter the remaining weighted average maturity of the bonds to be refunded: 10.920 years
30 Enter the last date on which the refunded bonds will be called: December 1, 1994
31 Enter the date(s) the refunded bonds were issued: June 1, 1972

Part VI Miscellaneous

32 Enter the amount of the state volume cap allocated to the issue: -0-
33 Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(i)(III) (small issuer exception): -0-
34 Pooled financings:
a Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units: -0-
b If this issue is a loan made from the proceeds of another tax-exempt issue, check box and enter the name of the issuer and the date of the issue
35 If the issuer has elected to pay a penalty in lieu of rebate, check box

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.

Please Sign Here

Daniel E. Mankins
Signature of officer

July 27, 1994
Date

Daniel E. Mankins, Mayor
Type or print name and title

Suite 337 Building 3
 1800 Washington St. E
 State Capitol Complex
 Charleston, WV 25305
 (304) 348-3971

NEW ISSUE REPORT FORM

Date of Report: July 27, 1994

(See Reverse for Instructions)

ISSUE: CITY OF GRAFTON, Combined Waterworks and Sewerage System Revenue Bonds, Series 1994

ADDRESS: 1 West Main Street, Grafton, WV 26354 COUNTY: Taylor

PURPOSE: New Money
 OF ISSUE: Refunding Refunds issue(s) dated: June 1, 1972

ISSUE DATE: July 27, 1994 CLOSING DATE: July 27, 1994

ISSUE AMOUNT: \$ 2,830,000 RATE: 6.75%

1st DEBT SERVICE DUE: 10/1/94 1st PRINCIPAL DUE: 10/1/95

1st DEBT SERVICE AMOUNT: \$33,960 PAYING AGENT: Municipal Bond Commission

ISSUERS
 BOND COUNSEL: Steptoe & Johnson

UNDERWRITERS
 BOND COUNSEL: Jackson & Kelly

Contact Person: Vincent A. Collins, Esq. Contact Person: Samme L. Gee, Esq.
 Phone: 624-8161 Phone: 624-1318

CLOSING BANK: First Community Bank, Inc.

ESCROW TRUSTEE:

Contact Person: David Schoolcraft
 Phone: 265-1111

Contact Person:
 Phone:

KNOWLEDGEABLE ISSUER CONTACT

OTHER:

Contact Person: Donna Hoyler
 Position: City Manager
 Phone: 265-1412

Contact Person:
 Function:
 Phone:

DEPOSITS TO MBC AT CLOSE:

By Wire
X Check

Accrued Interest:	\$	_____
Capitalized Interest:	\$	_____
Reserve Account:	\$	207,249
Escrow Fund (for Refunding Prior Bonds)	\$	250,000 (Bond Proceeds)
Other:	\$	95,726.76 (City's Funds)

REFUNDS & TRANSFERS BY MBC AT CLOSE:

By Wire
Check
IGT

To Escrow Trustee:	\$	_____
To Issuer:	\$	_____
To Cons. Invest. Fund:	\$	_____
To Other:	\$	_____

NOTES:

FOR MUNICIPAL BOND COMMISSION USE ONLY:

DOCUMENTS
 REQUIRED:
 TRANSFERS
 REQUIRED:

The purpose of the **NEW ISSUE REPORT FORM** is to provide the WV Municipal Bond Commission with an early warning of three basis facts no later than the day of closing on any issue for which the Commission is to act as fiscal agent. These are:

1. Formal notification that a new issue is outstanding.
2. Date of first action or debt service.
3. Contact people should we lack documents, information, or funds needed to administer the issue by the date of the first action or debt service.

The Commission recognizes that as bond transcripts become increasingly long and complex, it has become more difficult to assemble and submit them to the Commission within the 30 days specified by the WV Code 13-3-8. This notice is not intended to provide all the information needed to administer an issue, but to alert the Commission and ensure that no debt service payments are missed due to delays in assembling bond transcripts. If, at the time of closing, documents such as the ordinance and all suppliments, debt service schedules, and a specimen bond or photostat are available and submitted with this form, it will greatly aid the Commission in the performance of its duties. These documents are needed to set up the proper accounts and to advise the issuer of monthly deposit requirements as far in advance of the first debt service as possible.

It is not necessary to complete all items if they are not pertinent to your issue. Indicate the County of the issuer. With PSDs that overlap more than one county, indicate the county of their business office. Complete "Rate" only if the issue has only one rate. Please complete a separate form for each series of an issue. Other important information can be recorded under "Notes".

Again, please submit this form on each new issue on the day of closing. If fund transfers into or out of the Commission at close are required, please submit this form before closing. If no significant facts change by closing, no resubmission at close is required. If, however, there are changes, please submit an updated form, with changes noted, at close.

If you should have any questions concerning this form, please call the Commission.

CITY OF GRAFTON

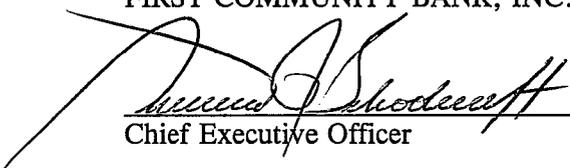
Combined Waterworks and Sewerage System Revenue Bonds, Series 1994

ACCEPTANCE OF DUTIES AS DEPOSITORY BANK

First Community Bank, Inc., a state banking corporation, in Grafton, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Ordinance of the City of Grafton (the "Issuer"), duly enacted by the Issuer on June 7, 1994, and a Supplemental Resolution duly adopted by the Issuer on July 19, 1994 (collectively, the "Bond Legislation"), authorizing issuance of the Issuer's Combined Waterworks and Sewerage System Revenue Bonds, Series 1994, dated July 27, 1994, in the principal amount of \$2,830,000 (the "Bonds") and agrees to perform all duties of Depository Bank in connection with such Bonds, all as set forth in said Bond Legislation.

Dated this 27th day of July, 1994.

FIRST COMMUNITY BANK, INC.



Chief Executive Officer

07/13/94
GRAFC.Q3
345720/93001

CITY OF GRAFTON

Combined Waterworks and Sewerage System Revenue Bonds, Series 1994

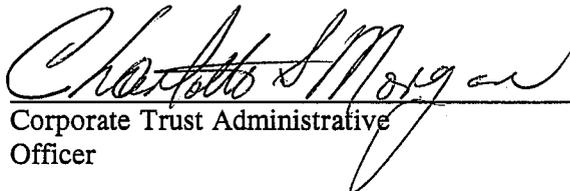
ACCEPTANCE OF DUTIES AS REGISTRAR

ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association with its principal office in the City of Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the City of Grafton Combined Waterworks and Sewerage System Revenue Bonds, Series 1994, dated July 27, 1994, in the principal amount of \$2,830,000 (the "Bonds") and agrees to perform all duties of Registrar in connection with such Bonds, all as set forth in the Bond Legislation authorizing issuance of the Bonds.

Dated this 27th day of July, 1994.

ONE VALLEY BANK,
NATIONAL ASSOCIATION

By


Corporate Trust Administrative
Officer

06/27/94
GRAFC.R2
345720/93001

24

CITY OF GRAFTON

Combined Waterworks and Sewerage System Revenue Bonds, Series 1994

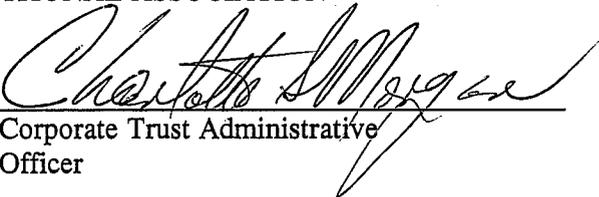
CERTIFICATE OF REGISTRATION OF BONDS

I, CHARLOTTE S. MORGAN, Corporate Trust Administrative Officer of One Valley Bank, National Association, as Registrar under the Bond Legislation and Registrar's Agreement providing for the \$2,830,000 principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1994, of the City of Grafton (the "Issuer"), hereby certify that on the 27th day of July, 1994, the single fully registered Series 1994 Bond of the Issuer in the principal amount of \$2,830,000 designated "Combined Waterworks and Sewerage System Revenue Bond, Series 1994," numbered R-1, was registered as to principal and interest in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of One Valley Bank, National Association, as Registrar.

WITNESS my signature this 27th day of July, 1994.

ONE VALLEY BANK,
NATIONAL ASSOCIATION

By


Corporate Trust Administrative
Officer

06/27/94
GRAFC.S2
345720/93001

25

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 27th day of July, 1994, by and between the CITY OF GRAFTON, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$2,830,000 aggregate principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1994, in fully registered form (the "Bonds"), pursuant to a Bond Ordinance of the Issuer duly enacted June 7, 1994, and a Supplemental Resolution of the Issuer duly adopted July 19, 1994 (collectively, the "Bond Legislation");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Bond Legislation, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Bond Legislation provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Bond Legislation and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Bond Legislation and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Bond Legislation, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the 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 Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar, from time to time, the compensation for services rendered as provided in the annexed schedule and reimbursement for reasonable expenses incurred in connection therewith.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Bond Legislation with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Bond Legislation, the terms of the Bond Legislation shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Bond Legislation will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER: City of Grafton
City Hall
1 West Main Street
Grafton, West Virginia 26354
Attention: City Manager

REGISTRAR: One Valley Bank, National Association
Post Office Box 1793
One Valley Square
Charleston, West Virginia 25326
Attention: Corporate Trust Department

8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Bond Legislation.

IN WITNESS WHEREOF, the CITY OF GRAFTON and ONE VALLEY BANK, NATIONAL ASSOCIATION have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

CITY OF GRAFTON

By *Daniel E. Mansins*
Mayor

By *Dorena C. Hoyle*
City Manager

ONE VALLEY BANK, NATIONAL
ASSOCIATION

By *Charlette Morgan*
Corporate Trust Administrative
Officer

06/27/94
GRAFC.T2
345720/93001

EXHIBIT A

[Included in transcript as Documents No. 1 and 2]

Invoice

**ONE VALLEY
BANK**

Mayor, City of Grafton,
West Virginia

DATE JULY 27, 1994

UNITS	ITEM DESCRIPTION	TOTAL
	<p>\$2,830,000 PAR CITY OF GRAFTON, WEST VIRGINIA COMBINED WATERWORKS AND SEWAGE SYSTEM REVENUE BONDS, 1994 SERIES A.</p> <p>ONE TIME FEE FOR SERVICES AS REGISTRAR AND XXXX AUTHENTICATING AGENT.....</p>	<p>\$500.00</p>

SEND REMITTANCE TO: One Valley Bank
One Valley Square
P.O. Box 1793
Charleston, WV 25326
ATTN: CHARLOTTE S. MORGAN
Attn: _____

STEPTOE & JOHNSON

ATTORNEYS AT LAW

SIXTH FLOOR

BANK ONE CENTER EAST

P. O. BOX 2190

CLARKSBURG, W. VA. 26302-2190

(304) 624-8000

FACSIMILE (304) 624-8183

SEVENTH FLOOR, BANK ONE CENTER
P. O. BOX 1588
CHARLESTON, W. VA. 25320-1588
(304) 353-8000
FACSIMILE (304) 353-8180

1000 HAMPTON CENTER
P. O. BOX 1616
MORGANTOWN, W. VA. 26507-1616
(304) 598-8000
FACSIMILE (304) 598-8116

126 EAST BURKE STREET
P. O. BOX 2629
MARTINSBURG, W. VA. 25401-5429
(304) 263-6991
FACSIMILE (304) 263-4785

104 WEST CONGRESS STREET
P. O. BOX 100
CHARLES TOWN, W. VA. 25414-0100
(304) 725-1414
FACSIMILE (304) 725-1913

THE BRYAN CENTRE
P. O. BOX 570
82 WEST WASHINGTON STREET, SUITE 301
HAGERSTOWN, MARYLAND 21740-0570
(301) 739-8600
FACSIMILE (301) 739-8742

WRITER'S DIRECT DIAL NUMBER

June 27, 1994

(304) 624-8161

City of Grafton
Combined Waterworks and Sewerage System Revenue Bonds, Series 1994

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 Grafton intends to advance refund all of its outstanding Sewer Revenue Bonds, dated June 1, 1972 (the "Prior Bonds"), to their first redemption date, being December 1, 1994, at which time the Prior Bonds will be redeemed in full.

I have enclosed a copy of the Ordinance enacted by the City Council on June 7, 1994, and a draft of the Supplemental Resolution and the Escrow Agreement relating to the refunding. The City of Grafton requests that the West Virginia Municipal Bond Commission act as Escrow Agent under the Escrow Agreement.

Settlement is anticipated on or about July 27, 1994. Please give me a call if you have any questions at this time.

RECEIVED

JUN 28 1994

MBC

27

Mr. R. Witter Hallan
Page 2

My best regards.

Very truly yours,

A handwritten signature in cursive script that reads "Vincent A. Collins". The signature is written in dark ink and is positioned above the printed name.

Vincent A. Collins

VAC/jlt

Enclosures

Copy of letter only to:

Donna C. Hoyler, City Manager

Mr. Daniel B. Yonkosky

Samme L. Gee, Esquire

Frances C. Whiteman, Esquire

Jill Patterson, CPA

GRAFJ.U2

345720/93001

STEPTOE & JOHNSON

ATTORNEYS AT LAW

SIXTH FLOOR

BANK ONE CENTER EAST

P. O. BOX 2190

CLARKSBURG, W. VA. 26302-2190

(304) 624-8000

FACSIMILE (304) 624-8183

34 WEST CONGRESS STREET

P. O. BOX 30

CHARLES TOWN, W. VA. 25411-0100

304-725-4444

FACSIMILE 304-725-9131

THE BRYAN CENTRE

P. O. BOX 570

82 WEST WASHINGTON STREET SUITE 30
HAGERSTOWN, MARYLAND 21740-0570

301-739-8600

FACSIMILE 301-739-8742

WRITER'S DIRECT DIAL NUMBER

SEVENTH FLOOR, BANK ONE CENTER

P. O. BOX 588

CHARLESTON, W. VA. 25326-1588

304-353-8000

FACSIMILE 304-353-8180

300 HAMPTON CENTER

P. O. BOX 616

MORGANTOWN, W. VA. 26507-1616

304-598-8000

FACSIMILE 304-598-8116

26 EAST BURKE STREET

P. O. BOX 2829

MARTINSBURG, W. VA. 25401-6429

304-263-6991

FACSIMILE 304-263-4785

June 27, 1994

(304) 624-8161

City of Grafton

Combined Waterworks and Sewerage System Revenue Bonds, Series 1994

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 Grafton intends to advance refund all of its outstanding Sewer Revenue Bonds, dated June 1, 1972 (the "Prior Bonds"), to their first redemption date, being December 1, 1994, at which time the Prior Bonds will be redeemed in full.

I have enclosed a copy of the Ordinance enacted by the City Council on June 7, 1994, and a draft of the Supplemental Resolution and the Escrow Agreement relating to the refunding. The City of Grafton requests that the West Virginia Municipal Bond Commission act as Escrow Agent under the Escrow Agreement.

Settlement is anticipated on or about July 27, 1994. Please give me a call if you have any questions at this time.

Mr. R. Witter Hallan
Page 2

My best regards.

Very truly yours,



Vincent A. Collins

VAC/jlt

Enclosures

Copy of letter only to:

Donna C. Hoyler, City Manager

Mr. Daniel B. Yonkosky

Samme L. Gee, Esquire

Frances C. Whiteman, Esquire

Jill Patterson, CPA

GRAFJ.U2

345720/93001

CITY OF GRAFTON

Combined Waterworks and Sewerage System Revenue Bonds, Series 1994

JOINT CERTIFICATE OF ISSUER AND ESCROW AGENT

The undersigned DANIEL E. MANKINS, Mayor of the City of Grafton, a municipal corporation of the State of West Virginia (the "Issuer"), the undersigned DONNA C. HOYLER, City Manager of 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 the Escrow Agreement between the Issuer and the Escrow Agent, dated July 27, 1994 (the "Escrow Agreement"), on behalf of the Issuer and the Escrow Agent, respectively.

2. The funds on deposit in the Escrow Fund established by the Escrow Agreement have been invested as provided in the Escrow Agreement.

3. The invested funds are shown by the Exhibits to the Escrow Agreement to be in amounts sufficient to fully pay the Prior Bonds described in the Escrow Agreement, including payment of the principal of, the redemption premium and interest on, the Prior Bonds on the first redemption date thereof, being December 1, 1994, and the liens of the Prior Bonds and the ordinance pursuant to which the Prior Bonds were issued have been discharged.

WITNESS our signatures this 27th day of July, 1994.

CITY OF GRAFTON

By *Daniel E. Mankins*
Mayor

By *Donna C. Hoyle*
City Manager

WEST VIRGINIA MUNICIPAL BOND COMMISSION

By *R. Witter Hallan*
Executive Director

[TO BE PUBLISHED ONCE IN THE BOND BUYER
NOT LESS THAN 30 NOR MORE THAN 60 DAYS
PRIOR TO DECEMBER 1, 1994]

NOTICE OF REDEMPTION

CITY OF GRAFTON

SEWER REVENUE BONDS

Dated : June 1, 1972

CUSIPS: _____

TO THE OWNERS OF ALL THE ABOVE-CAPTIONED BONDS:

NOTICE IS HEREBY GIVEN that all the City of Grafton Sewer Revenue Bonds, dated June 1, 1972 (the "1972 Bonds"), have been ordered by the City to be redeemed on December 1, 1994, in accordance with the provisions of the ordinance authorizing issuance of the 1972 Bonds.

All 1972 Bonds outstanding as of December 1, 1994, are to be surrendered for payment of the principal of and redemption premium and interest accrued thereon to December 1, 1994 (the "Redemption Date") to:

Citibank
[Address] _____

There has been deposited with the West Virginia Municipal Bond Commission, Charleston, West Virginia, as Escrow Agent for the 1972 Bonds, an amount sufficient to fully pay, on the Redemption Date, the principal amount of each of the 1972 Bonds outstanding, plus a redemption premium equal to 1/2 of 1% of the principal amount of each 1972 Bond for each year or fraction thereof from the Redemption Date to the stated maturity date of such 1972 Bond (not to exceed a maximum of 3%), and interest accrued thereon. On the Redemption Date, interest will cease to accrue on all 1972 Bonds.

29A

No representation is made as to the correctness of the CUSIP numbers, either as printed on the 1972 Bonds or as contained in this notice. Reliance may be placed only on the identification numbers printed on the 1972 Bonds prefixed "CH."

IMPORTANT: Under Federal law, individual holders of the 1972 Bonds who present such bonds for payment are required to submit their social security number, certified as correct under penalty of perjury. The required certification may be made on an Internal Revenue Service Form W-9. Holders of the 1972 Bonds may obtain copies of Form W-9 from their local bank or broker. If the social security number is not submitted and certified as correct, 31% of the principal due under the bonds must be withheld and paid over to the IRS.

CITY OF GRAFTON

/s/ Daniel E. Mankins

Mayor

Dated: _____, 1994.

07/22/94
GRAFJ.X3
345720/93001

CITY OF GRAFTON
1 West Main Street
Grafton, West Virginia 26354

July 27, 1994

Redemption of City of Grafton
Sewer Revenue Bonds, dated June 1, 1972

VIA HAND DELIVERY

Mr. R. Witter Hallan
Executive Director
West Virginia Municipal Bond Commission
Escrow Agent in Connection with
the City of Grafton Water Revenue
Bonds, Series 1994

Dear Mr. Hallan:

Attached hereto is a copy of a "Notice of Redemption" pertaining to the above-captioned Bonds (the "Prior Bonds"), to be published not less than 30 days nor more than 60 days prior to December 1, 1994 (the "Redemption Date"), in accordance with the redemption notice provisions of the ordinance pursuant to which the Prior Bonds were issued. Please deliver all publications through Fiduciary Communications Company, Inc., New York, New York.

The directions contained in this letter are irrevocable and are made in accordance with the provisions of the Ordinance enacted by the Council of the City of Grafton on June 7, 1994, as supplemented, authorizing the issuance of \$2,830,000 Combined Waterworks and Sewerage System Revenue Bonds, Series 1994, dated July 27, 1994 (the "Bonds"), and the refunding and defeasance of the Prior Bonds.

United States Treasury Obligations have been purchased with a portion of the proceeds of the Bonds and certain cash amounts deposited in the Escrow Fund established under the Escrow Agreement, and the interest and principal on such security will be used solely to fully pay the redemption price of the Prior Bonds on the Redemption Date, being December 1, 1994.

29B

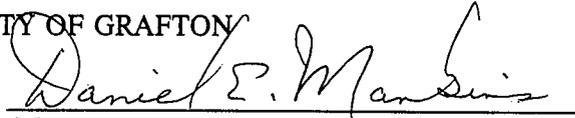
West Virginia Municipal Bond Commission
Page 2

If at any time you have any questions about the instructions contained in this letter, please communicate with me or with Vincent A. Collins, of Steptoe & Johnson, Bond Counsel, Clarksburg, West Virginia.

Very truly yours,

CITY OF GRAFTON

By



Mayor

Copy to:

Vincent A. Collins, Esquire

Samme L. Gee, Esquire

07/11/94

GRAFJ.W3

345720/93001

ESCROW AGREEMENT

This ESCROW AGREEMENT, made and entered into as of July 27, 1994, by and between the CITY OF GRAFTON (the "Issuer") and the WEST VIRGINIA MUNICIPAL BOND COMMISSION (the "Commission" or the "Escrow Agent").

W I T N E S S E T H T H A T:

WHEREAS, the Issuer has heretofore issued its Sewer Revenue Bonds, dated June 1, 1972, in the original aggregate principal amount of \$865,000, of which \$685,000 is presently outstanding (the "Prior Bonds"), for the acquisition and construction of certain additions, betterments and improvements to its sewerage system;

WHEREAS, the Prior Bonds were issued pursuant to an ordinance of the Issuer enacted by the council of the Issuer on May 30, 1972 (the "Prior Ordinance");

WHEREAS, the Issuer has determined to combine its existing separate waterworks system and its existing separate sewerage system into a combined waterworks and sewerage system and to issue its Combined Waterworks and Sewerage System Revenue Bonds, Series 1994 (the "Series 1994 Bonds"), pursuant to an Ordinance enacted June 7, 1994, as supplemented by a Supplemental Resolution adopted July 19, 1994 (collectively, the "1994 Ordinance"), and contemporaneously therewith, legally defease the Prior Bonds by applying a portion of the proceeds of the Series 1994 Bonds and certain moneys of the Issuer to the purchase of obligations of the United States government to be deposited in the Escrow Fund herein described;

WHEREAS, the Escrow Agent will cause to be purchased on behalf of the Issuer, with such Series 1994 Bonds proceeds and certain moneys of the Issuer, the United States Treasury Obligations (the "Government Securities") described in the Verification Report, dated July 27, 1994, of Smith, Cochran & Hicks, a firm of independent certified public accountants, attached hereto as EXHIBIT A - VERIFICATION REPORT (the "Verification Report");

WHEREAS, the Government Securities which will be delivered to the Escrow Agent simultaneously with the delivery of the Series 1994 Bonds, are in such principal amount and mature and bear interest at such rates and are payable at such times and in such amounts as to insure the payment on the first redemption date thereof, being December 1, 1994 (the "Redemption Date"), of the entire principal amount of the Prior Bonds then outstanding, the redemption premium, and interest accrued thereon to the Redemption Date,

being \$725,441.25 (collectively, the "Redemption Price"), there being no principal of or interest due upon the Prior Bonds until the Redemption Date; and

WHEREAS, the Issuer has found it desirable to appoint the Commission as Escrow Agent and the Commission has agreed to such appointment for the purposes of holding title, as trustee, to the Government Securities, receiving payments of the principal thereof and interest thereon when due, disbursing to the paying agent for the Prior Bonds such amounts as may be necessary to provide for payment of the Redemption Price on the Redemption Date, and holding and investing and reinvesting any cash balances which may at any time not be needed for immediate disbursement;

NOW, THEREFORE, in consideration of the mutual agreements contained herein, and in order further to secure payment of the Prior Bonds, as heretofore provided, the parties hereto mutually undertake, promise and agree for themselves, their respective representatives, successors and assigns, as follows:

1. There is hereby created and established with the Escrow Agent an irrevocable trust fund to be known as the Escrow Fund, to be held in the custody of the Escrow Agent, separate and apart from all other funds of the Issuer and the Escrow Agent. The deposit of securities and/or moneys in the Escrow Fund shall constitute an irrevocable deposit of such securities and/or moneys in trust for the Prior Bonds, and such securities and/or moneys, together with any income or interest earned thereon, shall be applied, except as otherwise provided herein, to the payment on the Redemption Date of the Redemption Price, all in accordance with paragraph 5 hereof.

2. Concurrently with the delivery of the Series 1994 Bonds, the sum of \$369,165.41 on deposit in the sinking fund, the reserve account therein, and the depreciation account created for the Prior Bonds and held by the Commission shall be transferred by the Commission to the Escrow Agent and deposited by the Escrow Agent into the Escrow Fund. Concurrently with the delivery of the Series 1994 Bonds, the Issuer shall deliver a check in the sum of \$95,726.76 from its own funds to the Escrow Agent and the Escrow Agent shall deposit such sum into the Escrow Fund.

3. Concurrently with the delivery of the Series 1994 Bonds, the Issuer and the Escrow Agent shall cause Series 1994 Bonds proceeds in the amount of \$250,000, and the \$369,165.41 and \$95,726.76, all described in paragraph 2 above (total amount of \$714,892.17), to be deposited in the Escrow Fund, and thereupon to be applied to the purchase of the Government Securities. Maturing principal and interest of the Government Securities shall be applied solely to the payment of the Prior Bonds. Smith, Cochran & Hicks has certified, in its Verification Report, attached hereto as EXHIBIT A, that the Government Securities, together with the income to be derived therefrom, will be sufficient to pay the Redemption Price on the Redemption Date. The Issuer hereby authorizes and

directs the Escrow Agent to subscribe to the purchase of the Government Securities described in SCHEDULE A attached hereto.

4. The Escrow Agent shall have no authority to reinvest funds or make substitutions of the Government Securities acquired under this Escrow Agreement except as follows:

If requested by the Issuer, and upon receipt of an opinion of nationally recognized bond counsel that such substitution will not affect the tax-exempt status of interest on the Prior Bonds or the Series 1994 Bonds under the Internal Revenue Code of 1986, as amended and then in effect (the "Code"), the Escrow Agent may substitute other United States Treasury Obligations for the Government Securities, provided that such United States Treasury Obligations being substituted must be non-callable obligations of the United States of America ("Direct Obligations"), must be sufficient to pay, on the Redemption Date, the Redemption Price, and provided further, that the Escrow Agent receives verification by a certified public accountant of the sufficiency of the escrowed securities to pay, on the Redemption Date, the Redemption Price.

5. The Escrow Agent shall transfer from the Escrow Fund and deposit directly with the paying agent for the Prior Bonds, in immediately available funds on December 1, 1994, being the Redemption Date, an amount sufficient to pay the Redemption Price. The Escrow Agent shall send written notification to the paying agent for the Prior Bonds, and shall mail and/or publish (or cause to be mailed and/or published) a notice of redemption of the Prior Bonds in accordance with the requirements of the Prior Ordinance and written instructions of the Issuer to the Escrow Agent delivered on the date hereof.

6. The holders of the Prior Bonds shall have an express lien on all moneys and assets in the Escrow Fund until paid out, used and applied in accordance with this Escrow Agreement.

7. Subject to the provisions of paragraph 17 hereof, 12 months after the payment of all amounts required to be paid pursuant to paragraph 5 of this Escrow Agreement, the amounts remaining in the Escrow Fund, if any, shall be deposited by the Escrow Agent in the Series 1994 Bonds Sinking Fund, and applied to payment of the Series 1994 Bonds.

8. The Escrow Agent shall be entitled to fees for services rendered under this Agreement and reasonable expenses as set forth in EXHIBIT B - ESCROW AGENT FEES, attached hereto. The Issuer shall pay from its own funds to the Escrow Agent the amounts at the times set forth in EXHIBIT B. In no event shall such fees or expenses be paid from the Escrow Fund, nor shall the Escrow Agent or the paying agent have any lien whatsoever upon any of the moneys or Government Securities in the Escrow Fund for the payment of such fees or expenses.

9. The Issuer and the Escrow Agent independently hereby covenant that no part of the moneys or funds at any time in the Escrow Fund shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause any of the Series 1994 Bonds to be an "arbitrage bond" as defined in Section 148 of the Code, or to be subject to treatment under Section 148 as an obligation not described in Section 103 of the Code.

10. The Escrow Agent shall have no responsibility with respect to the sufficiency of this Escrow Agreement to effect payment, redemption or defeasance of the Prior Bonds. The liability of the Escrow Agent for the payment of the Redemption Price of the Prior Bonds shall be limited to the payment of all amounts required to be paid, and delivery of the redemption notices pursuant to paragraph 5 hereof. The Escrow Agent shall not be liable or responsible because of the failure of the Issuer to perform any act required of it by this Escrow Agreement. The Escrow Agent shall have no responsibility to the Issuer or any other person in connection with this Escrow Agreement, except as specifically provided herein, and shall not be responsible for anything done or omitted to be done by it except for its own negligence or willful default in the performance of any obligation imposed on it hereunder.

11. By execution of this Escrow Agreement, the Escrow Agent accepts the duties and obligations as Escrow Agent hereunder. The Escrow Agent represents that it has all requisite power, and has taken all action necessary to execute the trusts hereby created.

12. If the Escrow Agent is called upon by the terms of this Escrow Agreement to determine the occurrence of any event or contingency, the Escrow Agent may request from the Issuer or any other person such reasonable additional evidence as the Escrow Agent in its discretion may deem necessary to determine any fact relating to the occurrence of such event or contingency, and in this connection may inquire and consult with the Issuer, at any time. The Escrow Agent may request an opinion of counsel for a determination of any legal issue which might arise in the performance of its duties hereunder and may act in accordance with the advice given in such opinion.

13. The Escrow Agent shall not be liable for any loss resulting from any investment made pursuant to the terms and provisions of this Escrow Agreement.

14. The Escrow Agent may act upon any notice, request, waiver, consent, certificate, receipt, authorization, power of attorney or other instrument or document which the Escrow Agent in good faith believes to be genuine and correct and to have been signed or sent by the proper person or persons.

15. The Escrow Agent may resign or be removed by the Issuer, and thereby become discharged from the trusts hereby created, by notice given to the Issuer not less than thirty (30) days before such resignation or removal shall take effect. Such resignation or removal shall take effect immediately, however, upon the earlier appointment of a new

Escrow Agent hereunder and acceptance of the trusts hereby created. The Escrow Agent shall continue to serve as Escrow Agent until a successor is appointed and the funds held hereunder transferred. The Escrow Agent shall provide a proper accounting to the Issuer of all funds deposited pursuant to this Escrow Agreement within 30 days of the appointment of a successor Escrow Agent. If no such appointment has been made at the end of the 30-day period, the Escrow Agent may petition a court of competent jurisdiction for appointment of a successor or temporary Escrow Agent. In the event of the resignation or removal of the Escrow Agent, the Escrow Agent shall rebate to the Issuer any fees theretofore paid in advance by the Issuer to the Escrow Agent for its services under this Escrow Agreement.

16. This Escrow Agreement is made for the benefit of the Issuer, the Escrow Agent and the holders of the Outstanding Prior Bonds, except as otherwise expressly provided herein. This Escrow Agreement may be modified or amended at anytime, provided, however, that no such modification or amendment shall be made which would, materially adversely affect the interest of any of the holders of the Prior Bonds.

17. If any Outstanding Prior Bonds are not presented for payment on the Redemption Date, and moneys are held by the Escrow Agent for payment thereof, such moneys shall be held for such purposes for a period of 6 years from the date such payment was due, at which time such moneys shall be paid to the Issuer. Following such payment to the Issuer, the Issuer shall be responsible for payment to any holder of the Prior Bonds presenting such Prior Bonds to the Escrow Agent of the amount payable to such holder.

18. This Escrow Agreement shall terminate on the earlier of the date on which all the Outstanding Prior Bonds have been redeemed, paid in full and discharged, or, as described in paragraph 17 above, 6 years after the last date on which payment on the Prior Bonds is due. Upon termination of this Escrow Agreement, any remaining moneys and Government Securities in the Escrow Fund shall be transferred as provided in paragraph 7 hereof.

19. If any one or more of the covenants or agreements provided in this Escrow Agreement to be performed on the part of any of the parties hereto shall be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Escrow Agreement.

20. This Escrow Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

21. This Escrow Agreement is made in the State of West Virginia under the Constitution and laws of such State and is to be so construed.

IN WITNESS WHEREOF, the parties hereto have executed this Escrow Agreement on the day and year first above written.

CITY OF GRAFTON

By *Daniel E. Mansins*
Mayor

By *Donna C. Hogle*
City Manager

WEST VIRGINIA MUNICIPAL BOND
COMMISSION

By *[Signature]*
Executive Director

07/22/94
GRAFJ.Y4
345720/93001

EXHIBIT A - VERIFICATION REPORT

[Included as Transcript Document No. 31]

EXHIBIT B - ESCROW AGENT FEES

NONE.

SCHEDULE A

Description of Government Securities Acquired with Moneys in Escrow Fund:

\$710,000 par amount United States Treasury Notes, maturing November 30, 1994



Smith, Cochran & Hicks
Certified Public Accountants

Charles S. Smith, CPA
Dennis R. Hicks, CPA
Jill E. Patterson, CPA
Todd F. Dingess, CPA

400 Capitol Street, Suite 200
Charleston, West Virginia 25301
Tel 304 345-1151 FAX 304 346-6731

City of Grafton, West Virginia
Grafton, West Virginia

Steptoe & Johnson
Clarksburg, West Virginia

West Virginia Water Development Authority
Dunbar, West Virginia

Jackson & Kelly
Charleston, West Virginia

West Virginia Municipal Bond Commission
Charleston, West Virginia

\$2,830,000
City of Grafton, West Virginia
Combined Waterworks and Sewerage System Revenue Bonds
Series 1994

We have examined certain schedules relating to the issuance of the above captioned bond issue (the "1994 Bonds") and the defeasance of certain outstanding bonds described herein, prepared and provided to us on behalf of the City of Grafton, West Virginia (the "Issuer") by the West Virginia Municipal Bond Commission (the "Commission"). The bonds to be defeased consist of \$865,000 City of Grafton, West Virginia, Sewer Revenue Bonds, dated June 1, 1972, of which \$685,000 are currently outstanding (the "Prior Bonds").

The schedules provided to us represent the Commission's assertions that: (1) the anticipated receipts from \$710,000 United States Treasury Notes (the "Government Obligations") will be sufficient to pay the remaining principal of and interest on the Prior Bonds on December 1,

1994; (2) the yield on the Government Obligations is less than the yield on the 1994 Bonds; and (3) other assertions and computations related to the issuance of the 1994 Bonds.

Our examination was made in accordance with standards for an examination of prospective financial information established by the American Institute of Certified Public Accountants and, accordingly, included such procedures as we considered necessary to evaluate both the assumptions used by the West Virginia Municipal Bond Commission and the preparation and presentation of the prospective information.

The scope of our engagement consisted of and was limited to the verification of the mathematical accuracy of: (1) the computations, contained in such schedules, to determine that the anticipated receipts from the Government Obligations will be sufficient to pay on December 1, 1994, the remaining principal of and interest on the Prior Bonds; (2) the computations of yield, contained in such schedules on the 1994 Bonds and Government Obligations, which are considered by Counsel in their determination that the 1994 Bonds are not arbitrage bonds within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended; and (3) the savings, if any, resulting from refunding the Prior Bonds.

The term "yield", as used herein, means the yield which, when used in computing the present worth of all payments of principal and interest on an obligation, produces an amount equal to the purchase price. The purchase prices of the refunding portion of the 1994 Bonds and the Government Obligations, as provided to us by the Commission, are \$250,000.00 and \$714,892.17, respectively. The yields were computed using semiannual compounding periods based on the 30 days per month/360 days per year convention.

In the course of our engagement, we were furnished with the following documents: (1) a copy of the Bond Ordinance enacted May 30, 1972, authorizing the issuance of the Prior Bonds from Steptoe & Johnson; (2) the calculation of Prior Bond redemption requirements by the West Virginia Municipal Bond Commission; (3) the debt service schedule for the 1994 Bonds from the West Virginia Water Development Authority; and (4) the purchase confirmation for the United States Treasury Notes.

We compared the information contained in the schedules provided to us by the Commission with certain information set forth in the above-mentioned documents with respect to principal payment dates and amounts, interest payment dates and rates. We found the information contained in such schedules in agreement with the above-mentioned information set forth in said documents.

In the course of our examination of the schedules provided to us by the Commission, we prepared similar schedules (Schedules 1 through 5 of this report) based on the information provided to us. In the schedules provided to us and in the schedules we prepared, the closing date for the 1994 Bonds and the purchase date for the Government Obligations is assumed to be July 27, 1994.

In our opinion, the computations contained in the schedules provided to us are mathematically correct. The schedules provided to us and those prepared by us as a part of our engagement to verify the mathematical accuracy of the computations contained in such schedules reflect that:

1. The anticipated receipts from the Government Obligations will be sufficient to pay on December 1, 1994, the remaining principal of and interest on the Prior Bonds, assuming all funds received from the Government Obligations are applied to pay the principal of and interest on the Prior Bonds.
2. The yield of 4.7366594% on the Government Obligations is less than the yield of 6.7510723% on the 1994 Bonds.
3. The present value of the debt service cost for the Issuer as a result of refunding the Prior Bonds is not less than \$43,185.65.

The scope of our engagement was limited to verifying the mathematical accuracy of the computations contained in the schedules provided to us, to the extent described herein. We express no opinion with regard to Counsel's determination that the 1994 Bonds are not arbitrage bonds within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended. The terms of our engagement are such that we have no obligation to update this report because of events occurring, or data or information coming to our attention subsequent to the date of this report.



Charleston, West Virginia
July 27, 1994

SCHEDULES

- Schedule 1 - Debt service and redemption requirements - Prior Bonds
- Schedule 2 - Refunding sources and uses
- Schedule 3 - Debt service requirements - 1994 Bonds
- Schedule 4 - Escrow yield calculations
- Schedule 5 - Calculation of debt service savings

\$865,000
 CITY OF GRAFTON, WEST VIRGINIA
 SEWER REVENUE BONDS
 SERIES 1972

	PRINCIPAL		INTEREST	TOTAL
7/27/94				
12/1/94			21,666.25	21,666.25
6/1/95	20,000	6.250%	21,666.25	41,666.25
12/1/95			21,041.25	21,041.25
6/1/96	25,000	6.250%	21,041.25	46,041.25
12/1/96			20,260.00	20,260.00
6/1/97	25,000	6.250%	20,260.00	45,260.00
12/1/97			19,478.75	19,478.75
6/1/98	25,000	6.250%	19,478.75	44,478.75
12/1/98			18,697.50	18,697.50
6/1/99	30,000	6.250%	18,697.50	48,697.50
12/1/99			17,760.00	17,760.00
6/1/00	30,000	6.250%	17,760.00	47,760.00
12/1/00			16,822.50	16,822.50
6/1/01	30,000	6.250%	16,822.50	46,822.50
12/1/01			15,885.00	15,885.00
6/1/02	35,000	6.250%	15,885.00	50,885.00
12/1/02			14,791.25	14,791.25
6/1/03	35,000	6.300%	14,791.25	49,791.25
12/1/03			13,688.75	13,688.75
6/1/04	35,000	6.300%	13,688.75	48,688.75
12/1/04			12,586.25	12,586.25
6/1/05	40,000	6.300%	12,586.25	52,586.25
12/1/05			11,326.25	11,326.25
6/1/06	40,000	6.350%	11,326.25	51,326.25
12/1/06			10,056.25	10,056.25
6/1/07	45,000	6.350%	10,056.25	55,056.25
12/1/07			8,627.50	8,627.50
6/1/08	50,000	6.350%	8,627.50	58,627.50
12/1/08			7,040.00	7,040.00
6/1/09	50,000	6.400%	7,040.00	57,040.00
12/1/09			5,440.00	5,440.00
6/1/10	55,000	6.400%	5,440.00	60,440.00
12/1/10			3,680.00	3,680.00
6/1/11	55,000	6.400%	3,680.00	58,680.00
12/1/11			1,920.00	1,920.00
6/1/12	60,000	6.400%	1,920.00	61,920.00
	<u>\$ 685,000</u>		<u>\$ 481,535.00</u>	<u>\$ 1,166,535.00</u>

PRIOR BOND REDEMPTION REQUIREMENTS

Principal redeemed	\$ 685,000.00
Redemption premium	18,775.00
Interest	21,666.25
Total redemption requirements	<u>\$ 725,441.25</u>

\$2,830,000

CITY OF GRAFTON, WEST VIRGINIA

COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BON

SERIES 1994

REFUNDING SOURCES AND USES

Sources:

Bond proceeds	\$ 250,000.00
Existing funds	369,165.41
Issuer contribution	<u>95,726.76</u>
Total sources	<u>\$ 714,892.17</u>

Uses:

Cost of Treasury Bill for escrow	<u>\$ 714,892.17</u>
Total uses	<u>\$ 714,892.17</u>

\$2,830,000

CITY OF GRAFTON, WEST VIRGINIA

COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS

SERIES 1994

NEW DEBT SERVICE REQUIREMENTS

	PRINCIPAL	INTEREST	TOTAL	PV FACTOR 6.7510723%	
7/27/94					
10/1/94	-	33,960.00	33,960.00	0.988265603	33,561.50
4/1/95		95,512.50	95,512.50	0.955995626	91,309.53
10/1/95	16,223.49	95,512.50	111,735.99	0.924779364	103,331.14
4/1/96		94,964.96	94,964.96	0.894582411	84,953.98
10/1/96	17,318.57	94,964.96	112,283.53	0.865371484	97,166.96
4/1/97		94,380.46	94,380.46	0.837114386	79,007.24
10/1/97	18,487.57	94,380.46	112,868.03	0.809779970	91,398.27
4/1/98		93,756.50	93,756.50	0.783338109	73,443.04
10/1/98	19,735.48	93,756.50	113,491.98	0.757759658	85,999.64
4/1/99		93,090.43	93,090.43	0.733016424	68,236.81
10/1/99	21,067.62	93,090.43	114,158.05	0.709081134	80,947.32
4/1/00		92,379.40	92,379.40	0.685927406	63,365.56
10/1/00	22,489.68	92,379.40	114,869.08	0.663529721	76,219.05
4/1/01		91,620.37	91,620.37	0.641863390	58,807.76
10/1/01	24,007.73	91,620.37	115,628.10	0.620904533	71,794.01
4/1/02		90,810.11	90,810.11	0.600630049	54,543.28
10/1/02	25,628.26	90,810.11	116,438.37	0.581017590	67,652.74
4/1/03		89,945.15	89,945.15	0.562045540	50,553.27
10/1/03	27,358.17	89,945.15	117,303.32	0.543692986	63,776.99
4/1/04		89,021.82	89,021.82	0.525939702	46,820.11
10/1/04	29,204.85	89,021.82	118,226.67	0.508766118	60,149.72
4/1/05		88,036.15	88,036.15	0.492153305	43,327.28
10/1/05	31,176.17	88,036.15	119,212.32	0.476082953	56,754.95
4/1/06		86,983.96	86,983.96	0.460537348	40,059.36
10/1/06	33,280.57	86,983.96	120,264.53	0.445499356	53,577.77
4/1/07		85,860.74	85,860.74	0.430952402	37,001.89
10/1/07	35,527.00	85,860.74	121,387.74	0.416880452	50,604.17
4/1/08		84,661.70	84,661.70	0.403267995	34,141.35
10/1/08	37,925.07	84,661.70	122,586.77	0.390100028	47,821.10
4/1/09		83,381.73	83,381.73	0.377362036	31,465.10
10/1/09	40,485.01	83,381.73	123,866.74	0.365039979	45,216.31
4/1/10		82,015.36	82,015.36	0.353120277	28,961.29
10/1/10	43,217.75	82,015.36	125,233.11	0.341589790	42,778.35
4/1/11		80,556.76	80,556.76	0.330435810	26,618.84
10/1/11	46,134.95	80,556.76	126,691.71	0.319646042	40,496.50
4/1/12		78,999.71	78,999.71	0.309208594	24,427.39
10/1/12	49,249.06	78,999.71	128,248.77	0.299111962	38,360.74
4/1/13		77,337.55	77,337.55	0.289345016	22,377.24
10/1/13	52,573.37	77,337.55	129,910.92	0.279896992	36,361.68
4/1/14		75,563.20	75,563.20	0.270757476	20,459.30

10/1/14	56,122.07	75,563.20	131,685.27	0.261916393	34,490.53
4/1/15		73,669.08	73,669.08	0.253364000	18,665.09
10/1/15	59,910.32	73,669.08	133,579.40	0.245090869	32,739.09
4/1/16		71,647.11	71,647.11	0.237087882	16,986.66
10/1/16	63,954.26	71,647.11	135,601.37	0.229346217	31,099.66
4/1/17		69,488.65	69,488.65	0.221857343	15,416.57
10/1/17	68,271.17	69,488.65	137,759.82	0.214613003	29,565.05
4/1/18		67,184.50	67,184.50	0.207605214	13,947.85
10/1/18	72,879.47	67,184.50	140,063.97	0.200826251	28,128.52
4/1/19		64,724.82	64,724.82	0.194268643	12,574.00
10/1/19	77,798.83	64,724.82	142,523.65	0.187925161	26,783.78
4/1/20		62,099.11	62,099.11	0.181788814	11,288.92
10/1/20	83,050.25	62,099.11	145,149.36	0.175852838	25,524.93
4/1/21		59,296.16	59,296.16	0.170110690	10,086.91
10/1/21	88,656.14	59,296.16	147,952.30	0.164556042	24,346.44
4/1/22		56,304.02	56,304.02	0.159182770	8,962.63
10/1/22	94,640.43	56,304.02	150,944.45	0.153984952	23,243.17
4/1/23		53,109.90	53,109.90	0.148956859	7,911.08
10/1/23	101,028.66	53,109.90	154,138.56	0.144092950	22,210.28
4/1/24		49,700.18	49,700.18	0.139387862	6,927.60
10/1/24	107,848.10	49,700.18	157,548.28	0.134836410	21,243.25
4/1/25		46,060.31	46,060.31	0.130433578	6,007.81
10/1/25	115,127.84	46,060.31	161,188.15	0.126174512	20,337.84
4/1/26		42,174.75	42,174.75	0.122054517	5,147.62
10/1/26	122,898.97	42,174.75	165,073.72	0.118069054	19,490.10
4/1/27		38,026.91	38,026.91	0.114213728	4,343.19
10/1/27	131,194.65	38,026.91	169,221.56	0.110484291	18,696.32
4/1/28		33,599.09	33,599.09	0.106876632	3,590.96
10/1/28	140,050.29	33,599.09	173,649.38	0.103386774	17,953.05
4/1/29		28,872.39	28,872.39	0.100010871	2,887.55
10/1/29	149,503.68	28,872.39	178,376.07	0.096745201	17,257.03
4/1/30		23,826.64	23,826.64	0.093586166	2,229.84
10/1/30	159,595.19	23,826.64	183,421.83	0.090530284	16,605.23
4/1/31		18,440.30	18,440.30	0.087574186	1,614.89
10/1/31	170,367.86	18,440.30	188,808.16	0.084714613	15,994.81
4/1/32		12,690.39	12,690.39	0.081948415	1,039.96
10/1/32	181,867.69	12,690.39	194,558.08	0.079272542	15,423.11
4/1/33		6,552.35	6,552.35	0.076684044	502.46
10/1/33	194,143.76	6,552.35	200,696.11	0.074180069	14,887.65

\$ 2,830,000.00 \$ 5,286,650.34 \$ 8,116,650.34

2,830,000.00

Yield target

2,830,000.00

\$ 0.00

\$2,830,000
CITY OF GRAFTON, WEST VIRGINIA
COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS
SERIES 1994

CALCULATION OF DEBT SERVICE SAVINGS

	REFUNDED DEBT	REFUNDING DEBT	DIFFERENCE	PV FACTOR 6.7510723%	PRESENT VALUE SAVINGS
7/27/94					
10/1/94		3,000.00	(3,000.00)	0.988265603	(2,964.80)
12/1/94	21,666.25		21,666.25	0.977389693	21,176.37
4/1/95		8,437.50	(8,437.50)	0.955995626	(8,066.21)
6/1/95	41,666.25		41,666.25	0.945474848	39,394.39
10/1/95		9,870.67	(9,870.67)	0.924779364	(9,128.19)
12/1/95	21,041.25		21,041.25	0.914602123	19,244.37
4/1/96		8,389.13	(8,389.13)	0.894582411	(7,504.77)
6/1/96	46,041.25		46,041.25	0.884737489	40,734.42
10/1/96		9,919.04	(9,919.04)	0.865371484	(8,583.65)
12/1/96	20,260.00		20,260.00	0.855848030	17,339.48
4/1/97		8,337.50	(8,337.50)	0.837114386	(6,979.44)
6/1/97	45,260.00		45,260.00	0.827901902	37,470.84
10/1/97		9,970.67	(9,970.67)	0.809779970	(8,074.05)
12/1/97	19,478.75		19,478.75	0.800868303	15,599.91
4/1/98		8,282.38	(8,282.38)	0.783338109	(6,487.90)
6/1/98	44,478.75		44,478.75	0.774717436	34,458.46
10/1/98		10,025.79	(10,025.79)	0.757759658	(7,597.14)
12/1/98	18,697.50		18,697.50	0.749420477	14,012.29
4/1/99		8,223.54	(8,223.54)	0.733016424	(6,027.99)
6/1/99	48,697.50		48,697.50	0.724949543	35,303.23
10/1/99		10,084.63	(10,084.63)	0.709081134	(7,150.82)
12/1/99	17,760.00		17,760.00	0.701277662	12,454.69
4/1/00		8,160.72	(8,160.72)	0.685927406	(5,597.66)
6/1/00	47,760.00		47,760.00	0.678378742	32,399.37
10/1/00		10,147.44	(10,147.44)	0.663529721	(6,733.13)
12/1/00	16,822.50		16,822.50	0.656227544	11,039.39
4/1/01		8,093.67	(8,093.67)	0.641863390	(5,195.03)
6/1/01	46,822.50		46,822.50	0.634799653	29,722.91
10/1/01		10,214.50	(10,214.50)	0.620904533	(6,342.23)
12/1/01	15,885.00		15,885.00	0.614071449	9,754.52
4/1/02		8,022.09	(8,022.09)	0.600630049	(4,818.31)
6/1/02	50,885.00		50,885.00	0.594020086	30,226.71
10/1/02		10,286.07	(10,286.07)	0.581017590	(5,976.39)
12/1/02	14,791.25		14,791.25	0.574623464	8,499.40
4/1/03		7,945.68	(7,945.68)	0.562045540	(4,465.84)
6/1/03	49,791.25		49,791.25	0.555860202	27,676.97
10/1/03		10,362.48	(10,362.48)	0.543692986	(5,634.01)
12/1/03	13,688.75		13,688.75	0.537709619	7,360.57
4/1/04		7,864.12	(7,864.12)	0.525939702	(4,136.05)
6/1/04	48,688.75		48,688.75	0.520151710	25,325.54
10/1/04		10,444.05	(10,444.05)	0.508766118	(5,313.58)
12/1/04	12,586.25		12,586.25	0.503167122	6,332.99
4/1/05		7,777.05	(7,777.05)	0.492153305	(3,827.50)
6/1/05	52,586.25		52,586.25	0.486737134	25,595.68
10/1/05		10,531.12	(10,531.12)	0.476082953	(5,013.69)
12/1/05	11,326.25		11,326.25	0.470843637	5,332.89
4/1/06		7,684.10	(7,684.10)	0.460537348	(3,538.81)
6/1/06	51,326.25		51,326.25	0.455469113	23,377.52
10/1/06		10,624.07	(10,624.07)	0.445499356	(4,733.02)
12/1/06	10,056.25		10,056.25	0.440596615	4,430.75
4/1/07		7,584.87	(7,584.87)	0.430952402	(3,268.72)
6/1/07	55,056.25		55,056.25	0.426209751	23,465.51
10/1/07		10,723.30	(10,723.30)	0.416880452	(4,470.33)
12/1/07	8,627.50		8,627.50	0.412292663	3,557.05
4/1/08		7,478.95	(7,478.95)	0.403267995	(3,016.02)
6/1/08	58,627.50		58,627.50	0.398830012	23,382.41
10/1/08		10,829.22	(10,829.22)	0.390100028	(4,224.48)
12/1/08	7,040.00		7,040.00	0.385806958	2,716.08

4/1/09		7,365.88	(7,365.88)	0.377362036	(2,779.60)
6/1/09	57,040.00		57,040.00	0.373209149	21,287.85
10/1/09		10,942.29	(10,942.29)	0.365039979	(3,994.37)
12/1/09	5,440.00		5,440.00	0.361022697	1,963.96
4/1/10		7,245.17	(7,245.17)	0.353120277	(2,558.42)
6/1/10	60,440.00		60,440.00	0.349234171	21,107.71
10/1/10		11,063.00	(11,063.00)	0.341589790	(3,779.01)
12/1/10	3,680.00		3,680.00	0.337830578	1,243.22
4/1/11		7,116.32	(7,116.32)	0.330435810	(2,351.49)
6/1/11	58,680.00		58,680.00	0.326799348	19,176.59
10/1/11		11,191.85	(11,191.85)	0.319646042	(3,577.43)
12/1/11	1,920.00		1,920.00	0.316128322	606.97
4/1/12		6,978.77	(6,978.77)	0.309208594	(2,157.90)
6/1/12	61,920.00		61,920.00	0.305805739	18,935.49
10/1/12		11,329.40	(11,329.40)	0.299111962	(3,388.76)
4/1/13		6,831.94	(6,831.94)	0.289345016	(1,976.79)
10/1/13		11,476.23	(11,476.23)	0.279896992	(3,212.16)
4/1/14		6,675.19	(6,675.19)	0.270757476	(1,807.36)
10/1/14		11,632.97	(11,632.97)	0.261916393	(3,046.87)
4/1/15		6,507.87	(6,507.87)	0.253364000	(1,648.86)
10/1/15		11,800.30	(11,800.30)	0.245090869	(2,892.15)
4/1/16		6,329.25	(6,329.25)	0.237087882	(1,500.59)
10/1/16		11,978.92	(11,978.92)	0.229346217	(2,747.32)
4/1/17		6,138.57	(6,138.57)	0.221857343	(1,361.89)
10/1/17		12,169.60	(12,169.60)	0.214613003	(2,611.75)
4/1/18		5,935.03	(5,935.03)	0.207605214	(1,232.14)
10/1/18		12,373.14	(12,373.14)	0.200826251	(2,484.85)
4/1/19		5,717.74	(5,717.74)	0.194268643	(1,110.78)
10/1/19		12,590.43	(12,590.43)	0.187925161	(2,366.06)
4/1/20		5,485.79	(5,485.79)	0.181788814	(997.25)
10/1/20		12,822.38	(12,822.38)	0.175852838	(2,254.85)
4/1/21		5,238.18	(5,238.18)	0.170110690	(891.07)
10/1/21		13,069.99	(13,069.99)	0.164556042	(2,150.75)
4/1/22		4,973.85	(4,973.85)	0.159182770	(791.75)
10/1/22		13,334.31	(13,334.31)	0.153984952	(2,053.28)
4/1/23		4,691.69	(4,691.69)	0.148956859	(698.86)
10/1/23		13,616.48	(13,616.48)	0.144092950	(1,962.04)
4/1/24		4,390.48	(4,390.48)	0.139387862	(611.98)
10/1/24		13,917.69	(13,917.69)	0.134836410	(1,876.61)
4/1/25		4,068.93	(4,068.93)	0.130433578	(530.73)
10/1/25		14,239.24	(14,239.24)	0.126174512	(1,796.63)
4/1/26		3,725.68	(3,725.68)	0.122054517	(454.74)
10/1/26		14,582.48	(14,582.48)	0.118069054	(1,721.74)
4/1/27		3,359.27	(3,359.27)	0.114213728	(383.67)
10/1/27		14,948.90	(14,948.90)	0.110484291	(1,651.62)
4/1/28		2,968.12	(2,968.12)	0.106876632	(317.22)
10/1/28		15,340.05	(15,340.05)	0.103386774	(1,585.96)
4/1/29		2,550.56	(2,550.56)	0.100010871	(255.08)
10/1/29		15,757.60	(15,757.60)	0.096745201	(1,524.47)
4/1/30		2,104.83	(2,104.83)	0.093586166	(196.98)
10/1/30		16,203.34	(16,203.34)	0.090530284	(1,466.89)
4/1/31		1,629.00	(1,629.00)	0.087574186	(142.66)
10/1/31		16,679.17	(16,679.17)	0.084714613	(1,412.97)
4/1/32		1,121.06	(1,121.06)	0.081948415	(91.87)
10/1/32		17,187.11	(17,187.11)	0.079272542	(1,362.47)
4/1/33		578.83	(578.83)	0.076684044	(44.39)
10/1/33		17,729.34	(17,729.34)	0.074180069	(1,315.16)

\$1,166,535.00 \$717,018.58 \$449,516.42

\$ 421,706.52

SAVINGS SUMMARY

Present value savings from above	\$ 421,706.52
Issuer contribution	(464,892.17)
Net debt service cost	<u>\$ (43,185.65)</u>

STEPPTOE & JOHNSON

ATTORNEYS AT LAW

SIXTH FLOOR

BANK ONE CENTER EAST

P. O. BOX 2190

CLARKSBURG, W. VA. 26302-2190

(304) 624-8000

FACSIMILE (304) 624-8183

34 WEST CONGRESS STREET
P. O. BOX 30
CHARLES TOWN, W. VA. 25411-0100
304 725-4444
FACSIMILE 304 725-9133

THE BRYAN CENTRE
P. O. BOX 570
82 WEST WASHINGTON STREET S. E. 3C
HAGERSTOWN, MARYLAND 21740-0570
301 739-8600
FACSIMILE 301 739-8742

WRITER'S DIRECT DIAL NUMBER

(304)624-8161

July 6, 1994

City of Grafton

Combined Waterworks and Sewerage System Revenue Bonds, Series 1994

VIA TELECOPY AND REGULAR MAIL

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:

As bond counsel for the City of Grafton (the "Issuer"), we wish to advise you that on July 27, 1994 (the "Closing Date"), the Issuer will deliver the above-captioned bonds (the "Series 1994 Bonds") to the purchaser thereof. A portion of the proceeds of the Series 1994 Bonds will be used to refund the Issuer's Sewer Revenue Bonds, dated June 1, 1972 (the "Prior Bonds"). On the Closing Date, the Issuer will be required to fund an Escrow Fund, pursuant to an Escrow Agreement dated July 27, 1994, by and between the Issuer and the West Virginia Municipal Bond Commission (the "Commission"), as Escrow Agent.

The Escrow Fund will be funded with (i) \$250,000 from a portion of the proceeds of the Series 1994 Bonds; (ii) approximately \$95,800 from the Issuer's funds; and (iii) \$369,165.41 to be transferred by the Commission from the sinking fund, the reserve account therein and the depreciation account created for the Prior Bonds and held by the Commission. The sum of \$250,000 from a portion of the proceeds of the Series 1994 Bonds and the sum of approximately \$95,800 from the Issuer's funds will be delivered by separate checks to the Escrow Agent on the Closing Date. The transfer from the sinking fund, reserve account therein and the depreciation account created for the Prior Bonds and held by the Commission should also be made on the Closing Date.

Mr. R. Witter Hallan

Page 2

You are hereby authorized by the Issuer, subject to our confirmation by telephone on July 22, 1994, to subscribe to United States Treasury Notes (the "T-Notes") in the par amount of \$710,000, maturing November 30, 1994, for settlement on the Closing Date. The proceeds of the T-Notes, together with interest to accrue thereon, are shown by the Exhibits to the Escrow Agreement to be in amounts sufficient to fully pay, on December 1, 1994, the redemption price of the Prior Bonds, such redemption price being \$725,441.25.

If you have any questions regarding the foregoing, please feel free to call me.

Very truly yours,



Vincent A. Collins

VAC/cab

Copy of letter to:

Donna C. Hoyler, City Manager

Mr. Daniel B. Yonkosky

Samme L. Gee, Esquire

Frances C. Whiteman, Esquire

Jill Patterson, CPA

07/06/94

GRAFC.Z3

345720/93001

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City of Grafton Combined Waterworks and Sewerage System Revenue Bonds, Series 1994

VIA TELECOPY AND REGULAR MAIL

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:

As bond counsel for the City of Grafton (the "Issuer"), we wish to advise you that on July 27, 1994 (the "Closing Date"), the Issuer will deliver the above-captioned bonds (the "Series 1994 Bonds") to the purchaser thereof. A portion of the proceeds of the Series 1994 Bonds will be used to refund the Issuer's Sewer Revenue Bonds, dated June 1, 1972 (the "Prior Bonds"). On the Closing Date, the Issuer will be required to fund an Escrow Fund, pursuant to an Escrow Agreement dated July 27, 1994, by and between the Issuer and the West Virginia Municipal Bond Commission (the "Commission"), as Escrow Agent.

The Escrow Fund will be funded with (i) \$250,000 from a portion of the proceeds of the Series 1994 Bonds; (ii) approximately \$95,800 from the Issuer's funds; and (iii) \$369,165.41 to be transferred by the Commission from the sinking fund, the reserve account therein and the depreciation account created for the Prior Bonds and held by the Commission. The sum of \$250,000 from a portion of the proceeds of the Series 1994 Bonds and the sum of approximately \$95,800 from the Issuer's funds will be delivered by separate checks to the Escrow Agent on the Closing Date. The transfer from the sinking fund, reserve account therein and the depreciation account created for the Prior Bonds and held by the Commission should also be made on the Closing Date.

Mr. R. Witter Hallan

Page 2

You are hereby authorized by the Issuer, subject to our confirmation by telephone on July 22, 1994, to subscribe to United States Treasury Notes (the "T-Notes") in the par amount of \$710,000, maturing November 30, 1994, for settlement on the Closing Date. The proceeds of the T-Notes, together with interest to accrue thereon, are shown by the Exhibits to the Escrow Agreement to be in amounts sufficient to fully pay, on December 1, 1994, the redemption price of the Prior Bonds, such redemption price being \$725,441.25.

If you have any questions regarding the foregoing, please feel free to call me.

Very truly yours,



Vincent A. Collins

VAC/cab

Copy of letter to:

Donna C. Hoyler, City Manager

Mr. Daniel B. Yonkosky

Samme L. Gee, Esquire

Frances C. Whiteman, Esquire

Jill Patterson, CPA

07/06/94

GRAFC.Z3

345720/93001

CITY OF GRAFTON
\$865,000
Sewer Revenue Bonds

BOND ORDINANCE

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AN ORDINANCE AUTHORIZING THE ISSUANCE OF \$ 865,000 SEWER REVENUE BONDS OF THE CITY OF GRAFTON, WEST VIRGINIA, TO FINANCE PART OF THE COST OF THE CONSTRUCTION OF ADDITIONS, EXTENSIONS AND IMPROVEMENTS TO THE EXISTING SEWER SYSTEM OF SAID CITY; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF SAID BONDS; PROVIDING FOR THE FIXING, ESTABLISHING AND COLLECTING OF RATES AND CHARGES FOR THE SERVICES AND FACILITIES OF SAID SEWER SYSTEM; PROVIDING FOR THE RIGHTS AND REMEDIES AND SECURITIES OF THE HOLDERS OF SAID BONDS; PROVIDING THAT CONNECTION WITH THE SEWER SYSTEM SHALL BE MANDATORY; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF GRAFTON, WEST VIRGINIA:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS
AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance is enacted pursuant to the provisions of Article 13, Chapter 16 of the West Virginia Code (herein called the "Act") and other applicable provisions of law.

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

A. The City of Grafton (herein called the "City") now owns and operates a municipal sewer System and the Sanitary Board has petitioned this Council in writing for the enactment of this Ordinance.

B. It is necessary and desirable for the health, welfare, convenience and safety of the inhabitants of the City and those served and to be served by the sewer facilities of the City, and it is required by law in view of the order of the State Department of Natural Resources directed to the City pursuant to Section 23a of the Act, that there be constructed

additions, extensions and improvements to said sewer system according to the plans and specifications prepared by Cerrone & Vaughn, Inc., Consulting Engineers, Wheeling, West Virginia (herein collectively called the "Project"), and heretofore filed in the office of the City Clerk.

C. It is necessary for the City to issue its sewer revenue bonds in the principal amount of \$ 865,000 to finance part of the cost of the construction of the Project in the manner hereinafter provided.

D. The estimated maximum cost of construction of the Project is the sum of Three Million Eight Hundred Seventy Dollars (\$3,870,000), of which sum \$ 865,000 will be supplied by the proceeds of sale of the bonds herein authorized and the balance of \$ 3,005,000 from the proceeds of Federal grants for Projects Nos. EDA 03-1-00661 and FWQA-EDA 03-2-00708.

E. The costs of construction of the Project shall be deemed to include the cost of the acquisition and construction of the additions, extensions and improvements to the existing sewer system of the City as herein described and defined as the Project, the acquisition of any necessary property, real or personal, tangible or intangible, or interest therein, and any other purposes necessary, incidental, desirable or appurtenant to the construction of the described Project; interest on the Bonds during and for six months after completion of the construction of the Project to the extent that the interest is not paid from the revenues of the sewer system; engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; expenses for fiscal or other agents in connection with the issuance of the bonds, and

such other expenses as may be necessary or incidental to the construction and acquisition of the described Project and the financing authorized by this Ordinance.

F. The period of usefulness of the Sewer System after completion of the Project is not less than forty years.

Section 1.03. Ordinance to Constitute Contract.

In consideration of the acceptance of the bonds authorized to be issued hereunder by those who shall 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 such bonds, and the coupons appertaining thereto, all which shall be of equal rank without preference, priority or distinction of any of the bonds or coupons over any other thereof, except as expressly provided therein and herein.

Section 1.04. Definitions. The following terms shall have the following meanings in this Ordinance unless the text otherwise expressly requires:

"Act" means Article 13, Chapter 16 of the West Virginia Code.

"Bonds" means the \$ 865,000 Sewer Revenue Bonds originally authorized to be issued pursuant to this Ordinance and includes the interest coupons appertaining to the bonds; and also includes any additional parity bonds hereafter issued within the terms, restrictions and conditions contained in this Ordinance and the interest coupons appertaining to such additional parity bonds.

"1972 Bonds" means the Bonds originally authorized to be issued pursuant hereto, dated the 1st day of June,

1972, and the interest coupons appertaining thereto.

"Bondholder" or "Holder of the Bonds" or any similar term means any person who shall be the bearer or owner of any outstanding Bond or Bonds registered to bearer or not registered, or the registered owner of any outstanding Bond or Bonds which shall at the time be registered other than to the bearer or of any coupons representing interest accrued or to accrue on said Bonds.

"City" means the City of Grafton, a municipal corporation of the State of West Virginia, in the County of Taylor and also means, where appropriate, the City Council and the Sanitary Board of the City.

"Consulting Engineers" means Cerrone & Vaughn, Inc., Consulting Engineers, Wheeling, West Virginia, or any engineer or firm of engineers which shall at any time hereafter be retained by the City as Consulting Engineers for the Sewer System.

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

"Net Revenues" means the balance of the gross revenues, as defined herein, remaining after deduction only of the operating expenses, as defined herein.

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the Sewer System, and includes, without limiting the generality of the foregoing, insurance premiums, supplies, salaries, wages and administrative expenses of the City relating and chargeable solely to the Sewer System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs and expenses as should normally and regularly be included under recognized accounting practices.

"Original purchasers of the Bonds" means any person who purchases any of the Bonds upon initial issuance directly from the City.

"Project" means the additions, extensions and improvements to the existing sanitary sewer facilities of the City pursuant to this Ordinance, consisting of additional sanitary sewer lines to recently annexed portions of the City (the Blueville, Brownlow and Lucretia areas), interceptor sewers for the collection of sewage and a sewage treatment plant, all with necessary lifts, pump stations, land and rights therein and all necessary appurtenant facilities, as designed by the Consulting Engineers.

"Revenues" or "gross revenues" means all rates, rents, fees, charges or other income received by the City or accrued to the City or the Sanitary Board from the operation of the Sewer System, and all parts thereof, all as calculated in accordance with recognized accounting practices.

"Sanitary Board" means the sanitary board heretofore appointed by the City Council pursuant to Section 18 of the Act.

"Sewer System" means the existing municipal sewer facilities as expanded by the Project and all parts thereof and all additions, extensions and improvements at any time added thereto.

Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

ARTICLE II

AUTHORIZATION, TERMS, EXECUTION,
REGISTRATION AND ISSUE OF BONDS

Section 2.01. Authorization of Bonds. Subject and pursuant to the provisions of this Ordinance, bonds of the City, to be known as "Sewer Revenue Bonds," are hereby authorized to be issued in the aggregate principal amount of not exceeding Eight Hundred Sixty-Five Thousand Dollars (\$ 865,000), for the purpose of financing part of the cost of the construction of the Project, all as authorized by this Ordinance.

Section 2.02. Description of Bonds. The 1972 Bonds shall be dated the first day of June, 1972, shall be in the denomination of \$5,000 each, shall be numbered 1 to 173, inclusive, shall bear interest, payable semiannually on June 1 and December of each year, at a rate or rates of not exceeding the rate of eight per centum (8%) per annum. The 1972 Bonds shall be redeemable prior to their respective stated dates of maturity, at the option of the City, in whole or in part, but in inverse numerical order if less than all, on June 1, 1982, or on any interest payment date thereafter, at the price of the par value thereof and accrued interest to the date of redemption, plus a premium of one-half of one per centum of the par value thereof for each year or fraction thereof from the date of redemption to the stated date of maturity of the 1972 Bonds called for redemption, such premium in no event however to exceed three per centum (3%) of the par value thereof.

A notice of the redemption of any of the 1972 Bonds shall be published at least once not less than thirty nor more than sixty days prior to the date of redemption in a

financial newspaper published in the City of New York, New York. Interest shall cease upon any of the 1972 Bonds so called for prior redemption on the redemption date provided payment thereof has been duly made or provided for.

The 1972 Bonds shall mature serially in numerical order, lowest numbers first, on the first day of June of each year, as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
1983	\$ 10,000	1993	\$ 20,000	2003	\$ 35,000
1984	10,000	1994	20,000	2004	35,000
1985	10,000	1995	20,000	2005	40,000
1986	15,000	1996	25,000	2006	40,000
1987	15,000	1997	25,000	2007	45,000
1988	15,000	1998	25,000	2008	50,000
1989	15,000	1999	30,000	2009	50,000
1990	15,000	2000	30,000	2010	55,000
1991	15,000	2001	30,000	2011	55,000
1992	20,000	2002	35,000	2012	60,000

The 1972 Bonds shall be issued in negotiable, serial, coupon form, shall be payable with respect to both principal and interest in lawful money of the United States of America at the office of the State Sinking Fund Commission, Charleston, West Virginia, through The Blueville Bank of Grafton, Grafton, West Virginia, or at First National City Bank, New York City, New York, at the option of the holder, and shall bear interest from their date, payable in accordance with and upon the surrender of the appurtenant interest coupons as they severally mature.

Section 2.03. Execution of Bonds and Coupons. The Bonds shall be executed in the name of the City by its Mayor and its corporate seal shall be affixed thereto and attested by its City 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 shall 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 Bond 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 Bond such person may not have held such office or may not have been so authorized.

The coupons to be attached to the Bonds shall be authenticated with the facsimile signatures of the present or any future Mayor and City Clerk of the City, and the City may adopt and use for that purpose the facsimile signature of any person who shall have been such Mayor or City Clerk at any time on or after the date of the Bonds, notwithstanding that he may have ceased to be such Mayor or City Clerk at the time when said Bonds shall be actually sold and delivered.

Section 2.04. Negotiability and Registration. The Bonds shall be and have all the qualities and incidents of negotiable instruments as provided in the Act. The Bonds shall pass by delivery except when registered as hereinafter provided.

The Bonds may be registered at the option of the holder as to principal only in the Bond Register of the Treasurer of the State of West Virginia, Charleston, West Virginia, such registration to be noted on the Bonds in the space provided therefor and thereafter no transfer of the Bonds shall be valid unless made at said office by the registered owner or by his duly authorized agent or representative, and similarly noted on the Bonds, but the Bonds may be discharged from registration by being in like manner transferred to bearer and thereupon transferability by delivery shall be restored. At the option of the holder the Bonds may thereafter again from time to time be regis-

tered or transferred to bearer as before. Such registration shall not affect the negotiability of the coupons which shall continue to pass by delivery.

Section 2.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the City may in its discretion issue and deliver a new Bond with all unmatured coupons attached of like tenor as the Bond and attached coupons, so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond and attached coupons, if any, or in lieu of and substitution for the Bond and attached coupons, if any, destroyed, stolen or lost, and upon the holder's furnishing to the City proof of his ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the City may prescribe and paying such expenses as the City may incur. All Bonds and coupons so surrendered shall be cancelled by the City Clerk and held for the account of the City. If any such Bond or coupon shall have matured or be about to mature, instead of issuing a substituted Bond or coupon, the City may pay the same, upon being indemnified as aforesaid, and, if such Bond or coupon be destroyed, stolen or lost, without surrender thereof.

Any such duplicate Bonds and coupons issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the City, whether or not the lost, stolen or destroyed Bonds or coupons be at any time found by anyone, and such duplicate Bonds and coupons shall be entitled to equal and proportionate benefits with all other Bonds and coupons issued hereunder.

Section 2.06. Form of Bonds and Coupons. Subject to the provisions of this Ordinance, the text of the Bonds, the provision for registration to be endorsed thereon, and coupons shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted by this Ordinance or any subsequent ordinance or resolution adopted prior to the issuance thereof:

(Form of Bonds)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF TAYLOR
CITY OF GRAFTON
SEWER REVENUE BOND

No.

\$5,000

The City of Grafton, in the County of Taylor, and State of West Virginia, a municipal corporation created and existing under the laws of the State of West Virginia, for value received, hereby promises to pay to the bearer or, if this Bond be registered, to the registered holder as herein provided, on the first day of June, 19 , from the revenues hereinafter mentioned, the principal sum of

FIVE THOUSAND DOLLARS

with interest thereon at the rate of _____ per centum (_____%) per annum, payable semiannually on the first day of June and the first day of December of each year, upon the presentation and surrender of the annexed coupons as they severally fall due. Both principal of and interest on this Bond are payable in lawful money of the United States of America at the office of the State Sinking Fund Commission, Charleston, West Virginia, through The Blueville Bank of Grafton, Grafton, West Virginia, or at the option of the holder, at First National City Bank, in the City of New York, New York.

The Bonds of the issue of which this Bond is one maturing in the years 1983 to 2012, both inclusive, are redeemable prior to their stated dates of maturity, at the option of the City, in whole or in part, but in inverse numerical order if less than all, on June 1, 1982, or on any interest payment date thereafter, at the price of par and accrued interest to date of redemption, plus a

premium of one-half of one per centum of the par value thereof for each year or fraction thereof from the date of redemption to the stated date of maturity of the Bonds called for redemption, such premium in no event however to exceed three per centum (3%) of the par value thereof; provided, however, that a notice of such redemption shall have been published at least once not less than thirty nor more than sixty days prior to the redemption date in a financial newspaper published in the City of New York. Interest shall cease upon this Bond after the redemption date if it shall be duly called for prior redemption and payment thereof duly provided for.

This Bond is one of an authorized issue of Bonds in the aggregate principal amount of Eight Hundred Sixty-Five Thousand Dollars (\$865,000) of like date, tenor and effect, except as to number* and date of maturity, issued to finance part of the cost of the construction of additions, extensions and improvements to the Sewer System owned and operated by the City under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Article 13, Chapter 16 of the West Virginia Code (herein called the "Act") and other applicable statutes, and an Ordinance duly enacted by the Council of said City, and is subject to all the terms and conditions of said Ordinance.

This Bond and the coupons appertaining hereto are payable solely from, and secured by a first lien upon and pledge of the net revenues derived from the operation of the Sewer System of the City, in the manner provided in the Ordinance, and do not constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provisions or limitations, and the City shall not

* " , interest rate" if more than one rate

be obligated to pay this Bond or the interest hereon except from the revenues of the Sewer System, as provided in the Ordinance. 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 this Bond. The City covenants with the holders of the Bonds of the issue of which this Bond is one to establish and at all times maintain such rates and collect such charges for the services and other facilities rendered by the Sewer System, and to revise the same from time to time, whenever necessary, as will always provide net revenues in each fiscal year sufficient to pay one hundred thirty per centum (130%) of the amount of principal of and interest on the Bonds maturing and becoming due in such fiscal year, and the City has entered into certain other covenants with the holders of the Bonds of the issue of which this Bond is one, for the terms of which reference is made to the Ordinance.

It is hereby certified and recited that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in regular and due time, form and manner as required by the laws and Constitution of the State of West Virginia applicable thereto, and that the issuance of this Bond and of the issue of Bonds of which this Bond is one, is not in violation of any constitutional, statutory or charter limitation of indebtedness.

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.

This Bond may be registered as to principal only in accordance with the provisions endorsed hereon.

IN WITNESS WHEREOF, the City of Grafton has caused this Bond to be signed by its Mayor and its corporate seal to be affixed hereto and attested by its City Clerk, and the annexed interest coupons to be executed with the facsimile signatures of said Mayor and said City Clerk, all as of the first day of June, 1972.

CITY OF GRAFTON

By _____
Mayor

ATTEST:

City Clerk

(Form of Coupon)

No.

\$

On the first day of _____, 19____, the City of Grafton, West Virginia, unless the Bond to which this coupon was originally attached shall have been called for prior redemption and payment of the redemption price duly made or provided for, will pay to the bearer at the office of the State Sinking Fund Commission, Charleston, West Virginia, through The Blueville Bank of Grafton, Grafton, West Virginia, or at the option of the holder, at First National City Bank, in the City of New York, New York, solely from the revenues described in the Bond to which this coupon is attached, the sum of Eight Hundred Sixty-Five Thousand Dollars (\$865,000) in lawful money of the United States of America, upon presentation and surrender of this coupon, being six months' interest then due on its Sewer Revenue Bond, dated June 1, 1972, No.

CITY OF GRAFTON

By _____
Mayor

ATTEST:

City Clerk

PROVISION FOR REGISTRATION

This Bond may be registered in the name of the holder as to principal only on books kept by the Treasurer of the State of West Virginia, such registration being noted hereon in the registration blank below, after which no transfer shall be valid unless made on said books by the registered holder or his agent or representative duly authorized, and similarly noted in said registration blank below, but it may be discharged from registration by being transferred to bearer, after which it shall be transferable by delivery. At the option of the holder, this Bond shall again be subject to successive registrations and transfers as before. The principal of this Bond, if registered, shall be payable only to the registered owner or his legal representative. Notwithstanding the registration of this Bond, the coupons shall remain payable to bearer and shall continue to be transferable by delivery merely.

(No writing on this Bond except by the Treasurer of the State of West Virginia as Registrar.)

<u>Date of Registration</u>	<u>In Whose Name Registered</u>	<u>Registrar</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

ARTICLE III

REVENUES AND APPLICATION THEREOF

Section 3.01. Bonds Not to be Indebtedness of the City. Neither the Bonds nor coupons shall be or constitute an indebtedness of the City, but shall be payable solely from the net revenues of the Sewer System, as herein provided. No holder of any Bond shall ever have the right to compel the exercise of the taxing power of the City to pay such Bond or the interest thereon.

Section 3.02. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of all of the Bonds shall be secured forthwith equally and ratably by a first lien on the net revenues derived from the Sewer System. The net revenues derived from the Sewer System in an amount sufficient to pay the principal of and interest on the Bonds and to make the payments into the Sinking Fund and other funds and accounts hereinafter provided for, are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds herein authorized as the same become due.

Section 3.03. Disposition of 1972 Bond Proceeds. All moneys received from the sale of the 1972 Bonds, except accrued interest and capitalized interest for the period of twenty-one months which shall be at once deposited in the Sinking Fund, shall be deposited by the City in a special fund in a bank in the State of West Virginia which is eligible under the State laws to receive deposits of State and municipal funds, which fund is hereby created and designated as the "Grafton Sewer Project Construction Trust Fund," (herein called the "Construction Fund"). Proceeds of Federal grants for the Project will also be deposited in the Construction Fund. The moneys in the

Construction Fund shall be secured at all times by the deposit by said bank or trust company of direct obligations of the United States having a market value at least equal to the amount of moneys in the Construction Fund in excess of the amount insured therein by Federal Deposit Insurance Corporation (herein called "FDIC"). Moneys in the Construction Fund shall be expended by the City solely for the purposes provided in this Ordinance, and the bondholders shall have a first lien on such moneys until so applied. The moneys in the Construction Fund shall be used only for the purpose of paying the costs of the Project, and no expenditures shall be made from the Construction Fund, except for engineering and legal expenses and the cost of the issuance of the 1972 Bonds, without the written approval of the Consulting Engineer. All payments from the Construction Fund shall be made upon vouchers delivered to the depository bank by the City through the Sanitary Board, and shall be upon cashier's checks of the depository bank. Any moneys in the Construction Fund not immediately needed for said purposes may, with the approval of the Consulting Engineer, be invested in direct obligations of the United States of America having a maturity of not more than one year. Any balance in the Construction Fund after the completion of and payment or provision for payment of the costs of the Project remaining from the proceeds of sale of the 1972 Bonds and investment and reinvestment thereof shall be used only for the purchase of 1972 Bonds of the last maturity then outstanding at not more than par and accrued interest or for deposit into the Reserve Account in the Sinking Fund. Other moneys then remaining in the Construction Fund shall be disposed of as the City may direct.

Section 3.04. Revenues, Funds and Accounts. So long as any of the Bonds shall be outstanding and unpaid,

or until there shall have been set apart in the Sinking Fund and the Reserve Account therein, a sum sufficient to pay, when due, or redeem prior to maturity, the entire principal of the Bonds remaining unpaid together with interest accrued and to accrue thereon and redemption premiums, if any, the City covenants with the holders of the Bonds as follows:

A. Sewer System Revenue Fund. The entire gross revenues derived from the operation of the Sewer System and all parts thereof shall be deposited by the City in a special fund in a bank in the State of West Virginia which is a member of the FDIC, which fund (herein called the "Revenue Fund") is hereby established. The Revenue Fund shall constitute a trust fund for the purposes provided in this Ordinance and shall be kept separate and distinct from all other funds of the City and used only for the purposes and in the manner herein provided.

B. Operation and Maintenance. The City will maintain in good condition the Sewer System and will operate the same 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.

C. Disposition of Revenues. All revenues at any time remaining on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

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

(2) The City shall next, on or before the fifteenth day of each month, apportion and set apart out of the Revenue Fund and remit to the State Sinking Fund Commission, for

deposit into the "Sinking Fund," which is hereby established with the State Sinking Fund Commission, such sums as will be sufficient to pay one-sixth of the interest which will mature and become due on the next interest payment date; and shall also, on or before the fifteenth day of each month apportion and set apart out of the Revenue Fund and remit to the State Sinking Fund Commission, for deposit into the Sinking Fund, such sums as will be sufficient to pay one-twelfth of the principal which will mature and become due on the next succeeding June 1.

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

The State Sinking Fund Commission is hereby designated as the Fiscal Agent for the administration of the Sinking Fund created hereunder, and all amounts required for the Sinking Fund shall be remitted to the State Sinking Fund Commission from the Revenue Fund by the City at the times provided herein.

Moneys in the Sinking Fund shall be used only for the purpose of paying principal of and interest on the Bonds as the same shall become due.

The City shall next, from the Revenue Fund, remit to the State Sinking Fund Commission, for deposit in a Reserve Account hereby established in the Sinking Fund, on or before the fifteenth day of each month an amount equal to twenty per centum (20%) of all amounts required to be paid in such month into the Sinking Fund for maturing principal

of and interest, as provided above; provided, however, that no further payments need be made into the Reserve Account when there shall have been deposited therein, and so long as there shall remain on deposit therein, an amount equal to twice the largest amount of principal and interest which will mature and become due on the Bonds in any succeeding year.

Moneys in the Reserve Account shall be used only for the purpose of the payment of maturing principal of or interest on the Bonds when other moneys in the Sinking Fund are insufficient therefor, or for mandatory redemption of the Bonds as hereinafter provided, and for no other purpose. Any moneys withdrawn from the Reserve Account for the payment of principal of and interest on the Bonds shall be restored thereto from the first revenues available after the payment of all sums required for principal of and interest on the Bonds.

(3) Thereafter, from the revenues remaining in the Revenue Fund, the City shall next, on the fifteenth day of June and the fifteenth day of December in each year, beginning with December 15, 1972, pay into a fund to be known as the "Depreciation Account," which is hereby established with the State Sinking Fund Commission, a sum equal to two and one-half per centum of the gross revenues derived from the operation of the Sewer System during the preceding fiscal year, but only to the extent of availability of funds therefor. The moneys in the Depreciation Account shall be used first to restore any withdrawal from the Reserve Account and shall next be used only for the replacement or addition of capital assets of the Sewer System.

(4) If all of the above required payments are then current, the City shall transfer all moneys remaining in the

Revenue Fund not needed for the payment of Operating Expenses in the remainder of the current fiscal year and the next ensuing fiscal year to, in its discretion, either the Depreciation Account or the Sinking Fund.

If the City Council finds and determines by resolution, approved in writing by the Consulting Engineer, that a portion of the moneys in the Depreciation Account is not needed for the purposes of the Depreciation Account during the current fiscal year and the next ensuing fiscal year, the City may transfer such surplus moneys to the Sinking Fund.

The City may, in its discretion, direct the State Sinking Fund Commission to use any surplus moneys in the Sinking Fund for the purchase, or redemption if such Bonds are then callable, of any outstanding Bonds, at prices for the non-callable Bonds not greater than the then market price of such Bonds, in no event to exceed the maximum redemption price of any of the Bonds outstanding, and at not greater than the then redemption price for callable Bonds.

All the funds provided for above shall constitute trust funds and shall be used only for the purposes provided herein. The moneys in excess of the sum insured by FDIC in the Revenue Fund shall at all times be secured, to the full extent thereof in excess of such insured sum, by direct obligations of the United States of America or such other obligations as shall be eligible as security for deposits of State and municipal funds under the laws of the State of West Virginia.

If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds as hereinabove provided, the deficiency shall be made up in

the subsequent payments in addition to the payments which would otherwise be required to be made into the funds on the subsequent payment dates.

Moneys in the Reserve Account and the Depreciation Account shall be invested and reinvested by the State Sinking Fund Commission in direct obligations of the United States of America having maturities not longer than two years from date of purchase. Earnings received upon investment of moneys in the Reserve Account which would result in there being in the Reserve Account more than the maximum amount required to be accumulated and maintained therein shall be transferred by the State Sinking Fund Commission to the Depreciation Account.

All remittances made by the City to the State Sinking Fund Commission shall clearly identify the Fund or Account into which each amount is to be deposited.

Anything to the contrary herein notwithstanding, when the aggregate sum in the Sinking Fund, including the Reserve Account therein, and, at the discretion of the Sanitary Board, in the Depreciation Account, are 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 and pursuant to the provisions hereof as to redemption of Bonds.

ARTICLE IV

GENERAL COVENANTS OF THE CITY

Section 4.01. General Statement. So long as any of the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Sinking Fund a sum sufficient to pay when due, or redeem prior to maturity, the entire principal of the Bonds remaining unpaid, together with interest accrued and to accrue thereon and redemption premiums, if any, the covenants and agreements contained in this Article IV, and in this Ordinance, shall be and constitute valid and legally binding covenants between the City and the holders from time to time of the Bonds and the interest coupons appertaining thereto.

Section 4.02. Rates. The City will, in the manner provided in the Act, fix such rates and collect such rentals, fees or other charges for the services and facilities of the Sewer System, and revise the same from time to time whenever necessary, as will always provide net revenues in each Fiscal Year sufficient to pay one hundred thirty per centum (130%) of the amount of the principal of and interest on the Bonds maturing and becoming due in such Fiscal Year, and such rates, fees, rentals and other charges shall not be reduced so as to be insufficient to provide such net revenues.

Section 4.03. Sale of the Sewer System. The Sewer System may be sold, mortgaged, leased, or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient fully to pay or redeem at or prior to maturity all the Bonds outstanding. The proceeds from such sale, mortgage, lease or other disposition of the Sewer System shall immediately be remitted

to the State Sinking Fund Commission for deposit in the Sinking Fund and the City shall direct the State Sinking Fund Commission to apply such proceeds to the payment of principal and interest at maturity of Bonds about to mature and to the redemption prior to maturity, at the earliest date permitted hereby and at the redemption price, of all other outstanding Bonds. Any balance remaining after the redemption or payment of all the Bonds and interest thereon shall be remitted to the City by the State Sinking Fund Commission unless necessary for the payment of other obligations of the City payable out of the revenues of the Sewer 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 Sewer System hereafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor is not in excess of ten thousand dollars (\$10,000), the Sanitary Board shall make a finding by resolution in writing determining that such property comprising a part of the Sewer 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 through the Sanitary Board. The proceeds of any such sale shall be deposited in the Depreciation Account. If the amount to be received from such sale, lease or other disposition of said property shall be in excess of ten thousand dollars (\$10,000) but not in excess of fifty thousand dollars (\$50,000), the Sanitary Board shall first make a finding in writing, which shall be approved in writing by the Consulting Engineers, determining that such property comprising a part of the Sewer System is no longer necessary,

useful or profitable in the operation thereof, and the City Council shall then, if it be so advised, by resolution duly adopted, approve and concur in the finding of the Sanitary Board, 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 State Sinking Fund Commission for deposit in the Sinking Fund and shall be applied only to the redemption of Bonds of the last maturities then outstanding or to the purchase of Bonds of the last maturities then outstanding at prices not greater than the redemption price of such Bonds. Such payments of such proceeds into the Sinking Fund or the Depreciation 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 Sewer System shall be made by the City if the proceeds to be derived therefrom shall be in excess of \$50,000 and insufficient to pay or redeem prior to maturity all the Bonds then outstanding without the prior approval and consent in writing of the holders, or their duly authorized representatives, of sixty-six and two thirds per centum (66 2/3%) in amount of Bonds then outstanding. The City shall prepare the form of such approval and consent for execution by the Bondholders, or their duly authorized representatives, which form shall provide for the disposition of the proceeds of the sale, lease or other disposition of such properties of the Sewer System.

Section 4.04. Covenant Against Encumbrances. The City shall not issue any obligations whatsoever, except additional parity bonds hereinafter provided for, payable

from the revenues of the Sewer System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues, with the Bonds; and all obligations hereafter issued by the City payable from the revenues of the Sewer System, except such additional parity bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Bonds.

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

Section 4.05. Issuance of Additional Parity Bonds.

No additional parity bonds, as in this section defined, payable out of the revenues of the Sewer 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 or acquisition of extensions, additions and improvements to the Sewer 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 City Clerk a written statement by a certified public accountant not in the regular employ of the

City, 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 for, from the Sewer System during any twelve consecutive months within the eighteen 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 three succeeding years after the completion of the improvements to be financed by such additional parity bonds, shall not be less than one hundred thirty per centum (130%) of the largest aggregate amount which will mature and become due in any succeeding fiscal year for principal of and interest on the following:

(1) The Bonds originally issued pursuant to this Ordinance then outstanding; and

(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 three succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to a maximum of 75% of the increased revenues estimated to be derived solely from the improvements to be financed by such additional parity bonds and a maximum of 90% of the increased revenues estimated to be derived from any increase in rates actually in effect not less than three months 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 City Clerk prior to the issuance of such additional parity bonds.

The net revenues actually derived from the Sewer System during the twelve 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 said certified public accountant as stated in a certificate jointly made and signed by the Consulting Engineers and said certified public accountant, on account of increased rates, rentals, fees and charges for the Sewer System approved by the Public Service Commission of West Virginia and actually in effect less than the most recent three months of such twelve month period.

Prior to the issuance of any such additional parity bonds, the City shall have entered into written contracts for the immediate acquisition or construction of such additions, extensions or improvements to the Sewer 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 revenues of the Sewer System on a parity with the 1972 bonds originally authorized and issued pursuant to this Ordinance, and all the covenants and other provisions of this Ordinance (except as to details of such additional parity bonds inconsistent therewith) shall be for the equal benefit, protection and security of the holders of the 1972 Bonds and the holders of any additional parity bonds subsequently issued from time to time within the limitations of and in compliance with this section. All the bonds, regardless of the time or

times of their issuance, shall rank equally with respect to their lien on the revenues of the Sewer System, and their source of and security for payment from said revenues, without preference of any bond or coupon over any other. The City shall comply fully with all the increased payments into the various funds created in this Ordinance required for and on account of such additional bonds, in addition to the payments required for bonds theretofore issued pursuant to this Ordinance.

All additional parity bonds shall mature serially on June 1 of each year of maturity, and the semiannual interest thereon shall be payable June 1 and December 1 of each year.

Redemption of additional parity bonds shall be, as nearly as feasible, on an equal pro rata basis with the 1972 Bonds, based upon the original aggregate principal amount of each series.

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 Sewer System is subject to the prior and superior lien on such revenues of the Bonds. The City shall not issue any obligations whatsoever payable from the revenues of the Sewer 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 created at any time, however, unless all of the payments into the respective funds provided for in this Ordinance on Bonds then outstanding, and all depreciation or sinking funds, or 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 and the City shall then be in full compliance with all the covenants, agreements and terms of this Ordinance.

With the written consent in advance of the investment banker or bankers or underwriter or underwriters which originally purchased, directly from the City, the 1972 Bonds, and anything to the contrary in this Section 4.05 notwithstanding, additional bonds on a parity with the 1972 Bonds may be authorized and issued by the City pursuant to supplemental ordinance in the event that the 1972 Bonds should be insufficient, together with other funds lawfully available therefor, to pay all costs of construction and acquisition of the Project to complete the Project in accordance with the plans and specifications therefor now on file with the West Virginia Department of Health and with the Sanitary Board of the City. 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 bonds shall be in years and amounts suggested by such original purchaser directly from the City of the 1972 Bonds.

Section 4.06. Insurance. The City will carry such insurance as is ordinarily carried by private corporations owning and operating utilities similar to the Sewer 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 equal to the fair

appraisal value of the buildings, properties, furniture, fixtures and equipment of the Sewer 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 Account and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Depreciation Account.

Section 4.07. Books and Records. The City will keep books and records of the Sewer 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 Sewer System, and any holder of a Bond or Bonds shall have the right at all reasonable times to inspect the Sewer System and all records, accounts and data of the City relating thereto.

The City shall, within 90 days of the close of each fiscal year, cause said books, records and accounts of the Sewer System to be properly audited by an independent competent firm of certified public accountants, and shall make available the report of said accountants at all reasonable times to

any Bondholder, any taxpayer or citizen of the City, or any person receiving services from the Sewer System, or anyone acting for and in behalf of any such taxpayer, citizen or Bondholder and the Original Purchasers of the Bonds.

Section 4.08. Maintenance of System. The City will maintain the Sewer System in good condition and continuously operate the same in an efficient manner and at a reasonable cost.

Section 4.09. Services Rendered to the City. The City will not render or cause to be rendered any free services of any nature by its Sewer System, nor will any preferential rates be established for users of the same class; and in the event the City or any department, agency, instrumentality, officer or employee of the City shall avail itself or themselves of the facilities or services provided by the Sewer 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 Sewer System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the Sewer System.

Section 4.10. Operating Budget. The Sanitary Board shall annually, at least forty-five 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 Sewer System during the succeeding fiscal year. No expenditures for the operation and maintenance of the Sewer 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 Sewer System, and no such increased expenditures shall be made until the Sanitary Board shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of ten per centum 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 Sewer System. The City shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to any Bondholder who shall file his address with the City and request in writing that copies of all such budgets and resolutions be furnished him, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the Sewer System at all reasonable times to any Bondholder or anyone acting for and in behalf of such Bondholder.

Section 4.11. Remedies and Appointment of Receiver.

Any Bondholder may, by proper legal action, compel the performance of the duties of the City under this Ordinance and the Act. If there be default in the payment of principal of or interest upon any Bond or coupon issued hereunder when the same shall become due, or in the performance of any covenant contained in this Ordinance except as to such payment

and such default shall continue for a period of thirty days after written notice to the Chairman of the Sanitary Board of such default, any Bondholder shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings, to obtain the appointment of a receiver to administer the Sewer System on behalf of the City, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the Bonds and the interest coupons, the deposits into the funds and accounts hereby established as herein provided, and the payment of operating expenses of the Sewer System, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Ordinance and the Act.

Section 4.12. Enforcement of Collections. The City will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the Sewer System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the Charter of the City and other laws of the State of West Virginia.

The City further covenants and agrees that it will, to the full extent permitted by law, under reasonable rules and regulations, discontinue and shut off the services and facilities of its Waterworks for nonpayment of the fees, rentals or other charges for the services and facilities of the Sewer System, and will not restore the services of its Waterworks until all delinquent charges for the services and facilities of all parts of the Sewer System, plus reasonable penalties and charges for the restoration of service,

have been fully paid.

Section 4.13. No Competing Franchise. 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 Sewer System.

Section 4.14. Consulting Engineer. The City will retain nationally recognized, qualified independent Consulting Engineers on an annual basis, to supervise generally the operation, maintenance and renewal of the Sewer System, and to report annually to the City in writing their recommendations and comments as to the Sewer System.

Section 4.15. Financing and Continuation Statements. The City, by its Mayor or CityClerk, either of whom is hereby authorized and directed to act hereunder, will execute Financing Statements meeting the requirements of the Uniform Commercial Code of West Virginia and will file the same with the Secretary of State of the State of West Virginia and with the Clerk of the County Court of the aforesaid County; and Continuation Statements, if required to maintain the security interest arising from this Ordinance and the Bonds, shall be signed by the original purchaser of the Bonds or by the Mayor, hereby designated to perform such service on behalf of all the Bondholders, and shall be filed with said officials.

Section 4.16. Mandatory Connections. The mandatory use of the sewer facilities of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare and the economy of the inhabitants of the City and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the sewer

facilities. Accordingly, 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 any sewer line, main or facility is located, or which is located within a reasonable distance thereof, not exceeding 300 feet, and reasonably accessible thereto, and upon which lot, parcel or tract a building or other habitable structure has been or shall be erected for residential, commercial or industrial use, shall connect the waste or sewage lines of such building or structure with the sewer facilities of the System immediately upon completion of the Project if sewage will flow by gravity from such building or structure into the sewer facilities of the System, and shall thereupon and thereafter refrain from using and shall cease to use any other method for the disposal of sewage or water-borne waste matter and shall pay all charges, fees and rates lawfully provided for use of the sewer facilities.

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

ARTICLE V

RATES

Section 5.01. Sewer Rates Established. The following schedule of fees, rentals and rates to be charged for the services and facilities of the Sewer System are hereby fixed and determined, as follows:

AVAILABILITY OF SERVICE

Rates applicable to entire territory served and available for general domestic, commercial and industrial service.

RATES, BASED UPON WATER USAGE OR ESTIMATE BY SANITARY BOARD IF WATER NOT METERED, ON MONTHLY BASIS:

	<u>Per 1000 gallons</u>
First 5000 gallons	\$ 1.30
Next 5000 gallons	.95
Next 25,333 gallons	.70
Next 33,333 gallons	.42
All Over 66,666 gallons	.35

MINIMUM CHARGE

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

	<u>Minimum Per Month</u>
5/8 inch meter, or smaller	\$ 2.60
3/4 inch meter	3.75
1 inch meter	6.66
1 1/2 inch meter	14.98
2 inch meter	26.62
3 inch meter	59.90
4 inch meter	106.50
6 inch meter	139.62

TAP FEE

For the cost of making taps there shall be a sewer line tapping charge of \$50.

DELAYED PAYMENT PENALTY

The above tariff is net. On all accounts not paid in full within ten (10) days of date of bill, ten per cent (10%) will be added to the net amount shown.

The above schedule of fees, rentals, rates and charges for the services and facilities of the Sewer System shall have been approved by the Public Service Commission of West Virginia prior to the delivery date of the 1972 Bonds and shall be increased whenever such increase is necessary in order to comply fully with all the provisions of this Ordinance, and the City shall always be obligated to and shall fix, establish and collect fees, rentals, rates and other charges for the services and facilities of the Sewer System which shall at all times be sufficient to pay all the principal of and interest on the Bonds and to make all depreciation and other payments provided for in this Ordinance.

Section 5.02. Lien for Charges. The City, as provided in the Act, shall have a lien on all lands, buildings and premises served by the Sewer System for all charges for sewer services and facilities, and the City covenants that it will diligently enforce such liens against all lands, buildings and premises where charges are delinquent for such services or facilities, in addition to discontinuing the supply of water to such lands, buildings or premises for such delinquent charges as hereinabove provided.

Section 5.03. Simultaneous Payment of Sewer and Water Bills. The City will require customers using both water and sewer services to pay water and sewer bills at the same time, and will not accept payment of a bill for water or sewer service only. Under reasonable conditions, the City will shut off water service for non-payment of a sewer bill within not more than thirty days after the mailing of such bill.

ARTICLE VI

MISCELLANEOUS

Section 6.01. Modification or Amendment. No material modification or amendment of this Ordinance, or of any ordinance or resolution amendatory hereof or supplemental hereto, may be made without the consent in writing of the holders of two-thirds or more in principal amount of the Bonds then outstanding, provided, however, that no modification or amendment shall permit a change in the maturity of such Bonds or a reduction in the rate of interest thereon, or in the amount of the principal obligation or affecting the unconditional promise of the City to pay the principal of and interest on the Bonds as the same shall come due, from the revenues of the Sewer System, without the consent of the holders of such Bonds. Notwithstanding the above, no amendment or modification shall be made which would reduce the percentage of the principal amount of Bonds required for consent to the above permitted amendments or modifications.

Section 6.02. Management of Sewer System. The City, acting by and through its Council, and subject to the provisions of its Charter, the Act and other applicable statutes, now manages, operates, maintains and controls the Sewer System through a Sanitary Board heretofore lawfully created for such purpose pursuant to the Act. The Sanitary Board shall comply fully with all of the provisions of this Ordinance and covenants and agreements contained herein.

Section 6.03. Severability of Invalid Provision. If any one or more of the covenants, agreements or provisions

hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall, to the extent of such invalidity, be null and void and shall be deemed separable from the remaining covenants, agreements or provisions, and shall in no way affect the validity of all the other provisions of this Ordinance or the Bonds or coupons appertaining thereto.

Section 6.04. Conflicting Provisions Repealed.

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

Section 6.05. Covenant of Due Procedure, Etc.

The City covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the final enactment and passage of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the Clerk and the members of Council of the City were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office and that the City Manager of the City, duly appointed, qualified and serving, was also duly in office at all such times.

Section 6.06. Public Hearing. Upon adoption and approval of this Ordinance the City Clerk is hereby authorized and directed to have it published once each week for two

successive weeks, with not less than six full days between each publication, the second such publication to be not less than ten days before the date stated below for the public hearing, in The Sentinel, a newspaper published and having a general circulation in the City, together with a notice to all persons concerned, stating that this Ordinance has been adopted and that the City contemplates the issuance of the 1972 Bonds described in this Ordinance and that any person interested may appear before the City Council at the public hearing to be had at a public meeting of City Council on the 30th day of May, 1972, at 7:30 o'clock p.m., in the Council chamber of the City Building in said City and present protests. At such hearing all objections and suggestions shall be heard by the City Council and it shall then take such action as it shall deem proper in the premises.

Section 6.07. Effective Time. This Ordinance shall take effect following publication hereof and public hearing hereon as provided in the Act.

Passed on First Reading: May 8, 1972.

Enacted May 30, 1972.

Ratified following public hearing held

May 30, 1972.



Mayor



Clerk



City Attorney