

**THE CITY OF HUNTINGTON (WEST VIRGINIA)  
SEWERAGE SYSTEM REFUNDING REVENUE BONDS  
SERIES 2007 (TAX-EXEMPT)**

**DATE OF CLOSING: DECEMBER 27, 2007**

**BONDS TRANSCRIPT**

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**THE CITY OF HUNTINGTON  
(WEST VIRGINIA)**

**SEWERAGE SYSTEM REFUNDING REVENUE BONDS  
SERIES 2007**

**BOND TRANSCRIPT**

**Date of Closing: December 27, 2007**

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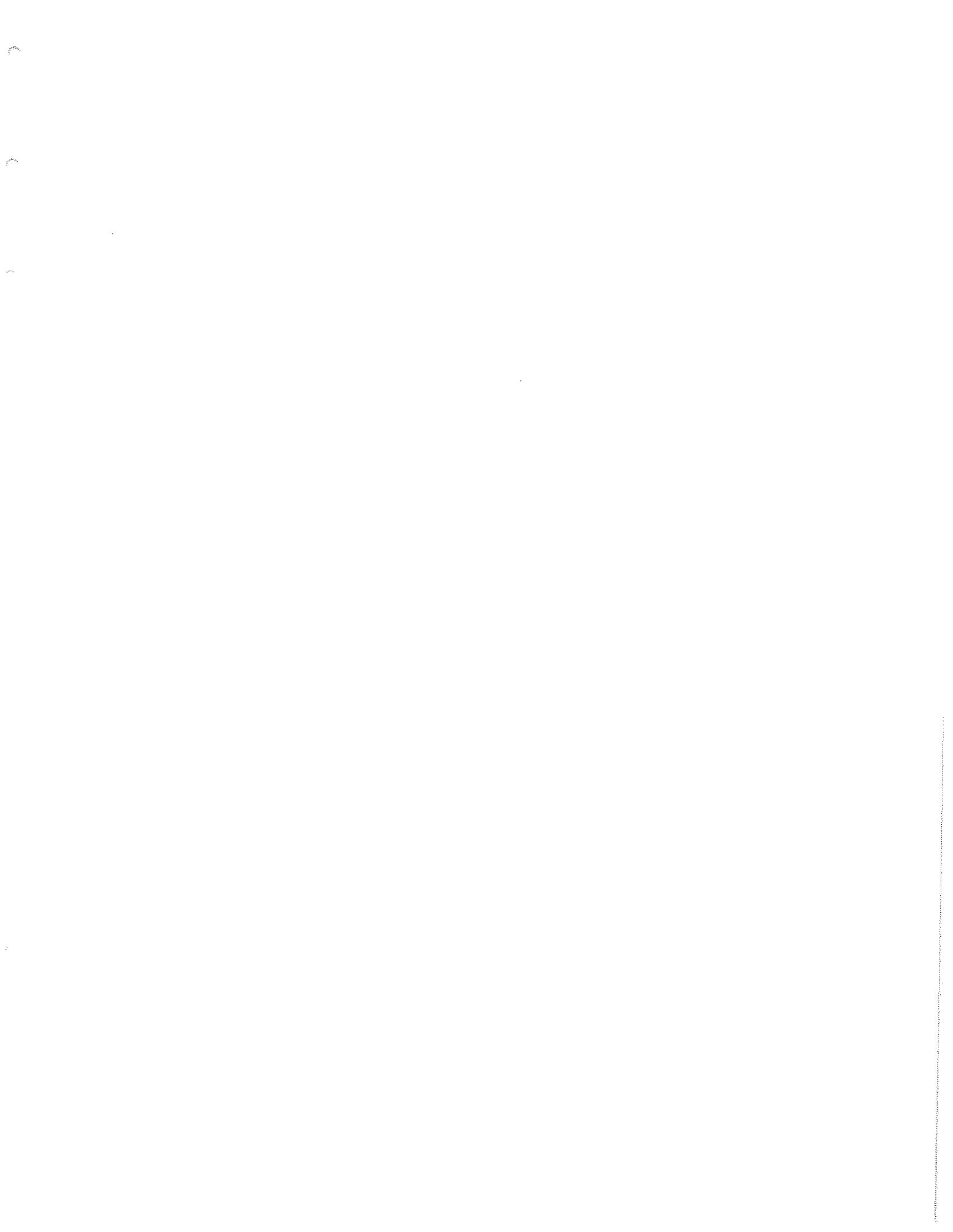
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THE CITY OF HUNTINGTON  
(WEST VIRGINIA)

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AND  
SEWER REVENUE BONDS, SERIES 2006 B (TAXABLE)  
AND  
SEWER REFUNDING REVENUE BONDS, SERIES 2007 (TAX-EXEMPT)

BOND ORDINANCE

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Bond Authorizing Ordinance

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THE CITY OF HUNTINGTON  
(WEST VIRGINIA)

SEWER REVENUE BONDS, SERIES 2006 A  
SEWER REVENUE BONDS, SERIES 2006 B  
SEWER REFUNDING REVENUE BONDS, SERIES 2007

BOND ORDINANCE

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THE CITY OF HUNTINGTON  
(WEST VIRGINIA)

CONFORMED ORDINANCE

AN ORDINANCE AUTHORIZING THE ISSUANCE OF SEWER REVENUE BONDS, SERIES 2006 A (TAX-EXEMPT) OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$4,000,000, FOR THE PURPOSE OF PAYING THE OUTSTANDING PRINCIPAL BALANCE OF THE CITY'S SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2003 A (TAX-EXEMPT), AND PAYING COSTS OF ISSUANCE AND RELATED COSTS; AUTHORIZING THE ISSUANCE OF SEWER REVENUE BONDS, SERIES 2006 B (TAXABLE) OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$2,750,000, FOR THE PURPOSES OF PAYING THE OUTSTANDING PRINCIPAL BALANCE OF THE CITY'S SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2003 B (TAXABLE), FINANCING CERTAIN SINKING FUND AND DEBT SERVICE RESERVE ACCOUNT ARREARAGES FOR THE CITY'S PRIOR BONDS, AND PAYING COSTS OF ISSUANCE AND RELATED COSTS; AUTHORIZING THE ISSUANCE OF SEWER REFUNDING REVENUE BONDS, SERIES 2007 (TAX-EXEMPT) OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$7,000,000, FOR THE PURPOSE OF REFUNDING THE CITY'S SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1993, AND PAYING COSTS OF ISSUANCE AND RELATED COSTS; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT AND OTHER DOCUMENTS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

**RECITALS**

WHEREAS, The City of Huntington (the "Issuer") presently owns and operates a public sewerage system, which constitute properties for the collection, transportation, treatment, purification and disposal of liquid or solid wastes, sewage or industrial wastes (the "System") and has heretofore temporarily or permanently financed or refinanced the acquisition and construction of the System and certain additions, extensions and improvements thereto by issuance of several series of bonds or refunding bonds, of which there are presently outstanding the (i) Sewerage System Refunding Revenue Bonds, Series 1993, dated November 1, 1993, issued in the original aggregate principal amount of \$7,100,000 (the "Series 1993 Bonds"), (ii) Sewer Revenue Bonds, Series 1997 (West Virginia SRF Program), dated November 25, 1997, issued in the original aggregate principal amount of \$3,039,895 (the "Series 1997 Bonds"), (iii) Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), dated June 22, 1999, issued in the original aggregate principal amount of \$2,083,550 (the "Series 1999 Bonds"), (iv)

Sewer Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated October 24, 2000, issued in the original aggregate principal amount of \$1,867,098 (the "Series 2000 A Bonds"), (v) Sewerage System Bond Anticipation Notes, Series 2003 A (Tax-Exempt), dated December 30, 2003, issued in the original aggregate principal amount of \$2,640,000 (the "Series 2003 A Notes"), and Sewerage System Bond Anticipation Notes, Series 2003 B (Taxable), dated December 30, 2003, issued in the original aggregate principal amount of \$555,000 (the "Series 2003 B Notes" and, together with the Series 2003 A Notes, herein collectively referred to as the "Series 2003 Notes");

WHEREAS, the Series 2003 B Notes temporarily financed certain sinking fund and debt service reserve account arrearages and the Issuer reimbursed itself for expenditures previously made by the Issuer with respect to the Harveytown and Lawson Heights grant projects;

WHEREAS, the Series 1993 Bonds were issued pursuant to an ordinance of the Issuer enacted by the City Council of the Issuer on October 12, 1993, as supplemented by a supplemental resolution adopted by the City Council of the Issuer on November 3, 1993 (such ordinance, as so supplemented and amended, herein called the "Series 1993 Ordinance"), the Series 1997 Bonds were issued pursuant to an ordinance of the Issuer enacted by the City Council of the Issuer on December 10, 1995, as supplemented by a supplemental resolution adopted by the City Council of the Issuer on November 10, 1997 (such ordinance, as so supplemented and amended, herein called the "Series 1997 Ordinance"), the Series 1999 Bonds were issued pursuant to an ordinance of the Issuer enacted by the City Council of the Issuer on June 14, 1999, as supplemented by a supplemental resolution adopted by the City Council of the Issuer on June 14, 1999 (such ordinance, as so supplemented and amended, herein called the "Series 1999 Ordinance"), the Series 2000 A Bonds were issued pursuant to an ordinance of the Issuer enacted by the City Council of the Issuer on October 10, 2000, as supplemented by a supplemental resolution adopted by the City Council of the Issuer on October 10, 2000 (such ordinance, as so supplemented and amended, herein called the "Series 2000 A Ordinance"), and the Series 2003 Notes were issued pursuant to an ordinance of the Issuer enacted by the City Council of the Issuer on December 22, 2003, as supplemented by a supplemental resolution adopted by the City Council of the Issuer on December 22, 2003 (the "Series 2003 Ordinance" and, together with the Series 1993 Ordinance, the Series 1997 Ordinance, the Series 1999 Ordinance and the Series 2000 A Ordinance, herein collectively referred to as the "Prior Ordinances");

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

WHEREAS, the Issuer has determined and hereby determines that it is in the best interests of the residents of The City of Huntington and other users of the System to permanently finance the costs of acquisition and construction of certain additions, betterments and improvements to the System, to permanently finance the reimbursement expenditures with respect to the Harveytown and Lawson Heights grant projects, to permanently finance the sinking fund and debt service reserve account arrearages heretofore financed with the proceeds of the Series 2003 B Notes, and to permanently finance certain other sinking fund and debt service reserve account arrearages related to the Issuer's Prior Bonds (as hereinafter defined);

WHEREAS, the Issuer has determined and hereby determines that it may be in the best interest of the residents of The City of Huntington and other users of the System to currently refund the Series 1993 Bonds to achieve interest rate savings;

WHEREAS, the Issuer has determined and hereby determines that it would be to the benefit of the Issuer and its residents and other users of the System, to pay the outstanding principal balance of the Series 2003 A Notes in the manner set forth herein with proceeds of the issuance of a series of bonds to be designated "The City of Huntington (West Virginia) Sewer Revenue Bonds, Series 2006 A (Tax-Exempt)" (the "Series 2006 A Bonds"), in the maximum aggregate principal amount of \$4,000,000, such Series 2006 A Bonds to be secured by and payable from the Net Revenues (as hereinafter defined) of the System, on a parity with the Prior Bonds and the Series 2007 Bonds;

WHEREAS, the Issuer has determined and hereby determines that it would be to the benefit of the Issuer and its residents and other users of the System, to pay the outstanding principal balance of the Series 2003 B Notes and to permanently finance certain sinking fund and debt service reserve account arrearages related to the Issuer's Prior Bonds in the manner set forth herein with proceeds of the issuance of a series of bonds to be designated "The City of Huntington (West Virginia) Sewer Revenue Bonds, Series 2006 B (Taxable)" (the "Series 2006 B Bonds"), in the maximum aggregate principal amount of \$2,750,000, such Series 2006 B Bonds to be secured by and payable from the Surcharge (as hereinafter defined) of the System;

WHEREAS, the Issuer has determined and hereby determines that it would be to the benefit of the Issuer and its residents and other users of the System, to refund the Series 1993 Bonds to achieve interest rate savings on their next redemption date, being May 1, 2007, in the manner set forth herein with proceeds of the issuance of a series of bonds to be designated "The City of Huntington (West Virginia) Sewer Refunding Revenue Bonds, Series 2007 (Tax-Exempt)" (the "Series 2007 Bonds" and together with the Series 2006 A Bonds and the Series 2006 B Bonds, collectively referred to herein as the "Series 2006 Bonds"), in the maximum aggregate principal amount of \$7,000,000, such Series 2007 Bonds to be secured by and payable from the Net Revenues (as hereinafter defined) of the System, on a parity with the Series 2006 A Bonds and the Prior Bonds; and

WHEREAS, the Issuer now desires to authorize the payment of the outstanding principal balance of the Series 2003 Notes and the refunding of the Series 1993 Bonds as aforesaid, and to provide for the financing thereof by the issuance of the Series 2006 Bonds as hereinafter provided.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF HUNTINGTON:

## ARTICLE I

### DEFINITIONS; STATUTORY AUTHORITY; FINDINGS

#### Section 1.01. Definitions.

All capitalized terms used in this Ordinance and not otherwise defined in the recitals hereto shall have the meanings specified below, unless the context expressly requires otherwise:

“Act” means Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended and in effect on the date of delivery of the Series 2006 Bonds.

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

“Authorized Officer” means the Mayor of the Issuer or any other officer of the Issuer specifically designated by resolution of the Council of the Issuer.

“Board” or “Sanitary Board” means the Sanitary Board of the Issuer.

“Bond Commission” means the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia which succeeds to the functions of the Bond Commission.

“Bond Counsel” shall mean any law firm having a national reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds, appointed by the Issuer or the Sanitary Board, and shall initially mean Steptoe & Johnson PLLC, Charleston, West Virginia.

“Bond Insurer” means any entity which shall insure all or any portion of the payment of principal of and interest on the Bonds, and with respect to the Series 2007 Bonds, shall mean the Bond Insurer, if any, designated in the Supplemental Resolution.

“Bond Register” means the books of the Issuer maintained by the Registrar for the registration and transfer of Bonds.

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

“Bonds” means, collectively, the Series 2006 A Bonds, the Series 2006 B Bonds, the Series 2007 Bonds, the Series 2000 A Bonds, the Series 1999 Bonds, the Series 1997 Bonds, the Series 1993 Bonds, if not refunded by the Issuer, and any additional parity Bonds hereafter issued within the terms, restrictions and conditions contained herein.

“Business Day” means any day other than a Saturday, Sunday or a day on which national banking associations or West Virginia banking corporations are authorized by law to remain closed.

“Certificate of Authentication and Registration” means the Certificate of Authentication and Registration on the Series 2006 Bonds, respectively, in substantially the forms set forth in EXHIBIT

A - FORM OF SERIES 2006 A BOND, EXHIBIT B - FORM OF SERIES 2006 B BOND, and EXHIBIT C - FORM OF SERIES 2007 BOND, all attached hereto.

“City” or “Issuer” means the The City of Huntington, a municipal corporation and political subdivision of the State of West Virginia, in Cabell and Wayne Counties thereof, and, unless the context clearly indicates otherwise, includes the Governing Body and the Sanitary Board of the Issuer and any other commission, board or department established by the Issuer to operate and maintain the System.

“City Clerk” or “Clerk” means the City Clerk of the Issuer.

“Closing Date” means the date upon which there is an exchange of the Series 2006 Bonds for the proceeds representing the original purchase price thereof.

“Code” shall mean the Internal Revenue Code of 1986, as amended and supplemented from time to time, and Regulations thereunder.

“Consulting Engineers” means any qualified engineer or engineers or firm or firms of engineers that shall at any time now or hereafter be retained by the Issuer as Consulting Engineers for the System, or portion thereof.

“Costs” or similar terms, means all those costs now or hereafter permitted by the Act to be financed with bonds issued pursuant hereto, including, without limitation, the costs of paying the principal balance of the Series 2003 Notes and refunding the Series 1993 Bonds, including payment of redemption premiums, if any, and accrued interest thereon; amounts which may be deposited in the respective Reserve Accounts; engineering, and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to the refunding of the Series 1993 Bonds and the payment of the outstanding principal balance of the Series 2003 Notes, premiums for municipal bond insurance, if any, and reserve account insurance, letter of credit fees, fiscal agent fees and expenses, underwriter’s discount, initial fees for the services of registrars, paying agents, depositories, trustees or escrow trustees, or other costs in connection with the sale of the Series 2006 Bonds, the refunding of the Series 1993 Bonds and the payment of the outstanding principal balance of the Series 2003 Notes, and such other expenses as may be necessary or incidental to the financing herein authorized, and the performance of the things herein required or permitted, in connection with any thereof, provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2006 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes, shall be deemed Costs.

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

“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.

“Debt Service,” with reference to a specified period, means the amount of principal, including any sinking fund payments, and interest payable with respect to the Bonds during such period.

“Depository Bank” means the bank or banks to be designated as such in the Supplemental Resolution, and any other bank or national banking association located in the State of West Virginia, eligible under the laws of the State of West Virginia to receive deposits of state and municipal funds and insured by the FDIC that may hereafter be appointed by the Issuer as Depository Bank.

“Depreciation Fund” means the Depreciation Fund established by the Prior Ordinances and continued hereby.

“DTC” means The Depository Trust Company, New York, New York or its successor.

“DTC-eligible” means, with respect to the Series 2006 Bonds, meeting the qualifications prescribed by DTC.

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

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

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

“Governing Body” means the Council of the Issuer or any other governing body of the Issuer that succeeds to the functions of the Council, as it may now or hereafter be constituted.

“Government Obligations” means certificates or interest-bearing notes or obligations of the United States, or those for which the full faith and credit of the United States are pledged for the payment of principal and interest.

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

“Independent 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 purpose except keeping the accounts of said System in the normal operations of its business and affairs.

“Maximum Annual Debt Service” means, at the time of computation, the greatest amount of Debt Service required to be paid on the Bonds for the then current or any succeeding Fiscal Year, assuming that the principal of any Term Bonds is deemed due on the earlier of their stated maturity date or the date on which they are required to be redeemed pursuant to mandatory sinking fund redemption.

“Mayor” means the current Mayor of the Issuer.

“Municipal Bond Insurance Policy” means any municipal bond insurance policy issued by a Bond Insurer simultaneously with the delivery of the Series 2007 Bonds, insuring the payment of the principal of and interest on all or any of the Series 2007 Bonds in accordance with the terms thereof or any other bond insurance policy which may be issued on behalf of the Issuer to insure payment of the principal of and interest on all or any subsequent series of Bonds.

“Net Proceeds” means the face amount of the Series 2006 A and Series 2007 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the respective Series 2006 Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from investment of proceeds

of the Series 2006 A Bonds and the Series 2007 Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

“Net Revenues” means the balance of Gross Revenues remaining after deduction of Operating Expenses, as hereinafter defined, which Net Revenues secure the Prior Bonds, the Series 2006 A Bonds and the Series 2007 Bonds.

“Operating Expenses,” unless qualified, means the current expenses, paid or accrued, of repair, operation and maintenance of the System, and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses (other than those capitalized as part of the costs of any project relating to the acquisition or construction of additions, betterments or improvements for the System), supplies, labor, wages, the cost of materials and supplies used for current operations, fees and expenses of fiscal agents and of the Depository Bank, Registrar and Paying Agent or Paying Agents, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that “Operating Expenses” does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of or any decrease in the value of capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

“Ordinance” regardless of whether preceded by the article “the” or “this,” means this Ordinance, as it may hereafter from time to time be amended or supplemented, by ordinance or by resolution.

“Original Purchaser” means Ross, Sinclair & Associates, Inc., Frankfort, Kentucky, as the purchaser of the Series 2006 Bonds directly from the Issuer, or, if the Issuer and such Original Purchaser do not agree to the purchase of the Series 2006 Bonds with interest rates and other terms allowable under the Act, such other person or persons, firm or firms, bank or banks, corporation or corporations or such other entity or entities as shall purchase the Series 2006 Bonds directly from the Issuer, as determined by a resolution supplemental hereto; provided, that the Original Purchaser and the Issuer shall agree to the purchase of the Series 2006 Bonds, as hereinafter defined, including the exact principal amount thereof and interest rate or rates thereon as fixed by said supplemental resolution to be adopted by the Council at the time of approval of such sale of said Series 2006 Bonds.

“Outstanding,” when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being issued and delivered except (a) any Bond or Prior Bond canceled by the registrar for such Bond or Prior Bond at or prior to said date; (b) any Bond or Prior Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity, shall be held in trust under this Ordinance and set aside for such payment (whether upon or prior to maturity); (c) any Bond deemed to have been paid as provided by Section 9.01; and (d) with respect to determining the number or percentage of Bondholders or Bonds for the purpose of consents, notices and the like, any Bond registered to the Issuer. Notwithstanding the foregoing, in the event that a Bond Insurer has paid principal of and/or interest on any Bond, such Bond shall be deemed to be Outstanding until such time as such Bond Insurer has been reimbursed in full.

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

“Prepayment Agent” means the prepayment agent or agents under the 2003 Prepayment Agreement and 1993 Prepayment Agreement, which shall be appointed pursuant to a resolution supplemental hereto.

“2003 Prepayment Agreement” means the agreement which may be entered into between the Issuer and the Prepayment Agent, providing for the defeasance and ultimate payment of the Series 2003 Notes, the deposit therein of proceeds of the Series 2006 A Bonds and Series 2006 B Bonds, and other matters in connection therewith, the form of which shall be approved by the Supplemental Resolution.

“1993 Prepayment Agreement” means the agreement which may be entered into between the Issuer and the Prepayment Agent, providing for the defeasance and ultimate payment of the Series 1993 Bonds, the deposit therein of proceeds of the Series 2007 Bonds, the disposition of moneys in the various funds and accounts under the Series 1993 Ordinance and other matters in connection therewith, the form of which shall be approved by the Supplemental Resolution.

“1993 Prepayment Fund” means the Prepayment Fund established pursuant to the 1993 Prepayment Agreement.

“2003 Prepayment Fund” means the Prepayment Fund established pursuant to the 2003 Prepayment Agreement.

“Prior Bonds” shall mean collectively, the Series 1997 Bonds, the Series 1999 Bonds and the Series 2000 A Bonds.

“Prior Ordinances” shall have the meaning set forth in the recitals hereto.

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

“Qualified Investments” means and includes the investments set forth in the Supplemental Resolution and designated as such.

“Rebate Fund” means the Rebate Fund established by Section 4.01 hereof.

“Record Date” means the day of the month which shall be so stated in the Bonds, regardless of whether such day is a Saturday, Sunday or legal holiday.

“Redemption Account” means, collectively, the respective redemption accounts created for the Series 2006 Bonds by Section 4.02 hereof.

“Redemption Date” means the date fixed for redemption of Bonds subject to redemption in any notice of redemption published or mailed in accordance herewith.

“Redemption Price” means the price at which the Bonds may be called for redemption and includes the principal amount of the Bonds to be redeemed, plus the premium, if any, required to be paid to effect such redemption.

“Registered Owner,” “Bondholder,” “Holder of the Bonds,” “Owner of the Bonds” or any similar term means any person who shall be the registered owner of any outstanding Bond.

“Registrar” means the bank to be designated in the Supplemental Resolution as the registrar for the Series 2006 Bonds, and any successor thereto appointed in accordance with Section 8.08 hereof.

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

“Reserve Accounts” means, collectively, the respective Reserve Accounts created for the Series 2006 Bonds and the Prior Bonds.

“Reserve Account Requirement” means, collectively, the respective amount required to be on deposit in the respective Reserve Accounts for the Series 2006 Bonds and the Prior Bonds.

“Revenue Fund” means the Revenue Fund established by the Prior Ordinances and continued hereby.

“Sanitary Board” means the Sanitary Board of the Issuer.

“Series 1993 Bonds” means the Issuer’s Sewerage System Refunding Revenue Bonds, Series 1993, dated November 1, 1993, issued in the original aggregate principal amount of \$7,100,000.

“Series 1993 Bonds Redemption Date” means the date fixed for redemption of the Series 1993 Bonds as set forth in the Ordinance authorizing the Series 1993 Bonds.

“Series 1993 Ordinance” means the Ordinance authorizing the issuance of the Series 1993 Bonds.

“Series 1997 Bonds” means the Issuer’s Sewer Revenue Bonds, Series 1997 (West Virginia SRF Program), dated November 25, 1997, issued in the original aggregate principal amount of \$3,039,895.

“Series 1999 Bonds” means the Issuer’s Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), dated June 22, 1999, issued in the original aggregate principal amount of \$2,083,550.

“Series 2000 A Bonds” means the Issuer’s Sewer Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated October 24, 2000, issued in the original aggregate principal amount of \$1,867,098.

“Series 2003 Notes” means, collectively, the Series 2003 A Notes and the Series 2003 B Notes.

“Series 2003 Notes Redemption Date” means December 1, 2006, the date fixed for redemption of the Series 2003 Notes.

“Series 2003 A Notes” means the Issuer’s Sewerage System Bond Anticipation Notes, Series 2003 A (Tax-Exempt), dated December 30, 2003, issued in the original aggregate principal amount of \$2,640,000.

“Series 2003 B Notes” means the Issuer’s Sewerage System Bond Anticipation Notes, Series 2003 B (Taxable), dated December 30, 2003, issued in the original aggregate principal amount of \$555,000.

“Series 2003 Ordinance” means the Ordinance that authorized the issuance of the Series 2003 A Notes and Series 2003 B Notes.

“Series 2006 Bonds” means, collectively, the Series 2006 A Bonds, the Series 2006 B Bonds and the Series 2007 Bonds.

“Series 2006 A Bonds” means the Sewer Revenue Bonds, Series 2006 A (Tax-Exempt), of the Issuer, originally authorized to be issued pursuant to this Ordinance and the Supplemental Resolution.

“Series 2006 A Bonds Reserve Account” means the Series 2006 A Bonds Reserve Account established in the Series 2006 A Bonds Sinking Fund pursuant to Section 4.01 hereof.

“Series 2006 A Bonds Reserve Account Requirement” means, as of any date of calculation, Maximum Annual Debt Service for the Series 2006 A Bonds.

“Series 2006 A Bonds Sinking Fund” means the Series 2006 A Bonds Sinking Fund established by Section 4.02 hereof.

“Series 2006 B Bonds” means the Sewer Revenue Bonds, Series 2006 B (Taxable), of the Issuer, originally authorized to be issued pursuant to this Ordinance and the Supplemental Resolution.

“Series 2006 B Bonds Reserve Account” means the Series 2006 B Bonds Reserve Account established in the Series 2006 B Bonds Sinking Fund pursuant to Section 4.01 hereof.

“Series 2006 B Bonds Reserve Account Requirement” means, as of any date of calculation, Maximum Annual Debt Service for the Series 2006 B Bonds.

“Series 2006 B Bonds Sinking Fund” means the Series 2006 B Bonds Sinking Fund established by Section 4.02 hereof.

“Series 2007 Bonds” means the Sewer Refunding Revenue Bonds, Series 2007 (Tax-Exempt), of the Issuer, originally authorized to be issued, if and when issued, pursuant to this Ordinance and the Supplemental Resolution.

“Series 2007 Bonds Reserve Account” means the Series 2007 Bonds Reserve Account established in the Series 2007 Bonds Sinking Fund pursuant to Section 4.01 hereof.

“Series 2007 Bonds Reserve Account Requirement” means, as of any date of calculation, Maximum Annual Debt Service for the Series 2007 Bonds.

“Series 2007 Bonds Sinking Fund” means the Series 2007 Bonds Sinking Fund established by Section 4.02 hereof.

“Sinking Funds” means, collectively, the respective sinking funds created for the Series 2006 Bonds and the Prior Bonds.

“State” means the State of West Virginia.

“Supplemental Resolution” means any ordinances or resolutions amendatory hereof or supplemental hereto and, when preceded by the article “the,” refers specifically to the Supplemental Resolution(s) to be adopted by the Issuer following enactment of this Ordinance, setting forth the final amounts, maturities, interest rates and other terms of the Series 2006 Bonds and authorizing the sale of the Series 2006 Bonds to the Original Purchaser; provided, that any provision intended to be included in the Supplemental Resolution and not so included may be contained in any other Supplemental Resolution.

“Surcharge” means the surcharge approved by the Commission Order of the Public Service Commission of West Virginia in Case Nos. 03-1678-S-C and 04-0949-S-MA, dated December 14, 2004.

“Surplus Revenues” means the Net Revenues not required by the Ordinance to be set aside and held for the payment of or security for the Bonds or any other obligations of the Issuer, including, without limitation, the Depreciation Fund.

“System” means, collectively, the complete existing public municipal sewerage treatment and collection system of the Issuer, and shall include any additions, betterments and improvements thereto hereafter acquired or constructed for the System from any sources whatsoever, both within and without the issuer.

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

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

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

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

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

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

Section 1.02. Authority for this Ordinance.

This Ordinance is enacted pursuant to the provisions of the Act and other applicable provisions of law.

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

A. The Issuer is a municipal corporation and political subdivision of the State of West Virginia, in Cabell County of said State.

B. The Issuer now owns and operates, through the Sanitary Board, the System, the acquisition and construction of which has been temporarily or permanently financed or refinanced in part by the proceeds of the Series 1993 Bonds, the Series 2003 Notes, the Prior Bonds and other bonds which have either been refunded and defeased by the Prior Bonds or otherwise, or are no longer Outstanding.

C. Upon issuance of the Series 2006 A Bonds, the Series 2003 A Notes will be defeased and the Series 2006 A Bonds will be secured by a first lien on the Net Revenues, on a parity with the Series 2007 Bonds and the Prior Bonds.

Upon issuance of the Series 2006 B Bonds, the Series 2003 B Notes will be defeased and the Series 2006 B Bonds will be secured by a lien on the Surcharge.

Upon issuance of the Series 2007 Bonds, the Series 1993 Bonds will be defeased and the Series 2007 Bonds will be secured by a first lien on the Net Revenues, on a parity with the Series 2006 A Bonds and the Prior Bonds.

D. The Issuer intends to issue the Series 2006 A Bonds and Series 2007 Bonds and to pledge for payment thereof, the Net Revenues of the System on a parity with the Prior Bonds.

E. The Issuer intends to simultaneously issue the Series 2006 B Bonds and to pledge for payment thereof, the Surcharge established for use of the System.

F. The Issuer derives revenues from the System which are pledged for payment of the Prior Bonds and Series 1993 Bonds. Except for such pledge thereof to secure and pay the Prior Bonds, said revenues are not pledged or encumbered in any manner. Upon issuance of the Series 2006 A Bonds, the Series 2003 A Notes will be defeased and the Series 2006 A Bonds will be secured by a first lien on the Net Revenues, on a parity with the Prior Bonds and Series 1993 Bonds, if the Series 2007 Bonds are not issued.

G. The estimated Surcharge to be derived in each year after the date hereof will be sufficient, upon refunding and defeasance of the Series 2003 B Notes, to pay the principal of and interest on the Series 2006 B Bonds and to make all other payments provided for in this Ordinance for the Series 2006 B Bonds.

H. The Issuer derives revenues from the System which are pledged for payment of the Prior Bonds and Series 1993 Bonds. Except for such pledge thereof to secure and pay the Prior Bonds, said revenues are not pledged or encumbered in any manner. Upon issuance of the Series 2007 Bonds, the Series 1993 Bonds will be defeased and the Series 2007 Bonds will be secured by a first lien on the Net Revenues, on a parity with the Prior Bonds, and the Series 2006 A Bonds. The Issuer may later determine, however, not to issue the Series 2007 Bonds.

I. The estimated revenues to be derived in each year after the date hereof from the operation of the System will be sufficient, upon refunding and defeasance of the Series 1993 Bonds, to pay all Operating Expenses of the System and the principal of and interest on the Series 2006 A Bonds, Series 2007 Bonds and the Prior Bonds and to make all other payments provided for in this Ordinance.

J. Based upon the assumed principal amount, maturity schedule and interest rates for the Series 2007 Bonds presented to the Issuer by the Original Purchaser, the Series 2007 Bonds show a net present value savings to the Issuer after deducting all expenses of the refunding of the Series 1993 Bonds and the costs of issuing the Series 2007 Bonds.

K. The Issuer shall not sell the Series 2007 Bonds without setting forth in a Supplemental Resolution the determination set forth in paragraph J, above, based upon the actual principal amount, maturity schedule and interest rates for the Series 2007 Bonds, and the Issuer shall not issue the Series 2007 Bonds without having obtained from an independent certified public accountant a certification that the amount of savings stated to be achieved by the refunding of the Series 1993 Bonds shall in fact be saved, based upon their review, comparison and analysis of the net interest cost in dollars of the Series 2007 Bonds and the net interest cost in dollars of the Series 1993 Bonds.

L. Subject to the determination and certification required by paragraph K, above, it is in the best interest of the Issuer, and the inhabitants thereof, that the Issuer issue if and when issued, the Series 2007 Bonds and secure the Series 2007 Bonds by a pledge and assignment of the Net Revenues derived from the operation of the System, the moneys in the Series 2007 Bonds Reserve Account, unexpended proceeds of the Series 2007 Bonds and as further set forth herein.

M. The Series 2006 A Bonds and the Certificate of Authentication and Registration to be endorsed thereon are to be in substantially the forms set forth in EXHIBIT A - SERIES 2006 A BOND FORM, attached hereto and incorporated herein by reference, with necessary and appropriate variations, omissions and insertions as permitted or required by this Ordinance or a Supplemental Resolution or as deemed necessary by the Registrar or the Issuer.

The Series 2006 B Bonds and the Certificate of Authentication and Registration to be endorsed thereon are to be in substantially the forms set forth in EXHIBIT B - SERIES 2006 B BOND FORM, attached hereto and incorporated herein by reference, with necessary and appropriate variations, omissions and insertions as permitted or required by this Ordinance or a Supplemental Resolution or as deemed necessary by the Registrar or the Issuer.

The Series 2007 Bonds and the Certificate of Authentication and Registration to be endorsed thereon are to be in substantially the forms set forth in EXHIBIT C - SERIES 2007 BOND FORM, attached hereto and incorporated herein by reference, with necessary and appropriate variations, omissions and insertions as permitted or required by this Ordinance or a Supplemental Resolution or as deemed necessary by the Registrar or the Issuer.

N. All things necessary to make the Series 2006 Bonds, when authenticated by the Registrar and issued as in this Ordinance provided, the valid, binding and legal special obligations of the Issuer according to the import thereof, and to validly pledge and assign those funds pledged hereby to the payment of the principal of and interest on the Series 2006 Bonds, will be timely done and duly performed.

O. The enactment of this Ordinance, and the execution and issuance of the Series 2006 Bonds, subject to the terms thereof, will not result in any breach of, or constitute a default under, any instrument to which the Issuer is a party or by which it may be bound or affected.

#### Section 1.04. Ordinance Constitutes Contract.

In consideration of the acceptance of the Bonds by those who shall own or hold the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the 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 legal Holders of any and all of such Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond and

any other Bond, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

## ARTICLE II

### **AUTHORIZATION OF REFUNDING OF SERIES 1993 BONDS; AUTHORIZATION OF PAYMENT OF OUTSTANDING PRINCIPAL BALANCE OF SERIES 2003 NOTES; AUTHORIZATION OF FINANCING OF SINKING FUND AND DEBT SERVICE RESERVE ACCOUNT ARREARAGES; AUTHORIZATION TO DETERMINE FOLLOWING ENACTMENT OF THIS ORDINANCE NOT TO ISSUE THE SERIES 2007 BONDS OR TO ISSUE THE SERIES 2006 BONDS AT DIFFERENT TIMES**

#### Section 2.01. Authorization of Payment of Principal Balance of Series 2003 Notes.

The Series 2003 A Notes and Series 2003 B Notes Outstanding as of the date of issuance of the Series 2006 A Bonds and Series 2006 B Bonds, respectively, in the aggregate principal amounts of \$2,640,000 and \$555,000, respectively, are hereby ordered to be paid in full. The proceeds of the Series 2006 A Bonds and the Series 2006 B Bonds shall be used to pay the outstanding principal balance of, and accrued interest on, the Series 2003 Notes on the Series 2003 Notes Redemption Date pursuant to the terms of the 2003 Prepayment Agreement. Upon payment in full of the Series 2003 Notes, the liens created by the Series 2003 Ordinance shall be released and discharged.

#### Section 2.02. Authorization of Refunding of Series 1993 Bonds.

The Series 1993 Bonds Outstanding as of the date of issuance of the Series 2007 Bonds in the aggregate principal amount of not to exceed \$7,000,000 are hereby ordered to be refunded pursuant to the terms of a 1993 Prepayment Agreement, and the pledge of Net Revenues in favor of the Holders of such Series 1993 Bonds imposed by the Series 1993 Ordinance, the moneys in the funds and accounts created by the Series 1993 Ordinance for the payment of the Series 1993 Bonds and any other funds pledged by the Series 1993 Ordinance to payment of the Series 1993 Bonds are hereby ordered terminated, discharged and released upon the payment into the 1993 Prepayment Fund from the proceeds of the Series 2007 Bonds, together with other moneys available therefor, of the following: (a) if required by the 1993 Prepayment Agreement, an amount equal to the fiscal and paying agent charges and any other charges to become due and payable in connection with the Series 1993 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 and interest on such Series 1993 Bonds as the same become due, on the Series 1993 Bonds Redemption Date, all as set forth in the 1993 Prepayment Agreement. Contemporaneously with the deposit of such Series 2007 Bond proceeds into the 1993 Prepayment 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 Series 1993 Bonds shall be deposited in the 1993 Prepayment Fund, the Series 2007 Bonds Reserve Account or such other fund or account as shall be set forth in the 1993 Prepayment Agreement, and invested as provided in the 1993 Prepayment Agreement.

#### Section 2.03. Authorization to Determine Following Enactment of this Ordinance not to Issue the Series 2007 Bonds or to Issue the Series 2006 Bonds at Different Times.

Following enactment of this Ordinance, the Issuer is hereby authorized to make a determination that it is not in the best interest of its residents or users of the System to issue the Series 2007 Bonds authorized by this Ordinance, or the Issuer may make a determination that it is in the best

interest of its residents and users of the System to issue the three series of Series 2006 Bonds authorized by this Ordinance at separate times and not simultaneously with one another.

## ARTICLE III

### THE BONDS

#### Section 3.01. Form and Payment of Bonds.

No Bond shall be issued pursuant to this Ordinance except as provided in this Article III. Any Bonds issued pursuant to this Ordinance after the issuance of the Series 2006 Bonds, as hereinafter provided, may be issued only as fully registered Bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof for any year of maturity (or such other denominations as may be set forth in a Supplemental Resolution). All Bonds shall be dated as of the date provided in a Supplemental Resolution applicable to such series. Bonds shall bear interest from the interest payment date next preceding the date of authentication or, if authenticated after the Record Date but prior to the applicable interest payment date or on such interest payment date, from such interest payment date or, if no interest on such Bonds has been paid, from the date thereof; provided however, that, if, as shown by the records of the Registrar, interest on such Bonds shall be in default, Bonds issued in exchange for Bonds surrendered for transfer or exchange shall bear interest from the date to which interest has been paid in full on the initial Bonds surrendered.

The principal of and the premium, if any, on the Bonds shall be payable in any coin or currency which, on the respective date of such payment, is legal tender for the payment of public and private debts under the laws of the United States of America upon surrender at the principal office of the Paying Agent. Interest on the Bonds shall be paid by check or draft made payable and mailed to the Holder thereof at his address as it appears in the Bond Register at the close of business on the Record Date, or, if requested, in the case of a Registered Owner of \$1,000,000 or more of the Bonds, by wire transfer to a domestic bank account specified in writing at least 5 days prior to such interest payment date by such Registered Owner.

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

#### Section 3.02. Execution of Bonds.

The Bonds shall be executed in the name of the Issuer by the Mayor, by his manual or facsimile signatures, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Clerk by his or her manual or facsimile signature; provided, that, all such signatures and the seal may be by facsimile. In case any one or more of the officers who shall have signed or sealed any of the 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 City by such person as at the actual time of the execution of such Bonds shall hold the proper office in the City, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

#### Section 3.03. Authentication and Registration.

No Series 2006 Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Ordinance unless and until the Certificate of Authentication and Registration on such Bond, substantially in the forms set forth in EXHIBIT A - FORM OF SERIES 2006 A BOND,

EXHIBIT B - FORM OF SERIES 2006 B BOND and EXHIBIT C - FORM OF SERIES 2007 BOND attached hereto and incorporated herein by reference with respect to such respective Series 2006 Bond, shall have been duly manually executed by the Registrar. Any such manually executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Ordinance. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Registrar if signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.04. Negotiability and Registration.

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

So long as any of the Series 2006 Bonds remains Outstanding, the Registrar shall keep and maintain books for the registration and transfer of the Bonds. Bonds shall be transferable only by transfer of registration upon the Bond Register by the registered owner thereof in person or by his attorney or legal representative duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or such duly authorized attorney or legal representative. Upon transfer of a Bond, there shall be issued at the option of the Holder or the transferee another Bond or Bonds of the aggregate principal amount equal to the unpaid amount of the transferred Bond and of the same series, interest rate and maturity of said transferred Bond.

Upon surrender thereof at the office of the Registrar with a written instrument of transfer satisfactory to the Registrar and duly executed by the registered owner or his attorney or legal representative duly authorized in writing, Bonds may at the option of the Holder thereof be exchanged for an equal aggregate principal amount of Bonds of the same series, maturity and interest rate, in any authorized denominations.

In all cases in which the privilege of transferring or exchanging a Bond is exercised, Bonds shall be delivered in accordance with the provisions of this Ordinance. All Bonds surrendered in any such transfer or exchange shall forthwith be canceled by the Registrar. Transfers of Bonds, the initial exchange of Bonds and exchanges of Bonds in the event of partial redemption of fully registered Bonds shall be made by the Registrar without charge to the Holder or the transferee thereof, except as provided below. For other exchanges of Bonds, the Registrar may impose a service charge. For every such transfer or exchange of bonds, the Registrar may make a charge sufficient to reimburse its office for any tax or other governmental charge required to be paid with respect to such transfer or exchange, and such tax or governmental charge, and such service charge for exchange other than the initial exchange or in the event of partial redemption, shall be paid by the person requesting such transfer or exchange as a condition precedent to the exercise of the privilege of making such transfer or exchange. The Registrar shall not be obliged to make any such transfer or exchange of Bonds that have been called for redemption.

Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost.

In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may execute, in its discretion, and the Registrar shall authenticate, register and deliver any new Bond of like series, maturity and principal amount as the Bond, so mutilated, destroyed, stolen or lost, in exchange and

upon surrender and cancellation of, such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing the Issuer and the Registrar proof of his ownership thereof and that said Bond has been destroyed, stolen or lost and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer or the Registrar may prescribe and paying such expenses as the Issuer or the Registrar may incur. The name of the Bondholder listed in the Bond Register shall constitute proof of ownership. All Bonds so surrendered shall be submitted to and canceled by the Registrar, and evidence of such cancellation shall be given to the Issuer. If such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer, by and through the Registrar, may pay the same, upon being indemnified as aforesaid, and, if such Bond be lost, stolen or destroyed, without surrender therefor.

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

#### Section 3.06. Term Bonds.

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

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

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

C. The Issuer shall on or before the 60th day next preceding each mandatory redemption date furnish the Registrar and the Bond Commission with its certificate indicating whether and to what extent the provisions of (a) and (b) of the preceding paragraph are to be utilized with respect to such mandatory redemption payment and stating, in the case of the credit provided for in (b) of the preceding paragraph, that such credit has not theretofore been applied against any mandatory redemption obligation.

D. After said 60th day but prior to the date on which the Registrar selects the Term Bonds to be redeemed, the Bond Commission may use the moneys in the Redemption Account to

purchase Term Bonds at a price less than the par value thereof and accrued interest thereon. The Bond Commission shall advise the Issuer and the Registrar of any Term Bonds so purchased, and they shall be credited by the Registrar at 100% of the principal amount thereof against the obligation of the Issuer on such mandatory redemption date, and any excess shall be credited against future mandatory redemption obligations in the order directed by the Issuer, and the principal amount of such Term Bonds to be redeemed pursuant to mandatory sinking fund redemption shall be accordingly reduced.

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

#### Section 3.07. Notice of Redemption.

Unless waived by any Holder of the Bonds to be redeemed, official notice of any redemption shall be given by the Registrar on behalf of the Issuer by mailing a copy of an official redemption notice by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the applicable Bond Insurer, if any, the Original Purchaser, and the registered owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such registered owner to the Bond Registrar.

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

- (1) The Redemption Date,
- (2) The Redemption Price,
- (3) If less than all outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed,
- (4) That on the Redemption Date the Redemption Price and interest accrued will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date,
- (5) The place where such Bonds are to be surrendered for payment of the Redemption Price, which place of payment shall be the principal office of the Registrar, and
- (6) Such other information, if any, as shall be required for DTC-eligible Bonds.

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

Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the Issuer shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Registrar at the

Redemption Price. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the registered owner a new Bond or Bonds of the same maturity in the amount of the unpaid principal. All Bonds which have been redeemed shall be canceled and destroyed by the Bond Registrar and shall not be reissued.

Failure to receive such notice or any defect therein or in the mailing thereof shall not affect the validity of proceedings for the redemption of Bonds, and failure to mail such notice shall not affect the validity of proceedings for the redemption of any portion of Bonds for which there was no such failure.

Section 3.08. Persons Treated as Owners.

The Issuer, the Registrar and any agent of the Issuer or the Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of the principal of, and interest on, such Bond and (except as provided in Section 6.18) for all other purposes, whether or not such Bond is overdue.

Section 3.09. Temporary Bonds.

Until Bonds of any series in definitive form are ready for delivery, the Issuer may execute and the Registrar shall authenticate, register, if applicable, and deliver, subject to the same provisions, limitations and conditions set forth in this Article III, one or more printed, lithographed or typewritten Bonds in temporary form, substantially in the form of the definitive Bonds of such series, with appropriate omissions, variations and insertions, and in authorized denominations. Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the lien and benefit created under this Ordinance. Upon the presentation and surrender of any Bond or Bonds in temporary form, the Issuer shall, without unreasonable delay, prepare, execute and deliver to the Registrar, and the Registrar shall authenticate, register, if applicable, and deliver, in exchange therefor, a Bond or Bonds in definitive form. Such exchange shall be made by the Registrar without making any charge therefor to the Holder of such Bond in temporary form.

Section 3.10. Authorization of Series 2006 Bonds.

A. For the purposes of paying the outstanding principal balance of the Series 2003 A Notes, funding the Series 2006 A Bonds Reserve Account and paying costs of issuance of the Series 2006 A Bonds and related costs, there shall be issued the Series 2006 A Bonds of the Issuer, in an aggregate principal amount of not more than \$4,000,000. The Series 2006 A Bonds shall be designated "The City of Huntington (West Virginia) Sewer Revenue Bonds, Series 2006 A" and shall be issued in fully registered form, in denominations of \$5,000 or any integral multiple thereof for any year of maturity (or such other denominations as may be set forth in the Supplemental Resolution), not exceeding the aggregate principal amount of Series 2006 A Bonds maturing in the year of maturity for which the denomination is to be specified. The Series 2006 A Bonds shall be numbered from AR-1 consecutively upward. The Series 2006 A Bonds shall be dated; shall be in such aggregate principal amount; shall bear interest at such rate or rates, not exceeding the then legally permissible rate, payable semiannually on such dates; shall mature on such dates and in such amounts; shall be subject to such mandatory and optional redemption provisions; and shall have such other terms, all as the Issuer shall prescribe herein and in the Supplemental Resolution.

B. For the purposes of paying the principal balance of the Series 2003 B Notes, permanently financing certain sinking fund and debt service reserve account arrearages, funding the Series 2006 B Bonds Reserve Account and paying costs of issuance of the Series 2006 B Bonds and

related costs, there shall be issued the Series 2006 B Bonds of the Issuer, in an aggregate principal amount of not more than \$2,750,000. The Series 2006 B Bonds shall be designated "The City of Huntington (West Virginia) Sewer Revenue Bonds, Series 2006 B (Taxable)" and shall be issued in fully registered form, in denominations of \$5,000 or any integral multiple thereof for any year of maturity (or such other denominations as may be set forth in the Supplemental Resolution), not exceeding the aggregate principal amount of Series 2006 B Bonds maturing in the year of maturity for which the denomination is to be specified. The Series 2006 B Bonds shall be numbered from BR-1 consecutively upward. The Series 2006 B Bonds shall be dated; shall be in such aggregate principal amount; shall bear interest at such rate or rates, not exceeding the then legally permissible rate, payable semiannually on such dates; shall mature on such dates and in such amounts; shall be subject to such mandatory and optional redemption provisions; and shall have such other terms, all as the Issuer shall prescribe herein and in the Supplemental Resolution.

C. For the purposes of refunding the Series 1993 Bonds, funding the Series 2007 Bonds Reserve Account and paying costs of issuance of the Series 2007 Bonds and related costs, there shall be issued, if and when issued, the Series 2007 Bonds of the Issuer, in an aggregate principal amount of not more than \$7,000,000. The Series 2007 Bonds shall be designated "The City of Huntington (West Virginia) Sewer Refunding Revenue Bonds, Series 2007" and shall be issued in fully registered form, in denominations of \$5,000 or any integral multiple thereof for any year of maturity (or such other denominations as may be set forth in the Supplemental Resolution), not exceeding the aggregate principal amount of Series 2007 Bonds maturing in the year of maturity for which the denomination is to be specified. The Series 2007 Bonds shall be numbered from CR-1 consecutively upward. The Series 2007 Bonds shall be dated; shall be in such aggregate principal amount; shall bear interest at such rate or rates, not exceeding the then legally permissible rate, payable semiannually on such dates; shall mature on such dates and in such amounts; shall be subject to such mandatory and optional redemption provisions; and shall have such other terms, all as the Issuer shall prescribe herein and in the Supplemental Resolution.

D. Following enactment of this Ordinance, the Issuer may determine that it is not in the best interest of its residents or users of the System to issue the Series 2007 Bonds authorized by this Ordinance, or the Issuer may determine that it is in the best interest of its residents and users of the System to issue the three series of Series 2006 Bonds authorized by this Ordinance at separate times and not simultaneously with one another.

#### Section 3.11. Book Entry System for Series 2006 Bonds.

The Series 2006 A Bonds, the Series 2006 B Bonds, and the Series 2007 Bonds shall each initially be issued in the form of one fully-registered bond for the aggregate principal amount of the Series 2006 A Bonds, the Series 2006 B Bonds and the Series 2007 Bonds, respectively, of each maturity, and shall be registered in the name of Cede & Co., as nominee of DTC. Notwithstanding anything herein to the contrary contained, so long as the Series 2006 A Bonds, Series 2006 B Bonds and Series 2007 Bonds are so issued and registered, DTC (or its nominee) shall be treated as the sole Registered Owner for all purposes hereunder. Each Bond shall bear a legend substantially to the following effect "Except as otherwise provided in the Ordinance, this global bond may be transferred, in whole but not in part, only to another nominee of DTC (as defined in the Ordinance) or to a successor of DTC or to a nominee of a successor of DTC. Unless this certificate is presented by an authorized representative of DTC, to the Issuer or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the Registered Owner hereof, Cede & Co., has an interest herein."

With respect to Series 2006 Bonds registered in the records of the Registrar in the name of Cede & Co., as nominee of DTC, the Issuer and the Paying Agent shall have no responsibility or obligation to any other participant in DTC or to any Person on behalf of whom such a participant in DTC holds a beneficial interest in the Series 2006 Bonds. Without limiting the immediately preceding sentence, the Issuer and the Paying Agent shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any other participant in DTC with respect to any beneficial ownership interest in any Bond, (ii) the delivery to any other participant in DTC or any other Person, other than a Registered Owner, as shown in the records of the Registrar, of any notice with respect to any Series 2006 Bonds, including without limitation any notice of redemption, tender, purchase or any event which would or could give rise to a tender or purchase right or option with respect to any Bond, (iii) the payment to any other participant in DTC or any other Person, other than a Registered Owner, as shown in the records of the Registrar, of any amount with respect to principal of, premium, if any, or interest on, any Bond, or (iv) any consent given by DTC as Registered Owner. Notwithstanding any other provision of this Ordinance to the contrary, the Issuer and the Paying Agent shall be entitled to treat and consider the Person in whose name each Bond is registered in the records of the Registrar as the absolute owner of such Bond for the purpose of payment of principal, premium, if any, and interest with respect to such Bond, for the purpose of giving notices of redemption, sale, purchase or any event which would or could give rise to a sale or purchase right or option with respect to any Bond for the purpose of making payment of any purchase price of such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Issuer and Paying Agent shall pay all principal of, premium, if any, and interest on the Series 2006 Bonds and the purchase price of any Bond only to or upon the order of the respective Registered Owners, as shown in the records of the Registrar as provided in this Ordinance, or their respective attorneys or legal representatives duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to payment of principal of, premium, if any, and interest on the Series 2006 Bonds to the extent of the sum or sums so paid. No Person other than a Registered Owner, as shown in the records of the Registrar, shall receive a Bond certificate evidencing the obligation of the Issuer to make payments of principal, premium, if any, and interest pursuant to this Ordinance.

The Registered Owners have no right to a depository for the Series 2006 Bonds. The Issuer may remove DTC or any successor thereto for any reason at any time. In such event or in the event DTC shall notify the Issuer that DTC is discontinuing its book-entry system for the Series 2006 Bonds, the Issuer shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities Exchange Act, notify DTC of the appointment of such successor securities depository and transfer one or more separate Bond certificates to such successor securities depository or (ii) notify DTC of the availability through the DTC of Bond certificates and transfer one or more separate Bond certificates to other participants or beneficial owners as DTC may direct. In such event, the Series 2006 Bonds shall no longer be restricted to being registered in the records of the Registrar in the name of Cede & Co., as nominee, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names other participants in DTC receiving Series 2006 Bonds shall designate, in accordance with the provisions of this Ordinance. The provisions of this Section applicable to DTC shall apply, mutatis mutandis, to any successor depository performing the same functions hereunder as DTC.

The Issuer represents hereby that it has executed a Letter of Representations, the terms of which are applicable to the issuance of the Series 2006 Bonds hereunder. Such Letter of Representations is for the purpose of effectuating the Book-Entry Only System only and shall not be deemed to amend, supersede or supplement the terms of this Ordinance which are intended to be complete without reference to the Letter of Representations. In the event of any conflict between the terms of the Letter of Representations and the terms of this Ordinance, the terms of this Ordinance shall control. DTC may

exercise the rights of a Registered Owner hereunder only in accordance with the terms hereof applicable to the exercise of such rights.

Section 3.12. Delivery of Series 2006 Bonds.

The Issuer shall execute and deliver the Series 2006 Bonds to the Registrar, and the Registrar shall authenticate, register and deliver the Series 2006 Bonds to the Original Purchaser upon receipt of the documents set forth below:

(A) If not registered in the name of DTC or its nominee, a list of the names in which the Series 2006 Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Registrar may reasonably require;

(B) A request and authorization to the Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2006 Bonds to DTC for the benefit of the Original Purchaser;

(C) Copies of this Ordinance and the Supplemental Resolution certified by the Clerk;

(D) The unqualified approving opinion of Bond Counsel regarding the Series 2006 Bonds; and

(E) A copy of such other documents and certificates as the Original Purchaser may reasonably require.

Section 3.13. Form of Series 2006 Bonds.

A. The definitive Series 2006 A Bonds shall be in substantially the form set forth in EXHIBIT A - SERIES 2006 A BOND FORM attached hereto and incorporated herein by reference, with such necessary and appropriate omissions, insertions and variations as are approved by those officers executing such Series 2006 A Bonds on behalf of the Issuer and execution thereof by such officers shall constitute conclusive evidence of such approval, and the definitive Series 2006 A Bonds shall have the form of the opinion of Steptoe & Johnson PLLC, as Bond Counsel, attached thereto or printed on the reverse thereof.

B. The definitive Series 2006 B Bonds shall be in substantially the form set forth in EXHIBIT B - SERIES 2006 B BOND FORM attached hereto and incorporated herein by reference, with such necessary and appropriate omissions, insertions and variations as are approved by those officers executing such Series 2006 B Bonds on behalf of the Issuer and execution thereof by such officers shall constitute conclusive evidence of such approval, and the definitive Series 2006 B Bonds shall have the form of the opinion of Steptoe & Johnson PLLC, as Bond Counsel, attached thereto or printed on the reverse thereof.

C. The definitive Series 2007 Bonds shall be in substantially the form set forth in EXHIBIT C - SERIES 2007 BOND FORM attached hereto and incorporated herein by reference, with such necessary and appropriate omissions, insertions and variations as are approved by those officers executing such Series 2007 Bonds on behalf of the Issuer and execution thereof by such officers shall constitute conclusive evidence of such approval, and the definitive Series 2007 Bonds shall have the form of the opinion of Steptoe & Johnson PLLC, as Bond Counsel, attached thereto or printed on the reverse thereof.

Section 3.14. Disposition of Proceeds of Series 2006 A Bonds.

Upon the issuance and delivery of the Series 2006 A Bonds, the Issuer shall forthwith deposit the proceeds thereof as follows:

A. All interest accrued on Series 2006 A Bonds from the date thereof to the date of delivery thereof shall be deposited in the Series 2006 A Bonds Sinking Fund and applied to payment of interest on the Series 2006 A Bonds at the first interest payment date.

B. An amount of the proceeds of the Series 2006 A Bonds which shall be sufficient to accomplish the payment of the outstanding principal balance and defeasance of the Series 2003 A Notes, which amount shall be set forth in the 2003 Prepayment Agreement, shall be deposited in the 2003 Prepayment Fund.

C. The amount of Series 2006 A Bonds Proceeds equal to the Series 2006 A Bonds Reserve Account Requirement shall be remitted to the Bond Commission for deposit in the Series 2006 A Bonds Reserve Account, provided that, to the extent the Series 2006 A Bonds Reserve Account Requirement is satisfied in whole or in part from proceeds of any fund or account established pursuant to the Series 2003 Ordinance for the applicable series of Bonds, Series 2006 A Bond Proceeds shall be deposited in the Series 2006 A Bonds Reserve Account only to the extent needed to satisfy the balance of the Series 2006 A Bonds Reserve Account Requirement.

D. The balance of the proceeds of the Series 2006 A Bonds shall be deposited with the Depository Bank in the Costs of Issuance Fund and shall be drawn out, used and applied by the Issuer solely to pay costs of issuance of the Series 2006 A Bonds at the written direction of the Issuer. Moneys not to be applied immediately to pay such costs of issuance may be invested in accordance with this Ordinance, subject however, to applicable yield restrictions as may be in effect under the Code. If for any reason such proceeds, or any part thereof, are not necessary for, or are not applied to such purpose within 90 days of the Closing Date, such unapplied proceeds shall be transferred by the Issuer and deposited in the Series 2006 A Bonds Sinking Fund established in Section 4.02 hereof and applied to the next ensuing payment of interest on the Series 2006 A Bonds. All such proceeds shall constitute a trust fund for such purposes, and there hereby is created a lien upon such moneys until so applied in favor of the Holders of the Series 2006 A Bonds from which such proceeds are derived.

Section 3.15. Disposition of Proceeds of Series 2006 B Bonds.

Upon the issuance and delivery of the Series 2006 B Bonds, the Issuer shall forthwith deposit the proceeds thereof as follows:

A. All interest accrued on Series 2006 B Bonds from the date thereof to the date of delivery thereof shall be deposited in the Series 2006 B Bonds Sinking Fund and applied to payment of interest on the Series 2006 B Bonds at the first interest payment date.

B. An amount of the proceeds of the Series 2006 B Bonds which shall be sufficient to accomplish the payment of the outstanding principal balance and defeasance of the Series 2003 B Notes, which amount shall be set forth in the 2003 Prepayment Agreement, shall be deposited in the 2003 Prepayment Fund.

C. The amount of Series 2006 B Bonds Proceeds equal to the Series 2006 B Bonds Reserve Account Requirement shall be remitted to the Bond Commission for deposit in the Series 2006 B Bonds Reserve Account, provided that, to the extent the Series 2006 B Bonds Reserve Account Requirement is satisfied in whole or in part from proceeds of any fund or account established pursuant to the Series 2003 Ordinance for the applicable series of Bonds, Series 2006 B Bond Proceeds shall be

deposited in the Series 2006 B Bonds Reserve Account only to the extent needed to satisfy the balance of the Series 2006 B Bonds Reserve Account Requirement.

D. The balance of the proceeds of the Series 2006 B Bonds shall be deposited with the Depository Bank in the Costs of Issuance Fund and shall be drawn out, used and applied by the Issuer solely to pay costs of issuance of the Series 2006 B Bonds at the written direction of the Issuer. Moneys not to be applied immediately to pay such costs of issuance may be invested in accordance with this Ordinance, subject however, to applicable yield restrictions as may be in effect under the Code. If for any reason such proceeds, or any part thereof, are not necessary for, or are not applied to such purpose within 90 days of the Closing Date, such unapplied proceeds shall be transferred by the Issuer and deposited in the Series 2006 B Bonds Sinking Fund established in Section 4.02 hereof and applied to the next ensuing payment of interest on the Series 2006 B Bonds. All such proceeds shall constitute a trust fund for such purposes, and there hereby is created a lien upon such moneys until so applied in favor of the Holders of the Series 2006 B Bonds from which such proceeds are derived.

#### Section 3.16. Disposition of Proceeds of Series 2007 Bonds.

Upon the issuance and delivery of the Series 2007 Bonds, the Issuer shall forthwith deposit the proceeds thereof as follows:

A. All interest accrued on Series 2007 Bonds from the date thereof to the date of delivery thereof shall be deposited in the Series 2007 Bonds Sinking Fund and applied to payment of interest on the Series 2007 Bonds at the first interest payment date.

B. An amount of the proceeds of the Series 2007 Bonds, together with all moneys in the funds and accounts created by the Series 1993 Ordinance for the payment of the Series 1993 Bonds, sufficient to accomplish the refunding and defeasance of Series 1993 Bonds, which amount shall be set forth in the 1993 Prepayment Agreement, shall be deposited in the 1993 Prepayment Fund.

C. The amount of Series 2007 Bonds Proceeds equal to the Series 2007 Bonds Reserve Account Requirement shall be remitted to the Bond Commission for deposit in the Series 2007 Bonds Reserve Account, provided that, to the extent the Series 2007 Bonds Reserve Account Requirement is satisfied in whole or in part from proceeds of any fund or account established pursuant to the Prior Ordinances for the applicable series of Bonds, Series 2007 Bond Proceeds shall be deposited in the Series 2007 Bonds Reserve Account only to the extent needed to satisfy the balance of the Series 2007 Bonds Reserve Account Requirement.

D. The balance of the proceeds of the Series 2007 Bonds shall be deposited with the Depository Bank in the Costs of Issuance Fund and shall be drawn out, used and applied by the Issuer solely to pay costs of issuance of the Series 2007 Bonds and miscellaneous costs of refunding the Series 1993 Bonds at the written direction of the Issuer. Moneys not to be applied immediately to pay such costs of issuance and refunding may be invested in accordance with this Ordinance, subject however, to applicable yield restrictions as may be in effect under the Code. If for any reason such proceeds, or any part thereof, are not necessary for, or are not applied to such purpose within 90 days of the Closing Date, such unapplied proceeds shall be transferred by the Issuer and deposited in the Series 2007 Bonds Sinking Fund established in Section 4.02 hereof and applied to the next ensuing payment of interest on the Series 2007 Bonds. All such proceeds shall constitute a trust fund for such purposes, and there hereby is created a lien upon such moneys until so applied in favor of the Holders of the Series 2007 Bonds from which such proceeds are derived.

#### Section 3.17. Designation of Bonds as "Qualified Tax-Exempt Obligations".

The Issuer hereby designates the Series 2006 A Bonds and Series 2007 Bonds as “qualified tax-exempt obligations” for purposes of Section 265(b)(3)(B) of the Code and covenants that the Series 2006 A Bonds and the Series 2007 Bonds do not constitute private activity bonds as defined in Section 141 of the Code, and that not more than \$10,000,000 aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Code) from gross income for federal income tax purposes (excluding, however, obligations issued to currently refund any obligation of the Issuer to the extent the amount of the refunding obligation does not exceed the amount of the refunded obligation and private activity bonds, as defined in Section 141 of the Code, other than qualified 501(c)(3) bonds as defined in Section 145 of the Code), including the Series 2006 A Bonds and the Series 2007 Bonds, have been or shall be issued by the Issuer, including all subordinate entities of the Issuer, during the calendar year 2006.

## ARTICLE IV

### SYSTEM REVENUES; FUNDS AND ACCOUNTS

#### Section 4.01. Establishment of Funds and Accounts with Depository Bank or Prepayment Agent.

Pursuant to this Article IV, the following special funds are created with (or continued if previously established by the Prior Ordinances), and shall be held by, the Depository Bank, segregated from all other funds and accounts of the Depository Bank or the Issuer and from each other, (except as set forth in this Section 4.01) and used solely for the purposes provided herein:

- (1) Revenue Fund (established by the Prior Ordinances);
- (2) Depreciation Fund (established by the Prior Ordinances);
- (3) Costs of Issuance Fund;
- (4) Operation and Maintenance Surcharge Account (previously established when the Surcharge was implemented);
- (5) Rebate Fund;
- (6) 2003 Prepayment Fund; and
- (7) When the Series 2007 Bonds are issued, the 1993 Prepayment Fund.

Moneys in such Funds and Subaccounts, may be commingled and aggregated by the Depository Bank if so directed by the Issuer, for purposes of investment of such funds, but separate accounting shall be maintained for each such fund.

#### Section 4.02. Establishment of Funds and Accounts with Bond Commission in addition to Funds and Accounts created by the Prior Ordinances.

In addition to the funds and accounts created by the Prior Ordinances, pursuant to this Article IV, the following special funds and accounts are hereby established (or continued if previously established by the Prior Ordinances), with and shall be held by the Bond Commission:

- (1) Series 2006 A Bonds Sinking Fund;
  - (a) the Series 2006 A Bonds Reserve Account; and
  - (b) Within the Series 2006 A Bonds Sinking Fund, the Series 2006 A Bonds Redemption Account.
- (2) Series 2006 B Bonds Sinking Fund; and
  - (a) Within the Series 2006 B Bonds Sinking Fund, the Series 2006 B Bonds Reserve Account; and

(b) Within the Series 2006 B Bonds Sinking Fund, the Series 2006 B Bonds Redemption Account.

(3) Series 2007 Bonds Sinking Fund.

(a) Within the Series 2007 Bonds Sinking Fund, the Series 2007 Bonds Reserve Account; and

(b) Within the Series 2007 Bonds Sinking Fund, the Series 2007 Bonds Redemption Account.

In addition to the foregoing funds and accounts established or continued in this Section 4.01, Section 4.02, and Section 4.03, the Issuer may establish such other funds and accounts as it may deem appropriate for any particular series of Bonds by provision therefor in a Supplemental Resolution.

Section 4.03. Surcharges and Application Thereof.

(1) The Issuer shall, on the first day of each month, transfer from the Revenue Fund and deposit in the Operation and Maintenance Surcharge Account, the Surcharges collected for the month;

(a) The Issuer shall next, on the first day of each month, transfer from the Operation and Maintenance Surcharge Account to the Commission, commencing 7 months prior to the first interest payment date of the Series 2006 B Bonds, for deposit in the Series 2006 B Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on the Series 2006 B 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 2006 B Bonds Sinking Fund and the next ensuing semiannual interest payment date is more or less than 7 months, then such monthly payments shall be decreased or increased proportionately to provide, 1 month prior to the next ensuing semiannual interest payment date, the required amount of interest coming due on such date; provided further that, the initial amount required to be transferred from the Revenue Fund and deposited in the Series 2006 B Bonds Sinking Fund shall be reduced by the amount of accrued interest on the Series 2006 B Bonds deposited therein;

(b) The Issuer shall next, on the first day of each month, transfer from the Operation and Maintenance Surcharge Account to the Commission, commencing 13 months prior to the first principal payment date or mandatory Redemption Date of the Series 2006 B Bonds, for deposit in the Series 2006 B Bonds Sinking Fund and in the Series 2006 B Bonds Redemption Account therein in the case of the Term Bonds which are to be redeemed, a sum equal to 1/12th of the amount of principal which will mature or be redeemed and become due on the Series 2006 B Bonds on the next ensuing annual principal payment date or mandatory Redemption Date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2006 B Bonds Sinking Fund and the next ensuing annual principal payment date or mandatory Redemption Date is more or less than 13 months, then such monthly payments shall be decreased or increased proportionately to provide, 1 month prior to the next ensuing annual principal payment date or mandatory Redemption Date, the required amount of principal coming due on such date; and

(c) The Issuer shall next, on the first day of each month, transfer from the Operation and Maintenance Surcharge Account to the Commission, for deposit in the Series 2006 B Bonds Reserve Account, an amount sufficient to remedy any decrease in value of the Series 2006 B Bonds Reserve Account below the Series 2006 B Bonds Reserve Requirement or any withdrawal from

the Series 2006 B Bonds Reserve Account, beginning with the first full calendar month following the date on which (a) the valuation of investments in the Series 2006 B Bonds Reserve Account results in a determination that the amount of moneys and the value of the Qualified Investments deposited to the credit of the Series 2006 B Bonds Reserve Account is less than the Series 2006 B Bonds Reserve Requirement, or (b) any amount is withdrawn from the Series 2006 B Bonds Reserve Account for deposit into the Series 2006 B Bonds Sinking Fund.

Moneys in the Series 2006 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 2006 B Bonds, whether by maturity or redemption prior to maturity and, with respect to the Series 2006 B Bonds Reserve Account therein, any amounts necessary to fund such Reserve Account to maintain the Series 2006 B Bonds Reserve Account Requirement. Pending such use, such moneys shall be invested in accordance with Article V.

The Issuer shall not be required to make any further payments into the Series 2006 B Bonds Sinking Fund when the aggregate amount of funds therein, including the Series 2006 B Bonds Reserve Account therein, is at least equal to the aggregate principal amount of Series 2006 B Bonds then Outstanding, plus the amount of interest due or thereafter to become due on such Bonds then Outstanding.

Amounts in the Series 2006 B Bonds Reserve Account shall be used only for the purpose of making payments of principal of and interest on the Series 2006 B Bonds when due, when amounts in the Series 2006 B Bonds Sinking Fund are insufficient therefor and for no other purpose.

Principal and interest payments, and any payments made from the Surcharge for the purpose of funding the Series 2006 B Bonds Reserve Account, shall be made on a parity basis and pro-rata, with respect to the Series 2006 B Bonds, in accordance with the respective principal amounts of each such series of Bonds then Outstanding, if less than the full amount required hereby.

Additional provisions regarding the funds and accounts established for the Series 2006 B Bonds are further set forth in Section 4.03.

#### Section 4.04. System Revenues and Application Thereof.

So long as any of the Series 2006 A Bonds and Series 2007 Bonds, if issued, shall be Outstanding and unpaid, the Issuer covenants as follows:

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

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

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Bond Commission (i) for deposit in the Sinking Funds of the Prior Bonds and the Series 1993 Bonds, if not refunded by the Issuer, the amounts required by the Prior Ordinances and the Series 1993 Ordinance, respectively, to pay the interest on the Prior Bonds and the Series 1993 Bonds, if not refunded by the Issuer; (ii) commencing 7 months prior to the first interest payment date of the Series 2006 A Bonds, for deposit in the Series 2006 A Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on the Series 2006 A 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 2006 A Bonds Sinking Fund and the next ensuing semiannual interest payment date is more or less than 7 months, then such monthly payments shall be decreased or increased proportionately to provide, 1 month prior to the next ensuing semiannual interest payment date, the required amount of interest coming due on such date; provided further that, the initial amount required to be transferred from the Revenue Fund and deposited in the Series 2006 A Bonds Sinking Fund shall be reduced by the amount of accrued interest on the Series 2006 A Bonds deposited therein; and (iii) commencing 7 months prior to the first interest payment date of the Series 2007 Bonds, for deposit in the Series 2007 Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on the Series 2007 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 2007 Bonds Sinking Fund and the next ensuing semiannual interest payment date is more or less than 7 months, then such monthly payments shall be decreased or increased proportionately to provide, 1 month prior to the next ensuing semiannual interest payment date, the required amount of interest coming due on such date; provided further that, the initial amount required to be transferred from the Revenue Fund and deposited in the Series 2007 Bonds Sinking Fund shall be reduced by the amount of accrued interest on the Series 2007 Bonds deposited therein.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Bond Commission (i) for deposit in the Sinking Funds of the Prior Bonds and the Series 1993 Bonds, if not refunded by the Issuer, the amounts required by the Prior Ordinances and the Series 1993 Ordinance, respectively, to pay the principal of the Prior Bonds and the Series 1993 Bonds, if not refunded by the Issuer; (ii) commencing 13 months prior to the first principal payment date or mandatory Redemption Date of the Series 2006 A Bonds, for deposit in the Series 2006 A Bonds Sinking Fund and in the Series 2006 A Bonds Redemption Account therein in the case of the Term Bonds which are to be redeemed, a sum equal to 1/12th of the amount of principal which will mature or be redeemed and become due on the Series 2006 A Bonds on the next ensuing annual principal payment date or mandatory Redemption Date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2006 A Bonds Sinking Fund and the next ensuing annual principal payment date or mandatory Redemption Date is more or less than 13 months, then such monthly payments shall be decreased or increased proportionately to provide, 1 month prior to the next ensuing annual principal payment date or mandatory Redemption Date, the required amount of principal coming due on such date; and (iii) commencing 13 months prior to the first principal payment date or mandatory Redemption Date of the Series 2007 Bonds, for deposit in the Series 2007 Bonds Sinking Fund and in the Series 2007 Bonds Redemption Account therein in the case of the Term Bonds which are to be redeemed, a sum equal to 1/12th of the amount of principal which will mature or be redeemed and become due on the Series 2007 Bonds on the next ensuing annual principal payment date or mandatory Redemption Date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2007 Bonds Sinking Fund and the next ensuing annual principal payment date or mandatory Redemption Date is more or less than 13 months, then such monthly payments shall be decreased or increased proportionately to provide, 1 month prior to the next ensuing annual principal payment date or mandatory Redemption Date, the required amount of principal coming due on such date.

(5) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Bond Commission (i) for deposit in the Reserve Accounts of the Prior Bonds and the Series 1993 Bonds, if not refunded by the Issuer, the amount required by the Prior Ordinances and the Series 1993 Ordinance; (ii) for deposit in the Series 2006 A Bonds Reserve Account, an amount sufficient to remedy any decrease in value of the Series 2006 A Bonds Reserve Account below the Series 2006 A Bonds Reserve Requirement or any withdrawal from the Series 2007 Bonds Reserve Account, beginning with the first full calendar month following the date on which (a) the valuation of investments in the Series 2006 A Bonds Reserve Account results in a determination that the amount of moneys and

the value of the Qualified Investments deposited to the credit of the Series 2006 A Bonds Reserve Account is less than the Series 2006 A Bonds Reserve Requirement, or (b) any amount is withdrawn from the Series 2006 A Bonds Reserve Account for deposit into the Series 2006 A Bonds Sinking Fund. To the extent Gross Revenues and any other legally available funds are available therefor, the amount so deposited shall be used to restore the amount of moneys on deposit in the Series 2006 A Bonds Reserve Account to an amount equal to the Series 2006 A Bonds Reserve Requirement to the full extent that such Gross Revenues are available; provided however, that if the shortfall in the Series 2006 A Bonds Reserve Account is due to a decrease in value of investments therein, such shortfall shall be replenished by not less than 6 equal monthly payments, and if such shortfall is due to a withdrawal from the Series 2006 A Bonds Reserve Account, such shortfall shall be replenished by not less than 12 equal monthly payments, and provided further, that no payments shall be required to be made into the Series 2006 A Bonds Reserve Account whenever and as long as the amount on deposit therein shall be equal to the Series 2006 A Bonds Reserve Requirement; and (iii) for deposit in the Series 2007 Bonds Reserve Account, an amount sufficient to remedy any decrease in value of the Series 2007 Bonds Reserve Account below the Series 2007 Bonds Reserve Requirement or any withdrawal from the Series 2007 Bonds Reserve Account, beginning with the first full calendar month following the date on which (a) the valuation of investments in the Series 2007 Bonds Reserve Account results in a determination that the amount of moneys and the value of the Qualified Investments deposited to the credit of the Series 2007 Bonds Reserve Account is less than the Series 2007 Bonds Reserve Requirement, or (b) any amount is withdrawn from the Series 2007 Bonds Reserve Account for deposit into the Series 2007 Bonds Sinking Fund. To the extent Gross Revenues and any other legally available funds are available therefor, the amount so deposited shall be used to restore the amount of moneys on deposit in the Series 2007 Bonds Reserve Account to an amount equal to the Series 2007 Bonds Reserve Requirement to the full extent that such Gross Revenues are available; provided however, that if the shortfall in the Series 2007 Bonds Reserve Account is due to a decrease in value of investments therein, such shortfall shall be replenished by not less than 6 equal monthly payments, and if such shortfall is due to a withdrawal from the Series 2007 Bonds Reserve Account, such shortfall shall be replenished by not less than 12 equal monthly payments, and provided further, that no payments shall be required to be made into the Series 2007 Bonds Reserve Account whenever and as long as the amount on deposit therein shall be equal to the Series 2007 Bonds Reserve Requirement

(5) The Issuer shall next, from the moneys remaining in the Revenue Fund, on the first day of each month, transfer to the Depreciation Fund a sum equal to not less than 2 1/2% of the Gross Revenues each month (as previously set forth in the Prior Ordinances and not in addition thereto), exclusive of any payments for account of any Reserve Account.

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

(7) The Issuer may next, each month, after making the above required transfers of moneys from the Revenue Fund, apply any remaining revenues ("Surplus Revenues") to payment of debt service on subordinate bonds, notes, certificates or other obligations of the System. Any Surplus Revenues then remaining in the Revenue Fund may be used for any lawful purpose of the System.

Moneys in the Series 2006 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 2006 A Bonds, whether by maturity or redemption prior to maturity and, with respect to the Series 2006 A Bonds Reserve Account therein, any amounts necessary to fund such Reserve Account to maintain the Series 2006 A Bonds Reserve Account Requirement. Pending such use, such moneys shall be invested in accordance with Article V.

Moneys in the Series 2007 Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 2007 Bonds, whether by maturity or redemption prior to maturity and, with respect to the Series 2007 Bonds Reserve Account therein, any amounts necessary to fund such Reserve Account to maintain the Series 2007 Bonds Reserve Account Requirement. Pending such use, such moneys shall be invested in accordance with Article V.

The Issuer shall not be required to make any further payments into the Series 2006 A Bonds Sinking Fund when the aggregate amount of funds therein, including the Series 2006 A Bonds Reserve Account therein, is at least equal to the aggregate principal amount of Series 2006 A Bonds then Outstanding, plus the amount of interest due or thereafter to become due on such Bonds then Outstanding.

The Issuer shall not be required to make any further payments into the Series 2007 Bonds Sinking Fund when the aggregate amount of funds therein, including the Series 2007 Bonds Reserve Account therein, is at least equal to the aggregate principal amount of Series 2007 Bonds then Outstanding, plus the amount of interest due or thereafter to become due on such Bonds then Outstanding.

The payments into each of the respective Series 2006 Bonds Sinking Fund shall be made on the first day of each month, except that, when the first day of any month shall be a Saturday, Sunday or legal holiday, then such payments shall be made on the next succeeding Business Day, and all such payments shall be remitted to the Bond Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Ordinance.

Amounts in the Series 2006 A Bonds Reserve Account shall be used only for the purpose of making payments of principal of and interest on the Series 2006 A Bonds when due, when amounts in the Series 2006 A Bonds Sinking Fund are insufficient therefor and for no other purpose.

Amounts in the Series 2007 Bonds Reserve Account shall be used only for the purpose of making payments of principal of and interest on the Series 2007 Bonds when due, when amounts in the Series 2007 Bonds Sinking Fund are insufficient therefor and for no other purpose.

Withdrawals and disbursements may be made by the Issuer from the Depreciation Fund only for the following purposes and in the following order of priority for the Prior Bonds, the Series 2006 A Bonds and the Series 2007 Bonds:

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

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

(c) For the payment of the reasonable costs of land and depreciable renewals, repairs, extensions, improvements and additions to the System.

B. The Bond Commission is hereby designated as the fiscal agent for the administration of the Sinking Funds created or continued hereunder, and all amounts required for said Sinking Funds shall be remitted to the Bond Commission from said Revenue Fund and from the proceeds of the sale of the Bonds, by the Issuer at the times and as otherwise provided herein. All remittances

made by the Issuer to the Bond Commission shall clearly identify the fund or account into which each amount is to be deposited. Notwithstanding the foregoing, however, the Bond Commission shall deposit all remittances in the fund or account in the priority established by this Ordinance.

C. If on any monthly payment date the Surcharge or the Net Revenues, as applicable, are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 4.04 and the Surcharge and the Net Revenues, as applicable, shall be applied to such deficiencies before being applied to any other payments hereunder.

D. Principal and interest payments, and any payments made from the Net Revenues for the purpose of funding the Prior Bonds, the Series 2006 A Bonds and Series 2007 Reserve Accounts, shall be made on a parity basis and pro-rata, with respect to the Prior Bonds, the Series 2006 A Bonds, the Series 2007 Bonds, or, the Series 1993 Bonds, if not refunded by the Issuer, and any parity Bonds hereinafter issued, in accordance with the respective principal amounts of each such series of Bonds then Outstanding, if less than the full amount required hereby.

## ARTICLE V

### INVESTMENTS; NON-ARBITRAGE; REBATES AND CONTINUING DISCLOSURE AGREEMENT

#### Section 5.01. Investments.

The Issuer shall invest and reinvest, and shall instruct the Bond Commission and the Depository Bank to invest and reinvest, any moneys held as a part of the funds and accounts created by this Ordinance in Qualified Investments to the fullest extent possible under applicable laws, this Ordinance, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this section.

Except as provided below, any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The Issuer 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 Issuer may make any and all investments permitted by this section through the bond department of the Depository Bank. The Depository Bank shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The following specific provisions shall apply with respect to any investments made under this section:

(A) Qualified Investments acquired for the Depreciation Fund or any Reserve Account shall mature or be subject to retirement at the option of the holder within not more than 3 years from the date of such investment.

(B) The Issuer shall, or shall cause the Bond Commission to, semiannually transfer from each Reserve Account to the corresponding Sinking Fund any earnings on the moneys deposited therein and any other funds in excess of the applicable Reserve Account Requirement; provided, however, that there shall at all times remain on deposit in each Reserve Account an amount at least equal to the applicable Reserve Account Requirement.

(C) In computing the amount in any fund or account, Qualified Investments shall be valued at the lower of the cost or the market price, exclusive of accrued interest. Valuation of all funds and accounts shall occur annually, except in the event of a withdrawal from a Reserve Account, whereupon it shall be valued immediately after such withdrawal. If amounts on deposit in a Reserve Account shall, at any time, be less than the applicable Reserve Requirement, the applicable Bond Insurer, if any, shall be notified immediately of such deficiency, and such deficiency shall be made up from the first available Gross Revenues after required deposits to the applicable Sinking Fund and otherwise in accordance with Section 4.03(3).

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

(E) Notwithstanding the foregoing, all moneys deposited in any Sinking Fund may be invested by the Bond Commission in the West Virginia "consolidated fund" managed by the West Virginia Board of Treasury Investments pursuant to Chapter 12, Article 6(c) of the Code of West Virginia, 1931, as amended.

Section 5.02. Arbitrage.

The Issuer covenants that (i) it will restrict the use of the proceeds of the Series 2006 A Bonds and the Series 2007 Bonds in such manner and to such extent as may be necessary, so that such Series 2006 A Bonds and Series 2007 Bonds will not constitute "arbitrage bonds" under Section 148 of the Code and Regulations prescribed thereunder, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a Federal information return with respect to such Bonds) so that the interest on the Series 2006 A Bonds and the Series 2007 Bonds will be and remain excluded from gross income for Federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 5.03. Tax Certificate, Rebates and Rebate Fund.

The Issuer shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of any series of Bonds. In addition, the Issuer covenants to comply with all Regulations from time to time in effect and applicable to the Series 2006 A Bonds and Series 2007 Bonds as may be necessary in order to fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of this Ordinance.

The Issuer shall calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, the Issuer or the Board shall deposit, or cause to be deposited, in the Rebate Fund such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder and used only for payment of rebatable arbitrage to the United States. The Issuer shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States in the time and at the address prescribed by the Regulations as the same may be in time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefor. The Issuer at its expense, may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer may deem appropriate in order to assure compliance with this Section 5.03. The Issuer shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 5.03 in accordance with the requirements of Section 148(f) of the Code and such Regulations. In the event the Issuer fails to make such rebates as required, the Issuer shall pay any and all penalties and other amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if

necessary, in order to maintain the exclusion of interest on the Bonds from gross income for federal income tax purposes.

Section 5.04. Continuing Disclosure Agreement.

The Issuer shall deliver a continuing disclosure agreement or certificate in form acceptable to the Original Purchaser sufficient to ensure compliance with SEC Rule 15c2-12, as it may be amended from time to time.

## ARTICLE VI

### ADDITIONAL COVENANTS OF THE ISSUER

#### Section 6.01. Covenants Binding and Irrevocable.

All the covenants, agreements and provisions of this Ordinance shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2006 Bonds, as prescribed by Article VII. In addition to the other covenants, agreements and provisions of this Ordinance, the Issuer hereby covenants and agrees with the Holders of the Series 2006 Bonds, as hereinafter provided in this Article VI. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2006 Bonds or the interest thereon, are Outstanding and unpaid.

#### Section 6.02. Bonds not to be Indebtedness of the Issuer.

The Series 2006 Bonds shall not be or constitute a corporate indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness but shall be payable solely from the Surcharge or Net Revenues, as applicable, of the System, the moneys in the respective Series 2006 Bonds Sinking Funds and the respective Series 2006 Bonds Reserve Accounts therein and the unexpended proceeds of the Series 2006 Bonds, all as herein provided. No Holder or Holders of the Series 2006 Bonds issued hereunder shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2006 Bonds or the interest thereon.

#### Section 6.03. Series 2006 B Bonds Secured by Pledge of Surcharge.

The payment of the debt service of all of the Series 2006 B Bonds issued hereunder shall be secured forthwith equally and ratably with each other by a first lien on the Surcharge derived from the System and all moneys in the Series 2006 B Bonds Sinking Fund, including the Series 2006 B Bonds Reserve Account therein. The Surcharge derived from the System, in an amount sufficient to pay the principal of and interest on the Series 2006 B Bonds and to make the payments into all funds and accounts and all other payments provided for in this Ordinance, are hereby irrevocably pledged in the manner provided in this Ordinance to the payment of the principal of and interest on the Series 2006 B Bonds as the same become due and for the other purposes provided in this Ordinance.

#### Section 6.04. Series 2006 A Bonds and Series 2007 Bonds Secured by Parity Pledge of Net Revenues; Lien Position with Respect to Prior Bonds.

The payment of the debt service of all of the Series 2006 A Bonds and Series 2007 Bonds issued hereunder shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System, on a parity with the lien on the Net Revenues in favor of the Holders of the Outstanding Prior Bonds, and all moneys in the Series 2006 A Bonds Sinking Fund and Series 2007 Bonds Sinking Fund, including the Series 2006 A Bonds Reserve Account therein and the Series 2007 Bonds Reserve Account therein. The Net Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Outstanding Prior Bonds and the Series 2006 A Bonds and Series 2007 Bonds and to make the payments into all funds and accounts and all other payments provided for in this Ordinance, are hereby irrevocably pledged in the manner provided in this Ordinance to the payment of the principal of and interest on the Outstanding Prior Bonds, and the Series 2006 A Bonds and the Series 2007 Bonds as the same become due and for the other purposes provided in this Ordinance.

Section 6.05. Surcharge.

The Issuer hereby covenants that it will keep the surcharge in effect until the Series 2006 B Bonds are paid in full pursuant to the Commission Order of the Public Service Commission of West Virginia in Case No. 04-0949-S-MA.

Section 6.06. Rates.

Prior to the issuance of the Series 2006 A Bonds and Series 2007 Bonds, rates or charges for the use of the services and facilities of the System will be fixed and established, all in the manner and form required by law, and a copy of such rates and charges so fixed and established shall at all times be kept on file in the office of the Clerk of the Issuer, which copy will be open to inspection by all interested parties. The schedule or schedules of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds and accounts created hereunder. Such schedule or schedules of rates and charges shall be revised from time to time, whenever necessary, so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that (i) so long as the Series 1993 Bonds or the Series 2007 Bonds are Outstanding, the schedule or schedules of rates or charges from time to time in effect shall be sufficient to produce Net Revenues equal to not less than 120% of the Maximum Annual Debt Service on the Bonds in any Fiscal Year, and 115% thereafter; provided that, in the event the Series 1993 Bonds and the Series 2007 Bonds are no longer outstanding and an amount equal to or in excess of the respective Prior Bonds' Reserve Account Requirements and the Series 2006 A Bonds Reserve Account Requirement are on deposit in the respective Prior Bonds' Reserve Accounts and the Series 2006 A Bonds Reserve Account and any reserve accounts for obligations prior to or on a parity with the Prior Bonds are funded at least at the requirement therefor, such sum need only equal 110% of the Maximum Annual Debt Service on the Bonds in any Fiscal Year; and (ii) the amount, if any, required to be deposited in the Reserve Accounts in order to satisfy the Reserve Account Requirement within a period of not more than 12 months, assuming equal payments are made each month. All such rates and charges, if not paid when due, shall constitute a lien upon the premises served by the System. For purposes of this test, the terms "Gross Revenues" and "Net Revenues" shall not include proceeds from the sale of capital assets.

Section 6.07. Operation and Maintenance.

The Issuer will maintain the System in good condition and will operate the same as a revenue-producing enterprise in an efficient and economical manner, making such expenditures for equipment and for renewal, repair and replacement as may be proper for the economical operation and maintenance thereof from the Net Revenues of said System in the manner provided in this Ordinance.

Section 6.08. Sale of the System.

So long as the Prior Bonds, the Series 2006 A Bonds, Series 2007 Bonds, or the Series 1993 Bonds, if not refunded by the Issuer, are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of or encumber the System except as provided in this Ordinance, and the Prior Ordinances. The System may be sold, mortgaged, leased or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to defease the pledge created by this Ordinance as provided by Section 9.01. The proceeds from such sale, mortgage, lease or other disposition of the System shall be immediately remitted to the Bond Commission for deposit in the Sinking Fund, and otherwise as prescribed by Section 9.01. Any balance remaining after

such defeasance shall be remitted to the Issuer by the Bond 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 is not in excess of \$50,000, the Issuer shall, in writing, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Issuer may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Revenue Fund. If the amount to be received from such sale, lease or other disposition of said property shall be in excess of \$50,000 but not in excess of \$200,000, the Issuer shall first, in writing, determine with the written approval of the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Issuer may then, if it be so advised, by resolution duly adopted, approve and concur in such finding and authorize such sale, lease or other disposition of such property in accordance with the laws of the State. The proceeds derived from any such sale, lease or other disposition of such property, in excess of \$50,000 and not in excess of \$200,000, shall be deposited by the Issuer into the Depreciation Fund. Such payments of such proceeds into the Depreciation Fund or the Depreciation Account shall reduce the amounts required to be paid into said funds by other provisions of this Ordinance.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom shall be in excess of \$200,000 and insufficient to defease the pledge created by this Ordinance, as provided by Section 9.01, without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of 60% in amount of Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 6.09. Issuance of Other Obligations Payable Out of Surcharge of the System.

The Issuer shall not issue any other obligations whatsoever payable from the Surcharge of the System. The Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge upon the Surcharge of the System pledged for payment of the Bonds and the interest thereon in this Ordinance.

Section 6.10. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances.

The Issuer shall not issue any other obligations whatsoever, except additional parity Bonds provided for in Section 6.11 hereof, payable from the Net Revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from the Net Revenues with the Bonds; and all obligations hereafter issued by the Issuer payable from the revenues of the System, except such additional Bonds, shall contain an express statement that such obligations are junior and subordinate as to lien on and source of and security for payment from such revenues and in all other respects to the Bonds.

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

Section 6.11. Additional Parity Bonds Payable Out of the Net Revenues of the System.

So long as the Prior Bonds, or the Series 1993 Bonds, if not refunded by the Issuer, are Outstanding, the limitations and requirements on the issuance of parity obligations set forth in the Prior Ordinances and the Series 1993 Ordinance shall be applicable. No additional parity Bonds, as in this section defined, payable out of the Net Revenues of the System shall be issued after the issuance of the Series 2006 A Bonds and Series 2007 Bonds pursuant to this Ordinance, except under the conditions and in the manner herein provided.

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

No such additional parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Clerk of the Issuer a written statement by Independent Accountants, reciting the conclusion that the Net Revenues actually derived, from the System during the 12 consecutive months in the 18 months immediately preceding the date of the actual issuance of such additional parity Bonds, plus the increased annual Net Revenues expected to be received after the date of issuance of such parity Bonds shall, so long as any of the Series 1993 Bonds or Series 2007 Bonds are outstanding, not be less than 120% of the Maximum Annual Debt Service, and thereafter, shall not be less than 115% of the Maximum Annual Debt Service, on the following:

- (1) The Prior Bonds and the Series 1993 Bonds, if not refunded by the Issuer, then Outstanding;
- (2) The Series 2006 A Bonds and Series 2007 Bonds then Outstanding;
- (3) Any additional parity Bonds theretofore issued pursuant to the provisions contained in this Ordinance then Outstanding; and
- (4) The additional parity Bonds then proposed to be issued.

The "increased annual Net Revenues expected to be received" as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from any increase in rates enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to the date of delivery of such additional parity Bonds, and shall not exceed the amount to be stated in the aforementioned certificate of Independent Accountants, which shall be filed in the office of the Clerk of the Issuer prior to the issuance of such additional parity Bonds. For purposes of this test, the terms "Gross Revenues" and "Net Revenues" shall not include proceeds from the sale of capital assets.

The term "additional parity Bonds," as used in this section, shall be deemed to mean additional Bonds issued under the provisions and within the limitations of this section, payable from the Net Revenues of the System on a parity with the Series 2006 A Bonds and Series 2007 Bonds, and all the covenants and other provisions of this Ordinance (except as to details of such additional parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Series 2006 A and Series 2007 Bonds and the Holders of any additional parity Bonds theretofore or subsequently issued from time to time within the limitations of and in compliance with this section. All the Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on

the Net Revenues of the System, and their source of and security for payment from said Net Revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Ordinance required for and on account of such additional parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Ordinance.

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

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

Section 6.12. Insurance and Bonds.

The Issuer hereby covenants and agrees, that so long as the Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance and bonds and worker's compensation coverage with a reputable insurance carrier or carriers or bonding company or companies covering the following risks and in the following amounts:

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

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

C. WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT OR COMPLETION BONDS, such bonds to be in the amounts of not less than 100% of the amount of any construction contract and to be required of each contractor dealing directly with the Issuer and such payment bonds will be filed with the Clerk of the County Commission of the County in which such work is to be performed prior to commencement of construction of any additions, extensions or improvements for the System in compliance with West Virginia Code, Section 38-2-39.

D. FLOOD INSURANCE, to extent available at reasonable cost to the Issuer.

E. BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

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

Section 6.13. No Free Services.

The Issuer will not render or cause to be rendered any free services of any nature by its System; and, in the event the Issuer or any department, agency, instrumentality, officer or employee thereof shall avail himself of the facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the Issuer shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. The revenues so received shall be deemed to be revenues derived from the operation of the System and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 6.14. 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 and to the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, all delinquent rates, rentals and other changes, if not paid, 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 and facilities of the System to all delinquent users of services and facilities of the System and will not restore such services of the System until all billing for charges for the services and facilities of the System, plus reasonable interest penalty charges for the restoration of service, has been fully paid.

Section 6.15. 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 or body, or agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 6.16. Books and Records.

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 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, to the extent allowable under and in accordance with the rules and regulations of the Public Service Commission of West Virginia and the Act. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books and along with other bookkeeping records as prescribed by the Issuer. The Issuer shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Issuer shall be reported to such agent of the Issuer as it shall direct.

The Issuer shall file with the Original Purchaser and any Bond Insurer, and shall mail to any Bondholder requesting the same, an annual report within 120 days following the end of each Fiscal Year containing a balance sheet, statement of revenues, expenses, and changes in retained earnings, and statement of cash flows, as prescribed by generally accepted accounting principles.

The Issuer shall also file with the Original Purchaser and any Bond Insurer, and mail to any Bondholder requesting the same, a monthly unaudited report within 30 days following the end of each month containing the following:

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

(B) A statement of account balances in the Sinking Fund accounts provided for in this Ordinance and status of said funds.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Accountants, shall mail upon request, and make available generally, the report of said Independent Accountants, or a summary thereof, to any Holder or Holders of Bonds issued pursuant to this Ordinance and shall file said report with the Original Purchaser.

#### Section 6.17. Operating Budget.

The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, or at such earlier date required by its charter or the charter of the Issuer, prepare and adopt by resolution a detailed budget of the estimated expenditures for operation and maintenance of the System during the succeeding Fiscal Year. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of such a registered professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Original Purchaser and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Original Purchaser and to any Bondholder or anyone acting for and in behalf of such Bondholder who requests the same.

#### Section 6.18. 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 Series 2006 A Bonds and the Series 2007 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 such Bonds during the term thereof is, under the terms of such 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) 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 Series 2006 A Bonds and the Series 2007 Bonds during the terms thereof is, under the terms of such Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Series 2006 A Bonds and Series 2007 Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the System, or if the Series 2006 A Bonds or Series 2007 Bonds are for the purpose of financing more than one project, a portion of the System, and shall not exceed the proceeds used for the governmental use of that portion of the System to which such Private Business Use is related.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of the lesser of 5% of the Net Proceeds of the Series 2006 A Bonds or the Series 2007 Bonds or \$5,000,000 are used, directly or indirectly, to make or finance a loan to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 2006 A Bonds or the Series 2007 Bonds to be directly or indirectly "federally guaranteed" within the meaning of Section 149(b) of the Code and Regulations promulgated thereunder.

D. INFORMATION RETURN. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 2006 A Bonds and the Series 2007 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 all actions that may be required of it so that the interest on the Series 2006 A Bonds and the Series 2007 Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 6.19. Covenants Regarding the Municipal Bond Insurance Policy.

The Issuer intends to obtain a Municipal Bond Insurance Policy for the Series 2007 Bonds from the Bond Insurer. Certain additional covenants of the Issuer, which shall be set forth in full in the Supplemental Resolution, are required by the Bond Insurer as a condition to insuring the Series 2007 Bonds, shall apply to the Series 2007 Bonds and any other Bonds which may be insured by the Bond Insurer, and shall be controlling in the event any other provisions of this Ordinance may be in conflict therewith.

## ARTICLE VII

### DEFAULTS AND REMEDIES

#### Section 7.01. Events of Default With Respect to the Series 2006 A Bonds and Series 2007 Bonds.

Each of the following events shall constitute an "Event of Default" with respect to the Series 2006 A Bonds and Series 2007 Bonds:

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

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

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

(D) If the Issuer defaults on the Prior Bonds or the Series 1993 Bonds, if not refunded by the Issuer, or the Prior Ordinances or the Series 1993 Ordinance, if the Series 1993 Bonds are not refunded by the Issuer pursuant to this Ordinance.

#### Section 7.02. Events of Default With Respect to the Series 2006 B Bonds.

Each of the following events shall constitute an "Event of Default" with respect to the Series 2006 B Bonds:

(A) If default by the Issuer occurs in the due and punctual payment of the principal of or interest on the Series 2006 B Bond;

(B) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part in this Ordinance or any Supplemental Resolution or in the Series 2006 B Bonds contained, and such default shall have continued for a period of 30 days after written notice specifying such default and requiring the same to be remedied shall have been given to the Issuer by the Bondholder of the Series 2006 B Bonds or any Insurer; or

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

#### Section 7.03. Enforcement With Respect to the Series 2006 A Bonds and Series 2007 Bonds.

For purposes of this Section, any reference to Bondholder shall only include the Bondholders of the Prior Bonds, the Series 2006 A Bonds and the Series 2007 Bonds. Upon the happening and continuance of an Event of Default as more fully defined and described in Section 7.01 hereof, any Bondholder or any Insurer may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his rights and, in particular:

- (A) Bring suit for any unpaid principal or interest then due;
- (B) By mandamus or other appropriate proceeding enforce all rights of the Bondholders, including the right to require the Issuer to perform its duties under the Act and this Ordinance;
- (C) Bring suit upon the Bonds;
- (D) By action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Bondholders; and
- (E) By action or bill in equity enjoin any acts in violation of this Ordinance or the rights of the Bondholders.

No remedy by the terms of this Ordinance conferred upon or reserved to the Bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Bondholders hereunder or now or hereafter existing at law or by statute.

No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or Event of Default hereunder by the Bondholders shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereto.

Section 7.04. Enforcement Regarding Series 2006 B Bonds.

For purposes of this Section, any reference to Bondholder shall only include the Bondholder of the Series 2006 B Bonds. Upon the happening and continuance of any Event of Default as more fully defined and described in Section 7.02 hereof, the Bondholder of the Series 2006 B Bonds may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his rights and, in particular:

- (A) Bring suit for any unpaid principal or interest then due;
- (B) By mandamus or other appropriate proceeding enforce all rights of the Bondholders, including the right to require the Issuer to perform its duties under the Act and this Ordinance;
- (C) Bring suit upon the Series 2006 B Bonds;
- (D) 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 Bondholders; and
- (E) By action or bill in equity enjoin any acts in violation of this Ordinance or the rights of the Bondholders.

No remedy by the terms of this Ordinance conferred upon or reserved to the Bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and

shall be in addition to any other remedy given to the Bondholders hereunder or now or hereafter existing at law or by statute.

No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or Event of Default hereunder by the Bondholders shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereto.

#### Section 7.05. Appointment of Receiver.

If there be any Event of Default existing and continuing, any Bondholder or any Insurer shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the principal of and interest on the Bonds, the deposits into the funds and accounts hereby established as herein provided and the payment of Operating Expenses of the System and to apply such rates, rentals, fees, charges or other Revenues in conformity with the provisions of this Ordinance and the Act.

The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate, maintain, manage and control such facilities, and each and every part thereof, and in the name of the 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 issued pursuant to this Ordinance and interest thereon and under any covenants of this Ordinance for reserve, sinking or other funds and accounts and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the Revenues of the System shall have been paid and made good, and all defaults under the provisions of this Ordinance shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Bondholder shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

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

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

Notwithstanding any other provision of this Ordinance, in determining whether the rights of the Bondholders will be adversely affected by any action taken pursuant to the terms and provisions of this Ordinance, any trustee or Bondholder's committee shall consider the effect on the Bondholders as if no Municipal Bond Insurance Policy were then in effect.

Section 7.06. Restoration of Issuer and Bondholder.

In case any Bondholder shall have proceeded to enforce any right under this Ordinance by the appointment of a receiver, by entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Issuer and such Bondholder shall be restored to their former positions and rights hereunder, and all rights and remedies of such Bondholder shall continue as if no such proceedings had been taken.

## ARTICLE VIII

### REGISTRAR, PAYING AGENT AND DEPOSITORY BANK

#### Section 8.01. Appointment of Registrar, Paying Agent and Depository Bank.

The Registrar, Paying Agent and Depository Bank (collectively, the "Fiduciaries") for the Series 2006 Bonds shall be appointed pursuant to the Supplemental Resolution. The City Manager of the Issuer is hereby authorized and directed to enter into an agreement with the Fiduciaries, the substantial form of which agreement is to be approved by Supplemental Resolution.

#### Section 8.02. Responsibilities of Fiduciaries.

The recitals of fact in the Bonds shall be taken as statements of the Issuer, and the Fiduciaries shall not be responsible for their accuracy. The Fiduciaries shall not be deemed to make any representation as to, and shall not incur any liability on account of, the validity of the execution of any Bonds by the Issuer. Notwithstanding the foregoing, the Registrar shall be responsible for any representation in its Certificate of Authentication on the Bonds. The Fiduciaries and any successor thereto shall agree to perform all the duties and responsibilities spelled out in this Ordinance and any other duties and responsibilities incident thereto, all as provided by said agreement described in Section 8.01.

#### Section 8.03. Evidence on Which Fiduciaries May Act.

Except as otherwise provided by Section 10.02, the Fiduciaries shall be protected in acting upon any notice, resolution, request, consent, order, certificate, opinion or other document believed by them to be genuine and to have been signed or presented by the proper party or parties. Whenever any Fiduciary shall deem it necessary or desirable that a fact or matter be proved or established prior to taking or suffering any action, such fact or matter, unless other evidence is specifically prescribed, may be deemed to be conclusively proved and established by a certificate of an Authorized Officer of the Issuer, but in its discretion such Fiduciary may instead accept other evidence of such fact or matter.

#### Section 8.04. Compensation and Expenses.

The Issuer shall pay to the Fiduciaries from time to time reasonable compensation for all services, including the transfer of registration of Bonds, the first exchange of Bonds and the exchange of Bonds in the event of partial redemption, incurred in the performance of their duties hereunder.

#### Section 8.05. Certain Permitted Acts.

The Registrar may become the owner of or may deal in Bonds as fully and with the same rights it would have if it were not Registrar. To the extent permitted by law, the Registrar may act as depository for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bondholders or effect or aid in any reorganization growing out of the enforcement of the Bonds or this Ordinance, whether or not any such committee shall represent the Holders of a majority in principal amount of the Bonds Outstanding.

#### Section 8.06. Resignation of Registrar.

The Registrar may at any time resign and be discharged of its duties and obligations under this Ordinance by giving not less than 60 days' written notice to the Issuer and publishing in an Authorized Newspaper notice (or mailing such notice to each Bondholder in the event all Bonds are fully registered), specifying the date when such resignation shall take effect, within 20 days after the giving of such written notice. A copy of such notice shall also be mailed to each owner of a fully registered Bond or a coupon Bond registered as to principal (other than to bearer). Such resignation shall take effect upon the day specified in such notice unless a successor shall have been previously appointed by the Issuer or bondholders, in which event such resignation shall take effect immediately.

Section 8.07. Removal.

The Registrar may be removed at any time by the Issuer or by the Holders of a majority in principal amount of the Bonds then Outstanding by an instrument or concurrent instruments in writing signed and duly acknowledged by the Issuer or by such Bondholders or their attorneys duly authorized in writing and delivered to the Issuer, as the case may be. Copies of each such instrument shall be delivered by the Issuer to the Registrar.

Section 8.08. Appointment of Successor.

In case at any time the Registrar shall resign or shall be removed or shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or if a receiver, liquidator or conservator of the Registrar or of its property shall be appointed, or if any public officer or court shall take charge or control of the Registrar or of its property or affairs, a successor may be appointed by the Holders of a majority in principal amount of the Bonds then Outstanding by an instrument or concurrent instruments in writing signed by such Bondholders or their attorneys duly authorized in writing and delivered to the Issuer and such successor Registrar, notification thereof being given to the predecessor Registrar. Pending such appointment, the Issuer shall forthwith appoint a Registrar to fill such vacancy until a successor Registrar shall be appointed by such Bondholders. The Issuer shall publish in an Authorized Newspaper (or mail to each Bondholder in the event all Bonds are fully registered) notice of any such appointment within 20 days after the effective date of such appointment. A copy of such notice shall also be mailed to each owner of a fully registered Bond or a coupon Bond registered as to principal (other than to bearer). Any successor Registrar appointed by the Issuer shall, immediately and without further act, be superseded by a Registrar appointed by such Bondholders. If in a proper case no appointment of a successor Registrar shall be made within 45 days after the Registrar shall have given to the Issuer written notice of resignation or after the occurrence of any other event requiring such appointment, the Registrar or any Bondholder may apply to any court of competent jurisdiction to appoint a successor. Any Registrar appointed under the provisions of this section shall be a bank, trust company or national banking association authorized to perform the duties imposed upon it by this Ordinance.

Section 8.09. Transfer of Rights and Property to Successor.

Any predecessor Registrar or Paying Agent shall pay over, assign and deliver any moneys, books and records held by it to its successor.

Section 8.10. Merger or Consolidation.

Any company into which the Registrar may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party, or any company to which the Registrar or any public officer or court may sell or transfer all or substantially all of its corporate trust business, shall be the successor to such Registrar without the execution or filing of any paper or the performance of any further act; provided, however, that such

company shall be a bank, trust company or national banking association meeting the requirements set forth in Section 8.08.

Section 8.11. Adoption of Authentication.

In case any of the Bonds shall have been authenticated but not delivered, any successor Registrar may adopt a Certificate of Authentication and Registration executed by any predecessor Registrar and deliver such Bonds so authenticated, and, in case any Bonds shall have been prepared but not authenticated, any successor Registrar may authenticate such Bonds in the name of the predecessor Registrar or in its own name.

Section 8.12. Paying Agent and Depository Bank.

The Registrar shall also serve as the Paying Agent and Depository Bank. The Registrar's acceptance of the duties and responsibilities of the Registrar expressed in Section 8.02 shall also include the trusts and the duties of Paying Agent and Depository Bank. Any alternate Paying Agent must be a bank, trust company or national banking association authorized to perform the duties imposed upon it by this Ordinance. Such alternate Paying Agent shall signify its acceptance of the duties and obligations imposed upon it pursuant hereto by executing and delivering to the Issuer a written acceptance thereof. Any successor Paying Agent shall take such actions as may be necessary to ensure that the Bonds shall be and remain DTC-eligible.

Each Paying Agent shall be entitled to payment and reimbursement for reasonable fees for its services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by such Paying Agent in connection with such services solely from moneys available therefor.

Any bank, trust company or national banking association with or into which any Paying Agent may be merged or consolidated, or to which the assets and business of such Paying Agent may be sold, shall be deemed the successor of such Paying Agent for the purposes of this Ordinance. If the position of Paying Agent shall become vacant for any reason, the Issuer shall, within 30 days thereafter, appoint a bank, trust company or national banking association located in the same city as such Paying Agent to fill such vacancy; provided, however, that, if the Issuer shall fail to appoint such Paying Agent within said period, the Bond Commission, a court of competent jurisdiction or a majority of the Bondholders may make such appointment.

The Paying Agents shall enjoy the same protective provisions in the performance of their duties hereunder as are specified in this Article VIII with respect to the Registrar, insofar as such provisions may be applicable.

Notice of the appointment of successor or additional Paying Agents or fiscal agents shall be given in the same manner as provided by Section 8.08 hereof with respect to the appointment of a successor Registrar.

All moneys received by the Paying Agents shall, until used or applied as provided in this Ordinance, be held in trust for the purposes for which they were received.

## ARTICLE IX

### DEFEASANCE; DISCHARGE OF PLEDGE OF ORDINANCE

#### Section 9.01. Defeasance; Discharge of Pledge of Ordinance.

If the 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 Ordinance, then this Ordinance and the pledges of the Net Revenues and other moneys and securities pledged hereunder, and all covenants, agreements and other obligations of the Issuer on behalf of the Holders of the Bonds made hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied.

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

**ARTICLE X**  
**MISCELLANEOUS**

Section 10.01. Amendment of Ordinance.

This Ordinance and any Supplemental Resolution may be amended or modified without the consent of any Bondholder or other person, solely for the purpose of maintaining the tax-exempt status of the Bonds, provided that, in the event any of the Bonds are insured, no such amendment or modification which adversely affects the security for such Bonds or the rights of the applicable Bond Insurer for such Bonds may be effected without the written consent of such Bond Insurer. Otherwise, no materially adverse amendment or modification to this Ordinance, or of any Supplemental Resolution, may be made without the written consent of the Holders of 60% in aggregate principal amount of the Bonds then Outstanding and affected thereby and the Bond Insurer, which must be filed with the Clerk of the Issuer before any such modification or amendment may be made. No such modification or amendment shall extend the maturity of or reduce the interest rate on, or otherwise alter the terms of payment of the principal of or interest on, any Bond without the express written consent of the Holder of such Bond, nor reduce the percentage of Bonds required for consent to any such modification or amendment.

Section 10.02. Evidence of Signatures of Bondholders and Ownership of Bonds.

Any request, consent, revocation of consent or other instrument which this Ordinance may require or permit to be signed and executed by Bondholders may be in one or more instruments of similar tenor, and shall be signed or executed by such Bondholders in person or by their attorneys duly authorized in writing. Proof of the execution of any such instrument, or of an instrument appointing or authorizing any such attorney, shall be sufficient for any purpose of this Ordinance if made in the following manner, or in any other manner satisfactory to the Issuer or the Registrar, as the case may be, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable:

A. The fact and date of the execution by any Bondholder or his attorney of any such instrument may be proved (i) by the certificate of a notary public or other officer authorized to take acknowledgments of deeds to be recorded in the jurisdiction in which he purports to act that the person signing such instrument acknowledged to him the execution thereof, or by the affidavit of a witness of such execution, duly sworn to before such a notary public or other officer or (ii) by the certificate, which need not be acknowledged or verified, of an officer of a bank, a trust company or a financial firm or corporation satisfactory to the Issuer or the Registrar, as the case may be, that the person signing such instrument acknowledged to such bank, trust company, firm or corporation the execution thereof.

B. The authority of a person or persons to execute any such instrument on behalf of a corporate Bondholder may be established without further proof if such instrument is signed by a person purporting to be the president or treasurer or a vice-president or an assistant treasurer of such corporation with a corporate seal affixed, and is attested by a person purporting to be its secretary or assistant secretary.

C. The amount of fully registered Bonds held by a person executing any instrument as a Bondholder, the date of his holding such Bonds and the numbers and other identification thereof, shall be confirmed by the Bond Register.

Any request, consent or other instrument executed by the Holder of any Bond shall bind all future Holders and owners of such Bond in respect of anything done or suffered to be done hereunder by the Issuer or the Registrar in accordance therewith.

Section 10.03. Preservation and Inspection of Documents.

To the extent allowable under law, all reports, certificates, statements and other documents received by the Registrar under the provisions of this Ordinance shall be retained in its possession and shall be available at all reasonable times for the inspection of the Issuer or any Bondholder, and their agents and their representatives, but any such reports, certificates, statements or other documents may, at the election of the Registrar, be destroyed or otherwise disposed of at any time after such date as the pledge created by this Ordinance shall be discharged as provided in Section 9.01.

Section 10.04. Cancellation of Bonds.

All Bonds purchased or paid shall, if surrendered to the Issuer, be canceled and delivered to the Registrar, or, if surrendered to the Registrar, be canceled by it. No such Bonds shall be deemed Outstanding under this Ordinance and no Bonds shall be issued in lieu thereof. All such Bonds shall be canceled and upon order of the Issuer shall be destroyed, and a certificate evidencing such destruction shall be delivered to the Issuer.

Section 10.05. Failure to Present Bonds.

Anything in this Ordinance to the contrary notwithstanding, any moneys held by the Bond Commission or a Paying Agent in trust for the payment and discharge of any of the Bonds which remain unclaimed for 1 year after the date on which such Bonds have become due and payable, whether by maturity or upon call for redemption, shall at the written request of the Issuer be paid by the Bond Commission or said Paying Agent to the Issuer as its absolute property and free from trust, and the Bond Commission or said Paying Agent shall thereupon be released and discharged with respect thereto, and the Holders of such Bonds shall look only to the Issuer for the payment of such Bonds; provided, however, that, before making any such payment to the Issuer, the Registrar, if so advised by the Bond Commission, or said Paying Agent shall send to the Holder, at the address listed on the Bond Register, by certified mail, a notice that such moneys remain unclaimed and that, after a date named in said notice, which date shall be not less than 30 days after the date of such notice is mailed, the balance of such moneys then unclaimed will be returned to the Issuer. If any of said Bonds is a coupon Bond, the Registrar or said Paying Agent shall also publish such notice, not less than 30 days prior to the date such moneys will be returned to the Issuer, in an Authorized Newspaper.

Section 10.06. Notices, Demands and Requests.

Unless otherwise expressly provided, all notices, demands and requests to be given or made hereunder to or by the Issuer, the Registrar, the Depository Bank, the Original Purchaser or the Bond Insurer shall be in writing and shall be properly made if sent by United States mail, postage prepaid, and addressed as follows or if hand-delivered to the individual to whom such notice, demand or request is required to be directed as indicated below:

CITY

The City of Huntington  
City Hall  
Post Office Box 1659

Huntington, West Virginia 25717  
Attention: Chairman, Sanitary Board

REGISTRAR AND PAYING AGENT

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

DEPOSITORY BANK

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

ORIGINAL PURCHASER

Ross, Sinclair & Associates, Inc.  
400 Democrat Drive  
Frankfort, Kentucky 40601

BOND INSURER

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

Any party listed above may change such address listed for it at any time upon written notice of change sent by United States mail, postage prepaid, to the other parties.

Section 10.07. No Personal Liability.

No member of the Council or officer or employee of the Issuer shall be individually or personally liable for the payment of the principal of or the interest on any Bond, but nothing herein contained shall relieve any such member, official or employee from the performance of any official duty provided by law or this Ordinance.

Section 10.08. Law Applicable.

The laws of the State shall govern the construction of this Ordinance and of all Bonds issued hereunder.

Section 10.09. Parties Interested Herein.

Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or give to, any person or corporation, other than the Issuer, the Registrar, the Paying Agent, the Holders of the Bonds and the Original Purchaser, any right, remedy or claim under or by reason of this Ordinance. All the covenants, stipulations, promises and agreements contained in this Ordinance by and on behalf of the Issuer shall be for the sole and exclusive benefit of the Issuer, the Registrar, the Paying Agent, the Holders of the Bonds and the Original Purchaser.

Section 10.10. Severability of Invalid Provisions.

If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance.

Section 10.11. Table of Contents and Headings.

The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 10.12. Conflicting Provisions Repealed.

All ordinances, orders, resolutions or parts thereof in conflict with the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed, provided however, that the Prior Ordinances and the Series 1993 Ordinance shall remain in full force and effect so long as any of the Prior Bonds or Series 1993 Bonds, if not refunded by the Issuer, are Outstanding.

Section 10.13. 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, City Clerk and members of the Council were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 10.14. Procedure on Enactment of Ordinance; Public Hearing.

Upon adoption of this Ordinance, the Clerk is hereby authorized and directed to have an abstract of this Ordinance, which abstract has been determined by the Council to contain sufficient information to give notice of the contents of such Ordinance, published once each week for 2 successive weeks, with not less than six full days between each publication, the first such publication to be not less than 10 days before the date stated below for the public hearing, in The Herald Dispatch , a newspaper published and having a general circulation in The City of Huntington, together with a notice to all persons concerned, stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Bonds described in this Ordinance and that any person interested may appear before the Council of the Issuer at the public hearing to be had at a public meeting of the Council on January 10, 2005, at 7:30 p.m., in the meeting room of the Council in the City Hall of The City of Huntington and present protests, and that a certified copy of this Ordinance is on file with the Clerk for review by interested parties during the office hours of the Clerk. At such hearing all protests and suggestions shall be heard by the Council and it shall then take such action as it shall deem proper in the premises.

First Reading:	December 13, 2004
Second Reading:	December 17, 2004
Passed on Final Reading Following Public Hearing:	January 10, 2005

Section 10.15. Effective Date.

This Ordinance shall take effect immediately upon enactment.

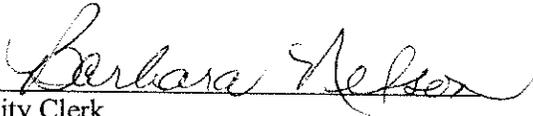
**SIGNATURES**

Enacted on the 10th day of January, 2005, and conformed as of December 10, 2007 pursuant to a Supplemental Parameters Resolution.

[SEAL]

  
\_\_\_\_\_  
Mayor

ATTEST:

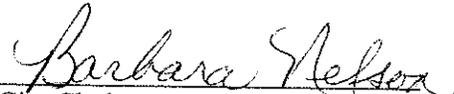
  
\_\_\_\_\_  
City Clerk

## CERTIFICATION

Certified a true, correct and complete copy of an Ordinance duly enacted by the Council of THE CITY OF HUNTINGTON at a regular meeting of the Council held at 7:30 p.m., on January 10, 2005, pursuant to proper notice, at which meeting a quorum was present and acting throughout, and which Ordinance was enacted following a public hearing thereon, notice of which public hearing was published once a week for two successive weeks in a newspaper having a general circulation in The City of Huntington, the first publication having been not less than 10 days prior to such public hearing.

Dated this 20th day of December, 2007.

[SEAL]

  
City Clerk

**EXHIBIT A - SERIES 2006 A BOND FORM**

Except as otherwise provided in the Ordinance, this global bond may be transferred, in whole but not in part, only to another nominee of DTC (as defined in the Ordinance) or to a successor of DTC or to a nominee of a successor of DTC. Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

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

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE CITY OF HUNTINGTON (WEST VIRGINIA)  
SEWER REVENUE BOND, SERIES 2006 A

INTEREST RATE      MATURITY DATE      BOND DATE      CUSIP NO.

REGISTERED OWNER: \_\_\_\_\_

PRINCIPAL AMOUNT: \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF HUNTINGTON, a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the City shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on \_\_\_\_\_ 1 and \_\_\_\_\_ 1, in each year, beginning \_\_\_\_\_ 1, 20\_\_\_\_ (each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Ordinance.

Interest accruing on this Bond on and prior to the Maturity Date hereof shall be payable by check or draft mailed by \_\_\_\_\_, \_\_\_\_\_, West Virginia, as paying agent (in such capacity, the "Paying Agent"), to the Registered Owner hereof as of the applicable Record Date (each \_\_\_\_\_ 15 and \_\_\_\_\_ 15) or, in the event of a default in the payment of Bonds, that special record date to be fixed by the hereinafter named Registrar by notice given to the Registered Owners not less than 10 days prior to said special record date at the address of such Registered Owner as it appears on the registration books of the City maintained by \_\_\_\_\_, \_\_\_\_\_, West Virginia, as registrar (in such capacity, the "Registrar"), or, at the option of any Registered Owner of at least \$1,000,000 in aggregate principal amount of Bonds, by wire transfer in immediately available funds to a domestic bank account specified in writing by the Registered Owner to the Paying Agent at least 5 days prior to such Record Date. Principal and premium, if any, shall be paid when due upon presentation and surrender of this Bond for payment at the principal office of the Paying Agent, in \_\_\_\_\_, West Virginia.

This Bond is one of an issue of a series of bonds, in the aggregate principal amount of \$ \_\_\_\_\_ designated "The City of Huntington (West Virginia) Sewer Revenue Bonds, Series 2006 A" (the "Bonds"), of like tenor and effect, except as to number, denomination, date of maturity and interest rate, dated \_\_\_\_\_ 1, 2006, the proceeds of which are to be used (i) to pay the outstanding principal balance of The City of Huntington Sewerage System Bond Anticipation Notes, Series 2003 A (Tax-Exempt), currently outstanding in the aggregate principal amount of \$ \_\_\_\_\_ (the "Series 2003 A Notes"), which Series 2003 A Notes were issued to temporarily finance the cost of construction of certain additions, betterments and improvements to the public municipal sewerage system of the Issuer; (ii) to fund a reserve account for the Series 2006 A Bonds; and (iii) to pay costs of issuance of the Series 2006 A Bonds and related costs. The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), and an ordinance duly enacted by the Council of the Issuer on \_\_\_\_\_, 2006, and supplemented by a supplemental resolution adopted by said Council on \_\_\_\_\_, 2006 (hereinafter collectively referred to as the "Ordinance"), and is subject to all the terms and conditions of said Ordinance. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance. Reference is hereby made to the Ordinance, as the same may be amended and supplemented from time to time, for a description of the rights, limitations of rights, obligations, duties and immunities of the Issuer, the Registrar, the Paying Agent, the Registered Owners of the Bonds and the Registered Owners of any subsequently issued additional bonds. Executed counterparts or certified copies of the Ordinance are on file at the office of the City Clerk in The City of Huntington, West Virginia.

The Bonds of this issue are subject to redemption prior to their stated maturity dates, as provided in the Ordinance and as set forth in the following lettered paragraphs:

(A) Optional Redemption. The Bonds maturing on or after \_\_\_\_\_, \_\_\_\_\_ are subject to redemption prior to maturity at the option of the Issuer on and after \_\_\_\_\_, \_\_\_\_\_, in whole or in part at any time, in such order of maturity as shall be designated to the Registrar by the Issuer and by lot within a maturity, at the following redemption prices (expressed as percentages of the principal amount of Bonds to be redeemed), plus interest accrued thereon to the date fixed for redemption:

Period During Which Redeemed (Dates Inclusive)	Redemption Price
---	---------------------

(B) Mandatory Sinking Fund Redemption. The Bonds maturing \_\_\_\_\_, are subject to annual mandatory redemption prior to maturity by random selection on \_\_\_\_\_ of the years and in the principal amounts set forth below, at the redemption price of 100% of the principal amount of each Bond so called for redemption plus interest accrued to the date fixed for redemption:

Bonds Maturing

Year ( )

Principal Amount

Bonds Maturing

Year ( )

Principal Amount

\* Final Maturity

If less than all the Bonds are to be redeemed, the Bonds to be redeemed shall be identified by reference to the Series designation, date of issue, CUSIP numbers and Maturity Dates.

Notice of any redemption of this Bond, unless waived, shall be given by the Registrar on behalf of the Issuer by mailing an official redemption notice by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the Registered Owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such Registered Owner to the Registrar. Notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the Redemption Date, become due and payable at the redemption price therein specified, and from and after such date (unless the Issuer shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest.

Failure to receive such notice or any defect therein or in the mailing thereof shall not affect the validity of proceedings for the redemption of this Bond.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S OUTSTANDING SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1993, DATED NOVEMBER 18, 1993, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$7,100,000 (THE "SERIES 1993 BONDS"), SEWER REVENUE BONDS, SERIES 1997 (WEST VIRGINIA SRF PROGRAM), DATED NOVEMBER 25, 1997, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$3,039,895 (THE "SERIES 1997 BONDS"), SEWER REVENUE BONDS, SERIES 1999 (WEST VIRGINIA SRF PROGRAM), DATED JUNE 22, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,083,550 (THE "SERIES 1999 BONDS"), SEWER REVENUE BONDS, SERIES 2000 A (WEST VIRGINIA SRF PROGRAM), DATED OCTOBER 24, 2000, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,867,098 (THE "SERIES 2000 A BONDS" AND TOGETHER WITH THE SERIES 1997 BONDS, THE SERIES 1999 BONDS AND THE SERIES 1993 BONDS ARE COLLECTIVELY REFERRED TO HEREIN AS THE "PRIOR BONDS").

The Bonds and the interest thereon are payable only from and are secured by the Net Revenues (as defined in the Ordinance) to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the holders of the Prior Bonds, and the Series 2006 A Bonds and from moneys in the Series 2006 A Bonds Sinking Fund and the Series 2006 A Bonds Reserve Account established under the Ordinance, and the unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose and to make the other payments required by the Ordinance. This Bond does not constitute a corporate indebtedness of the Issuer within any constitutional or statutory provision or limitation, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 2006 A Bonds Sinking Fund and the Series 2006 A Bonds Reserve Account and unexpended proceeds of the Bonds. Under the Ordinance, the Issuer hereby covenants and agrees that (i) so long as the Series 1993 Bonds are Outstanding, the schedule or schedules of rates or charges from time to time in effect shall be sufficient to produce Net Revenues equal to not less than 120% of the Maximum Annual Debt Service on the Bonds in any Fiscal Year, and thereafter 115% of such amount; provided that, in the event the Series 1993 Bonds are no longer outstanding and an amount equal to or in excess of the respective Prior Bonds' Reserve Account Requirements and the Series 2006 A Bonds Reserve Account Requirement are on deposit in the respective Prior Bonds' Reserve Accounts and the Series 2006 A Bonds Reserve Account and any reserve accounts for obligations prior to or on a parity with the Prior Bonds are funded at least at the requirement therefor, such sum need only equal 110% of the Maximum Annual Debt Service on the Bonds in any Fiscal Year; and (ii) the amount, if any, required to be deposited in the Reserve Accounts in order to satisfy the Reserve Account Requirement within a period of not more than 12 months, assuming equal payments are made each month. The Issuer has entered into certain further covenants with the Registered Owners of the Bonds, for the terms of which reference is made to the Ordinance. Remedies provided the Registered Owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

All moneys received from the sale of the Bonds except for accrued interest thereon shall be applied solely to pay the outstanding principal balance of the Series 2003 A Notes, fund a reserve account for the Bonds and pay all costs of issuance of the Bonds, and there shall be, and hereby is, created and granted a lien upon such moneys, until so applied, in favor of the Registered Owners of the Bonds.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of said Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia, and that the Surcharge of the System has been pledged to and will be set aside into said special fund by said Issuer for the prompt payment of the principal of and interest on the Series 2006 A Bonds.

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

This Bond is, under the Act, exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

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

This Bond shall not be entitled to any benefit under the Ordinance, or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon shall have been signed by the Registrar.

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

IN WITNESS WHEREOF, THE CITY OF HUNTINGTON has caused this Bond to be signed by its Mayor, and its corporate seal to be imprinted hereon and attested by its City Clerk, and has caused this Bond to be dated as of the Bond Date specified above.

[SEAL]

(Manual or Facsimile Signature)  
Mayor

ATTEST:

(Manual or Facsimile Signature)  
City Clerk

CERTIFICATE OF AUTHENTICATION  
AND REGISTRATION

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

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

\_\_\_\_\_  
as Registrar

By \_\_\_\_\_  
Its Authorized Officer

ASSIGNMENT

Social Security or Other Identifying Number of Assignee \_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ the within Bond and  
does hereby irrevocably constitute and appoint

\_\_\_\_\_ to transfer the said  
Bond on the books kept for registration thereof with full power of substitution in the premises.

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

\_\_\_\_\_  
SIGNATURE GUARANTEED:

\_\_\_\_\_  
(Bank, Trust Company or Firm)

\_\_\_\_\_  
(Authorized Officer)

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

**EXHIBIT B - SERIES 2006 B BOND FORM**

Except as otherwise provided in the Ordinance, this global bond may be transferred, in whole but not in part, only to another nominee of DTC (as defined in the Ordinance) or to a successor of DTC or to a nominee of a successor of DTC. Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. BR- \_\_\_\_\_ § \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE CITY OF HUNTINGTON (WEST VIRGINIA)  
SEWER REVENUE BOND, SERIES 2006 B

INTEREST RATE      MATURITY DATE      BOND DATE      CUSIP NO.

REGISTERED OWNER: \_\_\_\_\_

PRINCIPAL AMOUNT: \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF HUNTINGTON, a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the City shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on \_\_\_\_\_ 1 and \_\_\_\_\_ 1, in each year, beginning \_\_\_\_\_ 1, 20\_\_\_\_ (each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Ordinance.

Interest accruing on this Bond on and prior to the Maturity Date hereof shall be payable by check or draft mailed by \_\_\_\_\_, \_\_\_\_\_, West Virginia, as paying agent (in such capacity, the "Paying Agent"), to the Registered Owner hereof as of the applicable Record Date (each \_\_\_\_\_ 15 and \_\_\_\_\_ 15) or, in the event of a default in the payment of Bonds, that special record date to be fixed by the hereinafter named Registrar by notice given to the Registered Owners not less than 10 days prior to said special record date at the address of such Registered Owner as it appears on the registration books of the City maintained by \_\_\_\_\_, \_\_\_\_\_, West Virginia, as registrar (in such capacity, the "Registrar"), or, at the option of any Registered Owner of at least \$1,000,000 in aggregate principal amount of Bonds, by wire transfer in immediately available funds to a domestic bank account specified in writing by the Registered Owner to the Paying Agent at least 5 days prior to such Record Date. Principal and premium, if any, shall be paid when due upon presentation and surrender of this Bond for payment at the principal office of the Paying Agent, in \_\_\_\_\_, West Virginia.

This Bond is one of an issue of a series of bonds, in the aggregate principal amount of \$ \_\_\_\_\_ designated "The City of Huntington (West Virginia) Sewer Revenue Bonds, Series 2006 B" (Taxable) (the "Bonds"), of like tenor and effect, except as to number, denomination, date of maturity and interest rate, dated \_\_\_\_\_ 1, 2006, the proceeds of which are to be used (i) to pay the outstanding principal balance of The City of Huntington Sewerage System Bond Anticipation Notes, Series 2003 B (Taxable), currently outstanding in the aggregate principal amount of \$ \_\_\_\_\_ (the "Series 2003 B Notes"), which Series 2003 B Notes were issued to temporarily finance sinking fund and debt service reserve account arrearages related to the Prior Bonds (as defined herein) and to reimburse the Issuer for expenditures previously made by the Issuer with respect to the Harveytown and Lawson Heights grant projects; (ii) to permanently finance sinking fund and debt service reserve account arrearages related to the Prior Bonds; (iii) to fund a reserve account for the Series 2006 B Bonds; and (iv) to pay costs of issuance of the Series 2006 B Bonds and related costs. The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), and an ordinance duly enacted by the Council of the Issuer on \_\_\_\_\_, 2006, and supplemented by a supplemental resolution adopted by said Council on \_\_\_\_\_, 2006 (hereinafter collectively referred to as the "Ordinance"), and is subject to all the terms and conditions of said Ordinance. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance. Reference is hereby made to the Ordinance, as the same may be amended and supplemented from time to time, for a description of the rights, limitations of rights, obligations, duties and immunities of the Issuer, the Registrar, the Paying Agent, the Registered Owners of the Bonds and the Registered Owners of any subsequently issued additional bonds. Executed counterparts or certified copies of the Ordinance are on file at the office of the City Clerk in The City of Huntington, West Virginia.

The Bonds of this issue are subject to redemption prior to their stated maturity dates, as provided in the Ordinance and as set forth in the following lettered paragraphs:

(A) Optional Redemption. The Bonds maturing on or after \_\_\_\_\_, \_\_\_\_\_ are subject to redemption prior to maturity at the option of the Issuer on and after \_\_\_\_\_, \_\_\_\_\_, in whole or in part at any time, in such order of maturity as shall be designated to the Registrar by the Issuer and by lot within a maturity, at the following redemption prices (expressed as percentages of the principal amount of Bonds to be redeemed), plus interest accrued thereon to the date fixed for redemption:

Period During Which Redeemed  
(Dates Inclusive)

Redemption  
Price

(B) Mandatory Sinking Fund Redemption. The Bonds maturing \_\_\_\_\_, are subject to annual mandatory redemption prior to maturity by random selection on \_\_\_\_\_ of the years and in the principal amounts set forth below, at the redemption price of 100% of the principal amount of each Bond so called for redemption plus interest accrued to the date fixed for redemption:

Bonds Maturing

Year ( )

Principal Amount

Bonds Maturing

Year ( )

Principal Amount

\* Final Maturity

If less than all the Bonds are to be redeemed, the Bonds to be redeemed shall be identified by reference to the Series designation, date of issue, CUSIP numbers and Maturity Dates.

Notice of any redemption of this Bond, unless waived, shall be given by the Registrar on behalf of the Issuer by mailing an official redemption notice by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the Registered Owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such Registered Owner to the Registrar. Notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the Redemption Date, become due and payable at the redemption price therein specified, and from and after such date (unless the Issuer

shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest.

Failure to receive such notice or any defect therein or in the mailing thereof shall not affect the validity of proceedings for the redemption of this Bond.

The Bonds and the interest thereon are payable only from and are secured by the Surcharge on the System (as defined in the Ordinance), and from moneys in the Series 2006 B Bonds Sinking Fund and the Series 2006 B Bonds Reserve Account established under the Ordinance, and the unexpended proceeds of the Bonds. Such Surcharge shall be sufficient to pay the principal of and interest on the Series 2006 B Bonds and shall be set aside as a special fund hereby pledged for such purpose and to make the other payments required by the Ordinance. This Bond does not constitute a corporate indebtedness of the Issuer within any constitutional or statutory provision or limitation, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Surcharge, the moneys in the Series 2006 B Bonds Sinking Fund and the Series 2006 B Bonds Reserve Account and unexpended proceeds of the Bonds. The Issuer has entered into certain further covenants with the Registered Owners of the Bonds, for the terms of which reference is made to the Ordinance. Remedies provided the Registered Owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

All moneys received from the sale of the Bonds except for accrued interest thereon shall be applied solely to pay costs to pay the outstanding principal balance of the Series 2003 B Notes, fund a reserve account for the Bonds and pay all costs of issuance of the Bonds, and there shall be, and hereby is, created and granted a lien upon such moneys, until so applied, in favor of the Registered Owners of the Bonds.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of said 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 Surcharge of the System has been pledged to and will be set aside into said special fund by said Issuer for the prompt payment of the principal of and interest on the Bonds.

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

This Bond is, under the Act, exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

This Bond shall not be entitled to any benefit under the Ordinance, or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon shall have been signed by the Registrar.

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

IN WITNESS WHEREOF, THE CITY OF HUNTINGTON has caused this Bond to be signed by its Mayor, and its corporate seal to be imprinted hereon and attested by its City Clerk, and has caused this Bond to be dated as of the Bond Date specified above.

[SEAL]

(Manual or Facsimile Signature)  
Mayor

ATTEST:

(Manual or Facsimile Signature)  
City Clerk

CERTIFICATE OF AUTHENTICATION  
AND REGISTRATION

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

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

\_\_\_\_\_  
as Registrar

By \_\_\_\_\_  
Its Authorized Officer

ASSIGNMENT

Social Security or Other Identifying Number of Assignee \_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_ the within Bond and  
does hereby irrevocably constitute and appoint

\_\_\_\_\_ to transfer the said  
Bond on the books kept for registration thereof with full power of substitution in the premises.

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

\_\_\_\_\_  
SIGNATURE GUARANTEED:

\_\_\_\_\_  
(Bank, Trust Company or Firm)

\_\_\_\_\_  
(Authorized Officer)

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

**EXHIBIT C - SERIES 2007 BOND FORM**

Except as otherwise provided in the Ordinance, this global bond may be transferred, in whole but not in part, only to another nominee of DTC (as defined in the Ordinance) or to a successor of DTC or to a nominee of a successor of DTC. Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. CR- \_\_\_\_\_ \$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE CITY OF HUNTINGTON (WEST VIRGINIA)  
SEWER REFUNDING REVENUE BOND, SERIES 2007

INTEREST RATE      MATURITY DATE      BOND DATE      CUSIP NO.

REGISTERED OWNER: \_\_\_\_\_

PRINCIPAL AMOUNT: \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF HUNTINGTON, a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the City shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on \_\_\_\_\_ 1 and \_\_\_\_\_ 1, in each year, beginning \_\_\_\_\_ 1, 20\_\_\_\_ (each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Ordinance.

Interest accruing on this Bond on and prior to the Maturity Date hereof shall be payable by check or draft mailed by \_\_\_\_\_, \_\_\_\_\_, West Virginia, as paying agent (in such capacity, the "Paying Agent"), to the Registered Owner hereof as of the applicable Record Date (each \_\_\_\_\_ 15 and \_\_\_\_\_ 15) or, in the event of a default in the payment of Bonds, that special record date to be fixed by the hereinafter named Registrar by notice given to the Registered Owners not less than 10 days prior to said special record date at the address of such Registered Owner as it appears on the registration books of the City maintained by \_\_\_\_\_, \_\_\_\_\_, West Virginia, as registrar (in such capacity, the "Registrar"), or, at the option of any Registered Owner of at least \$1,000,000 in aggregate principal amount of Bonds, by wire transfer in immediately available funds to a domestic bank account specified in writing by the Registered Owner to the Paying Agent at least 5 days prior to such Record Date. Principal and premium, if any, shall be paid when due upon presentation and surrender of this Bond for payment at the principal office of the Paying Agent, in \_\_\_\_\_, West Virginia.

This Bond is one of an issue of a series of bonds, in the aggregate principal amount of \$ \_\_\_\_\_ designated "The City of Huntington (West Virginia) Sewer Refunding Revenue Bonds, Series 2007" (the "Bonds"), of like tenor and effect, except as to number, denomination, date of maturity and interest rate, dated \_\_\_\_\_ 1, 2006, the proceeds of which are to be used (i) to refund The City of Huntington Sewerage System Refunding Revenue Bonds, Series 1993, currently outstanding in the aggregate principal amount of \$ \_\_\_\_\_ (the "Series 1993 Bonds"), which Series 1993 Bonds were issued to refinance the cost of construction of certain additions, betterments and improvements to the public municipal sewerage system of the Issuer; (ii) to fund a reserve account for the Series 2007 Bonds; and (iii) to pay costs of issuance of the Series 2007 Bonds and related costs. The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), and an ordinance duly enacted by the Council of the Issuer on \_\_\_\_\_, 2006, and supplemented by a supplemental resolution adopted by said Council on \_\_\_\_\_, 2006 (hereinafter collectively referred to as the "Ordinance"), and is subject to all the terms and conditions of said Ordinance. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance. Reference is hereby made to the Ordinance, as the same may be amended and supplemented from time to time, for a description of the rights, limitations of rights, obligations, duties and immunities of the Issuer, the Registrar, the Paying Agent, the Registered Owners of the Bonds and the Registered Owners of any subsequently issued additional bonds. Executed counterparts or certified copies of the Ordinance are on file at the office of the City Clerk in The City of Huntington, West Virginia.

The Bonds of this issue are subject to redemption prior to their stated maturity dates, as provided in the Ordinance and as set forth in the following lettered paragraphs:

(A) Optional Redemption. The Bonds maturing on or after \_\_\_\_\_, \_\_\_\_\_ are subject to redemption prior to maturity at the option of the Issuer on and after \_\_\_\_\_, \_\_\_\_\_, in whole or in part at any time, in such order of maturity as shall be designated to the Registrar by the Issuer and by lot within a maturity, at the following redemption prices (expressed as percentages of the principal amount of Bonds to be redeemed), plus interest accrued thereon to the date fixed for redemption:

Period During Which Redeemed (Dates Inclusive)	Redemption Price
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(B) Mandatory Sinking Fund Redemption. The Bonds maturing \_\_\_\_\_, are subject to annual mandatory redemption prior to maturity by random selection on \_\_\_\_\_ of the years and in the principal amounts set forth below, at the redemption price of 100% of the principal amount of each Bond so called for redemption plus interest accrued to the date fixed for redemption:

Bonds Maturing

Year ( )

Principal Amount

Bonds Maturing

Year ( )

Principal Amount

\* Final Maturity

If less than all the Bonds are to be redeemed, the Bonds to be redeemed shall be identified by reference to the Series designation, date of issue, CUSIP numbers and Maturity Dates.

Notice of any redemption of this Bond, unless waived, shall be given by the Registrar on behalf of the Issuer by mailing an official redemption notice by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the Registered Owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such Registered Owner to the Registrar. Notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the Redemption Date, become due and payable at the redemption price therein specified, and from and after such date (unless the Issuer shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest.

Failure to receive such notice or any defect therein or in the mailing thereof shall not affect the validity of proceedings for the redemption of this Bond.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S OUTSTANDING SEWER REVENUE BONDS, SERIES 1997 (WEST VIRGINIA SRF PROGRAM), DATED NOVEMBER 25, 1997, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$3,039,895 (THE "SERIES 1997 BONDS"), SEWER REVENUE BONDS, SERIES 1999 (WEST VIRGINIA SRF PROGRAM), DATED JUNE 22, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,083,550 (THE "SERIES 1999 BONDS"), SEWER REVENUE BONDS, SERIES 2000 A (WEST VIRGINIA SRF PROGRAM), DATED OCTOBER 24, 2000, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,867,098 (THE "SERIES 2000 A BONDS"), SEWER REVENUE BONDS, SERIES 2006 A, DATED \_\_\_\_\_, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$\_\_\_\_\_ (THE "SERIES 2006 A BONDS" AND TOGETHER WITH THE SERIES 1997 BONDS, THE SERIES 1999 BONDS AND THE SERIES 2000 BONDS, COLLECTIVELY REFERRED TO HEREIN AS THE "PRIOR BONDS").

The Bonds and the interest thereon are payable only from and are secured by the Net Revenues (as defined in the Ordinance) to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the holders of the Prior Bonds and from moneys in the Series 2007 Bonds Sinking Fund and the Series 2007 Bonds Reserve Account established under the Ordinance, and the unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose and to make the other payments required by the Ordinance. This Bond does not constitute a corporate indebtedness of the Issuer within any constitutional or statutory provision or limitation, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 2007 Bonds Sinking Fund and the Series 2007 Bonds Reserve Account and unexpended proceeds of the Bonds. Under the Ordinance, the Issuer hereby covenants and agrees that (i) so long as the Series 1993 Bonds are Outstanding, the schedule or schedules of rates or charges from time to time in effect shall be sufficient to produce Net Revenues equal to not less than 120% of the Maximum Annual Debt Service on the Bonds in any Fiscal Year, and thereafter 115% of such amount; provided that, in the event the Series 1993 Bonds are no longer outstanding and an amount equal to or in excess of the respective Prior Bonds' Reserve Account Requirements and the Series 2007 Bonds Reserve Account Requirement are on deposit in the respective Prior Bonds' Reserve Accounts and the Series 2007 Bonds Reserve Account and any reserve accounts for obligations prior to or on a parity with the Prior Bonds are funded at least at the requirement therefor, such sum need only equal 110% of the Maximum Annual Debt Service on the Bonds in any Fiscal Year; and (ii) the amount, if any, required to be deposited in the Reserve Accounts in order to satisfy the Reserve Account Requirement within a period of not more than 12 months, assuming equal payments are made each month. The Issuer has entered into certain further covenants with the Registered Owners of the Bonds, for the terms of which reference is made to the Ordinance. Remedies provided the Registered Owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

All moneys received from the sale of the Bonds except for accrued interest thereon shall be applied solely to pay costs to refund the Series 1993 Bonds, fund a reserve account for the Bonds and pay all costs of issuance of the Bonds, and there shall be, and hereby is, created and granted a lien upon such moneys, until so applied, in favor of the Registered Owners of the Bonds.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have

existed, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of said Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia, and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by said Issuer for the prompt payment of the principal of and interest on the Bonds of which this Bond is one.

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

This Bond is, under the Act, exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

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

This Bond shall not be entitled to any benefit under the Ordinance, or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon shall have been signed by the Registrar.

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

IN WITNESS WHEREOF, THE CITY OF HUNTINGTON has caused this Bond to be signed by its Mayor, and its corporate seal to be imprinted hereon and attested by its City Clerk, and has caused this Bond to be dated as of the Bond Date specified above.

[SEAL]

(Manual or Facsimile Signature)  
Mayor

ATTEST:

(Manual or Facsimile Signature)  
City Clerk

CERTIFICATE OF AUTHENTICATION  
AND REGISTRATION

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

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

\_\_\_\_\_  
as Registrar

By \_\_\_\_\_  
Its Authorized Officer

ASSIGNMENT

Social Security or Other Identifying Number of Assignee \_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_ the within Bond and  
does hereby irrevocably constitute and appoint

\_\_\_\_\_ to transfer the said  
Bond on the books kept for registration thereof with full power of substitution in the premises.

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

\_\_\_\_\_

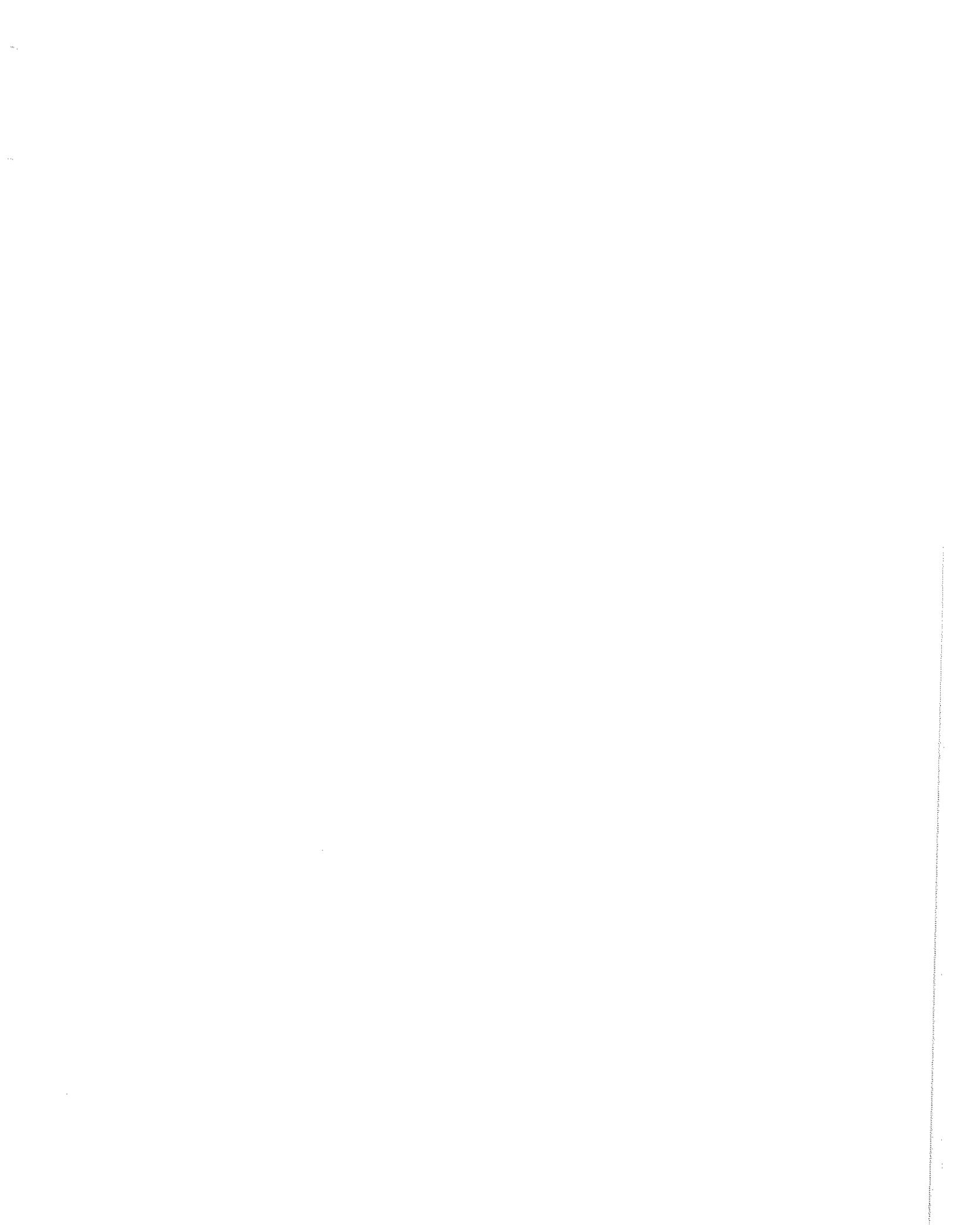
SIGNATURE GUARANTEED:

\_\_\_\_\_  
(Bank, Trust Company or Firm)

\_\_\_\_\_  
(Authorized Officer)

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

12/05/07  
435500.00010



**THE CITY OF HUNTINGTON**

Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt)

**SUPPLEMENTAL PARAMETERS RESOLUTION**

SUPPLEMENTAL RESOLUTION AUTHORIZING AND APPROVING THE SERIES REDESIGNATION OF THE BONDS; PROVIDING PARAMETERS AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES AND OTHER TERMS OF THE SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2007 OF THE CITY OF HUNTINGTON; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS TO ROSS SINCLAIRE & ASSOCIATES, LLC; APPROVING A CONFORMED ORDINANCE; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

**WHEREAS**, The City of Huntington (the “Issuer”) in the Counties of Cabell and Wayne, State of West Virginia, is a municipal corporation and political subdivision of said State, the governing body of which is its Council (the “Governing Body”);

**WHEREAS**, the Governing Body has duly and officially enacted on January 10, 2005, an Ordinance (the “Ordinance”) entitled:

AN ORDINANCE AUTHORIZING THE ISSUANCE OF SEWER REVENUE BONDS, SERIES 2005 A (TAX-EXEMPT) OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$4,000,000, FOR THE PURPOSE OF PAYING THE OUTSTANDING PRINCIPAL BALANCE OF THE CITY’S SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2003 A (TAX-EXEMPT), AND

PAYING COSTS OF ISSUANCE AND RELATED COSTS; AUTHORIZING THE ISSUANCE OF SEWER REVENUE BONDS, SERIES 2005 B (TAXABLE) OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$2,750,000, FOR THE PURPOSES OF PAYING THE OUTSTANDING PRINCIPAL BALANCE OF THE CITY'S SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2003 B (TAXABLE), FINANCING CERTAIN SINKING FUND AND DEBT SERVICE RESERVE ACCOUNT ARREARAGES FOR THE CITY'S PRIOR BONDS, AND PAYING COSTS OF ISSUANCE AND RELATED COSTS; AUTHORIZING THE ISSUANCE OF SEWER REFUNDING REVENUE BONDS, SERIES 2005 C (TAX-EXEMPT) OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$7,000,000, FOR THE PURPOSE OF REFUNDING THE CITY'S SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1993, AND PAYING COSTS OF ISSUANCE AND RELATED COSTS; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT AND OTHER DOCUMENTS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

**WHEREAS**, the Sewer Revenue Bonds, Series 2005 C (Tax-Exempt) were not issued in 2005, but will be issued in 2007;

**WHEREAS**, the Governing Body desires to redesignate the Series 2005 C Bonds as The City of Huntington (West Virginia) Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt);

**WHEREAS**, the Ordinance provides for the issuance by the Issuer of its Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt) in an aggregate principal amount not to exceed \$7,000,000 (the "Series 2007 Bonds" or "Bonds") in accordance with Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act");

**WHEREAS**, the Issuer has determined that it is currently in the best interest of its residents to issue the Series 2007 Bonds;

**WHEREAS**, the Ordinance further provided that the exact dates, amounts, maturities, interest rates, redemption provisions, purchase price and other terms of the Bonds should be established by Supplemental Resolution, that a Registrar, Paying Agent and Depository Bank be designated, that a Bond Purchase Agreement, a Continuing Disclosure Agreement, a Prepayment Agreement, a Registrar Agreement and an Official Statement be approved and that other matters pertaining to the Bonds be provided for by a supplemental resolution of the Governing Body, that additional covenants and provisions relating to the Bonds be provided therein, and as may be required by any Bond Insurer as a condition to insuring such Bonds and that other matters pertaining to the Bonds be provided for by a supplemental resolution of this Governing Body;

**WHEREAS**, the Bonds are proposed to be purchased by Ross, Sinclair & Associates, LLC, Frankfort, Kentucky (the "Original Purchaser"), pursuant to a Bond Purchase Agreement between the Original Purchaser and the Issuer, to be dated the date of execution thereof (the "Bond Purchase Agreement");

**WHEREAS**, the Governing Body has determined that, in order to obtain the best possible savings for the City in the current interest rate environment, the Mayor shall be empowered and authorized to execute the Bond Purchase Agreement, within the parameters set forth herein, at such time as the Mayor shall determine most advantageous to the Issuer, or not at all;

**WHEREAS**, the Governing Body has determined that the City should purchase a municipal bond insurance policy from Financial Security Assurance Inc., New York, New York, to insure the payment of the principal of, and interest on the Bonds, provided that the Original Purchaser shall supply a certificate that the value of such policy shall exceed the cost thereof, and authorized the Mayor to execute any and all documents, and to take any and all actions required, to obtain such policy;

**WHEREAS**, the Ordinance has been revised after its adoption and the Governing Body deems it essential and desirable that a Conformed Bond Ordinance be approved and entered into by the Issuer; and

**WHEREAS**, the Governing Body deems it essential and desirable that this supplemental parameters resolution (the "Supplemental Parameters Resolution") be adopted, that the Bond Purchase Agreement, the Continuing Disclosure Agreement, the Prepayment Agreement and the Registrar Agreement hereinafter provided for be entered into by the Issuer, that the Official Statement relating to the Bonds, hereinafter described, be approved, that the Mayor be authorized to enter into the Bond Purchase Agreement within the parameters hereby approved by the Governing Body, that the Bonds be redesignated, approving a conformed Ordinance, and that other matters relating to the Bonds be herein provided for all in accordance with the Ordinance;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HUNTINGTON:**

SECTION 1. The Bonds are hereby redesignated as The City of Huntington (West Virginia) Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt) and shall be numbered from R-1 consecutively upward.

SECTION 2. Pursuant to the Ordinance and the Act, this Supplemental Parameters Resolution is adopted and there are hereby authorized and ordered to be issued the Series 2007 Bonds. The Series 2007 Bonds shall be issued in the aggregate principal amount not to exceed \$7,000,000, bear interest at a rate not to exceed 7%, payable semiannually on May 1 and November 1 of each year, commencing May 1, 2008, shall mature on November 1 in such years, shall be dated such date, upon original issuance, shall mature in such principal amounts on such dates (with final maturity no later than November 1, 2028) shall be subject to such redemption provisions, all as shall subsequently be approved by the Mayor; and shall be substantially in the form set forth in the Ordinance, provided however, that the specific terms of the Series 2007 Bonds shall

be as determined by the Mayor at the time of the execution of the Bond Purchase Agreement and as approved by the Mayor in the Certificate of Determinations attached hereto as **EXHIBIT A**. All other provisions relating to the Series 2007 Bonds shall be as provided in the Ordinance, and the Series 2007 Bonds shall be in substantially the form provided in the Ordinance.

SECTION 3. The Issuer hereby approves the Conformed Ordinance attached hereto as **EXHIBIT B**, incorporated herein and made a part hereof.

SECTION 4. The Bond Purchase Agreement by and between the Original Purchaser and the Issuer, substantially in the form submitted to this meeting, and the execution and delivery (in multiple counterparts) by the Mayor thereof shall be and the same are hereby authorized, approved, and directed. The Mayor shall execute and deliver the Bond Purchase Agreement with such changes, insertions and omissions as may be approved by the Mayor. The execution of the Bond Purchase Agreement by the Mayor shall be conclusive evidence of any approval required by this Section, and authorization of any action required by the Bond Purchase Agreement relating to the issuance and sale of the Bonds, including the payment of all necessary fees and expenses in connection therewith.

SECTION 5. Proceeds of the Bonds shall be expended solely for the purposes set forth in the Ordinance.

SECTION 6. The Issuer finds that based upon the assumed principal amount, maturity schedule and interest rates for the Series 2007 Bonds presented to the Issuer by the Original Purchaser, the Series 2007 Bonds show a net present value savings to the Issuer after deducting all expenses of the refunding of the Series 1993 Bonds and the costs of issuing the Series 2007 Bonds.

SECTION 7. "Qualified Investments" shall mean those investments permitted by the Bond Insurer and the Ordinance is hereby amended to reflect such investments.

SECTION 8. The Prepayment Agreement by and between the West Virginia Municipal Bond Commission and the Issuer, substantially in the form submitted to this meeting, and the execution and delivery (in multiple counterparts) by the Mayor thereof shall be and the same are hereby authorized, approved, and directed. The Mayor shall execute and deliver the Prepayment Agreement with such changes, insertions and omissions as may be approved by the Mayor. The execution of the Prepayment Agreement by the Mayor shall be conclusive evidence of any approval required by this Section.

SECTION 9. The Official Statement (with such changes, insertions and omissions as may be necessary or advisable in the opinion of the Mayor), and the distribution of counterparts or copies thereof by the Original Purchaser are hereby approved. The Mayor shall execute and deliver the Official Statement with such changes, insertions and omissions as may be approved by the Mayor. The execution of the Official Statement by the Mayor shall be conclusive evidence of any approval required by this Section. The certificate of the Issuer relating to compliance with SEC Rule 15c2-12 and the execution and delivery thereof by the Mayor is hereby ratified and approved.

SECTION 10. The Registrar Agreement by and between the Issuer and the Registrar designated herein, substantially in the form submitted to this meeting, shall be and the same is hereby approved. The Mayor shall execute and deliver the Registrar Agreement with such changes, insertions and omissions as may be approved by the Mayor. The execution of the Registrar Agreement by the Mayor shall be conclusive evidence of any approval required by this Section.

SECTION 11. 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 so long as the Series 2007 Bonds are Outstanding, the schedule or schedules of rates or charges from time to time in effect shall be sufficient to produce Net Revenues equal to not less than 120% of the Maximum Annual Debt Service on the Bonds in any Fiscal Year, and thereafter 115% of such amount; provided that, in the event the Series 2007 Bonds are no longer outstanding and any reserve accounts for obligations prior to or on a parity with the Series 2007 Bonds are funded at least at the requirement therefor, such sum need only equal 110% of the Maximum Annual Debt Service on the Bonds in any Fiscal Year. The Ordinance is hereby amended to reflect this requirement.

SECTION 12. The firm of Steptoe & Johnson PLLC, Charleston, West Virginia, is hereby appointed bond counsel to the Issuer in connection with the issuance of the Bonds.

SECTION 13. The Issuer hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia, as the Paying Agent for the Series 2007 Bonds.

SECTION 14. The Issuer hereby appoints and designates United Bank, Inc., Charleston, West Virginia, as the Depository Bank.

SECTION 15. The Issuer hereby appoints and designates United Bank, Inc., Charleston, West Virginia, as the Registrar.

SECTION 16. The Issuer hereby appoints and designates Financial Security Assurance Inc., New York, New York, as the Bond Insurer for the bonds and hereby consents to and agrees to comply with all requirements of the Bond Insurer notwithstanding anything to the contrary set forth in the Ordinance, including those set forth on **Exhibit C**, Provisions Related to Bond Insurance, and incorporated herein by reference, and the Mayor is authorized to take any and all actions required in connection with obtaining such bond insurance.

SECTION 17. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates, including a tax and arbitrage certificate, required or desirable in connection with the Bonds to the end that the Bonds may be delivered on a timely basis to the Original Purchaser pursuant to the Bond Purchase Agreement.

SECTION 18. The notice addresses for the Depository Bank, Paying Agent, Registrar and Original Purchaser shall be as follows:

DEPOSITORY BANK

United Bank, Inc.  
500 Virginia Street, East  
Charleston, West Virginia 25301  
ATTN: Corporate Trust Department

PAYING AGENT

West Virginia Municipal Bond Commission  
#8 Capitol Street, Suite 500  
Charleston, WV 25301  
Attention: Executive Director

REGISTRAR

United Bank, Inc.  
500 Virginia Street, East  
Charleston, West Virginia 25301  
ATTN: Corporate Trust Department

ORIGINAL PURCHASER

Ross Sinclair & Associates, Inc.  
400 Democrat Drive  
Frankfort, Kentucky 40601

BOND INSURER

Financial Security Assurance Inc.  
31 W 52<sup>nd</sup> Street  
New York, NY 10019

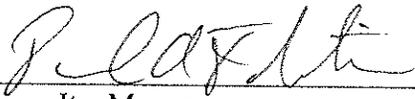
SECTION 19. The issuance of the Bonds is in the public interest, serves a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

SECTION 20. This Supplemental Parameters Resolution shall be effective immediately following adoption hereof.

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Adopted this 10th day of December, 2007.

THE CITY OF HUNTINGTON

By:   
Its: Mayor

CERTIFICATION

Certified a true copy of a Supplemental Parameters Resolution duly adopted by the Council of THE CITY OF HUNTINGTON on December 10, 2007, which Supplemental Resolution has not been repealed, rescinded, modified, amended or revoked, as of the date hereof.

Dated this 10 day of December, 2007.

By: Barbara Nelson  
City Clerk

12.12.07  
435500.00010

## EXHIBIT A

### FORM OF CERTIFICATE OF DETERMINATIONS

THE CITY OF HUNTINGTON  
Sewerage System Refunding Revenue Bonds, Series 2007

### CERTIFICATE OF DETERMINATIONS

The undersigned, David Felinton, Mayor of The City of Huntington (the "Issuer"), in accordance with the Supplemental Parameters Resolution adopted by the Governing Body of the Issuer on November \_\_, 2007 (the "Supplemental Parameters Resolution"), with respect to the Issuer's Sewerage System Refunding Revenue Bonds, Series 2007 (the "Series 2007 Bonds"), hereby finds and determines as follows:

1. The Series 2007 Bonds shall be dated December \_\_, 2007 shall bear interest on May 1 and November 1 of each year commencing May 1, 2008.
2. The Series 2007 Bonds shall be issued in the aggregate principal amount of \$\_\_\_\_\_. Such interest rates do not exceed 7%, respectively, being the maximum interest rate authorized by the Supplemental Parameters Resolution.
3. The Series 2007 Bonds shall mature in the amounts and on the dates and shall be subject to mandatory sinking fund redemption in the amounts and on the dates set forth on Schedule 1 attached hereto and incorporated herein.
4. The Series 2007 Bonds shall bear interest at the rates and produce the yields set forth on Schedule 1 attached hereto and incorporated herein.
5. The Series 2007 Bonds shall [not] be subject to [optional and/or mandatory] redemption as set forth on Schedule 2 attached hereto and incorporated herein.
6. The Series 2007 Bonds shall be sold to Ross, Sinclair & Associates, LLC (the "Underwriter"), pursuant to the terms of the Bond Purchase Agreement by and between the Underwriter and the Issuer, at an aggregate

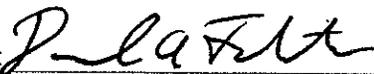
purchase price of \$ \_\_\_\_\_ (representing par value less an Underwriter's discount of \$ \_\_\_\_\_ and a net original issue discount[premium] of \$ \_\_\_\_\_), plus interest accrued of \$ \_\_\_\_\_ on the Series 2007 Bonds from December 1, 2007 to \_\_\_\_\_, 2007 (the "Closing Date").

7. The forms of the Bond Purchase Agreement, the Continuing Disclosure Agreement, the Prepayment Agreement, the Registrar Agreement and Official Statement attached hereto are hereby approved.

The undersigned hereby certifies that the foregoing terms and conditions of the Series 2007 Bonds are within the parameters prescribed by the Supplemental Parameters Resolution, and the Series 2007 Bonds may be issued with such terms and conditions as authorized by the Supplemental Parameters Resolution.

WITNESS my signature this \_\_\_\_\_ day of December, 2007.

THE CITY OF HUNTINGTON

By:   
Its: Mayor

12.06.07  
435500.00010

**SCHEDULE 1**

**SERIES 2007 BOND TERMS**

<u>Bond No.</u>	<u>Maturity Date</u> (November 1)	<u>Principal Amount</u> (thousands)	<u>Interest Rate</u>	<u>Price or Yield</u>
R-1	2008	\$ ____	____%	____%
R-2	2009	____	____%	____%
R-3	2010	____	____%	____%
R-4	2011	____	____%	____%
R-5	2012	____	____%	____%
R-6	2013	____	____%	____%
R-7	2014	____	____%	____%
R-8	2015	____	____%	____%
R-9	2016	____	____%	____%
R-10	2017	____	____%	____%
R-11	2018	____	____%	____%
R-12	2019	____	____%	____%
R-13	2020	____	____%	____%
R-14	2021	____	____%	____%
R-15	2022	____	____%	____%
R-16	2023	____	____%	____%

**SCHEDULE 2**

**SERIES 2007 BONDS REDEMPTION PROVISIONS:**

[to be inserted after pricing]

**EXHIBIT B**

**CONFORMED ORDINANCE**  
**enacted January 10, 2005**

## EXHIBIT C

### PROVISIONS RELATING TO BOND INSURANCE

- (a) "Insurance Policy" shall be defined as follows: "the insurance policy issued by the Insurer guaranteeing the scheduled payment of principal of and interest on the Bonds when due". "Insurer" shall be defined as follows: "Financial Security Assurance Inc., a New York stock insurance company, or any successor thereto or assignee thereof".
- (b) The prior written consent of the Insurer shall be a condition precedent to the deposit of any credit instrument provided in lieu of a cash deposit into the Series 2007 Bonds Reserve Account, if any. Notwithstanding anything to the contrary set forth in the Ordinance, amounts on deposit in the Series 2007 Bonds Reserve Account shall be applied solely to the payment of debt service due on the Bonds.
- (c) The Insurer shall be deemed to be the sole holder of the Insured Bonds for the purpose of exercising any voting right or privilege or giving any consent or direction or taking any other action that the holders of the Insured Bonds are entitled to take pursuant to the provisions of the Ordinance pertaining to (i) defaults and remedies and (ii) the duties and obligations of the Paying Agent. Remedies granted to the Bondholders shall expressly include mandamus.
- (d) If acceleration is permitted under the Ordinance, the maturity of Insured Bonds shall not be accelerated without the consent of the Insurer. In the event the maturity of the Bonds is accelerated, the Insurer may elect, in its sole discretion, to pay accelerated principal and interest accrued, on such principal to the date of acceleration (to the extent unpaid by the Issuer) and the Paying Agent shall be required to accept such amounts. Upon payment of such accelerated principal and interest accrued to the acceleration date as provided above, the Insurer's obligations under the Insurance Policy with respect to such Bonds shall be fully discharged.
- (e) No grace period for a covenant default shall exceed 30 days or be extended for more than 60 days, without the prior written consent of the Insurer. No grace period shall be permitted for payment defaults.
- (f) The Insurer shall be included as a third party beneficiary to the Ordinance.
- (g) Upon the occurrence of an extraordinary optional, special or extraordinary mandatory redemption in part, the selection of Bonds to be redeemed shall be subject to the approval of the Insurer. The exercise of any provision of the Ordinance which permits the purchase of Bonds in lieu of redemption shall require the prior written approval of the Insurer if any Bond so purchased is not cancelled upon purchase.

- (h) Any amendment, supplement, modification to, or waiver of, the Ordinance or any other transaction document, including any underlying security agreement (each a "Related Document"), that requires the consent of Bondowners or adversely affects the rights and interests of the Insurer shall be subject to the prior written consent of the Insurer.
- (i) Unless the Insurer otherwise directs, upon the occurrence and continuance of an Event of Default or an event which with notice or lapse of time would constitute an Event of Default, amounts on deposit in the Construction Fund shall not be disbursed, but shall instead be applied to the payment of debt service or redemption price of the Bonds.
- (j) The rights granted to the Insurer under the Ordinance or any other Related Document to request, consent to or direct any action are rights granted to the Insurer in consideration of its issuance of the Insurance Policy. Any exercise by the Insurer of such rights is merely an exercise of the Insurer's contractual rights and shall not be construed or deemed to be taken for the benefit, or on behalf, of the Bondholders and such action does not evidence any position of the Insurer, affirmative or negative, as to whether the consent of the Bondowners or any other person is required in addition to the consent of the Insurer.
- (k) Only (1) cash, (2) non-callable direct obligations of the United States of America ("Treasuries"), (3) evidences of ownership of proportionate interests in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated, (4) subject to the prior written consent of the Insurer, pre-refunded municipal obligations rated "AAA" and "Aaa" by S&P and Moody's, respectively, or (5) subject to the prior written consent of the Insurer, securities eligible for "AAA" defeasance under then existing criteria of S & P or any combination thereof, shall be used to effect defeasance of the Bonds unless the Insurer otherwise approves.

To accomplish defeasance, the Issuer shall cause to be delivered (i) a report of an independent firm of nationally recognized certified public accountants or such other accountant as shall be acceptable to the Insurer ("Accountant") verifying the sufficiency of the escrow established to pay the Bonds in full on the maturity or redemption date ("Verification"), (ii) an Escrow Deposit Agreement (which shall be acceptable in form and substance to the Insurer), (iii) an opinion of nationally recognized bond counsel to the effect that the Bonds are no longer "Outstanding" under the Ordinance and (iv) a certificate of discharge of the Paying Agent with respect to the Bonds; each Verification and defeasance opinion shall be acceptable in form and substance, and addressed, to the Issuer, Paying Agent and Insurer. The Insurer shall be provided with final drafts of the

above-referenced documentation not less than five business days prior to the funding of the escrow.

Bonds shall be deemed "Outstanding" under the Ordinance unless and until they are in fact paid and retired or the above criteria are met.

- (l) Amounts paid by the Insurer under the Insurance Policy shall not be deemed paid for purposes of the Ordinance and the Bonds relating to such payments shall remain Outstanding and continue to be due and owing until paid by the Issuer in accordance with the Ordinance. The Ordinance shall not be discharged unless all amounts due or to become due to the Insurer have been paid in full or duly provided for.
- (m) The Issuer covenants and agrees to take such action (including, as applicable, filing of UCC financing statements and continuations thereof) as is necessary from time to time to preserve the priority of the pledge of the Trust Estate under applicable law.
- (n) Claims Upon the Insurance Policy and Payments by and to the Insurer.

If, on the third Business Day prior to the related scheduled interest payment date or principal payment date ("Payment Date") there is not on deposit with the Paying Agent, after making all transfers and deposits required under the Ordinance, moneys sufficient to pay the principal of and interest on the Bonds due on such Payment Date, the Paying Agent shall give notice to the Bond Insurer and to its designated agent (if any) (the "Insurer's Fiscal Agent") by telephone or teletype of the amount of such deficiency by 12:00 noon, New York City time, on such Business Day. If, on the second Business Day prior to the related Payment Date, there continues to be a deficiency in the amount available to pay the principal of and interest on the Bonds due on such Payment Date, the Paying Agent shall make a claim under the Insurance Policy and give notice to the Insurer and the Insurer's Fiscal Agent (if any) by telephone of the amount of such deficiency, and the allocation of such deficiency between the amount required to pay interest on the Bonds and the amount required to pay principal of the Bonds, confirmed in writing to the Insurer and the Insurer's Fiscal Agent by 12:00 noon, New York City time, on such second Business Day by filling in the form of Notice of Claim and Certificate delivered with the Insurance Policy.

The Paying Agent shall designate any portion of payment of principal on Bonds paid by the Insurer, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of Bonds registered to the then current Bondholder, whether DTC or its nominee or otherwise, and shall issue a replacement Bond to the Insurer, registered in the name of Financial Security Assurance Inc., in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided that the Paying Agent's failure to so

designate any payment or issue any replacement Bond shall have no effect on the amount of principal or interest payable by the Issuer on any Bond or the subrogation rights of the Insurer.

The Paying Agent shall keep a complete and accurate record of all funds deposited by the Insurer into the Policy Payments Account (defined below) and the allocation of such funds to payment of interest on and principal of any Bond. The Insurer shall have the right to inspect such records at reasonable times upon reasonable notice to the Paying Agent.

Upon payment of a claim under the Insurance Policy, the Paying Agent shall establish a separate special purpose trust account for the benefit of Bondholders referred to herein as the "Policy Payments Account" and over which the Paying Agent shall have exclusive control and sole right of withdrawal. The Paying Agent shall receive any amount paid under the Insurance Policy in trust on behalf of Bondholders and shall deposit any such amount in the Policy Payments Account and distribute such amount only for purposes of making the payments for which a claim was made. Such amounts shall be disbursed by the Paying Agent to Bondholders in the same manner as principal and interest payments are to be made with respect to the Bonds under the sections hereof regarding payment of Bonds. It shall not be necessary for such payments to be made by checks or wire transfers separate from the check or wire transfer used to pay debt service with other funds available to make such payments. Notwithstanding anything herein to the contrary, the Issuer agrees to pay to the Insurer (i) a sum equal to the total of all amounts paid by the Insurer under the Insurance Policy (the "Insurer Advances"); and (ii) interest on such Insurer Advances from the date paid by the Insurer until payment thereof in full, payable to the Insurer at the Late Payment Rate per annum (collectively, the "Insurer Reimbursement Amounts"). "Late Payment Rate" means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank at its principal office in The City of New York, as its prime or base lending rate (any change in such rate of interest to be effective on the date such change is announced by JPMorgan Chase Bank) plus 3%, and (ii) the then applicable highest rate of interest on the Bonds and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. The Late Payment Rate shall be computed on the basis of the actual number of days elapsed over a year of 360 days. The Issuer hereby covenants and agrees that the Insurer Reimbursement Amounts are secured by a lien on and pledge of the Net Revenues and payable from such Net Revenues on a parity with debt service due on the Bonds.

Funds held in the Policy Payments Account shall not be invested by the Paying Agent and may not be applied to satisfy any costs, expenses or liabilities of the Paying Agent. Any funds remaining in the Policy Payments Account following a Bond payment date shall promptly be remitted to the Insurer.

- (o) The Insurer shall, to the extent it makes any payment of principal of or interest on the Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Insurance Policy. Each obligation of the Issuer to the Insurer under the Related Documents shall survive discharge or termination of such Related Documents.
- (p) The Issuer shall pay or reimburse the Insurer any and all charges, fees, costs and expenses that the Insurer may reasonably pay or incur in connection with (i) the administration, enforcement, defense or preservation of any rights or security in any Related Document; (ii) the pursuit of any remedies under the Ordinance or any other Related Document or otherwise afforded by law or equity, (iii) any amendment, waiver or other action with respect to, or related to, the Ordinance or any other Related Document whether or not executed or completed, or (iv) any litigation or other dispute in connection with the Ordinance or any other Related Document or the transactions contemplated thereby, other than costs resulting from the failure of the Insurer to honor its obligations under the Insurance Policy. The Insurer reserves the right to charge a reasonable fee as a condition to executing any amendment, waiver or consent proposed in respect of the Ordinance or any other Related Document.
- (q) After payment of reasonable expenses of the Paying Agent, the application of funds realized upon default shall be applied to the payment of expenses of the Issuer or rebate only after the payment of past due and current debt service on the Bonds and amounts required to restore the Series 2007 Bonds Reserve Account to the Series 2007 Bonds Reserve Account Requirement.
- (r) The Insurer shall be entitled to pay principal or interest on the Bonds that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer (as such terms are defined in the Insurance Policy) and any amounts due on the Bonds as a result of acceleration of the maturity thereof in accordance with the Ordinance, whether or not the Insurer has received a Notice of Nonpayment (as such terms are defined in the Insurance Policy) or a claim upon the Insurance Policy.
- (s) The notice address of the Insurer is: Financial Security Assurance Inc., 31 West 52nd Street, New York, New York 10019, Attention: Managing Director – Surveillance, Re: Policy No. , Telephone: (212) 826-0100; Telecopier: (212) 339-3556. In each case in which notice or other communication refers to an Event of Default, then a copy of such notice or other communication shall also be sent to the attention of the General Counsel and shall be marked to indicate “URGENT MATERIAL ENCLOSED.”
- (t) The Insurer shall be provided with the following information by the Issuer:
  - (i) Annual audited financial statements within 150 days after the end of the Issuer’s fiscal year;

- (ii) A certification of the Issuer that it is not aware of any default or Event of Default under the Ordinance), together with a worksheet containing the calculations of Net Revenues and Maximum Annual Debt Service and demonstrating compliance with the rate covenant set forth in Section 6.06 of the Ordinance.
  - (iii) The Issuer's annual budget within 30 days after the approval thereof together with such other information, data or reports as the Insurer shall reasonably request from time to time;
  - (iv) Notice of any draw upon the Series 2007 Bonds Reserve Account within two Business Days after knowledge thereof other than (i) withdrawals of amounts in excess of the Series 2007 Bonds Reserve Account Requirement and (ii) withdrawals in connection with a refunding of Insured Bonds;
  - (v) Notice of any default known to the Paying Agent or Issuer within five Business Days after knowledge thereof;
  - (vi) Prior notice of the advance refunding or redemption of any of the Bonds, including the principal amount, maturities and CUSIP numbers thereof;
  - (vii) Notice of the resignation or removal of the Paying Agent and Bond Registrar and the appointment of, and acceptance of duties by, any successor thereto;
  - (viii) Notice of the commencement of any proceeding by or against the Issuer commenced under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an "Insolvency Proceeding");
  - (ix) Notice of the making of any claim in connection with any Insolvency Proceeding seeking the avoidance as a preferential transfer of any payment of principal of, or interest on, the Bonds;
  - (x) A full original transcript of all proceedings relating to the execution of any amendment, supplement, or waiver to the Related Documents;
  - (xi) and (xi) All reports, notices and correspondence to be delivered to Bondholders under the terms of the Related Documents.
- (u) Notwithstanding satisfaction of the other conditions to the issuance of Additional Bonds set forth in the Ordinance, no such issuance may occur (1) if an Event of Default (or any event which, once all notice or grace periods have passed, would constitute an Event of Default) exists unless such default shall be cured upon such issuance and (2) unless the Series 2007 Bonds Reserve Account is fully funded at the Series 2007 Bonds Reserve Account Requirement upon the

issuance of such Additional Bonds, in either case unless otherwise permitted by the Insurer.

- (v) In determining whether any amendment, consent, waiver or other action to be taken, or any failure to take action, under the Ordinance would adversely affect the security for the Bonds or the rights of the Bondholders, the Issuer shall consider the effect of any such amendment, consent, waiver, action or inaction as if there were no Insurance Policy.
- (w) No contract shall be entered into or any action taken by which the rights of the Insurer or security for or sources of payment of the Bonds may be impaired or prejudiced in any material respect except upon obtaining the prior written consent of the Insurer.



\$5,500,000  
THE CITY OF HUNTINGTON, WEST VIRGINIA  
SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2007

Dated: December 27, 2007

Delivery Date: December 27, 2007

TAX CERTIFICATE AND AGREEMENT

The undersigned is the Mayor of The City of Huntington, West Virginia (the "City").

This Tax Certificate and Agreement (the "*Tax Certificate and Agreement*") is executed as of December 27, 2007 for the purpose of establishing the reasonable expectations of the City as to future events regarding the \$5,500,000 Sewerage System Refunding Revenue Bonds, Series 2007 ("*Refunding Bonds*") and the use of the proceeds of the Refunding Bonds. The certifications and representations made herein are intended, and may be relied upon, as a certification described in Section 1.148-2(b)(2) of the Treasury Regulations. The Refunding Bonds are authorized to be executed and delivered by Mayor of the City pursuant to an Ordinance enacted by the Council of the City on January 10, 2005 as supplemented by a resolution adopted by the Council of the City on December 10, 2007 (collectively, the "*Ordinance*").

This Tax Certificate and Agreement also sets forth certain terms and conditions relating to the restrictions on the use and investment of the proceeds of the Refunding Bonds in order that the interest received by the owners of the Refunding Bonds will be excluded from gross income for federal income tax purposes.

NOW, THEREFORE, the City hereby certifies, covenants, represents and agrees as follows:

**ARTICLE I**

**GENERAL**

**Section 1.1 Authorization.** The Refunding Bonds are being executed and delivered pursuant by the Mayor pursuant to the Ordinance and such execution and delivery was authorized by the Ordinance.

**Section 1.2 Definitions.** Capitalized terms used herein which are not otherwise defined herein shall have the respective meanings set forth in the Ordinance or, if not defined in the Ordinance, in Sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended (the "*Code*"), and related Treasury Regulations.

**Section 1.3 Purpose of the Refunding Bonds.** The Refunding Bonds are being executed and delivered for and on behalf of the City for the following purposes:

- (i) to refund within 90 days of the issue date of the Refunding Bonds, all of the City's outstanding Sewerage System Refunding Revenue Bonds, Series 1993 (the "*Bonds to be Refunded*");
- (ii) to fund a debt service reserve account for the Refunding Bonds; and
- (iii) to pay the costs of issuing the Refunding Bonds.

**Section 1.4 Reliance on Other Parties.** The expectations of the City concerning certain uses of the proceeds of the Refunding Bonds and other matters are based in whole or in part on representations and certifications of other parties set forth in this Tax Certificate and Agreement and accompanying certificates. The City is not aware of any facts or circumstances that would cause it to question the accuracy or reasonableness of any representation or certification made in this Tax Certificate and Agreement and accompanying certificates.

**Section 1.5 Private Activity Bond Representations.** For purposes of determining whether the Refunding Bonds are private activity bonds, the City makes the following representations. For this purpose, the proceeds of the Refunding Bonds used for refunding purposes are treated in the same manner as the Bonds to be Refunded.

(i) Not more than five percent (5%) of the proceeds of the Refunding Bonds will be used, directly or indirectly, to replace funds which were used in any business carried on by any person other than a state or local governmental unit.

(ii) Not more than ten percent (10%) of the payment of principal of or interest on the Refunding Bonds will be, directly or indirectly, (A) secured by any interest in (1) property used or to be used for a private business use by any person other than a state or local governmental unit, or (2) payments in respect of such property, or (B) derived from payments (whether or not to the City), in respect of property, or borrowed money, used or to be used for a private business use by any person other than a state or local governmental unit.

(iii) Not more than ten percent (10%) of the proceeds of the Refunding Bonds will be used, directly or indirectly, to make or finance loans to persons other than a state or local governmental unit.

(iv) No user of the facilities that were financed with the Bonds to be Refunded other than a state or local governmental unit will use more than ten percent (10%) of such facilities on any basis other than the same basis as the general public, and no person other than a state or local governmental unit will be a user of more than ten percent (10%) of such facilities as a result of (A) ownership, (B) actual or beneficial use pursuant to a lease or a management or incentive payment contract, or (C) any other similar arrangement.

**Section 1.6 Single Issue for Certain Tax Purposes.** No obligations are (i) being sold at substantially the same time (i.e., within fifteen (15) days) as the Refunding Bonds, (ii) being sold pursuant to the same plan of financing as the Refunding Bonds, and (iii) reasonably expected to be paid from substantially the same source of funds as the Refunding Bonds, determined without regard to guarantees from unrelated parties.

**Section 1.7 Refunding Bonds not Hedge Bonds.** The City reasonably expected at the time the Bonds to be Refunded were issued, to spend at least eighty-five percent (85%) of the spendable proceeds of such issues to carry out the governmental purposes for which such issues are being or were issued within three (3) years of the date each such issue was issued. Not more than fifty percent (50%) of the Bonds to be Refunded has been or is expected to be, invested in investments having a substantially guaranteed yield for four (4) years or more.

**Section 1.8 Qualified Tax-Exempt Obligations.** The Issuer has designated the Bonds as "qualified tax-exempt obligations" for purposes of paragraph (3) of Section 265(b) of the Code and covenants that the Bonds constitute qualified 501(c)(3) bonds as defined in Section 145 of the Code and as determined in accordance with Section 265(b)(3) of the Code, and that not more than \$10,000,000 aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Code) from gross income for federal income taxes (excluding, however, obligations described in Section 265(b)(3)(C)(ii) of the Code), including the Bonds, have been or shall be issued by the Issuer during the calendar year 2007, all as determined in accordance with the Code. For purposes of this paragraph and for the purposes of applying such Section 265(b)(3) 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 subordinate entity shall, for purposes of applying this paragraph and Section 265(b)(3) 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 Section 265(b)(3)(C) or (D) of the Code and all entities benefiting thereby shall be treated as one issuer. None of the Bonds are part of a direct or indirect composite issue.

## ARTICLE II

### ARBITRAGE

**Section 2.1 Reasonable Expectations.** This Article II states the reasonable expectations, statements of facts and estimates of the City with respect to the amount and use of the proceeds of the Refunding Bonds and certain other funds. On the basis of the following, it is not expected that the Refunding Bonds will be "*arbitrage bonds*" within the meaning of Section 148 of the Code.

**Section 2.2 Sale Proceeds.**

(a) **Sources of Proceeds.** Sale proceeds of the Refunding Bonds, net of accrued interest, are as follows:

Par Amount	\$5,500,000.00
------------	----------------

Plus Original Issue Premium	2,113.85
Sale Proceeds	\$5,502,113.85

(b) Uses of Proceeds. The sale proceeds of the Refunding Bonds, minus underwriters' discount (\$78,500.00), are expected to be needed and fully expended as follows:

(i) An amount of \$ 68,250.00 will be deposited in the Costs of Issuance Fund (the "*Costs of Issuance Fund*") established under the Ordinance and used to pay the costs of issuance of the Refunding Bonds;

(ii) An amount of \$ 5,348,102.08 will be deposited with the paying agent for the Bonds to be Refunded and used on March 1, 2008 to pay the principal of and interest on the Bonds to be Refunded; and

(iii) An amount of \$ 486,860.00 will be deposited into the Debt Service Reserve Fund established under the Ordinance for the Refunding Bonds.

**Section 2.3 No Overissuance.** The total proceeds to be received from the sale of the Refunding Bonds and anticipated investment earnings thereon do not exceed the total of the amount necessary to finance the governmental purposes for which the Refunding Bonds are issued as described above.

**Section 2.4 Investment of Proceeds.** No portion of the Refunding Bonds is being issued solely for the purpose of investing the proceeds at a yield higher than the yield on the Refunding Bonds or to replace funds which were used, directly or indirectly, to acquire investments with a yield higher than the yield on the Refunding Bonds.

**Section 2.5 Funds and Accounts.**

(a) General. The following funds are created and established under the Ordinance:

(i) The Series 2007 Bonds Sinking Fund (the "Revenue Fund");

(ii) The Series 2007 Bonds Reserve Account (the "Debt Service Reserve Fund");

(iii) The Costs of Issuance Account; and

(iv) The Rebate Fund.

The City certifies that the following subsections accurately reflect various matters relating to these funds and accounts.

(b) Revenue Fund. The Revenue Fund will be used primarily to achieve a proper matching of revenues and debt service within each bond year. To the extent the Revenue Fund will be used to pay debt service on the Refunding Bonds, it is expected to be depleted at least once each bond year except for a reasonable carryover amount not to exceed the greater of (i) the

earnings on investment of the moneys in these accounts for the immediately preceding bond year, or (ii) one-twelfth (1/12th) of the debt service on the Refunding Bonds for the immediately preceding bond year. Amounts deposited in the Revenue Fund will be expended to pay debt service on the Refunding Bonds within thirteen (13) months from the date of deposit therein pursuant to the Indenture. The Revenue Fund is expected to constitute a "*bona fide debt service fund*" within the meaning of the Treasury Regulations.

Amounts deposited into the Revenue Fund for the purpose of paying current debt service on the Refunding Bonds may be invested at an unrestricted yield for a period not exceeding thirteen (13) months from the date of the first deposit of such amounts to such fund and, thereafter, at a yield not materially higher than the yield on the Refunding Bonds. For investments of amounts described in the preceding sentence, the term "*materially higher*" means one-thousandth of one percentage point (.001%). As long as the Revenue Fund qualifies as a bona fide debt service fund, amounts therein will not be subject to the arbitrage rebate requirements of Section 148(f) of the Code.

(c) Rebate Fund. The City has covenanted not to use moneys of any fund or account in connection with the Refunding Bonds in a manner which will cause the Refunding Bonds to be arbitrage bonds within the meaning of Section 148 of the Code. To that end, the Rebate Fund is created under the Ordinance and will be funded to the extent required either from transfers from the other funds or accounts or from the City's general funds. The Trustee shall deposit into the Rebate Fund any payments received in accordance with this Tax Certificate and Agreement for purposes of paying rebate to the United States Treasury Department and so identified. The amount required to be held in the Rebate Fund at any point in time is determined pursuant to the requirements of the Code, including particularly Section 148(f) of the Code and the Treasury Regulations promulgated thereunder. Moneys in the Rebate Fund are neither pledged to nor expected to be used to pay debt service on the Refunding Bonds.

(d) Costs of Issuance Fund. As described in Section 2.2(b)(ii) hereof, \$ 68,250.00 of the proceeds of the Refunding Bonds will be deposited in the Costs of Issuance Fund.

Proceeds of the Refunding Bonds deposited in the Costs of Issuance Fund generally may be invested at an unrestricted yield for a period of thirteen (13) months from the date hereof, and, thereafter, at a yield not materially higher than the yield on the Refunding Bonds. For investments of amounts described in the preceding sentence, the term "*materially higher*" means one-thousandth of one percentage point (.001%).

(e) Debt Service Reserve Fund. As described in Section 2.2(b)(iii) hereof, \$ 486,860.00 of the proceeds of the Refunding Bonds will be deposited in the Debt Service Reserve Fund to secure the Refunding Bonds. The Underwriter has certified, in Exhibit A attached hereto, that the establishment and maintenance of the Debt Service Reserve Fund is a vital factor in the marketing of the Refunding Bonds. The Debt Service Reserve Fund does not exceed the lesser of (i) 10% of the proceeds of the Refunding Bonds, (ii) 125% of average annual debt service on the Refunding Bonds or (iii) maximum annual debt service on the Refunding Bonds. The Debt Service Reserve Fund may be invested at an unrestricted yield throughout the term of the Refunding Bonds and is subject to rebate.

**Section 2.6 No Replacement.** Other than proceeds of the Refunding Bonds, neither the City nor any person related to it within the meaning of Section 147(a) of the Code (a "Related Person") has on hand any funds which could legally and practically be used for the purposes for which the Refunding Bonds are being issued which are not pledged, budgeted, earmarked or otherwise necessary to be used for other purposes. Accordingly, no portion of the proceeds of the Refunding Bonds will be used (i) directly or indirectly to replace funds of the City or any Related Person that could be used for the purpose for which the Refunding Bonds are being issued, or (ii) to replace any proceeds of any prior issuance of obligations by the City or any Related Person.

**Section 2.7 No Other Sinking or Pledged Funds.** Except for the Revenue Fund, no other funds or accounts have been or are expected to be established, and no moneys or property have been or are expected to be available or pledged (no matter where held or the source thereof) which are expected to be used or available to pay, directly or indirectly, principal or interest on the Refunding Bonds, or restricted so as to give reasonable assurance of their availability for such purposes.

**Section 2.8 No Abusive Arbitrage Device.** The City certifies, warrants and covenants that the Refunding Bonds are not and will not be part of a transaction or series of transactions that (i) attempts to circumvent the provisions of Section 148 of the Code and related Treasury Regulations, thereby enabling the City to exploit the difference between tax-exempt and taxable interest rates to obtain a material financial advantage, and (ii) overburdens the tax-exempt bond market in any manner, including, without limitation, issuing more bonds, issuing bonds earlier, or allowing them to remain outstanding longer than is otherwise reasonably necessary to accomplish the governmental purpose of the Refunding Bonds.

**Section 2.9 Temporary Period and Transferred Proceeds.** The City acknowledges that pursuant to Section 149(d)(3)(A)(iv)(II) of the Code, any temporary period under Section 148(c) of the Code for the proceeds of the Bonds to be Refunded will end on the date hereof, and thus the yield on such proceeds will be restricted to a yield not materially higher than the yield on the Bonds to be Refunded.

Proceeds of each issue of the Bonds to be Refunded will become transferred proceeds of the Refunding Bonds when proceeds of the Refunding Bonds discharge the Bonds to be Refunded on March 1, 2008. When proceeds of the Bonds to be Refunded become transferred proceeds of the Refunding Bonds, the yield on such proceeds will be restricted to a yield not materially higher than the yield on the Refunding Bonds or the City will make timely yield reduction payments to reduce the yield on such proceeds to a yield not materially higher than the yield on the Refunding Bonds.

### ARTICLE III

#### CALCULATION OF YIELD

**Section 3.1 Yield.** For purposes of this Tax Certificate and Agreement, yield is calculated as set forth in Section 148(h) of the Code and Sections 1.148-4 and 1.148-5 of the Treasury Regulations. Thus, yield generally means that discount rate which, when used in

computing the present value of all unconditionally payable payments of principal and interest with respect to an obligation and the cost of qualified guarantees (if any) paid and to be paid with respect to such obligation, produces an amount equal to the issue price of the obligation.

The City certifies, based upon representations of the Underwriters shown in Exhibit A hereto, that the aggregate reoffering price of the Refunding Bonds is \$5,503,744.55, which represents the price at which the Refunding Bonds were sold to the public (excluding bond houses, brokers and other intermediaries) plus accrued interest. For purposes hereof, yield shall be calculated on a 360-day year basis with interest compounded semiannually. The yield on the Refunding Bonds on an aggregate basis as computed by Ross, Sinclair & Associates, LLC, the underwriter of the Refunding Bonds is at least 4.1993149%.

## ARTICLE IV

### REBATE

**Section 4.1 Undertakings.** The City has covenanted to comply with certain requirements of the Code. The City covenants that it shall retain an arbitrage consultant to determine any rebate due with respect to the Bonds to be Refunded and any rebate or yield reduction payments required to be made with respect to the Refunding Bonds. The City acknowledges that the United States Department of the Treasury has issued Treasury Regulations with respect to these undertakings, including the proper method for computing whether any rebate amount is due the United States under Section 148(f) of the Code (i.e., Sections 1.148-0 through 1.148-11, 1.149(d)-1, 1.149(g)-1, 1.150-1 and 1.150-2 of the Treasury Regulations). The City covenants that it will undertake to determine (or have determined on its behalf) what is required with respect to the rebate provisions contained in Section 148(f) of the Code from time to time and will undertake to comply with any requirements that may be applicable to the Refunding Bonds. The City will undertake the methodology described in this Article IV of this Tax Certificate and Agreement, except to the extent inconsistent with any requirements of present or future law, regulations or future guidance issued by the United States Department of the Treasury or if the City receives an opinion of Bond Counsel.

**Section 4.2 Rebate Fund.** A special fund designated the "*Rebate Fund*" has been established pursuant to the Ordinance. The City shall keep the Rebate Fund separate and apart from all other funds and moneys held by it.

**Section 4.3 Recordkeeping.** Detailed records with respect to each and every Nonpurpose Investment attributable to Gross Proceeds (within the meaning of Section 1.148-1(b) of the Treasury Regulations) of the Refunding Bonds must be maintained by the City, including (i) purchase date, (ii) purchase price, (iii) any accrued interest paid, (iv) face amount, (v) coupon rate, (vi) periodicity of interest payments, (vii) disposition price, (viii) any accrued interest received, (ix) disposition date, and (x) broker's fees. Such detailed record keeping is required for the calculation of the rebate amount (within the meaning of Section 1.148-3 of the Treasury Regulations) which, in part, will require a determination of the difference between the actual aggregate earnings of all Nonpurpose Investments and the amount of such earnings assuming a rate of return equal to the yield on the Refunding Bonds.

**Section 4.4 Rebate Amount Calculation and Payment.**

(a) The City represents, warrants and covenants that it will prepare or cause to be prepared a calculation of the rebate amount with respect to the Refunding Bonds consistent with the rules described in this Section 4.4. The City will prepare the calculation of the rebate amount (i) within fifty-five (55) days after the close of the fifth Bond Year and each fifth Bond Year thereafter so long as any Refunding Bonds remain unpaid, and (ii) within fifty-five (55) days after the first date on which there are no unpaid Refunding Bonds. Not later than fifty-five (55) days after the end of the fifth Bond Year and each fifth Bond Year thereafter so long as any 2007 Bond remains unpaid, and within fifty-five (55) days after the last 2007 Bond is paid, the City shall deposit an amount necessary to increase or decrease the sum held in the Rebate Fund to the rebate amount.

(b) For purposes of calculating the rebate amount (i) the aggregate amount earned with respect to a Nonpurpose Investment shall be determined by assuming that the Nonpurpose Investment was acquired for an amount equal to its value at the time it becomes a Nonpurpose Investment, and (ii) the aggregate amount earned with respect to any Nonpurpose Investment shall include any unrealized gain or loss with respect to the Nonpurpose Investment on the first date when there are no unpaid Refunding Bonds or when the investment ceases to be a Nonpurpose Investment.

(c) The City shall pay to the United States Department of the Treasury, pursuant to instructions from the City, out of designated funds (i) not later than sixty (60) days after the end of each fifth Bond Year, a payment equal to at least ninety percent (90%) of the rebate amount with respect to the Refunding Bonds, calculated as of the end of such fifth Bond Year, and (ii) not later than sixty (60) days after the first date when there are no unpaid Refunding Bonds, an amount equal to one hundred percent (100%) of the rebate amount (determined as of the first date when there are no unpaid Refunding Bonds) plus any actual or imputed earnings on such rebate amount, all as set forth in Sections 1.148-1 through 1.148-11 of the Treasury Regulations and as determined by or on behalf of the City.

(d) Each payment required to be made pursuant hereto and relating to the Refunding Bonds shall be filed with the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255, on or before the date such payment is due and shall be accompanied by Internal Revenue Service Form 8038-T. The City must retain records of the calculations required by this Section 4.4 until six (6) years after the retirement of the last obligation of the Refunding Bonds.

**Section 4.5 Valuation of Investments.**

(a) General Rule. Except as otherwise provided in this Section 4.5, for all purposes of Section 148 of the Code, the value of an investment allocated to the Refunding Bonds (including a payment or receipt on the investment) on a date must be determined using one of the following valuation methods:

(i) Outstanding Principal Amount Method. A plain par investment (as defined in Section 1.148-1(b) of the Treasury Regulations) may be valued at its outstanding stated principal amount, plus any accrued unpaid interest on that date.

(ii) Present Value Method. An investment whose yield is fixed and determinable on the issue date (a "fixed rate investment") may be valued at its present value on that date. Present value of an investment is computed under the economic accrual method, using the same compounding interval and financial conventions used to compute the yield on the Refunding Bonds (i.e., 360-day year basis with interest compounded semiannually). The present value of an investment on a date is equal to the present value of all unconditionally payable receipts to be received from and payments to be paid for the investment after that date, using the yield on the investment as the discount rate.

(iii) Fair Market Value Method. An investment may be valued at its fair market value on that date. The fair market value of an investment is the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's-length transaction. Fair market value generally is determined on the date on which a contract to purchase or sell the nonpurpose investment becomes binding (i.e., the trade date rather than the settlement date). Except as otherwise provided in Subsections 4.5(e), (f) and (g) hereof, an investment that is not of a type traded on an established securities market, within the meaning of Section 1273 of the Code, is rebuttably presumed to be acquired or disposed of for a price that is not equal to its fair market value.

(b) Mandatory Valuation of Certain Investments at Fair Market Value. Except as provided in Subsections 4.5(c) and (d), an investment must be valued at fair market value on the date that it is first allocated to the Refunding Bonds or first ceases to be allocated to the Refunding Bonds as a consequence of a deemed acquisition or deemed disposition.

(c) Mandatory Valuation of Yield Restricted Investments at Present Value. Any yield restricted investment must be valued at present value.

(d) Transferred Proceeds Allocations, Universal Cap Allocations and Commingled Funds. Notwithstanding Subsection 4.5(b) hereof, an investment need not be valued at fair market value if it is allocated to the Refunding Bonds or ceases to be allocated to the Refunding Bonds as a result of the transferred proceeds allocation rule under Section 1.148-9(b) of the Treasury Regulations or the universal cap rule under Section 1.148-6(b)(2) of the Treasury Regulations. In addition, investments in a commingled fund (other than a bona fide debt service fund) need not be valued at fair market value unless it is a commingled fund described in Section 1.148-6(e)(5)(iii) of the Treasury Regulations.

(e) Certificates of Deposit. The purchase price of a certificate of deposit that has a fixed interest rate, a fixed payment schedule and a substantial penalty for early withdrawal will be treated as its fair market value on the purchase date if:

(i) the yield on the certificate of deposit is not less than the yield on reasonably comparable direct obligations of the United States; and

(ii) the yield on the certificate of deposit is not less than the highest yield that is published or posted by the provider to be currently available from the provider on reasonably comparable certificates of deposit offered to the public.

(f) Guaranteed Investment Contracts. The purchase price of a guaranteed investment contract will be treated as its fair market value on the purchase date if:

(i) the City has made (or had made on its behalf) a bona fide solicitation for a specified guaranteed investment contract and received at least three (3) bona fide bids from providers that have no material financial interest in the Refunding Bonds;

(ii) the City purchased (or had purchased on its behalf) the highest-yielding guaranteed investment contract for which a qualifying bid is made (determined net of broker's fees);

(iii) the yield on the guaranteed investment contract (determined net of broker's fees) is not less than the yield then available from the provider on reasonably comparable guaranteed investment contract, if any, offered to other persons from a source of funds other than gross proceeds of tax-exempt bonds;

(iv) the determination of the terms of the guaranteed investment contract took into account as a significant factor the City's reasonably expected drawdown schedule for the amounts to be invested, exclusive of amounts deposited in debt service funds and reasonably required reserve or replacement funds;

(v) the terms of the guaranteed investment contract, including collateral security requirements, are reasonable; and

(vi) the provider of the guaranteed investment contract certified the administrative costs that it paid (or expects to pay) to third parties in connection with the guaranteed investment contract.

(g) United States Treasury Obligations. The fair market value of a United States Treasury obligation that is purchased directly from the United States Treasury is its purchase price.

**Section 4.6 Segregation of Proceeds**. In order to perform the calculations required by the Code, it is necessary to track separately all of the Gross Proceeds. To that end, the City hereby agrees to establish separate funds, accounts or subaccounts or take other accounting measures in order to account fully for all Gross Proceeds.

**Section 4.7 Filing Requirements**. The City shall file or cause to be filed such reports or other documents with the Internal Revenue Service as may be required by the Code from time to time (e.g., Form 8038-G and Form 8038-T).

## ARTICLE V

### OTHER MATTERS

**Section 5.1 Authority**. The undersigned is an authorized representative of the City and is acting for and on behalf of the City in executing this Tax Certificate and Agreement. To the best of the knowledge and belief of the undersigned representative of the City, there are no

other facts, estimates or circumstances that would materially change the expectations as set forth herein, and said expectations are reasonable.

**Section 5.2 Amendment and Supplementation.**

(a) Notwithstanding any other provision herein, the parties hereby agree to amend, supplement or modify this Tax Certificate and Agreement to the extent necessary to maintain the exclusion of interest on the Refunding Bonds from gross income for federal tax purposes as required pursuant to an opinion of Bond Counsel.

(b) Notwithstanding any other provision herein, if the parties request an amendment, supplementation or modification hereto, this Tax Certificate and Agreement shall be so amended, supplemented or modified only if accompanied by an opinion of Bond Counsel.

**Section 5.3 Severability.** If any provision of this Tax Certificate and Agreement (including all accompanying certificates) shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

**Section 5.4 Multiple Counterparts.** This Tax Certificate and Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original.

**Section 5.5 Survival of Defeasance.** Notwithstanding anything in this Tax Certificate and Agreement or any other provisions of the Ordinance to the contrary, the obligation to remit the rebate amount to the United States Department of the Treasury and to comply with all other requirements contained in this Tax Certificate and Agreement shall survive the defeasance or payment in full of the Refunding Bonds.

**Section 5.6 Permitted Changes; Opinion of Bond Counsel.** The yield restrictions contained in Section 2.5 or any other restriction or covenant contained herein need not be observed or may be changed if the City receives an opinion of Bond Counsel to the effect that such noncompliance or change will not adversely affect the exclusion of interest on the Refunding Bonds for federal income tax purposes.

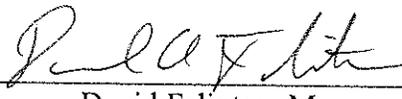
**Section 5.7 Successors and Assigns.** The terms, provisions, covenants and conditions of this Tax Certificate and Agreement shall bind and inure to the benefit of the respective successors and assigns of the City.

**Section 5.8 Headings.** The headings of this Tax Certificate and Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Tax Certificate and Agreement.

[Signature page follows.]

DATED as of this 27th day of December, 2007.

THE CITY OF HUNTINGTON, WEST VIRGINIA

By:   
\_\_\_\_\_  
David Felinton, Mayor



THE CITY OF HUNTINGTON  
Sewerage System Refunding Revenue Bonds, Series 2007

**CERTIFICATE OF DETERMINATIONS**

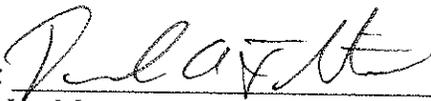
The undersigned, David A. Felinton, Mayor of The City of Huntington (the "Issuer"), in accordance with the Supplemental Parameters Resolution adopted by the Governing Body of the Issuer on December 10, 2007 (the "Supplemental Parameters Resolution"), with respect to the Issuer's Sewerage System Refunding Revenue Bonds, Series 2007 (the "Series 2007 Bonds"), hereby finds and determines as follows:

1. The Series 2007 Bonds shall be dated December 27, 2007 shall bear interest on May 1 and November 1 of each year commencing May 1, 2008.
2. The Series 2007 Bonds shall be issued in the aggregate principal amount of \$5,500,000. Such interest rates do not exceed 7%, respectively, being the maximum interest rate authorized by the Supplemental Parameters Resolution.
3. The Series 2007 Bonds shall mature in the amounts and on the dates and shall be subject to mandatory sinking fund redemption in the amounts and on the dates set forth on Schedule 1 attached hereto and incorporated herein.
4. The Series 2007 Bonds shall bear interest at the rates and produce the yields set forth on Schedule 1 attached hereto and incorporated herein.
5. The Series 2007 Bonds shall be subject to optional and/or mandatory redemption as set forth on Schedule 2 attached hereto and incorporated herein.
6. The Series 2007 Bonds shall be sold to Ross, Sinclair & Associates, LLC (the "Underwriter"), pursuant to the terms of the Bond Purchase Agreement by and between the Underwriter and the Issuer, at an aggregate purchase price of \$5,423,613.85 (representing par value less an Underwriter's discount of \$78,500.00 and plus a net original issue premium of \$2,113.85).
7. The forms of the Bond Purchase Agreement, the Continuing Disclosure Agreement, the Prepayment Agreement, the Registrar Agreement and Official Statement attached hereto are hereby approved.

The undersigned hereby certifies that the foregoing terms and conditions of the Series 2007 Bonds are within the parameters prescribed by the Supplemental Parameters Resolution, and the Series 2007 Bonds may be issued with such terms and conditions as authorized by the Supplemental Parameters Resolution.

WITNESS my signature this 19th day of December, 2007.

THE CITY OF HUNTINGTON

By:   
Its: Mayor

12.18.07  
435500.00010

CH929035.4

## SCHEDULE 1

### SERIES 2007 BOND TERMS

<u>Bond No.</u>	<u>Maturity Date</u> (November 1)	<u>Principal</u> <u>Amount</u> (thousands)	<u>Coupon</u> <u>Rate</u>	<u>Yield</u>
R-1	2008	\$ 250	3.5%	3.20%
R-2	2009	265	3.5%	3.22%
R-3	2010	275	3.5%	3.25%
R-4	2011	290	3.5%	3.30%
R-5	2012	305	3.5%	3.35%
R-6	2013	320	3.5%	3.40%
R-7	2014	335	3.5%	3.50%
R-8	2015	350	3.5%	3.60%
R-9	2016	365	3.6%	3.65%
R-10	2017	360	3.7%	3.75%
R-11	2019	740	4.0%	3.87%
R-12	2020	395	4.0%	3.95%
R-13	2021	400	4.0%	4.00%
R-14	2023	850	4.0%	4.10%

## SCHEDULE 2

### SERIES 2007 BONDS REDEMPTION PROVISIONS:

#### Optional Redemption

The Series 2007 Bonds are subject to redemption, at the option of the Issuer on or after November 1, 2015, in whole or in part, at any time by lot at an amount of the principal amount, plus interest, if any, accrued to the date fixed for redemption.

#### Mandatory Redemption

The Term Bonds due November 1, 2019 are subject to mandatory sinking fund redemption prior to maturity at a redemption price of 100% of the principal amount to be redeemed, plus accrued interest to the redemption date, on November 1, 2018 in the principal amount of \$360,000. The remaining \$380,000 principal amount of Term Bonds due November 1, 2019 are scheduled to be paid at maturity.

The Term Bonds due November 1, 2023 are subject to mandatory sinking fund redemption prior to maturity at a redemption price of 100% of the principal amount to be redeemed, plus accrued interest to the redemption date, on November 1, 2022 in the principal amount of \$415,000. The remaining \$435,000 principal amount of Term Bonds due November 1, 2023 are scheduled to be paid at maturity.



THE CITY OF HUNTINGTON  
(WEST VIRGINIA)

Sewerage System Refunding Revenue Bonds, Series 2007

CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS

The undersigned Brian G. Nurick, Senior Vice President of Ross, Sinclaire & Associates, LLC (the "Underwriter") and David Felinton, Mayor of The City of Huntington (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the 27th day of December, 2007, in New York, New York, the Underwriter received the entire original issue of \$5,500,000 in aggregate principal amount of The City of Huntington (West Virginia) Sewerage System Refunding Revenue Bonds, Series 2007 (the "Series 2007 Bonds" or "Bonds"). The Bonds, as so received on original issuance, are dated December 27, 2007, are in fully registered form, are numbered from R-1 upward in order of maturity and are registered in the name of "CEDE & CO."
2. At the time of such receipt of the Bonds, they had been executed by David Felinton as Mayor of the Issuer by his manual signature, and the official seal of the Issuer had been impressed upon each Bond and attested by Barbara Nelson as City Clerk of the Issuer by her manual signature, and had been authenticated by an authorized officer of United Bank, Inc., Charleston, West Virginia, as Registrar.
3. The Issuer has received and hereby acknowledges receipt from the Underwriter, as the original purchaser of the Bonds, of the proceeds of the Series 2007 Bonds, as follows:

Par Amount of Series 2007 Bonds	\$5,500,000.00
Plus: Original Issue Premium	2,113.85
<u>Less: Underwriter's Discount</u>	<u>( 78,500.00 )</u>
Total	\$5,423,613.85

Payment for the Series 2007 Bonds was made in immediately available funds (federal funds wire) in the amount of \$5,423,613.85.

[Remainder of Page Intentionally Left Blank]

WITNESS our signatures on this 27<sup>th</sup> day of December, 2007.

ROSS, SINCLAIRE & ASSOCIATES, LLC

By: Brian Purick  
Its: Senior Vice President

THE CITY OF HUNTINGTON

By: \_\_\_\_\_  
Its: Mayor

12.18.07  
435500.00010

CH929741.2

WITNESS our signatures on this 27<sup>th</sup> day of December, 2007.

ROSS, SINCLAIRE & ASSOCIATES, LLC

By: \_\_\_\_\_  
Its: Senior Vice President

THE CITY OF HUNTINGTON

By: Paula Feltz  
Its: Mayor

12.18.07  
435500.00010

CH929741.2



THE CITY OF HUNTINGTON  
(WEST VIRGINIA)

Sewerage System Refunding Revenue Bonds, Series 2007

**DIRECTION TO AUTHENTICATE AND DELIVER BONDS**

United Bank, Inc., as Registrar  
500 Virginia Street, East  
Charleston, West Virginia 25301

Ladies and Gentlemen:

There are delivered to you herewith (or have previously been delivered to you) as Registrar for the above-captioned Bonds:

1. Bonds No. R-1 through R-14 constituting the entire original issue of The City of Huntington (West Virginia) Sewerage System Refunding Revenue Bonds, Series 2007 dated December 27, 2007, in the aggregate principal amount of \$5,500,000, (the "Bonds"), executed by the Mayor and City Clerk of The City of Huntington (the "Issuer") and bearing the official seal of the Issuer. The Bonds are authorized to be issued under and pursuant to an Ordinance enacted by the Issuer on January 10, 2005, as supplemented by a Supplemental Parameters Resolution adopted by the Issuer on December 10, 2007 (collectively, the "Ordinance").
2. A copy of the Ordinance duly certified by the City Clerk.
3. Signed, unqualified approving opinions of Steptoe & Johnson PLLC, as bond counsel with respect to the Bonds.
4. A list of the names in which the Bonds are to be registered upon original issuance, together with taxpayer identification and other information as requested by you.
5. Copies of such other documents, certificates and verifications as required by the Original Purchaser.

You are hereby requested and authorized, pursuant to Section 3.12 of the Ordinance, to authenticate, register and deliver the Bonds to the Depository Trust Company, New York, New York, for the account of Ross, Sinclair & Associates, LLC as the Original Purchaser thereof.

Dated this 27th day of December, 2007.

THE CITY OF HUNTINGTON

By:   
Its: Mayor

12.18.07  
435500.00010

CH930381.2



Except as otherwise provided in the Ordinance, this global bond may be transferred, in whole but not in part, only to another nominee of DTC (as defined in the Ordinance) or to a successor of DTC or to a nominee of a successor of DTC. Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R-1

\$250,000

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE CITY OF HUNTINGTON (WEST VIRGINIA)  
SEWERAGE SYSTEM REFUNDING REVENUE BOND, SERIES 2007

**SPECIMEN**

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
3.5%	November 1, 2008	December 27, 2007	446834 EN9

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: TWO HUNDRED FIFTY THOUSAND DOLLARS

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF HUNTINGTON, a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the City shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on May 1 and November 1, in each year, beginning May 1, 2008 (each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Ordinance.

Interest accruing on this Bond on and prior to the Maturity Date hereof shall be payable by check or draft mailed by the West Virginia Municipal Bond Commission, Charleston, West Virginia, or its successor, as paying agent (in such capacity, the "Paying Agent"), to the Registered Owner hereof as of the applicable Record Date (each April 15 and October 15) or, in the event of a default in the payment of Bonds, that special record date to be fixed by the hereinafter named Registrar by notice given to the Registered Owners not less than 10 days prior to said special record date at the address of such Registered Owner as it appears on the registration books of the City maintained by United Bank, Inc., Charleston, West Virginia, as registrar (in such capacity, the "Registrar"), or, at the option of any Registered Owner of at least \$1,000,000 in aggregate principal amount of Bonds, by wire transfer in immediately available funds to a domestic bank account specified in writing by the Registered Owner to the Paying Agent at least 5 days prior to such Record Date. Principal and premium, if any, shall be paid when due upon presentation and surrender of this Bond for payment at the principal office of the Paying Agent, in Charleston, West Virginia.

This Bond is one of an issue of a series of bonds, in the aggregate principal amount of \$5,500,000 designated "The City of Huntington (West Virginia) Sewerage System Refunding Revenue Bonds, Series 2007" (the "Bonds" or "Series 2007 Bonds"), of like tenor and effect, except as to number, denomination, date of maturity and interest rate, dated December 27, 2007, the proceeds of which are to be used (i) to currently refund the outstanding principal balance of the City's Sewerage System Refunding Revenue Bonds, Series 1993 (the "Series 1993 Bonds"), issued in the aggregate principal amount of \$7,100,000, which Series 1993 Bonds were issued to advance refund all of the Issuer's Outstanding Sewerage System Refunding Revenue Bonds, Series 1987, dated February 15, 1987, originally issued in the aggregate principal amount of \$8,575,000, of which \$7,130,000 was then outstanding, fund a reserve account and pay costs of issuance and related costs; (ii) to fund a reserve account for the Series 2007 Bonds; and (iii) to pay costs of issuance of the Series 2007 Bonds and related costs. The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), and an ordinance duly enacted by the Council of the Issuer on January 10, 2005, and supplemented by a supplemental parameters resolution adopted by said Council on December 10, 2007 (hereinafter collectively referred to as the "Ordinance"), and are subject to all the terms and conditions of said Ordinance. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance. Reference is hereby made to the Ordinance, as the same may be amended and supplemented from time to time, for a description of the rights, limitations of rights, obligations, duties and immunities of the Issuer, the Registrar, the Paying Agent, the Registered Owners of the Bonds and the Registered Owners of any subsequently issued additional bonds. Executed counterparts or certified copies of the Ordinance are on file at the office of the City Clerk in The City of Huntington, West Virginia.

Financial Security Assurance Inc. ("Financial Security"), New York, New York, has delivered its municipal bond insurance policy with respect to the scheduled payments due of principal of and interest on this Bond to the Paying Agent. Said Policy is on file and available

for inspection at the principal office of the Paying Agent and a copy thereof may be obtained from Financial Security or the Paying Agent.

The Bonds of this issue are subject to redemption prior to their stated maturity dates, as provided in the Ordinance and as set forth in the following lettered paragraphs:

(A) Optional Redemption. The Bonds maturing on or after November 1, 2015 are subject to redemption prior to maturity at the option of the Issuer on and after November 1, 2015, in whole or in part at any time, in such order of maturity as shall be designated to the Registrar by the Issuer and by lot within a maturity, at the following redemption prices (expressed as percentages of the principal amount of Bonds to be redeemed), plus interest accrued thereon to the date fixed for redemption:

<u>Period During Which Redeemed</u> <u>(Dates Inclusive)</u>	<u>Redemption</u> <u>Price</u>
All maturing bonds on or after November 1, 2015	100%

(B) Mandatory Sinking Fund Redemption.

The Term Bonds due November 1, 2019 are subject to mandatory sinking fund redemption prior to maturity at a redemption price of 100% of the principal amount to be redeemed, plus accrued interest to the redemption date, on November 1, 2018 in the principal amount of \$360,000. The remaining \$380,000 principal amount of Term Bonds due November 1, 2019 are scheduled to be paid at maturity.

The Term Bonds due November 1, 2023 are subject to mandatory sinking fund redemption prior to maturity at a redemption price of 100% of the principal amount to be redeemed, plus accrued interest to the redemption date, on November 1, 2022 in the principal amount of \$415,000. The remaining \$435,000 principal amount of Term Bonds due November 1, 2023 are scheduled to be paid at maturity.

If less than all the Bonds are to be redeemed, the Bonds to be redeemed shall be identified by reference to the Series designation, date of issue, CUSIP numbers and Maturity Dates.

Unless waived by any holder of the Bonds to be redeemed, official notice of any redemption shall be given by the Registrar on behalf of the Issuer by mailing a copy of an official redemption notice by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the registered owner of the Note or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such registered owner to the Bond Registrar.

Official notice of redemption having been given, the Bonds or portions of Bonds so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the Issuer shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Registrar at the Redemption Price. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the registered owner a new Bond or Bonds of the same maturity in the amount of the unpaid principal. All Bonds which have been redeemed shall be canceled and destroyed by the Bond Registrar and shall not be reissued.

Failure to receive such notice or any defect therein or in the mailing thereof shall not affect the validity of proceedings for the redemption of Bonds, and failure to mail such notice shall not affect the validity of proceedings for the redemption of any portion of Bonds for which there was no such failure.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S OUTSTANDING SEWER REVENUE BONDS, SERIES 1997 (WEST VIRGINIA SRF PROGRAM), DATED NOVEMBER 25, 1997, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$3,039,895 (THE "SERIES 1997 BONDS"), SEWER REVENUE BONDS, SERIES 1999 (WEST VIRGINIA SRF PROGRAM), DATED JUNE 22, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,083,550 (THE "SERIES 1999 BONDS"), SEWER REVENUE BONDS, SERIES 2000 A (WEST VIRGINIA SRF PROGRAM), DATED OCTOBER 24, 2000, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,867,098 (THE "SERIES 2000 A BONDS"); AND SEWER REVENUE BONDS, SERIES 2006 A, DATED NOVEMBER 30, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$3,150,000 (THE "SERIES 2006 A BONDS" AND TOGETHER WITH THE SERIES 1997 BONDS, SERIES 1999 BONDS, SERIES 2000 A BONDS, COLLECTIVELY REFERRED TO HEREIN AS THE "PRIOR BONDS").

The Bonds and the interest thereon are payable only from and are secured by the Net Revenues (as defined in the Ordinance) to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the holders of the Prior Bonds, and from moneys in the Series 2007 Bonds Sinking Fund and the Series 2007 Bonds Reserve Account established under the Ordinance, and the unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose and to make the other payments required by the Ordinance. This Bond does not constitute a corporate indebtedness of the Issuer within any constitutional or statutory provision or limitation, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 2007 Bonds Sinking Fund and the Series 2007 Bonds Reserve Account and unexpended proceeds of the Bonds. Under the Ordinance, the Issuer has covenanted and agreed to fix, establish and collect just and equitable

rates or charges for the use of the services and facilities of the System and to revise the same from time to time as will always be sufficient to pay all operating expenses of the System and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest on, and any necessary reserve payments for, the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Prior Bonds. The Issuer has entered into certain further covenants with the Registered Owners of the Bonds, for the terms of which reference is made to the Ordinance. Remedies provided the Registered Owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

All moneys received from the sale of the Bonds except for accrued interest thereon shall be applied solely to pay the outstanding principal balance of, and any accrued interest on, the Series 1993 Bonds, fund a reserve account for the Series 2007 Bonds and pay all costs of issuance of the Series 2007 Bonds, and there shall be, and hereby is, created and granted a lien upon such moneys, until so applied, in favor of the Registered Owners of the Bonds.

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

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

This Bond is, under the Act, exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

This Bond shall not be entitled to any benefit under the Ordinance, or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon shall have been signed by the Registrar.

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

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, THE CITY OF HUNTINGTON has caused this Bond to be signed by its Mayor, and its corporate seal to be imprinted hereon and attested by its City Clerk, and has caused this Bond to be dated as of the Bond Date specified above.

[SEAL]

*[Handwritten Signature]*  
\_\_\_\_\_  
Mayor

**SPECIMEN**

ATTEST:

*[Handwritten Signature]*  
\_\_\_\_\_  
City Clerk

**SPECIMEN**

12.19.2007  
435500.00010

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

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

Dated: December 27, 2007.

UNITED BANK, INC.,  
as Registrar

By:   
Its: Authorized Officer

**SPECIMEN**

(FORM OF)  
ASSIGNMENT

Social Security or Other Identifying Number of Assignee \_\_\_\_\_

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers  
unto \_\_\_\_\_

\_\_\_\_\_

the within Bond and does hereby irrevocably constitute and appoint

\_\_\_\_\_

to transfer the said Bond on the books kept for registration thereof with full power of substitution  
in the premises.

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

\_\_\_\_\_  
SIGNATURE GUARANTEED:

\_\_\_\_\_  
(Bank, Trust Company or Firm)

\_\_\_\_\_  
(Authorized Officer)

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

FORM OF APPROVING OPINION OF BOND COUNSEL

[See transcript document no. 20]

Except as otherwise provided in the Ordinance, this global bond may be transferred, in whole but not in part, only to another nominee of DTC (as defined in the Ordinance) or to a successor of DTC or to a nominee of a successor of DTC. Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

**SPECIMEN**

\$265,000

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE CITY OF HUNTINGTON (WEST VIRGINIA)  
SEWERAGE SYSTEM REFUNDING REVENUE BOND, SERIES 2007

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
3.5%	November 1, 2009	December 27, 2007	446834 EP4

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: TWO HUNDRED SIXTY FIVE THOUSAND DOLLARS

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF HUNTINGTON, a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the City shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on May 1 and November 1, in each year, beginning May 1, 2008 (each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Ordinance.

Except as otherwise provided in the Ordinance, this global bond may be transferred, in whole but not in part, only to another nominee of DTC (as defined in the Ordinance) or to a successor of DTC or to a nominee of a successor of DTC. Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R-3

\$275,000

**SPECIMEN**

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE CITY OF HUNTINGTON (WEST VIRGINIA)  
SEWERAGE SYSTEM REFUNDING REVENUE BOND, SERIES 2007

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
3.5%	November 1, 2010	December 27, 2007	446834 EQ2

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: TWO HUNDRED SEVENTY FIVE THOUSAND DOLLARS

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF HUNTINGTON, a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the City shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on May 1 and November 1, in each year, beginning May 1, 2008 (each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Ordinance.

Except as otherwise provided in the Ordinance, this global bond may be transferred, in whole but not in part, only to another nominee of DTC (as defined in the Ordinance) or to a successor of DTC or to a nominee of a successor of DTC. Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R-4

\$290,000

**SPECIMEN**

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE CITY OF HUNTINGTON (WEST VIRGINIA)  
SEWERAGE SYSTEM REFUNDING REVENUE BOND, SERIES 2007

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
3.5%	November 1, 2011	December 27, 2007	446834 ER0

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: TWO HUNDRED NINETY THOUSAND DOLLARS

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF HUNTINGTON, a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the City shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on May 1 and November 1, in each year, beginning May 1, 2008 (each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Ordinance.

Except as otherwise provided in the Ordinance, this global bond may be transferred, in whole but not in part, only to another nominee of DTC (as defined in the Ordinance) or to a successor of DTC or to a nominee of a successor of DTC. Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R-5

\$305,000

**SPECIMEN**

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE CITY OF HUNTINGTON (WEST VIRGINIA)  
SEWERAGE SYSTEM REFUNDING REVENUE BOND, SERIES 2007

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
3.5%	November 1, 2012	December 27, 2007	446834 ES8

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: THREE HUNDRED FIVE THOUSAND DOLLARS

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF HUNTINGTON, a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the City shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on May 1 and November 1, in each year, beginning May 1, 2008 (each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Ordinance.

Except as otherwise provided in the Ordinance, this global bond may be transferred, in whole but not in part, only to another nominee of DTC (as defined in the Ordinance) or to a successor of DTC or to a nominee of a successor of DTC. Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R-6

\$320,000

**SPECIMEN**

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE CITY OF HUNTINGTON (WEST VIRGINIA)  
SEWERAGE SYSTEM REFUNDING REVENUE BOND, SERIES 2007

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
3.5%	November 1, 2013	December 27, 2007	446834 ET6

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: THREE HUNDRED TWENTY THOUSAND DOLLARS

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF HUNTINGTON, a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the City shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on May 1 and November 1, in each year, beginning May 1, 2008 (each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Ordinance.

Except as otherwise provided in the Ordinance, this global bond may be transferred, in whole but not in part, only to another nominee of DTC (as defined in the Ordinance) or to a successor of DTC or to a nominee of a successor of DTC. Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R-7

\$335,000

**SPECIMEN**

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE CITY OF HUNTINGTON (WEST VIRGINIA)  
SEWERAGE SYSTEM REFUNDING REVENUE BOND, SERIES 2007

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
3.5%	November 1, 2014	December 27, 2007	446834 EU3

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: THREE HUNDRED THIRTY FIVE THOUSAND DOLLARS

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF HUNTINGTON, a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the City shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on May 1 and November 1, in each year, beginning May 1, 2008 (each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Ordinance.

Except as otherwise provided in the Ordinance, this global bond may be transferred, in whole but not in part, only to another nominee of DTC (as defined in the Ordinance) or to a successor of DTC or to a nominee of a successor of DTC. Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R-8

\$350,000

**SPECIMEN**

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE CITY OF HUNTINGTON (WEST VIRGINIA)  
SEWERAGE SYSTEM REFUNDING REVENUE BOND, SERIES 2007

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
3.5%	November 1, 2015	December 27, 2007	446834 EV1

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: THREE HUNDRED FIFTY THOUSAND DOLLARS

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF HUNTINGTON, a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the City shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on May 1 and November 1, in each year, beginning May 1, 2008 (each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Ordinance.

Except as otherwise provided in the Ordinance, this global bond may be transferred, in whole but not in part, only to another nominee of DTC (as defined in the Ordinance) or to a successor of DTC or to a nominee of a successor of DTC. Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R-9

\$365,000

**SPECIMEN**

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE CITY OF HUNTINGTON (WEST VIRGINIA)  
SEWERAGE SYSTEM REFUNDING REVENUE BOND, SERIES 2007

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
3.6%	November 1, 2016	December 27, 2007	446834 EW9

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: THREE HUNDRED SIXTY FIVE THOUSAND DOLLARS

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF HUNTINGTON, a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the City shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on May 1 and November 1, in each year, beginning May 1, 2008 (each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Ordinance.

Except as otherwise provided in the Ordinance, this global bond may be transferred, in whole but not in part, only to another nominee of DTC (as defined in the Ordinance) or to a successor of DTC or to a nominee of a successor of DTC. Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R-10

\$360,000

**SPECIMEN**

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE CITY OF HUNTINGTON (WEST VIRGINIA)  
SEWERAGE SYSTEM REFUNDING REVENUE BOND, SERIES 2007

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
3.7%	November 1, 2017	December 27, 2007	446834 EX7

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: THREE HUNDRED SIXTY THOUSAND DOLLARS

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF HUNTINGTON, a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the City shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on May 1 and November 1, in each year, beginning May 1, 2008 (each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Ordinance.

Except as otherwise provided in the Ordinance, this global bond may be transferred, in whole but not in part, only to another nominee of DTC (as defined in the Ordinance) or to a successor of DTC or to a nominee of a successor of DTC. Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R-11

\$740,000

**SPECIMEN**

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE CITY OF HUNTINGTON (WEST VIRGINIA)  
SEWERAGE SYSTEM REFUNDING REVENUE BOND, SERIES 2007

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
4.0%	November 1, 2019	December 27, 2007	446834 EY5

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: SEVEN HUNDRED FOURTY THOUSAND DOLLARS

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF HUNTINGTON, a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the City shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on May 1 and November 1, in each year, beginning May 1, 2008 (each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Ordinance.

Except as otherwise provided in the Ordinance, this global bond may be transferred, in whole but not in part, only to another nominee of DTC (as defined in the Ordinance) or to a successor of DTC or to a nominee of a successor of DTC. Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R-12

\$395,000

**SPECIMEN**

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE CITY OF HUNTINGTON (WEST VIRGINIA)  
SEWERAGE SYSTEM REFUNDING REVENUE BOND, SERIES 2007

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
4.0%	November 1, 2020	December 27, 2007	446834 EZ2

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: THREE HUNDRED NINETY FIVE THOUSAND DOLLARS

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Except as otherwise provided in the Ordinance, this global bond may be transferred, in whole but not in part, only to another nominee of DTC (as defined in the Ordinance) or to a successor of DTC or to a nominee of a successor of DTC. Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R-13

\$400,000

**SPECIMEN**

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE CITY OF HUNTINGTON (WEST VIRGINIA)  
SEWERAGE SYSTEM REFUNDING REVENUE BOND, SERIES 2007

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
4.0%	November 1, 2021	December 27, 2007	446834 FA6

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: FOUR HUNDRED THOUSAND DOLLARS

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF HUNTINGTON, a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the City shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on May 1 and November 1, in each year, beginning May 1, 2008 (each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Ordinance.

Except as otherwise provided in the Ordinance, this global bond may be transferred, in whole but not in part, only to another nominee of DTC (as defined in the Ordinance) or to a successor of DTC or to a nominee of a successor of DTC. Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R-14

\$850,000

**SPECIMEN**

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE CITY OF HUNTINGTON (WEST VIRGINIA)  
SEWERAGE SYSTEM REFUNDING REVENUE BOND, SERIES 2007

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
4.0%	November 1, 2023	December 27, 2007	446834 FB4

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: EIGHT HUNDRED FIFTY THOUSAND DOLLARS

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF HUNTINGTON, a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the City shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on May 1 and November 1, in each year, beginning May 1, 2008 (each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Ordinance.





**FINANCIAL  
SECURITY  
ASSURANCE®**

**MUNICIPAL BOND  
INSURANCE POLICY**

ISSUER: The City of Huntington (West Virginia)

Policy No.: 209673-N

BONDS: \$5,500,000 in aggregate principal amount of  
Sewerage System Refunding Revenue Bonds,  
Series 2007

Effective Date: December 27, 2007

Premium: \$148,290.34

FINANCIAL SECURITY ASSURANCE INC. ("Financial Security"), for consideration received, hereby UNCONDITIONALLY AND IRREVOCABLY agrees to pay to the trustee (the "Trustee") or paying agent (the "Paying Agent") (as set forth in the documentation providing for the issuance of and securing the Bonds) for the Bonds, for the benefit of the Owners or, at the election of Financial Security, directly to each Owner, subject only to the terms of this Policy (which includes each endorsement hereto), that portion of the principal of and interest on the Bonds that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer.

On the later of the day on which such principal and interest becomes Due for Payment or the Business Day next following the Business Day on which Financial Security shall have received Notice of Nonpayment, Financial Security will disburse to or for the benefit of each Owner of a Bond the face amount of principal of and interest on the Bond that is then Due for Payment but is then unpaid by reason of Nonpayment by the Issuer, but only upon receipt by Financial Security, in a form reasonably satisfactory to it, of (a) evidence of the Owner's right to receive payment of the principal or interest then Due for Payment and (b) evidence, including any appropriate instruments of assignment, that all of the Owner's rights with respect to payment of such principal or interest that is Due for Payment shall thereupon vest in Financial Security. A Notice of Nonpayment will be deemed received on a given Business Day if it is received prior to 1:00 p.m. (New York time) on such Business Day; otherwise, it will be deemed received on the next Business Day. If any Notice of Nonpayment received by Financial Security is incomplete, it shall be deemed not to have been received by Financial Security for purposes of the preceding sentence and Financial Security shall promptly so advise the Trustee, Paying Agent or Owner, as appropriate, who may submit an amended Notice of Nonpayment. Upon disbursement in respect of a Bond, Financial Security shall become the owner of the Bond, any appurtenant coupon to the Bond or right to receipt of payment of principal of or interest on the Bond and shall be fully subrogated to the rights of the Owner, including the Owner's right to receive payments under the Bond, to the extent of any payment by Financial Security hereunder. Payment by Financial Security to the Trustee or Paying Agent for the benefit of the Owners shall, to the extent thereof, discharge the obligation of Financial Security under this Policy.

Except to the extent expressly modified by an endorsement hereto, the following terms shall have the meanings specified for all purposes of this Policy. "Business Day" means any day other than (a) a Saturday or Sunday or (b) a day on which banking institutions in the State of New York or the Insurer's Fiscal Agent are authorized or required by law or executive order to remain closed. "Due for Payment" means (a) when referring to the principal of a Bond, payable on the stated maturity date thereof or the date on which the same shall have been duly called for mandatory sinking fund redemption and does not refer to any earlier date on which payment is due by reason of call for redemption (other than by mandatory sinking fund redemption), acceleration or other advancement of maturity unless Financial Security shall elect, in its sole discretion, to pay such principal due upon such acceleration together with any accrued interest to the date of acceleration and (b) when referring to interest on a Bond, payable on the stated date for payment of interest. "Nonpayment" means, in respect of a Bond, the failure of the Issuer to have provided sufficient funds to the Trustee or, if there is no Trustee, to the Paying Agent for payment in full of all principal and interest that is Due for Payment on such Bond. "Nonpayment" shall also include, in respect of a Bond, any payment of principal or interest that is Due for Payment made to an Owner by or on behalf of the Issuer which has been recovered from such Owner pursuant to the

United States Bankruptcy Code by a trustee in bankruptcy in accordance with a final, nonappealable order of a court having competent jurisdiction. "Notice" means telephonic or telecopied notice, subsequently confirmed in a signed writing, or written notice by registered or certified mail, from an Owner, the Trustee or the Paying Agent to Financial Security which notice shall specify (a) the person or entity making the claim, (b) the Policy Number, (c) the claimed amount and (d) the date such claimed amount became Due for Payment. "Owner" means, in respect of a Bond, the person or entity who, at the time of Nonpayment, is entitled under the terms of such Bond to payment thereof, except that "Owner" shall not include the Issuer or any person or entity whose direct or indirect obligation constitutes the underlying security for the Bonds.

Financial Security may appoint a fiscal agent (the "Insurer's Fiscal Agent") for purposes of this Policy by giving written notice to the Trustee and the Paying Agent specifying the name and notice address of the Insurer's Fiscal Agent. From and after the date of receipt of such notice by the Trustee and the Paying Agent, (a) copies of all notices required to be delivered to Financial Security pursuant to this Policy shall be simultaneously delivered to the Insurer's Fiscal Agent and to Financial Security and shall not be deemed received until received by both and (b) all payments required to be made by Financial Security under this Policy may be made directly by Financial Security or by the Insurer's Fiscal Agent on behalf of Financial Security. The Insurer's Fiscal Agent is the agent of Financial Security only and the Insurer's Fiscal Agent shall in no event be liable to any Owner for any act of the Insurer's Fiscal Agent or any failure of Financial Security to deposit or cause to be deposited sufficient funds to make payments due under this Policy.

To the fullest extent permitted by applicable law, Financial Security agrees not to assert, and hereby waives, only for the benefit of each Owner, all rights (whether by counterclaim, setoff or otherwise) and defenses (including, without limitation, the defense of fraud), whether acquired by subrogation, assignment or otherwise, to the extent that such rights and defenses may be available to Financial Security to avoid payment of its obligations under this Policy in accordance with the express provisions of this Policy.

This Policy sets forth in full the undertaking of Financial Security, and shall not be modified, altered or affected by any other agreement or instrument, including any modification or amendment thereto. Except to the extent expressly modified by an endorsement hereto, (a) any premium paid in respect of this Policy is nonrefundable for any reason whatsoever, including payment, or provision being made for payment, of the Bonds prior to maturity and (b) this Policy may not be canceled or revoked. THIS POLICY IS NOT COVERED BY THE PROPERTY/CASUALTY INSURANCE SECURITY FUND SPECIFIED IN ARTICLE 76 OF THE NEW YORK INSURANCE LAW.

In witness whereof, FINANCIAL SECURITY ASSURANCE INC. has caused this Policy to be executed on its behalf by its Authorized Officer.

FINANCIAL SECURITY ASSURANCE INC.

By

Authorized Officer

A subsidiary of Financial Security Assurance Holdings Ltd.  
31 West 52nd Street, New York, N.Y. 10019

(212) 826-0100



A Dexia Company

December 10, 2007

**VIA E-MAIL**

Mr. Bruce Fox  
Executive Director  
The Sanitary Board of the City of Huntington  
1217 Adams Avenue  
Huntington, West Virginia 25704

Re: Not to Exceed \$5,375,000 aggregate principal amount of The City of Huntington (West Virginia) Sewerage System Refunding Revenue Bonds, Series 2007

Dear Mr. Fox:

Please find attached our commitment letter in respect of the above-referenced issue. Please return one fully executed copy to Ms. Lillie Santana, of our office, prior to any reference to Financial Security as insurer of the issue being made in marketing efforts in respect of the issue.

Please note that a blacklined copy of each draft of each financing document and opinion, each draft of the preliminary and final official statements and the bond proof should be delivered to us for review and comment.

Attached as a link to this e-mail is Financial Security's website, where the logo, statement of insurance, disclosure language, specimen policy, procedures for premium payment, form of opinion and form of disclosure, no default and tax certificate may be accessed and downloaded as needed. Financial Security will require, prior to closing, four hard copies of the final official statement.

**We will deliver to Bond Counsel, at the pre-closing, assuming the requirements of the commitment letter have been met, an opinion of counsel as to the validity of the policy, a disclosure, no default and tax certificate and the executed original policy. Prior to the closing, Financial Security will obtain rating letters from the rating agencies indicated in the official statement. Note that any questions with regard to rating agency fees should be directed to the respective rating agency.**

Please ensure that the following people are added to the Distribution List for this Financing:

Michael Cooper, Associate General Counsel

Telephone: (212) 893-7389  
Telecopier: (212) 857-0337  
E-Mail: MCooper@FSA.com

Jim Doyle, Director

Telephone: (212) 339-3462  
Telecopier: (212) 857-0354  
E-Mail: JDoyle@FSA.com

Lillie Santana, Assistant Vice President  
Documentation and Closing Supervisor

Telephone: (212) 339-3537  
Telecopier: (212) 857-0514  
E-Mail: LSantana@FSA.com

As a post-closing condition, Financial Security shall receive one original and two copies of the final closing transcript of proceedings. Such closing transcript may be in the form of either hard copies or three CD-ROMs.

We look forward to working with you.

Very truly yours,

Michael Cooper  
Associate General Counsel

cc: John C. Stump, Esquire; Steptoe & Johnson PLLC  
Mr. Brian Nurick, Senior Vice President; Ross Sinclair & Associates, LLC  
Gillard B. Johnson, III, Esquire; Reed & Johnson

**Financial Security Assurance**

31 West 52nd Street • New York, New York 10019 • Tel: 212.826.0100 • Fax: 212.688.3101  
New York • Dallas • San Francisco • London • Madrid • Paris • Singapore • Sydney • Tokyo



## MUNICIPAL BOND INSURANCE COMMITMENT

FINANCIAL SECURITY ASSURANCE INC. ("Financial Security" or "FSA") hereby commits to issue its Municipal Bond Insurance Policy (the "Policy") relating to whole maturities of the debt obligations described in Exhibit A attached hereto (the "Bonds"), subject to the terms and conditions set forth in this Commitment, of which Commitment Exhibit A is an integrated part, or added hereto (the "Commitment"). To keep this Commitment in effect after the Expiration Date set forth in Exhibit A attached hereto, a request for renewal must be submitted to Financial Security prior to such Expiration Date. Financial Security reserves the right to refuse wholly or in part to grant a renewal.

THE MUNICIPAL BOND INSURANCE POLICY SHALL BE ISSUED IF THE FOLLOWING CONDITIONS ARE SATISFIED:

1. The documents to be executed and delivered in connection with the issuance and sale of the Bonds shall not contain any untrue or misleading statement of a material fact and shall not fail to state a material fact necessary in order to make the information contained therein not misleading.
2. No event shall occur which would permit any underwriter or purchaser of the Bonds, otherwise required, not to be required to underwrite or purchase the Bonds on the date scheduled for the issuance and delivery thereof ("Closing Date").
3. There shall be no material change in or affecting the Bonds (including, without limitation, the security for the Bonds) or the financing documents or the Official Statement (or any similar disclosure documents) to be executed and delivered in connection with the issuance and sale of the Bonds from the descriptions or forms thereof approved by Financial Security.
4. The Bonds shall contain no reference to Financial Security, the Policy or the insurance evidenced thereby except as may be approved by Financial Security. **BOND PROOFS SHALL HAVE BEEN APPROVED BY FINANCIAL SECURITY PRIOR TO PRINTING.** The Bonds shall bear a Statement of Insurance in the form provided by Financial Security.
5. Financial Security shall be provided with:
  - (a) Executed copies of all financing documents, any disclosure document (the "Official Statement") and the various legal opinions delivered in connection with the issuance and sale of the Bonds (which shall be dated the Closing Date and which, except for the opinions of counsel relating to the adequacy of disclosure, shall be addressed to Financial Security or accompanied by a letter of such counsel permitting Financial Security to rely on such opinion as if such opinion were addressed to Financial Security), including, without limitation, the approving opinion of bond counsel. Each of the foregoing shall be in form and substance acceptable to Financial Security. Copies of all drafts of such documents prepared subsequent to the date of the Commitment (blacklined to reflect all revisions from previously reviewed drafts) shall be furnished to Financial Security for review and approval. Final drafts of such documents shall be provided to Financial Security at least three (3) business days prior to the issuance of the Policy, unless Financial Security shall agree to some shorter period.
  - (b) Evidence of wire transfer in federal funds of an amount equal to the insurance premium, unless alternative arrangements for the payment of such amount acceptable to Financial Security have been made prior to the delivery date of the Bonds.
  - (c) Standard & Poor's Credit Market Services, Moody's Investors Service Inc. and Fitch IBCA, Inc. will separately present bills for their respective fees relating to the Bonds. Payment of such bills by the Issuer should be made directly to such rating agency. Payment of the rating fee is not a condition to release of the Policy by Financial Security.
6. Promptly after the closing of the Bonds, Financial Security shall receive three completed sets of executed documents (one original and either (i) two photocopies (each unbound) or (ii) three compact discs).
7. The Official Statement shall contain the language provided by Financial Security and only such other references to Financial Security or otherwise as Financial Security shall supply or approve. **FINANCIAL SECURITY SHALL BE PROVIDED WITH FOUR PRINTED COPIES OF THE OFFICIAL STATEMENT.**

**MUNICIPAL BOND INSURANCE COMMITMENT  
TERM SHEET**

Issuer: The City of Huntington (West Virginia)

Name of Insured Bonds: Sewerage System Refunding Revenue Bonds, Series 2007

Principal Amount of Insured Bonds: Not to Exceed \$5,375,000

Date of Commitment: December 10, 2007      Expiration Date: Friday, February 15, 2008\*

Premium: 2.00% of total debt service on the Insured Bonds

Conditions:

1. The amortization schedule for, and final maturity date of, the Bonds shall be acceptable to Financial Security. The Insured Bonds will be issued with fixed rates through their stated maturity dates.
2. The ratio for each of the rate covenant contained in Section 6.06 of the Ordinance (as defined below) and the additional parity Bonds test contained in Section 6.11 of the Ordinance shall equal 1.20 for the term of the Insured Bonds.
3. See attached Exhibits B - D.

Terms used in this Commitment and not otherwise defined shall have the meanings ascribed to them in the Conformed Ordinance enacted by the Council of the Issuer on January 10, 2005 (the "Ordinance").

FINANCIAL SECURITY ASSURANCE INC.

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

\*To maintain the Commitment in effect until the Expiration Date, Financial Security must receive a duplicate of this Exhibit A executed by an authorized officer of the Issuer by the earlier of the date on which the Official Statement containing disclosure language regarding Financial Security is circulated and ten days from the date of this Commitment.

The undersigned agrees that if the Bonds are insured by a policy of municipal bond insurance, such insurance shall be provided by Financial Security in accordance with the terms of this Commitment.

THE SANITARY BOARD OF THE CITY OF  
HUNTINGTON

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

**LEGAL OPINION REQUIREMENTS**

1. Each of the Ordinance, the Supplement thereto authorizing the issuance of the Insured Bonds, the Insured Bonds, and other transaction documents (collectively, the "Related Documents") is a legal, valid and binding obligation of the parties thereto, has been duly authorized, executed and delivered and is enforceable in accordance with its terms.
2. There is no litigation or other proceeding pending or, to the best of such counsel's knowledge, threatened in any court, agency or other administrative body (either State or Federal) which could have a material adverse effect on (a) the financial condition of the Issuer, (b) the ability of the Issuer to perform its obligations under the Related Documents, (c) the security for the Bonds, (d) the transactions contemplated by the Related Documents [or (e) the ability of the Issuer to maintain and operate the System.
3. Nothing has come to the attention of counsel which would cause counsel to believe that, as of the closing date, the final Official Statement (excluding information provided by Financial Security) contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.
4. The Bonds are payable from and secured by a valid lien on and pledge of the Net Revenues in the manner and to the extent provided in the Ordinance. The Issuer is duly authorized to pledge such Net Revenues, and no further action on the part of the Issuer or any other party is required to perfect the same or the interest of the Bondowners therein.
5. The Net Revenues are "special revenues" and the Insured Bonds constitute "special revenue bonds" as such terms are used in Article 9 of the United States Bankruptcy Code.

## ORDINANCE REQUIREMENTS

The Ordinance or the supplement thereto authorizing the issuance of and securing the Insured Bonds shall incorporate the following requirements either in one section or article entitled "Provisions Relating to Bond Insurance" (or the like), the provisions of which section or article shall be stated in the Ordinance to govern, notwithstanding anything to the contrary set forth in the Ordinance, or individually in the appropriate sections:

- (a) "Insurance Policy" shall be defined as follows: "the insurance policy issued by the Insurer guaranteeing the scheduled payment of principal of and interest on the Bonds when due". "Insurer" shall be defined as follows: "Financial Security Assurance Inc., a New York stock insurance company, or any successor thereto or assignee thereof".
- (b) The prior written consent of the Insurer shall be a condition precedent to the deposit of any credit instrument provided in lieu of a cash deposit into the Series 2007 Bonds Reserve Account, if any. Notwithstanding anything to the contrary set forth in the Ordinance, amounts on deposit in the Series 2007 Bonds Reserve Account shall be applied solely to the payment of debt service due on the Bonds.
- (c) The Insurer shall be deemed to be the sole holder of the Insured Bonds for the purpose of exercising any voting right or privilege or giving any consent or direction or taking any other action that the holders of the Insured Bonds are entitled to take pursuant to the provisions of the Ordinance pertaining to (i) defaults and remedies and (ii) the duties and obligations of the Paying Agent. Remedies granted to the Bondholders shall expressly include mandamus.
- (d) If acceleration is permitted under the Ordinance, the maturity of Insured Bonds shall not be accelerated without the consent of the Insurer. In the event the maturity of the Bonds is accelerated, the Insurer may elect, in its sole discretion, to pay accelerated principal and interest accrued, on such principal to the date of acceleration (to the extent unpaid by the Issuer) and the Paying Agent shall be required to accept such amounts. Upon payment of such accelerated principal and interest accrued to the acceleration date as provided above, the Insurer's obligations under the Insurance Policy with respect to such Bonds shall be fully discharged.
- (e) No grace period for a covenant default shall exceed 30 days or be extended for more than 60 days, without the prior written consent of the Insurer. No grace period shall be permitted for payment defaults.
- (f) The Insurer shall be included as a third party beneficiary to the Ordinance.
- (g) Upon the occurrence of an extraordinary optional, special or extraordinary mandatory redemption in part, the selection of Bonds to be redeemed shall be subject to the approval of the Insurer. The exercise of any provision of the Ordinance which permits the purchase of Bonds in lieu of redemption shall require the prior written approval of the Insurer if any Bond so purchased is not cancelled upon purchase.
- (h) Any amendment, supplement, modification to, or waiver of, the Ordinance or any other transaction document, including any underlying security agreement (each a "Related Document"), that requires the consent of Bondowners or adversely affects the rights and interests of the Insurer shall be subject to the prior written consent of the Insurer.
- (i) Unless the Insurer otherwise directs, upon the occurrence and continuance of an Event of Default or an event which with notice or lapse of time would constitute an Event of Default, amounts on deposit in the Construction Fund shall not be disbursed, but shall instead be applied to the payment of debt service or redemption price of the Bonds.
- (j) The rights granted to the Insurer under the Ordinance or any other Related Document to request, consent to or direct any action are rights granted to the Insurer in consideration of its issuance of the Insurance Policy. Any exercise by the Insurer of such rights is merely an exercise of the Insurer's contractual rights and shall not be construed or deemed to be taken for the benefit, or on behalf, of the Bondholders and such action does not

**EXHIBIT C**  
**Page 2 of 5**

evidence any position of the Insurer, affirmative or negative, as to whether the consent of the Bondowners or any other person is required in addition to the consent of the Insurer.

- (k) Only (1) cash, (2) non-callable direct obligations of the United States of America ("Treasuries"), (3) evidences of ownership of proportionate interests in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated, (4) subject to the prior written consent of the Insurer, pre-refunded municipal obligations rated "AAA" and "Aaa" by S&P and Moody's, respectively, or (5) subject to the prior written consent of the Insurer, securities eligible for "AAA" defeasance under then existing criteria of S & P or any combination thereof, shall be used to effect defeasance of the Bonds unless the Insurer otherwise approves.

To accomplish defeasance, the Issuer shall cause to be delivered (i) a report of an independent firm of nationally recognized certified public accountants or such other accountant as shall be acceptable to the Insurer ("Accountant") verifying the sufficiency of the escrow established to pay the Bonds in full on the maturity or redemption date ("Verification"), (ii) an Escrow Deposit Agreement (which shall be acceptable in form and substance to the Insurer), (iii) an opinion of nationally recognized bond counsel to the effect that the Bonds are no longer "Outstanding" under the Ordinance and (iv) a certificate of discharge of the Paying Agent with respect to the Bonds; each Verification and defeasance opinion shall be acceptable in form and substance, and addressed, to the Issuer, Paying Agent and Insurer. The Insurer shall be provided with final drafts of the above-referenced documentation not less than five business days prior to the funding of the escrow.

Bonds shall be deemed "Outstanding" under the Ordinance unless and until they are in fact paid and retired or the above criteria are met.

- (l) Amounts paid by the Insurer under the Insurance Policy shall not be deemed paid for purposes of the Ordinance and the Bonds relating to such payments shall remain Outstanding and continue to be due and owing until paid by the Issuer in accordance with the Ordinance. The Ordinance shall not be discharged unless all amounts due or to become due to the Insurer have been paid in full or duly provided for.
- (m) The Issuer covenants and agrees to take such action (including, as applicable, filing of UCC financing statements and continuations thereof) as is necessary from time to time to preserve the priority of the pledge of the Trust Estate under applicable law.
- (n) Claims Upon the Insurance Policy and Payments by and to the Insurer.

If, on the third Business Day prior to the related scheduled interest payment date or principal payment date ("Payment Date") there is not on deposit with the Paying Agent, after making all transfers and deposits required under the Ordinance, moneys sufficient to pay the principal of and interest on the Bonds due on such Payment Date, the Paying Agent shall give notice to the Bond Insurer and to its designated agent (if any) (the "Insurer's Fiscal Agent") by telephone or telecopy of the amount of such deficiency by 12:00 noon, New York City time, on such Business Day. If, on the second Business Day prior to the related Payment Date, there continues to be a deficiency in the amount available to pay the principal of and interest on the Bonds due on such Payment Date, the Paying Agent shall make a claim under the Insurance Policy and give notice to the Insurer and the Insurer's Fiscal Agent (if any) by telephone of the amount of such deficiency, and the allocation of such deficiency between the amount required to pay interest on the Bonds and the amount required to pay principal of the Bonds, confirmed in writing to the Insurer and the Insurer's Fiscal Agent by 12:00 noon, New York City time, on such second Business Day by filling in the form of Notice of Claim and Certificate delivered with the Insurance Policy.

The Paying Agent shall designate any portion of payment of principal on Bonds paid by the Insurer, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of Bonds registered to the then current Bondholder, whether DTC or its nominee or otherwise, and shall issue a replacement Bond to the Insurer, registered in the name of Financial

EXHIBIT C  
Page 3 of 5

Security Assurance Inc., in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided that the Paying Agent's failure to so designate any payment or issue any replacement Bond shall have no effect on the amount of principal or interest payable by the Issuer on any Bond or the subrogation rights of the Insurer.

The Paying Agent shall keep a complete and accurate record of all funds deposited by the Insurer into the Policy Payments Account (defined below) and the allocation of such funds to payment of interest on and principal of any Bond. The Insurer shall have the right to inspect such records at reasonable times upon reasonable notice to the Paying Agent.

Upon payment of a claim under the Insurance Policy, the Paying Agent shall establish a separate special purpose trust account for the benefit of Bondholders referred to herein as the "Policy Payments Account" and over which the Paying Agent shall have exclusive control and sole right of withdrawal. The Paying Agent shall receive any amount paid under the Insurance Policy in trust on behalf of Bondholders and shall deposit any such amount in the Policy Payments Account and distribute such amount only for purposes of making the payments for which a claim was made. Such amounts shall be disbursed by the Paying Agent to Bondholders in the same manner as principal and interest payments are to be made with respect to the Bonds under the sections hereof regarding payment of Bonds. It shall not be necessary for such payments to be made by checks or wire transfers separate from the check or wire transfer used to pay debt service with other funds available to make such payments. Notwithstanding anything herein to the contrary, the Issuer agrees to pay to the Insurer (i) a sum equal to the total of all amounts paid by the Insurer under the Insurance Policy (the "Insurer Advances"); and (ii) interest on such Insurer Advances from the date paid by the Insurer until payment thereof in full, payable to the Insurer at the Late Payment Rate per annum (collectively, the "Insurer Reimbursement Amounts"). "Late Payment Rate" means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank at its principal office in The City of New York, as its prime or base lending rate (any change in such rate of interest to be effective on the date such change is announced by JPMorgan Chase Bank) plus 3%, and (ii) the then applicable highest rate of interest on the Bonds and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. The Late Payment Rate shall be computed on the basis of the actual number of days elapsed over a year of 360 days. The Issuer hereby covenants and agrees that the Insurer Reimbursement Amounts are secured by a lien on and pledge of the Net Revenues and payable from such Net Revenues on a parity with debt service due on the Bonds.

Funds held in the Policy Payments Account shall not be invested by the Paying Agent and may not be applied to satisfy any costs, expenses or liabilities of the Paying Agent. Any funds remaining in the Policy Payments Account following a Bond payment date shall promptly be remitted to the Insurer.

- (o) The Insurer shall, to the extent it makes any payment of principal of or interest on the Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Insurance Policy. Each obligation of the Issuer to the Insurer under the Related Documents shall survive discharge or termination of such Related Documents.
- (p) The Issuer shall pay or reimburse the Insurer any and all charges, fees, costs and expenses that the Insurer may reasonably pay or incur in connection with (i) the administration, enforcement, defense or preservation of any rights or security in any Related Document; (ii) the pursuit of any remedies under the Ordinance or any other Related Document or otherwise afforded by law or equity, (iii) any amendment, waiver or other action with respect to, or related to, the Ordinance or any other Related Document whether or not executed or completed, or (iv) any litigation or other dispute in connection with the Ordinance or any other Related Document or the transactions contemplated thereby, other than costs resulting from the failure of the Insurer to honor its obligations under the Insurance Policy. The Insurer reserves the right to charge a reasonable fee as a condition to executing any amendment, waiver or consent proposed in respect of the Ordinance or any other Related Document.
- (q) After payment of reasonable expenses of the Paying Agent, the application of funds realized upon default shall be applied to the payment of expenses of the Issuer or rebate only after the payment of past due and current

EXHIBIT C  
Page 4 of 5

debt service on the Bonds and amounts required to restore the Series 2007 Bonds Reserve Account to the Series 2007 Bonds Reserve Account Requirement.

- (r) The Insurer shall be entitled to pay principal or interest on the Bonds that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer (as such terms are defined in the Insurance Policy) and any amounts due on the Bonds as a result of acceleration of the maturity thereof in accordance with the Ordinance, whether or not the Insurer has received a Notice of Nonpayment (as such terms are defined in the Insurance Policy) or a claim upon the Insurance Policy.
- (s) The notice address of the Insurer is: Financial Security Assurance Inc., 31 West 52nd Street, New York, New York 10019, Attention: Managing Director – Surveillance, Re: Policy No. \_\_\_\_\_, Telephone: (212) 826-0100; Telecopier: (212) 339-3556. In each case in which notice or other communication refers to an Event of Default, then a copy of such notice or other communication shall also be sent to the attention of the General Counsel and shall be marked to indicate "URGENT MATERIAL ENCLOSED."
- (t) The Insurer shall be provided with the following information by the Issuer:
- (i) Annual audited financial statements within 150 days after the end of the Issuer's fiscal year;
  - (ii) A certification of the Issuer that it is not aware of any default or Event of Default under the Ordinance, together with a worksheet containing the calculations of Net Revenues and Maximum Annual Debt Service and demonstrating compliance with the rate covenant set forth in Section 6.06 of the Ordinance.
  - (iii) The Issuer's annual budget within 30 days after the approval thereof together with such other information, data or reports as the Insurer shall reasonably request from time to time;
  - (iv) Notice of any draw upon the Series 2007 Bonds Reserve Account within two Business Days after knowledge thereof other than (i) withdrawals of amounts in excess of the Series 2007 Bonds Reserve Account Requirement and (ii) withdrawals in connection with a refunding of Insured Bonds;
  - (v) Notice of any default known to the Paying Agent or Issuer within five Business Days after knowledge thereof;
  - (vi) Prior notice of the advance refunding or redemption of any of the Bonds, including the principal amount, maturities and CUSIP numbers thereof;
  - (vii) Notice of the resignation or removal of the Paying Agent and Bond Registrar and the appointment of, and acceptance of duties by, any successor thereto;
  - (viii) Notice of the commencement of any proceeding by or against the Issuer commenced under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an "Insolvency Proceeding");
  - (ix) Notice of the making of any claim in connection with any Insolvency Proceeding seeking the avoidance as a preferential transfer of any payment of principal of, or interest on, the Bonds;
  - (x) A full original transcript of all proceedings relating to the execution of any amendment, supplement, or waiver to the Related Documents; and

**EXHIBIT C**  
**Page 5 of 5**

- (xi) All reports, notices and correspondence to be delivered to Bondholders under the terms of the Related Documents.
- (v) Notwithstanding satisfaction of the other conditions to the issuance of Additional Bonds set forth in the Ordinance, no such issuance may occur (1) if an Event of Default (or any event which, once all notice or grace periods have passed, would constitute an Event of Default) exists unless such default shall be cured upon such issuance and (2) unless the Series 2007 Bonds Reserve Account is fully funded at the Series 2007 Bonds Reserve Account Requirement upon the issuance of such Additional Bonds, in either case unless otherwise permitted by the Insurer.
- (v) In determining whether any amendment, consent, waiver or other action to be taken, or any failure to take action, under the Ordinance would adversely affect the security for the Bonds or the rights of the Bondholders, the Issuer shall consider the effect of any such amendment, consent, waiver, action or inaction as if there were no Insurance Policy.
- (w) No contract shall be entered into or any action taken by which the rights of the Insurer or security for or sources of payment of the Bonds may be impaired or prejudiced in any material respect except upon obtaining the prior written consent of the Insurer.

**REFUNDING REQUIREMENTS**

The following applies to any bonds to be refunded with the proceeds of the Insured Bonds that (i) will not be called for redemption or mature within ninety (90) days of the issuance of the Insured Bonds and (ii) are currently insured by Financial Security (the "Refunded Bonds"):

- (a) The defeasance of the Refunded Bonds shall be accomplished by the deposit solely of cash or direct non-callable obligations of the United States of America unless otherwise approved by Financial Security.
- (b) The document providing for the establishment and maintenance of the escrow to provide such defeasance (the "Escrow Deposit Agreement") shall be in form and substance acceptable to Financial Security. Modification of the Escrow Deposit Agreement shall not be permitted unless Financial Security shall consent to such modification.
- (c) In the event a forward purchase agreement will be employed in the refunding, such agreement shall be subject to the approval of Financial Security and shall be accompanied by opinions of counsel as required by Financial Security. Financial Security shall provide its requirements for forward purchase agreements upon request.
- (d) Financial Security shall be an addressee of a Verification Report by an independent firm of certified public accountants that is either nationally recognized or otherwise acceptable to Financial Security, in form and substance satisfactory to Financial Security, as to the adequacy of the escrow established to provide for the payment of the Refunded Bonds in accordance with the terms and provisions of the Escrow Deposit Agreement.
- (e) Bond Counsel shall deliver an opinion or opinions containing items to the effect that (i) upon the issuance of the Insured Bonds and deposit of the proceeds thereof as provided in the Escrow Deposit Agreement, the Refunded Bonds shall no longer be "outstanding" for purposes of the Ordinance, and (ii) the Escrow Deposit Agreement has been duly authorized, executed and delivered and constitutes a valid, binding and enforceable obligation of the Issuer.

**PROCEDURES FOR PREMIUM PAYMENT TO  
FINANCIAL SECURITY ASSURANCE INC.**

Financial Security's issuance of its municipal bond insurance policy at bond closing is contingent upon payment and receipt of the premium. **NO POLICY MAY BE RELEASED UNTIL PAYMENT OF SUCH AMOUNT HAS BEEN CONFIRMED.** Set forth below are the procedures to be followed for confirming the amount of the premium to be paid and for paying such amount:

Confirmation of Amount to be Paid:	<b>Upon determination of the final debt service schedule, fax such schedule to Financial Security</b> Attention: Jim Doyle, Director Phone No. (212) 339-3462 Fax No. (212) 857-0354
---------------------------------------	---

**Confirm with the individual in our underwriting department that you are in agreement with respect to par and premium on the transaction prior to the closing date.**

Payment Date: Date of Delivery of the insured bonds.

Method of Payment: Wire transfer of Federal Funds.

**Wire Transfer Instructions:**

Bank:	The Bank of New York
ABA#:	021 000 018
Acct. Name:	Financial Security Assurance Inc.
Account No.:	8900297263
Transaction No.	104851
Policy No.:	[To Be Assigned]

**CONFIRMATION OF PREMIUM WIRE NUMBER AT CLOSING**

Financial Security will accept as confirmation of the premium payment a wire transfer number and the name of the sending bank, to be communicated on the closing date to Lillie Santana, Assistant Vice President Documentation and Closing Supervisor, (212) 339-3537.



\$5,500,000

THE CITY OF HUNTINGTON  
(WEST VIRGINIA)

Sewerage System Refunding Revenue Bonds, Series 2007

PREPAYMENT AGREEMENT FOR SERIES 1993 BONDS

This PREPAYMENT AGREEMENT (the "Agreement"), made and entered into as of December 27, 2007, by and between THE CITY OF HUNTINGTON (the "Issuer"), the WEST VIRGINIA MUNICIPAL BOND COMMISSION (the "Paying Agent").

WITNESSETH THAT:

WHEREAS, the Issuer presently owns and operates a public sewerage system (the "System") and has heretofore financed the acquisition and construction of the System and certain additions, extensions and improvements thereto by issuance of several series of bonds;

WHEREAS, the Issuer has determined to issue its Sewerage System Refunding Revenue Bonds, Series 2007 (the "2007 Bonds") and contemporaneously therewith prepay and defease its Sewerage System Refunding Revenue Bonds, Series 1993 (the "1993 Bonds") by depositing a portion of the proceeds of the 2007 Bonds with the Paying Agent pursuant to a bond resolution adopted on January 10, 2005, as supplemented; and

WHEREAS, the proceeds of the 2007 Bonds which will be delivered to the Paying Agent simultaneously with the delivery of the 2007 Bonds, along with funds currently on deposit in the Series 1993 Bond Sinking Fund, including the Reserve Account therein, held by the Paying Agent, are in such amounts as to insure the payment on March 1, 2008 (the "Redemption Date") by THE BANK OF NEW YORK, of the entire principal amount of the 1993 Bonds then outstanding, the redemption premium and all interest accrued thereon (collectively, the "Redemption Price");

**NOW, THEREFORE**, in consideration of the mutual agreements contained herein, and in order further to secure payment of the 1993 Bonds, as heretofore provided, the parties hereto mutually undertake, promise and agree for themselves, their respective representatives, successors and assigns, as follows:

1. The deposit of the proceeds of the 2007 Bonds with the Paying Agent shall constitute an irrevocable deposit of such moneys in trust for, and such moneys shall be deposited in the 1993 Bonds Sinking Fund and applied to the payment of the

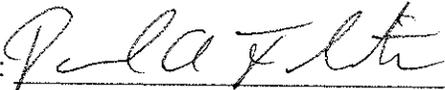
Redemption Price of the 1993 Bonds by THE BANK OF NEW YORK on the Redemption Date.

2. The Issuer has requested the Paying Agent, as Registrar of the Series 1993 Bonds, to provide a notice of redemption by registered or certified mail to the registered owners of the 1993 Bonds not more than 60 days nor less than 30 days prior to the Redemption Date, in accordance with the requirements of the 1993 Bonds.
3. The holders of the 1993 Bonds shall have an express lien on all moneys and assets in the 1993 Bonds Sinking Fund until paid out, used and applied in accordance with this Agreement.
4. This Agreement shall terminate on the date on which all the Outstanding 1993 Bonds have been redeemed, paid in full and discharged. Upon termination of this Agreement, any moneys remaining at the Bank, if any, after payment of administrative fees shall be transferred to the Sinking Fund (or Debt Service Fund as the case may be) of the 2007 Bonds.
5. This 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.
6. This Agreement is made in the State of West Virginia under the Constitution and laws of such State and is to be so construed.

[Signature page follows.]

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the day and year first above written.

THE CITY OF HUNTINGTON

By:   
Its: Mayor

WEST VIRGINIA MUNICIPAL BOND COMMISSION

By: \_\_\_\_\_  
Its: Authorized Representative

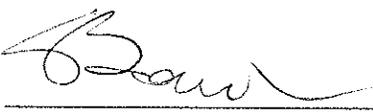
12.18.2007  
435500.00010

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the day and year first above written.

THE CITY OF HUNTINGTON

By: \_\_\_\_\_  
Its: Mayor

WEST VIRGINIA MUNICIPAL BOND COMMISSION

By:  \_\_\_\_\_  
Its: Authorized Representative

12.18.2007  
435500.00010



THE CITY OF HUNTINGTON  
(WEST VIRGINIA)

Sewerage System Refunding Revenue Bonds, Series 2007

**REGISTRAR AGREEMENT**

THIS AGREEMENT, dated as of the 27th day of December, 2007, by and between THE CITY OF HUNTINGTON, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and UNITED BANK, INC., Charleston, West Virginia, a state banking corporation (the "Bank").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$5,500,000 aggregate principal amount of Sewerage System Refunding Revenue Bonds, Series 2007 (the "Series 2007 Bonds" or "Bonds"), in fully registered form pursuant to a Bond Ordinance enacted January 10, 2005, as supplemented by a Supplemental Parameters Resolution adopted December 10, 2007 (collectively, the "Bond Legislation");

WHEREAS, capitalized words and terms used in this 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 Agreement does appoint the Bank 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 Agreement by the Issuer and the Bank and during the term hereof, the Bank does accept and shall have and agrees to perform all of the powers and duties of Registrar, 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 excludability from gross income of interest on the Series 2007 Bonds for purposes of federal income taxation, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities

Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Bank agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Bank'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 Bank shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.
4. As compensation for acting as Registrar pursuant to this Agreement, the Issuer hereby agrees to pay to the Bank, the compensation for services rendered as provided in the annexed fee schedule and reimbursement for reasonable expenses incurred in connection therewith.
5. It is intended that this 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 Agreement and the Bond Legislation, the terms of the Bond Legislation shall govern.
6. The Issuer and the Bank each warrants and represents that it is duly authorized and empowered to execute and enter into this Agreement and that neither such execution nor the performance of its duties hereunder or under the Bond Legislation will violate any order, decree or agreement to which it is a party or by which it is bound.
7. This Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER:

The City of Huntington  
Post Office Box 1659  
Huntington, West Virginia 25717  
Attention: Mayor

REGISTRAR:

United Bank, Inc.  
500 Virginia Street, East  
Charleston, West Virginia 25301  
Attention: Corporate Trust

8. The Bank is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Bond Legislation.

9. If any one or more of the covenants or agreements provided in this 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 Agreement.
10. This 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.

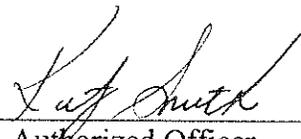
[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed in their respective names and on their behalf, all as of the day and year first above-written.

THE CITY OF HUNTINGTON

By:   
Its: Mayor

UNITED BANK, INC.

By:   
Its: Authorized Officer

12.18.2007  
435500.00010

CH929737.2

EXHIBIT A

Bond Legislation

[See Transcript at Tab No. 1 and Tab No. 2]

FEE SCHEDULE

(On File with Issuer)



CHARTER  
OF THE CITY OF  
HUNTINGTON, WEST VIRGINIA

EDITOR'S NOTE: The Huntington Charter was approved by the voters on June 4, 1985. Dates appearing in parentheses following section headings indicate those sections were subsequently amended, added or repealed on the date given.

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CHARTER  
OF THE CITY OF  
HUNTINGTON, WEST VIRGINIA

ARTICLE ONE  
INCORPORATION; FORM OF GOVERNMENT; POWERS

SECTION 1.1. INCORPORATION.

The inhabitants of the City of Huntington, West Virginia, within the corporate limits as now established or as hereafter established, shall continue to be a municipal corporation under the name of "The City of Huntington" and in the manner provided by law.

SECTION 1.2. FORM OF GOVERNMENT.

The municipal government provided by this Charter shall be the "strong-mayor plan". All powers of the City shall be exercised in the manner prescribed by this Charter or by general law.

SECTION 1.3. POWERS OF CITY.

This City, incorporated under this Charter, shall have all the powers granted to municipal corporations and to cities of its class by the constitution and laws of the State of West Virginia, together with all the implied powers necessary to carry into execution all powers granted.

SECTION 1.4. CONSTRUCTION.

The powers of the City under this Charter shall be construed liberally in favor of the City and the specific mention of particular powers in this Charter shall not be construed as limiting in any way the general power stated in this Article.

ARTICLE TWO  
MAYOR

SECTION 2.1. POWERS AND DUTIES OF MAYOR.

The Mayor shall be the chief executive officer of the City and shall exercise all powers and perform all duties vested in or imposed upon him or her by this Charter, ordinance, general law or rule necessarily implied therefrom in order to carry out the functions of his or her office. The Mayor shall exercise directly, or through his or her authorized and duly appointed representatives, supervision over all executive and administrative work of the City. The Mayor shall report to Council, at least annually, upon the state of the City and may recommend to Council such measures as he or she deems to be in the best interests of the City.

and its inhabitants. The Mayor shall appoint City officers and employees as provided by law, this Charter or ordinance and may, except where prohibited or otherwise provided by general law, this Charter, ordinance or any duly adopted merit or civil service systems, remove any City officer or employee at his or her pleasure, whether such officer or employee was appointed by the Mayor with or without the approval of Council. Except as otherwise provided by general law, the Mayor shall appoint members of independent boards, agencies or commissions, which appointments shall be subject to the approval of Council; provided, however, no individual shall be eligible for reappointment to any such board, agency, or commission who has previously served three full and consecutive terms on such board, agency or commission unless a period of time equal to a full term thereon shall have passed since the expiration of said individual's last previous term of office.

#### SECTION 2.2. ELECTION AND TERM OF MAYOR.

The qualified electors of the City shall elect the Mayor from the City at large in the manner provided in Article Eleven of this Charter, to serve for a term of four years. No person who shall have previously been elected for three fully consecutive terms as Mayor shall be eligible to succeed himself or herself in that office and the Mayor shall not, during his or her term of office, hold any other public office or position, be a member of any political executive committee. (Ord. 9-13-93, 1-1-97)

#### SECTION 2.3. QUALIFICATIONS OF MAYOR.

Prior to his or her election, the Mayor shall be a citizen of the United States and the State of West Virginia, and shall be a resident and qualified elector of the City. He or she shall be at least twenty-five years of age at the time of his or her election and shall remain a resident of the City during his or her term or terms of office.

#### SECTION 2.4. ACTING MAYOR.

In case of the Mayor's temporary absence, he or she shall designate, by order delivered to the City Clerk prior to his or her absence, any officer of the City, except members of Council, to serve as Acting Mayor; provided that, in the event the Mayor fails to so designate an Acting Mayor, the Director of the Department of Administration and Finance shall serve as Acting Mayor.

#### SECTION 2.5. VACANCY IN OFFICE.

A vacancy in the office of Mayor, occurring for any reason, shall be filled in the same manner as that provided for filling vacancies in Council as set out in Section 3.13 of this Charter; except Council shall not select a member of Council to fill a vacancy and in the event Council should fail to fill a vacancy within thirty days after its occurrence, the members of Council shall receive no further compensation until such vacancy shall have been filled and no funds shall issue for such compensation which would ordinarily have accrued during the period of noncompliance.

**SECTION 2.6. COMPENSATION.**

The Mayor shall be compensated at the rate of sixty-two thousand two hundred seventy-two dollars per annum. Council may, by ordinance, change the salary of the Mayor, but no ordinance shall be effective to reduce or increase the Mayor's salary during his or her current term of office. (Ord. 6-23-97) (Effective 7-1-98)

**SECTION 2.7. SUBMISSION OF ORDINANCES TO MAYOR; VETO POWER.**

Within ninety-six hours after the adjournment of any Council meeting, the City Clerk shall present to the Mayor the record of proceedings of the meeting and all ordinances and resolutions adopted at the meeting. The Mayor, within seven days of receipt by him or her of an ordinance or resolution, shall return it to the City Clerk with his or her approval signature, with his or her written veto, or the Mayor may not act. If the ordinance or resolution is signed by the Mayor, it shall become operative as specified in the ordinance. If the ordinance is disapproved by veto, the Mayor shall attach thereto a written statement explaining the reasons for his or her veto. If the Mayor does not act, the ordinance or resolution shall become operative at noon on the seventh calendar day after it is received by the Mayor. Ordinances or resolutions vetoed by the Mayor shall be presented by the City Clerk to Council for its consideration at its next regular meeting and should Council then or thereafter adopt the ordinance or resolution by an affirmative vote of at least two-thirds of all its members, it shall be operative upon the date specified by Council, but in no event less than fifteen days after the date of final passage. If no operative date is so specified, it shall become operative at noon on the fifteenth calendar day after the date of final passage. The Mayor's veto power shall extend to disapproving or reducing any individual appropriation item in the budget or any ordinance or resolution, but shall not extend or apply to any appropriation or resolution authorized pursuant to Section 3.16 of this Charter.

**SECTION 2.8. MAYOR SHALL ATTEND COUNCIL MEETINGS.**

The Mayor shall attend every meeting of Council, may attend any meeting of its committees and may express his or her views, orally or in writing, on matters pending before Council. The Mayor shall have no right to introduce any motion, resolution, ordinance or amendments thereto, nor to vote on questions before Council. Provisions of Section 3.13 and 14.17 pertaining to attendance at meetings shall apply to the Mayor. (Ord. 3-8-93) (Ord. 3-16-93) (Effective 7-1-93)

**ARTICLE THREE  
COUNCIL****SECTION 3.1. POWERS.**

All legislative powers of the City shall be vested in Council which shall be the governing body of the City.

**SECTION 3.2. NUMBER, SELECTION AND TERMS.**

The City shall have a Council consisting of eleven members. Eleven council members shall be elected, one from each of the nine municipal election districts hereinafter described and two members elected at-large. Each of the nine district Council members shall be elected by the qualified electors residing in the particular district from which he or she is to be elected, to serve for a term of four years. Each at-large Council member shall be elected by the qualified electors residing in the entire City for a term of four years. However, no more than one at-large Council member shall be a resident of any one municipal election district at the time of his or her election. In no case shall any member of Council serve more than three consecutive terms as a Council member. All elections for members of Council shall be conducted according to the provisions set forth in Article Eleven of this Charter. (Ord. 9-13-93, Effective 1-1-97)

**SECTION 3.3. MUNICIPAL ELECTION DISTRICTS DEFINED.**

The City shall be divided into nine municipal election districts as the basis for electing district Council members. The boundaries, population and designation of the nine initial Council districts are specified in Appendix of this Charter and shall remain in effect until changed in accordance with provisions set forth in Section 3.5 of this Charter.

**SECTION 3.4. MUNICIPAL ELECTION PRECINCTS DEFINED.**

The municipal election precincts contained in the municipal election districts referred to in Section 3.3 of this Charter shall mean the voting precincts as they lie within the corporate limits of the City of Huntington fixed by reference to and in accordance with the division of Cabell County into precincts by Order of the County Commission of Cabell County, West Virginia, in effect for all State and County elections on the effective date of this Charter and fixed by reference to and in accordance with the division of that portion of Wayne County lying within the corporate limits of the City of Huntington into precincts by Order of the County Commission of Wayne County, West Virginia, in effect for all State and County elections on the effective date of this Charter. Within three months after their election and qualification, the members of the first Council elected under this Charter, shall cause to be made and kept a detailed map of the City showing the boundaries of the municipal election districts and precincts described in Section 3.3 and 3.4 of this Charter and each subsequent Council shall cause such map to be kept, maintained and revised as appropriate. The initial such map and any revised such map shall be approved and promulgated by Council in the same manner as provided for the adoption of ordinances.

**SECTION 3.5. COUNCIL REDISTRICTING.**

It shall be the duty of Council to redistrict the City, by ordinance, within a period of six months after the official publication by the United States Bureau of the Census of the population of the area embraced by the City as revealed in such official census. Each municipal election district shall be made to contain as nearly as practicable, consistent with general law, an equal number of municipal residents and an equal number of qualified electors of the City as determined from the registered voters at the last general municipal election. In addition, Council shall not create or establish a municipal election district that is not compact

and contiguous and in compliance with Chapter 3, Article 1, Section 6 of the Official Code of West Virginia. In no case shall Council fail to pass a redistricting ordinance, if necessitated by the provisions of this Charter, later than six months preceding the primary election or any regular election in which a seat on Council is at stake. If, at the commencement of the six month period prior to such election, Council shall have failed to redistrict the City as herein required, the members of Council shall forfeit all farther compensation until such ordinance shall have been lawfully adopted; and no funds shall issue for such compensation which would ordinarily have accrued during the period of noncompliance. Within the limits established above, Council may redistrict the City by ordinance at any more frequent intervals it may deem appropriate based upon any other more timely information that may become available.

#### SECTION 3.6. QUALIFICATIONS.

Prior to his or her election, all members of Council shall be citizens of the United States and the State of West Virginia, shall be a qualified elector and resident of the City and of his or her respective district and shall, during his or her term of office remain a resident of the district from which he or she is elected or has been appointed to represent; provided, however, no redistricting of the City shall affect the term of any Council member during his or her then existing term of office. A Council member shall not, during his or her term of office, hold any other public office, be a member of any political executive committee nor be an employee of the City.

#### SECTION 3.7. ORGANIZATION OF COUNCIL; OFFICERS; RULES; EMPLOYEES; MEETINGS.

Council shall meet in the Council chambers at City Hall for organization at 7:30 p.m. local time on the Monday next following the date its members assume office, at which time it shall elect one of its members as Chairperson and one of its other members as Vice-Chairperson, both of whom shall serve at the will and pleasure of Council. The Chairperson shall be the presiding officer and shall, together with all other Council members, have the right to vote in Council. In the event of the Chairperson's absence, disability, or disqualification to act, the Vice-Chairperson shall act as Chairperson. A majority of the total number of Council members shall constitute a quorum for any purpose not requiring more than a majority vote of Council. Council shall determine and adopt its own rules governing its officers and employees, for the organization of committees and respecting the transaction of its business; except that, whenever in the conduct of any business of Council, a vote is required by Council, all members present shall vote on the issue, question, motion, resolution or other business and no vote of abstention, disqualification, pass or other similar such vote shall be permitted except as provided by Charter or general law. Council shall meet regularly on the second and fourth Monday of each month at 7:30 p.m. local time in the Council Chambers at City Hall, excepting only when a regularly scheduled Council meeting shall occur on a legal holiday. Council shall, in that event, meet at such time as prescribed by Section 14.8 of this Charter, but not less frequently than herein prescribed. Special meetings may be called at any time, upon reasonable notice by the Mayor or the Chairperson of Council, and shall be so called by the Chairperson upon the request of a majority of all members of Council. The requirement of reasonable notice, may be satisfied by delivering to each member of Council a written notice of the time, place and purpose of the special meeting in the method provided by law for the service of process in a civil action at least twelve hours prior to the time set for the meeting or by such other method as Council may by ordinance provide. No other meetings of Council, except as herein provided, shall qualify for any purpose under this Charter. Council may designate the City Auditorium, or such other appropriate and convenient location, as the Council Chambers for purposes of conducting its regular meetings and any special meetings that may be called pursuant to the provisions herein. (Ord. 2-8-93.) (Ord. 2-18-93.)

**SECTION 3.8. CITY CLERK.**

Council shall appoint a City Clerk who shall give notice of its meetings, keep the journal of its proceedings, authenticate by his or her signature and record in full, in a book kept for the purpose, all ordinances and resolutions and perform such other duties as may be required by this Charter, Council, or general law. The City Clerk shall serve at the will and pleasure of Council.

**SECTION 3.9. ORDINANCES; PROCEDURE.**

Every act of Council which is to become law shall be by ordinance. Prior to the enactment of any ordinance, the Council shall cause notice of the proposed adoption of said ordinance to be published as a Class 1-0 legal advertisement in compliance with the provisions of general law; the notice shall state the subject matter and general title or titles of such proposed ordinance, the date, time and place of the proposed final vote on the adoption of the ordinance, and the place or places within the City where such proposed ordinance may be inspected by the public. A reasonable number of copies of the proposed ordinance shall be kept in the office of the City Clerk and be made available for public inspection. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance. All other procedures for enacting ordinances shall be performed in the manner provided in Chapter 8, Article 11 of the West Virginia Code. (Ord. 3-8-93) (Ord. 3-16-93, Effective 7-1-93)

**SECTION 3.10. COUNCIL MEETINGS TO BE PUBLIC.**

The meetings of Council shall be open to the public; provided, however, Council may hold a closed, executive session, for the purpose of discussing any matter authorized by law; and also provided the procedure used to hold such executive session conforms to the requirements of Chapter 6, Article 9A of the Official Code of West Virginia, together with any other applicable law.

**SECTION 3.11. COUNCIL TO BE JUDGE OF QUALIFICATIONS OF MEMBERS.**

Council shall be the judge of the election and qualification of its members, consistent with the provisions of this Charter and general law, and for such purpose Council shall have power to subpoena witnesses and require production of records.

**SECTION 3.12. CREATION OF DEPARTMENTS OR OFFICES; CHANGE IN DUTIES.**

Council may create, change or abolish offices, departments, divisions, boards or agencies, other than the offices, departments, divisions, boards and agencies created by this Charter. Either Council or the Mayor may assign additional functions or duties to offices, departments, divisions, boards or agencies established by Council or by this Charter, but the Mayor may not discontinue such duties or functions without the approval of Council. Neither the Mayor nor Council shall discontinue or reassign to any other office, department, division, board or agency any function or duty assigned by this Charter to a particular office, department, division, board or agency.

**SECTION 3.13. VACANCIES IN COUNCIL.**

If a Council member absents himself or herself from forty or more percent of the meetings scheduled in accordance with Section 3.7 herein in any twelve month period, ceases to possess any of the qualifications required by this Charter, becomes physically or mentally incapacitated to the extent that he or she is unable to properly perform the functions of the office or is convicted of a felony or any crime involved moral turpitude, he or she shall be disqualified from holding the office of Council member and such office shall thereby become vacant and shall be so declared by Council forthwith. Any Council member may be removed from office under the provisions of general law. If a Council member absents himself or herself from forty or more percent of Council meetings as provided herein, such absence shall, ipso facto, constitute neglect of duty. If a vacancy on Council shall occur as aforesaid or by reason of death, resignation, removal or other cause, such vacancy shall be filled as follows:

The remaining members of Council shall select a citizen with requisite qualification by a majority vote of its remaining members at a meeting held not less than fifteen nor more than thirty days following the declaration of such vacancy, who shall be a resident of the same district as that in which the Council member resided whose seat was vacated. The person so appointed shall hold office for the unexpired term or until his or her successor has been duly elected and qualified. In the event Council shall fail to choose a qualified successor, as provided herein, the Mayor shall appoint a person with the requisite qualifications to fill the vacancy for the unexpired term or until his or her successor has been elected and qualified. (Ord. 5-8-89)

**SECTION 3.14. COMPENSATION.**

Each member of Council shall receive the sum of two hundred fifty dollars for each Council meeting scheduled and attended pursuant to Section 3.7 herein; provided, however, the annual compensation of any Council member shall, in no event, exceed the sum of six thousand dollars per annum. Council shall, by ordinance, address itself to the issue of compensation for the Mayor and Council members at least once every four fiscal years, commencing with action by Council prior to the fiscal year ending June 30, 1988, and the resulting ordinance shall not become effective for one year from its adoption. Thereafter, Council shall address and so act upon the issue by the end of each fourth fiscal year. If Council should fail to act on the issue within the time prescribed herein, the members of Council shall receive no further compensation until such ordinance shall have been adopted and no funds shall issue for such compensation which would ordinarily have accrued during the period of noncompliance. In no case shall any change in the salary of Council members or of the Mayor become effective during the current term of any Council member or Mayor. In no event shall any Council member receive compensation for any meeting which he or she did not attend.

NOTE: 12/27/04 - Changed to \$300/ meeting  
Effective 7/1/2005  
See ORD. of 12/27/2004

**SECTION 3.15. CODIFICATION OF ORDINANCES.**

Council shall, within five years of the effective date of this Charter and at least every eight years thereafter, cause to be prepared a Code with an adequate index containing all ordinances of general application which are appropriate for continuation as law. Such Code may be prepared by the City Attorney or Council may contract for its preparation by professional persons or by organizations experienced in the revision and codification of ordinances or statutes. When the Code, or any general revision thereof, shall have been prepared, Council shall cause copies of the same to be prepared and made available for public distribution. No ordinance approving such Code or revision shall be adopted until ninety days have elapsed following the date on which Council shall have noted in its official journal the availability of copies of such proposed Code to the public nor until compliance with all applicable law. The Code and general revisions thereof need not be printed in the official journal, but Council shall cause the Code and revisions to be published and distributed to the public at such reasonable price as may be established. All ordinances of general application, adopted after the approval of the Code, shall be adopted as amendments to the Code, shall indicate the section numbers to be assigned to the text of such ordinance in the Code and shall be indexed accordingly therein. Until such Code is prepared, adopted and distributed, the City Clerk shall make available to any person requesting it, at a cost to be fixed by Council, copies of all presently effective City ordinances and all ordinances which may be subsequently adopted.

**SECTION 3.16. INVESTIGATIONS; POWERS TO CONDUCT.**

Council shall have power to conduct investigations of the operation of any office, department, division, agency or board administering the affairs of the City and of any subject upon which it may legislate. Council shall have power to administer oaths, subpoena witnesses and compel the production of records pertinent to any investigation conducted pursuant to this section of the Charter.

**SECTION 3.17. IMPEACHMENT POWERS.**

Council shall have authority to initiate impeachment proceedings, by resolution, against the Mayor, member of Council or against any appointee of the Mayor, by a two-thirds vote of the members of Council. A three-fourths vote of the members of Council shall be required to convict any person so impeached. Conviction under this section shall be grounds for removal from office in accordance with the provisions of this Charter or general law. In the event an impeachment resolution is adopted by Council, as specified herein, it shall state with clarity and particularity each offense of which the person is accused, in terms sufficient to constitute due and proper notice to such person of the nature of the offense or offenses charged.

**SECTION 3.18. APPROVAL OF APPOINTEES; VETO POWER.**

Unless otherwise provided by general law, Council shall have power to veto, by a two-thirds vote of its members, any appointee designated by the Mayor to any office, department, or division provided for in this Charter, so long as such veto power is duly exercised within thirty days from receipt by Council, of notice of the Mayor's designated appointee. If Council fails to act within the time period prescribed herein, such designated appointee shall be deemed approved by Council.

**SECTION 3.19. EXECUTION AND ENFORCEMENT.**

Council shall hold the Mayor accountable for the execution and enforcement of those provisions of the Charter pertaining to the Mayor's non-discretionary duties. Alternate remedies failing, Council may on a majority vote of the entire Council require the Mayor to forfeit all further compensation until such provisions shall have been lawfully executed; and no funds shall issue for such compensation which would ordinarily have accrued during the period of noncompliance. (Ord. 3-8-93) (Ord. 3-16-93, Effective 7-1-93)

ARTICLE FOUR  
CITY ATTORNEY

SECTION 4.1. QUALIFICATIONS, SELECTION AND TENURE.

There shall be a City Attorney who shall be an attorney licensed to practice law in the State of West Virginia, who shall have practiced therein for at least five years, he or she shall be a resident and qualified elector of the City and duly qualified to practice before the Circuit Courts of Cabell and Wayne Counties. The City Attorney shall be appointed by the Mayor with the approval of Council and may be removed by the Mayor only with the approval of Council. The City Attorney shall serve for a term not to extend beyond the term of the Mayor appointing him or her.

SECTION 4.2. POWERS AND DUTIES.

The City Attorney shall perform all duties and exercise all powers which shall be imposed or conferred upon him or her by this Charter, Council, or the Mayor. Except as otherwise provided by law, he or she shall act as attorney for Council, the Mayor and municipal boards or commissions for which legal counsel has not otherwise been provided. At the direction of the Mayor, the City Attorney shall also act as attorney for any other municipal officer or employee in connection with the performance of his or her official duties. Upon request, he or she shall furnish Council, the Mayor and any municipal board or commission making a written request therefore a written opinion upon any question of law concerning or affecting the affairs of the City. Except where other legal counsel is provided as herein set out, the City Attorney shall prosecute all actions for and defend all actions against the City; prosecute all cases brought before or appealed from the Municipal Court; and maintain and preserve as permanent records of the City Attorney's office all legal files, records and papers pertaining to the legal affairs of the City for which he or she is responsible. The City Attorney shall also conduct such investigations as he or she shall deem necessary concerning the facts in any litigation in which he or she acts as attorney for the City, the Mayor, the Council, any municipal board, agency or commission, or any municipal officer or employee.

(Ord. 5-8-89)

SECTION 4.3 ASSISTANT CITY ATTORNEYS.

The City Attorney may recommend and the Mayor may employ one or more attorneys to assist the City Attorney in the discharge of his or her official duties. Such Assistant City Attorney or Attorneys shall possess the same qualifications, except as to the length of professional experience, as the City Attorney and under the direction and supervision of the City Attorney, shall assist the City Attorney in his or her duties.

SECTION 4.4. SPECIAL COUNSEL.

Whenever the exigencies of the business of the City require, either the Mayor or the Council shall have power, within the limits of available budgeted funds, to employ special counsel to represent either the Mayor or the Council as the case may be in the performance of their respective official duties, or in the prosecution or defense of litigation in which the Mayor or the Council is involved. Such employment shall be governed by written agreement with the employed attorney, which agreement shall define the compensation to be paid, the work to be performed by the attorney, the term of employment, and the circumstances under which the agreement may be terminated by either party to the agreement. This section will not abrogate the rights of the City or its insurance carriers under the terms of any contract of insurance. (Ord. 5-8-89)

ARTICLE FIVE  
MUNICIPAL COURT

SECTION 5.1. JURISDICTION.

There shall be a Municipal Court which shall have criminal jurisdiction over violations of City ordinances, the criminal jurisdiction of a Magistrate of the State of West Virginia and such other jurisdiction, authorized by law.

SECTION 5.2. MUNICIPAL JUDGE, QUALIFICATIONS.

The Judge of the Municipal Court shall be an attorney licensed to practice law in the State of West Virginia. He or she shall have practiced law in the State for at least five years, shall be a resident and qualified elector of the City and admitted to practice before the Circuit Courts of Cabell and Wayne Counties, West Virginia.

SECTION 5.3. METHOD OF SELECTION, TERM OF OFFICE.

The Judge of the Municipal Court shall be appointed by the Mayor and shall serve at the will and pleasure of the Mayor for a term which shall not extend beyond the term of the Mayor appointing him or her.

SECTION 5.4. ACTING MUNICIPAL JUDGE.

In the event of the temporary absence of the Municipal Judge, the Mayor shall serve as Acting Municipal Judge or shall appoint a person with the same qualifications required of the Municipal Judge, to serve as Acting Municipal Judge, during such absence.

SECTION 5.5. MUNICIPAL JUDGE, POWERS AND DUTIES.

The Judge of the Municipal Court shall preside over the Municipal Court and, with respect to offenses over which the Municipal Court has jurisdiction, he or she shall have all the powers and duties which a Magistrate has with regard to violation of the criminal law of the State of West Virginia. The Municipal Judge shall have power to issue warrants, upon complaint under oath of any person or officer, for the arrest of anyone charged with any municipal offense within the jurisdiction of the Court or for search and seizure in connection with violation of a municipal ordinance. The Municipal Judge shall try and determine all cases over which the Court has jurisdiction and, within the limits prescribed by ordinance or general law, shall have power to punish by fine, imprisonment or both. The Municipal Judge shall have power to summon persons or subpoena witnesses for the trial of any case before the Court, to compel the attendance of police officers of the City or to require the Chief of Police to enforce all judgments or orders entered by the Court in the exercise of its powers. In Municipal Court proceedings for the recovery of fines or for the enforcement of penalties fixed by ordinance or other law, the Court shall, so far as applicable, conform to the provisions of general law governing civil proceedings before a Magistrate of the State of West Virginia. The Municipal Judge shall have such other powers and duties as Council may by ordinance provide pursuant to general law.

**SECTION 5.6. MUNICIPAL COURT, PROCESS.**

All warrants and other process and orders of the Municipal Court shall be signed by the Municipal Judge and may be directed to the Chief of Police, to be executed by him, her or by one of his or her subordinates at any place within the police jurisdiction of the City. The officer executing any such warrant, process or order shall have the same liability as a County Sheriff of the State of West Virginia in the performance of like duties or services.

**SECTION 5.7. FINES AND FEES.**

All fines and fees received by the Municipal Court shall be paid over to the Department of Administration and Finance to be disposed of as prescribed by ordinance or general law.

**ARTICLE SIX  
TAXATION****SECTION 6.1. TAXING POWERS PRESERVED.**

The City shall have every power to tax, license, franchise and charge which it had immediately prior to the effective date of this Charter, including the powers given to it under the Official Code of West Virginia. The City shall continue to impose and collect every tax, license, franchise, fee and charge which is being imposed by the City immediately prior to the effective date of this Charter, until the same is revised, modified or repealed by Council.

**SECTION 6.2. CONSTRUCTION.**

The powers of the City under this Article shall be construed liberally in favor of the City and the specific mention of particular powers in this Article shall not be construed as limiting in any way the general power stated in this Article.

**ARTICLE SEVEN  
DEPARTMENT OF PUBLIC WORKS****SECTION 7.1. DIRECTOR OF PUBLIC WORKS; QUALIFICATIONS,  
SELECTION AND TENURE.**

There shall be a Department of Public Works the head of which shall be the Director of Public Works who shall be appointed by the Mayor and serve at the will and pleasure of the Mayor. The Director of Public Works shall be a person of proven executive and administrative ability, a professional engineer registered by the State of West Virginia and shall have experience and training in the field of municipal engineering.

**SECTION 7.2. POWERS AND DUTIES.**

Under the direction and control of the Mayor, the Director of Public Works shall, except as otherwise provided by general law: Supervise construction, repair and maintenance of all streets, alleys, sidewalks and other public ways; direct the operation, repair and maintenance of all municipal public works; and perform such other duties as may be required of him or her by this Charter, the Mayor or Council.

### SECTION 7.3. PERMITS AND INSPECTIONS

With the assistance of the City Engineer, as hereinafter provided, the Director of Public Works shall issue permits for and conduct inspections of buildings, construction, plumbing, electrical, elevator and other building installations.

### SECTION 7.4. CITY ENGINEER; QUALIFICATIONS, SELECTION AND TENURE.

Within the Department of Public Works, there may be a City Engineer who shall be appointed by the Mayor and serve at the will and pleasure of the Mayor. The City Engineer shall be a professional engineer registered by the State of West Virginia and shall have experience and training in the field of municipal engineering.

### SECTION 7.5. POWERS AND DUTIES.

The City Engineer shall: Act as engineering adviser to the Mayor, Council and municipal agencies, commissions and boards unless otherwise provided by law; provide engineering services for the City in the construction, purchase and maintenance of its facilities, public works and equipment, except such services for the City as are performed by independent contractors or assigned to other offices, departments or agencies of the City and to the extent that such services are performed by independent contractors, to inspect and certify, prior to acceptance thereof or payment therefor, the satisfactory performance of all work done for the City by independent contractors; supervise and regulate the issuance of permits for construction; supervise and regulate the inspection of buildings, construction, electrical, plumbing, elevator and other building installations; maintain and preserve, as custodian for the City, all records, plats, maps, specifications, and similar documents pertaining to the public works, property, improvements and streets of the City; and furnish upon request, at such fee as may be established by ordinance, certified copies, of any such material pertaining to the engineering affairs of the City for which he or she is responsible.

## ARTICLE EIGHT PLANNING AND ZONING

### SECTION 8.1. PLANNING COMMISSION.

There shall be a Huntington Planning Commission which shall consist of not less than five nor more than fifteen citizens all of whom shall be residents of the City. Council shall establish, by ordinance, the exact number which shall compose the Commission. The members of the Commission shall be appointed and possess the qualifications established by Chapter 8, Article 24, of the Official Code of West Virginia and shall hold their office for the terms prescribed by said law.

### SECTION 8.2. POWERS AND DUTIES.

The Commission established herein shall be governed by Chapter 8, Article 24, of the Official Code of West Virginia and shall have all powers and duties prescribed by said law, this Charter and ordinance in conformity therewith.

**SECTION 8.3. VACANCIES.**

A vacancy shall be deemed to exist on the Commission whenever any member shall die, resign, be removed, fail to meet the requirements of Section 14.17 of this Charter or cease to possess any other qualification required by this Charter or general law.

**SECTION 8.4. MEETINGS.**

The Commission shall meet at such times as prescribed by general law and by its rules, but not less frequently than once every other month. All meetings of the Commission at which any final action is taken shall be open to the public and the Commission shall provide by its rules a method whereby citizens of the City shall have a reasonable opportunity to be heard at any such meeting in regard to any matter then under consideration. A permanent written record of its resolutions, findings and determinations shall be maintained by the Commission and shall be available to the public upon request. A majority of the members of the Commission shall constitute a quorum for any purpose not requiring more than a majority vote.

**SECTION 8.5. DIRECTOR OF PLANNING. POWERS AND DUTIES.**

There may be a Director of Planning who shall be appointed by the Commission. The Director shall be qualified by special training and experience in the field of city planning. He or she shall provide technical advice to the Commission, may also be designated its executive secretary and shall perform such other duties as the Commission, Mayor or Council may direct.

**SECTION 8.6. CONTINUITY OF PLANNING COMMISSION.**

The Planning Commission heretofore established shall continue to operate as though authorized under the terms of Chapter 8, Article 24, of the Official Code of West Virginia. All action lawfully taken prior to the adoption of this Charter is hereby validated and continued in effect until amended or repealed in the manner provided herein or by general law. The membership of the existing Commission shall continue until changed by general law, ordinance or this Charter.

**SECTION 8.7. COMPREHENSIVE PLAN ADOPTION.**

The Commission shall prepare a comprehensive plan and submit it to Council for its consideration and action. Thereafter, the Commission shall submit to Council its amendments to the comprehensive plan for consideration and action; provided, however, if Council shall fail to act upon said matters the Commission submits to it within ninety days after the date that such plan or amendments thereto shall have been first submitted, the same shall be deemed approved.  
(Ord. 5-8-89)

**SECTION 8.8. EFFECT OF COMPREHENSIVE PLAN.**

Before final action shall be taken by Council on the location or design of any street, park, parkway, playground, public memorial, public building, structure or any other public area or project, the Commission shall have previously submitted to Council a written report with recommendations regarding same. Such reports shall also contain a statement as to whether such project is consistent with the comprehensive plan.  
(Ord. 5-8-89)

**SECTION 8.9. PLAN AND PLATTING CONTROL.**

To the extent authorized by general law, the Commission shall have control of plans and plats of land within the City and beyond the territorial limits thereof as far as is reasonably necessary to protect the City against inadequately planned streets, highways, sewers and territory; provided, however said control shall not apply to land outside the City over which platting control is in some other authority. All plans, plats and replats of land, laid out in building lots and streets, intended to be dedicated to public use, shall be submitted to the Commission for its consideration and no such plan, plat or replat shall be of any legal effect or filed in the offices of the Clerk of the County Commission and the County Assessors of Cabell or Wayne Counties, depending on the county wherein the platted land lies, until such plan, plat or replat shall have endorsed upon it the fact that it has been first submitted to the Commission and by the Commission duly approved; provided, however, that official acceptance of streets and all other rights-of-way intended to be dedicated to public use shall be submitted to City Council by resolution for City Council's approval.

(Ord. 5-8-89)

**SECTION 8.10. OFFICIAL MAP**

Council shall, by ordinance, establish an official map of the City which shall indicate the location of all existing public streets and such other data as Council may deem appropriate.

**SECTION 8.11. MODIFICATION OF OFFICIAL MAP.**

After the establishment of an official map, all street locations, plats or replats approved by Council shall be deemed amendments to the official map and shall be placed thereon.

**SECTION 8.12. BOARD OF ZONING APPEALS.**

There shall be a Board of Zoning Appeals consisting of five members, appointed in the manner provided by Chapter 8, Article 24, of the Official Code of West Virginia. Members of the Board of Zoning Appeals shall possess the qualifications prescribed by said law and shall be appointed for terms established therein.

**SECTION 8.13. POWERS AND DUTIES OF BOARD OF ZONING APPEALS.**

The Board of Zoning Appeals shall be governed by and shall have all powers and duties prescribed by Chapter 8, Article 24, of the Official Code of West Virginia, this Charter and ordinance in conformity therewith. In addition however, the Board of Zoning Appeals shall have power to employ independent legal counsel to aid in the performance of its duties.

**SECTION 8.14. CONTINUITY OF BOARD OF ZONING APPEALS.**

The Board of Zoning Appeals heretofore established shall continue to operate as though authorized under the terms of Chapter 8, Article 24, of the Official Code of West Virginia. All action lawfully taken prior to the adoption of this Charter is hereby validated and continued in effect until amended or repealed in the manner provided by general law.

ARTICLE NINE  
DEPARTMENT OF ADMINISTRATION AND FINANCE

SECTION 9.1. DIRECTOR OF ADMINISTRATION AND FINANCE;  
QUALIFICATIONS, SELECTION AND TENURE.

There shall be a Department of Administration and Finance the head of which shall be the Director of Administration and Finance who shall be appointed by the Mayor and serve at the will and pleasure of the Mayor. The Director of Administration and Finance shall be a person of proven executive and administrative ability.

SECTION 9.2. POWERS AND DUTIES.

Under the supervision, direction and control of the Mayor, the Director of Administration and Finance shall have supervision and control of the work and management of the Division of Finance, Division of Purchasing, Division of Personnel, Division of Data Processing and such other duties as the Mayor may require of him or her.

SECTION 9.3. FINES AND FEES SHALL BE PAID TO DEPARTMENT OF  
ADMINISTRATION AND FINANCE.

All fines and fees received by any officer or employee of the City shall be paid over to the Department of Administration and Finance daily or at intervals Council may specifically prescribe.

SECTION 9.4. DIVISION OF FINANCE, DIRECTOR OF THE DIVISION OF  
FINANCE, QUALIFICATIONS.

There shall be a Division of Finance the head of which may be the Director of the Division of Finance. The Director of the Division of Finance shall have knowledge of municipal accounting and taxation and shall have experience in budgeting and financial control.

SECTION 9.5. POWERS AND DUTIES.

The Director of the Division of Finance shall have authority and shall be required to: Collect or provide for the collection of all taxes, special assessments, license fees and other revenues of the City and receive all other moneys payable to the City, except as otherwise provided by general law; maintain custody of all public funds belonging to or under the control of the City and deposit funds in such depositories as may be designated by resolution of Council or, if no such resolution be adopted, in such depositories as may be designated by the Mayor; supervise the disbursement of all moneys and control all expenditures to insure that budget appropriations are not exceeded; maintain a general accounting system for the City and each of its offices, departments, divisions and agencies; keep books for and exercise financial budgetary control over each office, department, division and agency; keep separate accounts for the items of appropriation contained in the City budget each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations chargeable against it and the unencumbered balance; require reports of receipts and disbursements from each office, department, division and agency of the City to be made daily or at such intervals as he or she may deem expedient; except as otherwise provided by general law, maintain

custody of all investment funds of the City, or in possession of the City in a fiduciary capacity, and of all bonds and notes of the City and receive and deliver City bonds and notes for transfer, registration or exchange; supervise all special assessments for the City or any of its agencies and give notice of special assessments as may be required by law; prepare all municipal bond issues; assist the Mayor as he or she may require in the preparation of monthly and yearly financial reports and in the preparation of the budget; conduct or provide for the conducting of a complete and accurate annual physical inventory of all City owned equipment of the initial purchase value of one hundred dollars or more; provided, however, Council may, by ordinance, provide for the increase or decrease of the purchase value amount herein specified; and perform such other duties as may be required of him or her by this Charter, ordinance or general law.

#### SECTION 9.6. ACCOUNTING SUPERVISION AND CONTROL.

The Director of the Division of Finance shall also have authority and shall be required to: prescribe the forms of receipts, requisitions, vouchers, bills or claims to be used by the offices, departments, divisions and agencies of the City; examine and approve all contracts and other documents by which the City incurs financial obligation; inspect, audit and approve, before payment, all purchase orders, bills, invoices, payrolls and other evidence of claims, demands or charges against the City; and inspect and audit any account or record of financial transaction which may be maintained in any office, department, division or agency of the City, apart from or subsidiary to, the accounts kept in the office of the Director of the Division of Finance.

#### SECTION 9.7. DIVISION OF PURCHASING; DIRECTOR OF THE DIVISION OF PURCHASING, QUALIFICATIONS.

There shall be a Division of Purchasing the head of which may be the Director of the Division of Purchasing who shall have knowledge and experience in the field of municipal purchasing.

#### SECTION 9.8. POWERS AND DUTIES.

The Director of the Division of Purchasing shall have authority and shall be required to: Contract for and purchase all supplies, materials, equipment and services required for each office, department, division or agency of the City; prepare or maintain, endorse and publish specifications with respect to supplies, materials and equipment required by the City; inspect or supervise the inspection of all deliveries of supplies, materials and equipment to determine their quality, quantity and conformity with specifications and provide for the distribution thereof to the appropriate office, department, division or agency; have charge of storerooms and warehouses; and transfer to and between offices, departments, divisions and agencies or sell surplus, obsolete or unused supplies, materials and equipment.

**SECTION 9.9. COMPETITIVE BIDDING.**

Before the Director of the Division of Purchasing shall make any purchase or contract for supplies, materials or equipment, he or she shall give ample opportunity for competitive bidding under such rules and regulations as Council shall prescribe; provided, however, Council shall not except any contract, purchase or sale from the requirement of competitive bidding. (Cross reference 107.01(f)(10) Ord. 9-25-95)

**SECTION 9.10. DIVISION OF PERSONNEL, DIRECTOR OF THE DIVISION OF PERSONNEL, QUALIFICATIONS, POWERS AND DUTIES.**

There shall be a Division of Personnel the head of which may be the Director of the Division of Personnel who shall be experienced in personnel management and whose powers and duties shall be prescribed by Council.

**SECTION 9.11. PERSONNEL POLICY.**

Employment, appointments and promotions in the administrative service of the City shall be made according to merit and fitness. No person in the employment of the City or seeking employment with the City shall be appointed, employed, compensated, promoted, reduced, removed or in any way favored or discriminated against because of his or her race, sex, religion, age, handicap or national origin.

**SECTION 9.12. PERSONNEL POWERS AND DUTIES OF MAYOR.**

The Mayor, or his or her subordinate, shall cause to be prepared, and timely reviewed and revised, personnel rules which shall be considered by Council and adopted as proposed, or amended by Council and adopted, by ordinance, or referred to the Mayor for additional study and resubmission. The rules shall provide: for the classification of all City positions based on the duties, authority and responsibility of each position with adequate provision for reclassification of any position whenever warranted; methods for determining the merit and fitness of candidates for appointment, employment or promotion; the hours of work, attendance regulations and provisions for sick and vacation leave; the policy and procedure governing persons holding provisional appointments; the policy and procedure governing relationships with employee organizations; the policy regarding in-service training programs; grievance procedures, including procedure for the hearing of grievances and for the reduction in force and removal of employees; and any other practices and procedures necessary to the administration of the City personnel system. Except as otherwise provided in this Charter, whenever it is deemed necessary, the officer or body having authority to appoint an officer or employee may appoint a temporary officer or employee; provided, however, such temporary appointment shall not extend beyond a term of sixty days. There shall be no extension of any temporary appointment.

**SECTION 9.13. PERSONNEL POWERS AND DUTIES OF COUNCIL.**

Except as otherwise provided by general law or this Charter, Council shall fix the salaries of City employees and officers and may, by ordinance, define the duties of any City officer or employee. Neither Council nor any member thereof shall direct, interfere or obstruct the appointment or removal of any City employee, except an employee whom Council is authorized to employ and remove under the provisions of this Charter or general law. Except for the purpose of inquiry, Council and its members shall deal with the administrative service solely through the Mayor and neither Council nor any member thereof shall give orders to any subordinates of the Mayor either publicly or privately. Violation of the provisions of this section by any Council member shall constitute official misconduct. Nothing herein contained however, shall prohibit any Council member from bringing to the attention of the Mayor any fact or circumstance which may indicate misconduct or deficiency on the part of any personnel.

**SECTION 9.14. EMPLOYEE RETIREMENT AND BENEFIT FUND.**

Council may, by ordinance, establish and provide for the maintenance of any employee retirement and benefit fund in accordance with general law; provided, however, until amended or repealed, all existing ordinances concerning pensions and pension funds shall continue in full force and effect and nothing contained herein shall in any way affect the continuation or validity of any pension already being paid or funded by the City.

**SECTION 9.15. RESTRICTIONS**

Unless otherwise provided by this Charter, no person who holds an elected public office shall, at the same time, be an employee or an elected or appointed officer of the City.

**SECTION 9.16. PROHIBITIONS.**

Except as otherwise provided by general law, no person in city government service shall directly or indirectly solicit any assessment, subscription or contribution for any political purpose whatever from any person holding a position or in the employ of City government and except for the Mayor and members of Council, no employee of the City shall take any active part in the management or promotion of any political party or political campaign. Any person who willfully violates any of the provisions of this section shall be subject to such punishment as Council shall, by ordinance, prescribe and such person shall, for a period of five years, be ineligible for any municipal appointment or employment and if he or she is an officer or employee of the City at the time of such violation, he or she shall forfeit the office or position he or she holds.

**SECTION 9.17. AFFIRMATIVE ACTION.**

In accordance with general law, Council shall provide, by ordinance, for an Affirmative Action Program for any or all positions of City employment.

SECTION 9.18. DIVISION OF DATA PROCESSING, DIRECTOR OF THE  
DIVISION OF DATA PROCESSING,  
QUALIFICATIONS.

There shall be a Division of Data Processing the head of which may be the Director of the Division of Data Processing who shall be a person of training and experience in the fields of data processing and computer sciences.

SECTION 9.19. POWERS AND DUTIES.

The Director of the Division of Data Processing shall have authority and shall be required to provide all computer and other data processing services required by any office, department, division or agency of the City.

ARTICLE TEN  
BUDGET AND FINANCIAL PROCEDURES

SECTION 10.1. FISCAL YEAR.

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

SECTION 10.2. SUBMISSION OF BUDGET AND BUDGET MESSAGE.

On or before the fifteenth day of February of each year, the Mayor shall submit to Council the budget for the next fiscal year and an accompanying message. In addition, within sixty days from the beginning of each fiscal year, the Mayor shall ascertain the true carry-over balance of accounts of the City and shall submit to Council amendments to the budget reflecting same.

SECTION 10.3. BUDGET MESSAGE.

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

SECTION 10.4. BUDGET.

The budget shall provide a complete financial plan of all City funds and activities for the next fiscal year and, except as required by law or this Charter, shall be in such form and contain such information as the Mayor deems desirable or Council may require. In organizing the budget the Mayor shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity and object. It shall begin with a clear general summary of its contents, shall show in detail all estimated income, indicating the proposed property tax levy and all proposed expenditures, including debt service, for the next 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 sections: proposed expenditures for current operations during the next fiscal year, detailed by office, department, division and agency in terms of their respective work programs and the proposed method of financing such

expenditures; proposed capital expenditures during the next fiscal year detailed by office, department, division and agency when practicable, and the proposed method of financing each such capital expenditure; and anticipated net surplus or deficit for the next fiscal year of each utility owned or operated by the City and the proposed method of its disposition. Subsidiary budgets for each City utility, board, agency or commission, giving detailed income and expenditure information shall be attached as appendices to the budget. Without respect to the net surplus or deficit of any utility operated by the City, the total of proposed expenditures shall not exceed the total of estimated income.

#### SECTION 10.5. CAPITAL PROGRAM.

The Mayor shall prepare and submit to Council a five-year capital program concurrently with the submission of the annual budget. The capital program shall include: a clear general summary of its contents; a list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing with appropriate supporting information as to the necessity for such improvements; cost estimates, method of financing and recommended time schedules for each such improvement; and the estimated annual cost of operating and maintaining the facilities to be constructed or acquired. This information may be revised and extended each year with regard to capital improvements still pending or in the process of construction or acquisition.  
(Ord. 5-8-89)

#### SECTION 10.6. COUNCIL ACTION ON BUDGET.

Council shall publish in one or more newspapers of general circulation in the City the general summary of the budget together with a notice stating the times and places where copies of the message and budget are available for inspection by the public and the time and place, not less than two weeks after such publication, for a public hearing on the budget. After the public hearing, Council shall meet upon call by the Chairman for work sessions on the budget whether to adopt the budget with or without amendment. Provisions of Sections 3.13 and 14.17 pertaining to attendance at meetings shall apply to the budget work sessions. In amending the budget, it may add or increase programs or amounts and may delete or decrease programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit; provided, however, no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income. Council shall adopt the budget and enter its order adopting the statutory levy estimate and laying the levies on the third Tuesday of April in the fiscal year currently ending. In addition, Council shall also amend and revise the budget pursuant to the requirements of Section 10.2 of this Charter. Adoption of the budget shall constitute appropriation of the amounts specified therein as expenditures from the funds indicated.  
(Ord. 5-8-89; 3-8-93) (Ord. 5-8-89; 3-16-93, Effective 7-1-93)

#### SECTION 10.7. COUNCIL ACTION ON CAPITAL PROGRAM; NOTICE AND HEARING.

Council shall publish the general summary of the capital program concurrently with the publication of the annual budget in one or more newspapers of general circulation in the City. Council shall also publish therewith a notice stating the times and places where copies of the capital program are available for inspection by the public and the time and place for a public hearing on the capital program. Said public hearing shall be held not less than two weeks after such publication.  
(Ord. 5-8-89)

**SECTION 10.8. ADMINISTRATION OF BUDGET.**

At such time as the Mayor shall specify, each department, division, office or agency shall submit work programs for the next fiscal year showing the requested allotments of its appropriation by periods within the year. The Mayor shall review and authorize such allotments, with or without revision, as early as possible in the fiscal year. He or she may revise such allotments during the year if he or she deems it desirable and shall revise them in accord with any supplemental, emergency, reduced or transferred appropriations, subject to any limitations imposed by general law.

**SECTION 10.9. TRANSFERS OF APPROPRIATIONS.**

Except as otherwise provided by general law, the Mayor may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department, division or agency. At the request of the Mayor and within the last three months of the budget year, Council may, by resolution, transfer any unencumbered appropriation balance or portion thereof from one office, department, division or agency to another.

**ARTICLE ELEVEN  
NOMINATIONS AND ELECTIONS****SECTION 11.1. GENERAL ELECTION LAWS TO CONTROL; TERMS OF OFFICERS.**

Except as otherwise provided herein, the provisions of general law with respect to primary and general elections, so far as applicable, shall govern the method of nominating and electing the Mayor and members of Council, whose terms of office shall be concurrent and run for a period of four years, provided that, the terms of office for the Mayor and members of Council elected in the 1997 general election shall run for a period to three years and six months commencing on the first day of July, 1997, and ending on the thirty-first day of December, 2000, and said term shall constitute a full term of office. All subsequent terms of office for the Mayor and members of Council shall run for a period of four years. (Ord. 9-13-93, Effective 7-1-97)

**SECTION 11.2. MUNICIPAL EXECUTIVE COMMITTEES**

Each Municipal Executive Committee shall be composed of those members of the County Executive Committees of Cabell and Wayne Counties whose geographical jurisdiction as county executive committee members includes areas of the City. Municipal Executive Committee members shall serve for terms concurrent with their respective terms as county executive committee members.

**SECTION 11.3. POWERS AND DUTIES.**

Municipal Executive Committees shall be governed by Chapter 8, Article 5, Section 14, of the Official Code of West Virginia and shall have all powers and duties prescribed by said law, this Charter and ordinance in conformity therewith.

**SECTION 11.4. PRIMARY ELECTIONS; TIME, PLACE AND CERTIFICATES OF CANDIDACY.**

Except as otherwise provided herein concerning the first officers to be elected under this Charter, primary elections shall be held at the voting places in each of the election districts of the City for the purpose of nominating candidates for the office of Mayor and all Council members for the next general election on the first Tuesday in April in the year 1989 and on such day in each fourth year thereafter. Any eligible person desiring nomination for any

municipal elected office to be filled at such election shall file with the City Clerk a certificate declaring himself or herself to be a candidate for the nomination for office, together with payment of the filing fee as hereinafter prescribed, which certificate and filing fee must be received by the City Clerk after midnight on the first day of January next preceding the primary election day or if mailed, shall be postmarked after that hour and before midnight on the thirty-first day of January next preceding the primary election day or if mailed, shall be postmarked before that hour and which certificate shall be in form or effect as follows:

CERTIFICATE OF CANDIDACY

I, \_\_\_\_\_, hereby certify that I am a candidate for the nomination for and election to the office of \_\_\_\_\_ to represent the \_\_\_\_\_ district or city at-large (circle one), and the \_\_\_\_\_ political party. I desire my name printed on the official ballot to be voted at the primary election to be held on the \_\_\_\_ day of April, 20\_\_\_\_. I hereby certify that I am a legally qualified elector of The City of Huntington, \_\_\_\_\_ County, West Virginia; that my residence is located at \_\_\_\_\_ in said City, that I am eligible to hold the said office; and that I am a candidate for said office in good faith.

\_\_\_\_\_  
CANDIDATE SIGNATURE

\_\_\_\_\_  
PRINT NAME

Signed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for  
Cabell or Wayne Counties,  
West Virginia, (or some other  
officer qualified to  
administer oaths)"

Every person who becomes a candidate in any such primary election shall, at the time of filing such certificate of candidacy, pay a filing fee as follows: a candidate for Mayor shall pay a fee of two hundred fifty dollars; a candidate for Council member shall pay a fee of sixty dollars. Council may, by ordinance, change the filing fees specified herein. No person shall file more than one Certificate of Candidacy in any primary election.

**SECTION 11.5. GENERAL ELECTIONS; TIME AND PLACE.**

Except as otherwise provided herein concerning the election of the first officers to be elected under this Charter, general elections for the offices of Mayor and all Council members shall be held on the first Tuesday in June in the year 1989 and on such day in each fourth year thereafter. The officers elected thereat shall assume office on the first day of July of the year in which such general election is held with their terms to expire as soon as their successors have been elected and qualified.

**SECTION 11.6. FIRST OFFICERS UNDER THIS CHARTER; NOMINATIONS, ELECTION AND TERMS.**

The first primary municipal election under this Charter shall be held on Tuesday, September 10, 1985, and the first general municipal election shall be held on Tuesday, November 5, 1985, to elect a Mayor and all Council members provided for under this Charter, whose terms shall begin on January 1, 1986, and expire as soon as their successors have been elected and qualified. The certificates of candidacy for such first primary municipal election shall be filed after midnight July 1, 1985, and before midnight on July 31, 1985, or if mailed, postmarked after midnight July 1, 1985, and before midnight July 31, 1985.

**SECTION 11.7. MAJORITY VOTE REQUIRED.**

No candidate for office shall be declared elected to any office under this Charter without having received as a candidate in the immediately preceding general election a majority of the votes cast for that particular office; provided, however, nothing herein shall apply to candidates for the office of at-large Council member.

**SECTION 11.8. DETERMINATION OF ELECTION RESULTS.**

Every qualified elector shall be entitled to vote for one candidate for the office of Mayor, one candidate for the office of district Council member to represent the district in which the qualified elector resides and two candidates for the office of at-large Council member. No person shall be elected to City office without being nominated in the manner provided herein at a partisan primary election to be held at the times and places specified in Sections 11.5 and 11.7 of this Charter. Immediately upon the expiration of the time for filing Certificates of Candidacy as required by Sections 11.5 and 11.7 of this Charter, the City Clerk shall cause to be published in a newspaper having general circulation in the City the names of the candidates as they will appear on the ballot for the primary election. Names of the candidates for each nomination shall be placed on the ballot and in addition to the requirements of Section 11.10 of this Charter, the ballot shall contain instructions to vote for one nominee or candidate, except where the offices to be filled are for Council members at-large, in which case the instructions shall inform the voter to vote for two nominees or candidates. Voters shall be counted as provided by general election law. In primary elections, the candidates representing each political party and receiving the highest number of votes for nomination for Mayor and each district Council member office shall be nominated. As to the offices of at-large Council members in primary elections, the candidates representing each political party and receiving

the highest and next highest number of votes with no more than one residing in anyone of the municipal election districts set out in Section 3.3 of this Charter shall be nominated. In general elections the names of the successful nominees shall be placed on the ballot. In the general election, the nominee receiving the highest number of votes for election to the offices of Mayor and each district Council member office shall be elected. As to the offices of at-large Council members in general elections, the two nominees receiving the highest and next highest number of votes with no more than one residing in any one of the municipal election districts set out in Section 3.3 of this Charter shall be elected to the offices of Council member at-large.

#### SECTION 11.9. BALLOTS FOR MUNICIPAL ELECTIONS

The ballot to be used in all municipal elections shall contain the names of all candidates, specify their respective residence address and the election district wherein such residence is located together with their political party affiliation, unless such candidate is independent from any political party, in which case the ballot shall so state. The order in which names of nominees and candidates appear on the ballot shall be determined by drawing of lot. The City Clerk shall conduct said drawing in accordance with the requirements of general law. It shall be the duty of the City Clerk to prepare the ballot for all regular and special municipal elections in accordance with the provisions of general law and not less than ten days prior to any election, the City Clerk shall cause a sample ballot to be published in a newspaper having general circulation in the City.

#### SECTION 11.10. APPOINTMENT OF ELECTION OFFICIALS.

It shall be the duty of the Municipal Executive Committees to nominate qualified electors to serve as precinct election officials during a municipal election and the Municipal Executive Committees shall publicly encourage qualified electors to apply for nomination. The Municipal Executive Committees shall submit their nominations to Council not less than thirty days prior to the election in which the election officials are to serve. After determining that the qualified electors nominated by the Municipal Executive Committees possess the qualifications set forth by the general election laws of the State of West Virginia and not less than twenty days prior to the election in which the election officials are to serve, Council shall appoint the qualified persons nominated by the Municipal Executive Committees to serve as election officials in said election. In the event Council shall determine that any person nominated by the election commission is not qualified to serve as an election official or in the event any person appointed by Council shall refuse to serve as an election official, Council shall proceed to fill the vacancy at the earliest possible time by the same procedure.

#### SECTION 11.11. ELECTION OFFICIALS; COMPENSATION.

A uniform election board consisting of three commissioners and two clerks, shall be appointed as aforesaid to serve in each voting precinct of the City during a municipal election. Each election board shall be composed of one clerk representing each political party and at least one commissioner representing each political party. By resolution adopted not less than forty-five days prior to each election, Council shall determine the compensation to be paid to the precinct commissioners and clerks, but in no event shall such compensation exceed the compensation payable under general law to precinct election officials serving during a general election of the State of West Virginia.

SECTION 11.12. REGISTRATION RECORDS, RETURN OF BALLOTS AND SUPPLIES, CANVASSING RETURNS, ELECTION CONTESTS.

At least three days before a municipal election, the City Clerk shall procure from the Clerk of the County Commissions of Cabell and Wayne counties the necessary registration records and shall deliver them, together with all ballots and other election supplies, to the election official in each precinct designated by Council. The election officials shall, as soon as possible after the closing of the polls, return to the City Clerk the ballots, tally sheets, certificates of the result of the election, registration records, poll books, ballot boxes and any other election supplies. On the first Monday following the election, Council shall canvass the returns of the election and declare and certify the result within five days thereafter. In case of a contest, Council shall be judge of the election, nomination and qualification of all candidates. Notwithstanding the foregoing, Council may, by resolution, contract with the County Commissions of Cabell and Wayne counties or the Clerks thereof, to furnish, distribute, receive and store the ballots and other election supplies, or any part thereof, and to provide facilities for the canvassing of ballots.

SECTION 11.13. USE OF VOTING DEVICES

In addition to any other requirements for the conduct of municipal elections, Council shall contract with the County Commissions of Cabell and Wayne counties for the use, in all municipal elections, of any electronic, mechanical or other voting devices available to, owned by or used by such counties for the conduct of county, state and national elections.

SECTION 11.14. REGULATIONS OF ELECTIONS.

Council shall make regulations which it considers needful or desirable, not inconsistent with this Charter, for the proper conduct of municipal elections and for the prevention of fraud in such elections.

SECTION 11.15. QUALIFIED ELECTOR DEFINED.

The term "qualified elector" as used in this Charter shall mean a citizen having the qualifications required by general law to vote in the City and who is at that time registered to vote.

ARTICLE TWELVE  
INITIATIVE, REFERENDUM AND RECALL

SECTION 12.1. INITIATIVE.

Qualified electors of the City shall have power to propose ordinances to Council and if Council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a City election; provided, however, such power shall not extend to the budget, capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of City officers or employees.

**SECTION 12.2. REFERENDUM.**

Qualified electors of the City shall have power to require reconsideration by Council of any adopted ordinance and if Council fails to repeal an ordinance so reconsidered, to approve or reject it at a City election; provided, however, such power shall not extend to the budget, capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of City officers or employees.

**SECTION 12.3. PETITIONS.**

Initiative and referendum petitions must be signed by qualified electors of the City equal in number to at least ten percent of the total number of qualified electors at the last general municipal election. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil in the handwriting of the signer and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation, the full text of the ordinance proposed and shall cite by title the ordinance sought to be reconsidered. Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he or she personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his or her presence that he or she believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered. Except as may be otherwise provided by general law, referendum petitions must be filed within thirty days after adoption by Council of the ordinance sought to be reconsidered.

**SECTION 12.4. PROCEDURE.**

There shall appear on all petitions the names and addresses of three qualified electors who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Any one of the three qualified electors or an attorney-at-law acting on their behalf, may file such petitions by delivering the assembled instrument to the City Clerk together with a designation of one address, of one such elector or the attorney-at-law, to which all notices are to be sent and setting out in full the proposed initiative ordinance or citing by title the ordinance sought to be reconsidered. Within twenty days after the petition is filed, the City Clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee at the address so provided, by certified mail. A petition certified insufficient may be amended once if the petitioners' committee files a notice of intention to amend with the City Clerk within two days after receiving the copy of his or her certificate and files a supplemental petition upon additional papers within ten days after receiving the copy of such certificate. Such supplemental petition shall comply with the requirements of Section 12.3 and within five days after it is filed, the City Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the designated individual by certified mail as in the case of an original petition. If a petition or

amended petition is certified sufficient or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review under this section within the time required, the City Clerk shall promptly present his or her certificate to Council and the certificate shall then be a final determination as to the sufficiency of the petition. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend or if an amended petition has been certified insufficient the committee may, within two days after receiving the copy of such certificate, file with the City Clerk a request that it be reviewed by Council. Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it and Council's determination shall then be a final determination as to the sufficiency of the petition. A final determination as to the sufficiency of a petition shall nevertheless be subject to judicial review. Whenever required, the burden of proof shall be on the City Clerk to establish the insufficiency of any petition. A final determination of insufficiency, even if sustained upon judicial review, shall not prejudice the filing of a new petition for the same purpose, except in the case of referendum when the applicable time limit has expired.

#### SECTION 12.5. REFERENDUM PETITIONS; SUSPENSION OF EFFECT OF ORDINANCE.

When a referendum petition is timely filed with the City Clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when there is a final determination of insufficiency of the petition, the petitioners' committee withdraws the petition, Council repeals the ordinance or upon final certification of the results of the City election favoring the ordinance sought to be repealed.

#### SECTION 12.6. ACTION ON PETITIONS.

When an initiative or referendum petition has been finally determined sufficient, Council shall promptly consider the proposed initiative ordinance in the manner provided for the enactment of ordinances or reconsider the referred ordinance by voting its repeal. If Council fails to adopt a proposed initiative ordinance without any change in substance within sixty days or fails to repeal the referred ordinance within thirty days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the electors of the City. The election on a proposed or referred ordinance shall be held not less than thirty days and not later than one year from the date of the final Council vote thereon. If no regular City election is held within the period prescribed in this section, Council shall provide for a special election. Otherwise, the vote shall be held at the same time as such regular election, except that Council may provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

## SECTION 12.7. RESULTS OF ELECTION.

If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances adopted by Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict. If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

## SECTION 12.8. POWER OF RECALL.

Qualified electors, authorized to vote for the particular office, shall have the power to recall the Mayor or any member of 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, authorized to vote for the particular office, equal in number to at least twenty percent of the total number of qualified electors, authorized to vote for the particular office, at the last general municipal election. The petition shall meet the applicable requirements of Section 12.3 and 12.4 of this Charter, shall contain a demand for the removal of the subject officer or officers and shall contain a general statement of the reasons for which the removal is sought.

## SECTION 12.9. ELECTION UNDER RECALL PETITION.

If the petition is certified sufficient in accordance with the applicable requirements set out in Section 12.3 and 12.4 of this Charter, Council shall cause a special election to be held not less than thirty days nor more than ninety days from the date of such certification, unless a general municipal election shall occur within one hundred twenty days from such date. The published notice of such election shall contain the reasons for demanding the recall in not more than two hundred words and a justification by the subject officer within the same limits; provided, however, if the petition seeks to recall more than one officer, each may provide a justification of not more than two hundred words. Ballots shall be in the following form:

“Shall \_\_\_\_\_ be removed  
(from Council) (as Mayor) of The City of Huntington?

\_\_\_ For the recall of \_\_\_\_\_  
\_\_\_ Against the recall of \_\_\_\_\_.”

Upon certification of the results of the election, if a majority of those voting on the question have favored recall, the office of the individual so recalled shall be vacant.

## SECTION 12.10.

## FILLING VACANCY CAUSED BY RECALL.

When a vacancy occurs as the result of a recall election or when an officer resigns after a recall petition certified by the City Clerk to be sufficient is presented to Council, the vacancy shall be filled in accordance with the provisions of this Charter relating to the filling of vacancies in the respective office involved.

## SECTION 12.11. LIMITATIONS ON RECALL.

No recall petition shall be filed against any officer within six months after he or she takes office nor within six months prior to the end of his or her term. No officer shall be subjected to more than one recall election during a term of office.

ARTICLE THIRTEEN  
SUCCESSION IN GOVERNMENT

## SECTION 13.1. INTERIM CHIEF EXECUTIVE OFFICER.

On and after the effective date of this Charter, the City Manager, as heretofore constituted, shall exercise such powers and duties as are given the chief executive by this Charter. The City Manager shall so serve until the first Mayor under this Charter shall have been elected and qualified, at which time his or her appointment and office shall terminate.

## SECTION 13.2. CONTINUITY OF ADMINISTRATIVE PERSONNEL AND OFFICES.

All persons holding other administrative positions in City government at the time this Charter takes effect shall continue in such position and in the performance of their duties until dismissed or removed by the Mayor or other empowered authority. The powers conferred and the duties imposed upon any office, department or agency of the City by general law shall, if such office, department or agency is abolished by this Charter or under its authority, be thereafter exercised and discharged by the office, department or agency designated by Council, unless otherwise provided in this Charter.

## SECTION 13.3. CONTINUITY OF GOVERNING BODY.

On and after the effective date of this Charter, the members of Council, as heretofore constituted, shall exercise such powers and duties as are given to Council by this Charter generally, and for conducting the first election for Mayor and members of Council as set out in Article Eleven of this Charter. Such Council shall so serve until members of the first Council under this Charter shall have been elected and qualified, at which time their terms of office shall terminate.

## SECTION 13.4. CONTINUITY OF OFFICES, DEPARTMENTS, DIVISIONS, AGENCIES OR BOARDS.

Any other office, department, division, agency or board provided for in this Charter with a name or with powers and duties the same or substantially the same as those of an office, department, division, agency or board heretofore existing shall be deemed to be a continuation of such heretofore existing office, department, division, agency or board until changed by

competent authority. Any provision in the law, rule, regulation, contract, grant or other document relating to such heretofore existing office, department, division, agency or board shall, so far as not inconsistent with the provisions of this Charter, apply to such office, department, division, agency or board provided for by this Charter.

#### SECTION 13.5. TRANSFER OF RECORDS AND PROPERTY.

All records, property and equipment whatsoever of any office, department, division, agency, board or part thereof, all the powers and duties of which are assigned to any other office, department, division, agency or board by this Charter, shall be transferred and delivered to the office, department, division, agency or board to which such powers are so assigned. If part of the powers and duties of any office, department, division, agency, board or part thereof are by this Charter assigned to another office, department, division, agency or board, all records, property and equipment relating exclusively thereto shall be transferred and delivered to the office, department, division, agency or board to which such powers and duties are so assigned.

#### SECTION 13.6. SUCCESSION IN INTEREST; PENDING ACTIONS AND PROCEEDINGS.

The City of Huntington, as successor in interest to the present municipal corporation of the same name, shall succeed to, own, possess and enjoy all property and all right, title and interest of every kind and nature vested in or belonging to such municipal corporation at the time this Charter becomes effective. No action or proceeding, civil or criminal, pending at the time this Charter takes effect, brought by or against the City or any office, department, division, agency, board or officer thereof, shall be affected by the adoption of this Charter or by anything herein contained. No such action or proceeding shall abate by reason of the fact that functions, powers and duties of any office, department, division, agency, board or officer party thereto may under this Charter be assigned or transferred to another office, department, division, agency, board or officer, but in that event, the same may be prosecuted or defended by the head of the office, department, division, agency or board to which such functions, powers and duties have been assigned or transferred under this Charter.

#### SECTION 13.7. EFFECT ON EXISTING LAW.

All existing ordinances and resolutions, administrative rules, regulations and practices, if not inconsistent or in conflict with this Charter, shall continue in full force and effect until repealed or modified by competent authority. All ordinances, resolutions, administrative rules, regulations and practices that are inconsistent or in conflict with this Charter shall, unless sooner repealed or modified, continue in full force and effect for a period of sixty days and at the end of that period shall, to the extent of such inconsistency or conflict, be of no further force or effect.

ARTICLE FOURTEEN  
GENERAL PROVISIONS

SECTION 14.1. CHIEF OF POLICE.

The Chief of Police shall be appointed by the Mayor with the approval of Council to serve at the will and pleasure of the Mayor. The Chief of Police shall be a person of proven administrative ability with experience and training in law enforcement. Subject to the direction and supervision of the Mayor, 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. He or she shall see to the protection of property and the preservation of peace, order and public safety throughout the City and shall cause all violators of City ordinances and of general law to be apprehended and brought to trial before the Municipal Court or other proper tribunal. Under the direction and supervision of the Mayor, the Chief of Police shall also perform such other duties as may be required of him or her by this Charter, ordinance or general law.

SECTION 14.2. CHIEF OF FIRE DEPARTMENT.

The Chief of the Fire Department shall be appointed by the Mayor with the approval of Council to serve at the will and pleasure of the Mayor. The Chief of the Fire Department shall be a person of proven administrative ability with experience and training in the suppression and prevention of fires. Subject to the direction and supervision of the Mayor, 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. He or she shall make such inspections of buildings and property throughout the City as may be necessary to discover fire hazards and shall take all proper measures to eliminate such hazards and shall keep an accurate record of all fires, inspections and fire hazards within the City. Under the direction and supervision of the Mayor, the Chief of the Fire Department shall also perform such other duties as may be required of him or her by this Charter, ordinance or general law.

SECTION 14.3. RESIDENCY REQUIREMENT.

Any person employed or appointed under this Charter shall be a resident of the City of Huntington at the time they are employed or appointed or shall become a resident of the City of Huntington within ninety days from their employment or appointment and shall remain a resident of the City of Huntington during their respective tenure in office or period of employment; provided, however, nothing in this section shall be construed to apply to any employee or officer of the City who, on the effective date of this Charter, shall have resided outside said City on February 1, 1985. There shall be no exception or waiver of the requirements contained in this section and any violation of any requirement contained herein shall result in termination of employment or appointment and a vacancy in the respective office or position. The Mayor shall be charged with enforcement of this section. (Ord. 5-8-89) CLERK'S NOTE: The residency requirement provided for in this section was modified by Orders of the Circuit Court of Cabell County, West Virginia entered on September 29, 1994 and November 4, 1994 in the case of Steven Ellis, et al. v. The City of Huntington, et al. - Circuit Court of Cabell County, West Virginia - Civil Action No. 93-C-2443 (1994). The Court's Orders supersede and take precedence over the provisions of this section and should be read and applied in lieu thereof. Copies of the Court's Orders are on file in the Office of the City Clerk and available for inspection and copying during regular business hours Monday through Friday.

**SECTION 14.4. RESIDENT DEFINED.**

As used in this Charter, the term "resident" shall mean any individual who maintains a usual and bona fide place of abode within the corporate limits of the City of Huntington or within the boundaries of the territory referred to in this Charter, as the context may require, together with the intent to maintain said usual and bona fide place of abode for an indefinite period of time in the future.

**SECTION 14.5. BONDS.**

Before entering the duties of their office, each member of Council, the Mayor, the City Clerk, each member of the Election Commission and each Director or Chief of a City office, department, division or agency and such other personnel as Council may require, shall give bond for the faithful performance of their duties, payable to the City of Huntington, in such amounts and with such corporate surety as may be approved by Council. Council may provide for obtaining a blanket bond covering all City officers and employees, designating specific officers or employees whose bond shall be in excess of the amount of the blanket bond. The premiums on such bond or bonds shall be paid by the City after it has been ascertained that the premiums are not in excess of the premium schedule filed by the bonding company with the Commissioner of Insurance of West Virginia. All bonds shall be subject to approval by the City Attorney as to form and substance and when so approved, shall be endorsed with his or her signature.

**SECTION 14.6. SEPARABILITY CLAUSE.**

If any article, section, subsection, paragraph, sentence, clause or word of this Charter is for any reason held invalid or unconstitutional, such holding shall not affect the validity, constitutionality or application of any other portion of this Charter.

**SECTION 14.7. REFERENCE TO LAW.**

A reference contained in this Charter to the Official Code of West Virginia or a provision thereof, to any constitution, or a provision thereof or to general law shall be construed to mean the respective law as it exists on the effective date of this Charter or as it may thereafter be amended. Where additional parts are added to the subject matter of such law referred to in this Charter, the reference shall include such additional parts.

**SECTION 14.8. SATURDAYS, SUNDAYS AND LEGAL HOLIDAYS.**

Whenever the provisions of this Charter or any ordinance, rule, administrative regulation or order pursuant thereto, require that a meeting be held or that an act be done on any particular day of the month or within any period of time prescribed or allowed, if that day or the last day occurs on a Saturday, Sunday or legal holiday, the following day which is not a Saturday, Sunday or legal holiday shall be deemed to be the one intended.

**SECTION 14.9. LOSS OF QUALIFICATION BY OFFICER OR EMPLOYEE; VACANCY CREATED.**

In the event that any officer or employee of the City shall, subsequent to his or her election, appointment or employment, cease to possess any of the requisite qualifications provided for his or her office or position, there shall thereupon exist a vacancy in such office or position, to be filled pursuant to this Charter or other applicable law.

**SECTION 14.10. CONFLICT OF INTEREST.**

Any City officer or employee who has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the City or in the sale of any land, material, supplies or services to the City or to any contractor supplying the City, shall make known that interest to the Mayor and Council and shall refrain from voting upon or otherwise participating in his or her capacity as a City officer or employee in the making of such sale or in the making or performance of such contract. Any City officer or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his or her office or position. Violation of this section with the knowledge, express or implied, of the person or corporation contracting with or making a sale to the City shall render the contract or sale voidable by the Mayor or Council. A "substantial financial interest" as used herein, shall be deemed to be an interest amounting to more than five percent of the particular business enterprise or contract.

**SECTION 14.11. CENTRAL GARAGE AND MOTOR POOL.**

There shall be a central garage and motor pool wherein all automobiles and other vehicles owned by the City shall be registered, stored and controlled when not in use or on assignment and from which the head of any office, department, division, board, commission or agency shall requisition the use of any such automobile or other vehicle as may be required in the performance of his or her duties. The Mayor or his or her designee shall establish and promulgate such rules and regulations respecting such facility as to effect the greatest possible economy and efficiency in its operation. No vehicle shall be permanently assigned to any office, department, division, board, agency or individual thereof without prior approval by Council; provided, however, such approval by Council shall not be required of any vehicle assigned to the police or fire departments. Notwithstanding any provision contained herein, no City owned vehicle shall be taken beyond the corporate limits of the City except in the performance of authorized official City business.

**SECTION 14.12. PUBLIC ACCESSIBILITY OF RECORDS.**

All records and documents of every office, department, division, board, commission or agency of the City shall be open to inspection by any citizen, representative of a civic organization or representative of the press at all reasonable times and under reasonable regulations established by Council; provided, however, records and documents authorized to be excluded under Chapter 29B, Article 1, of the Official Code of West Virginia or other applicable law shall not be subject to the requirements of this section.

**SECTION 14.13. SALARY LIMITATION.**

No officer or employee of the City shall be entitled to receive compensation for more than one position in City government even though he or she performs the duties of two or more positions therein.

**SECTION 14.14. OATH, QUALIFICATION.**

Before entering the duties of their office, each member of Council, the Mayor, the City Clerk, each member of the Election Commission and each Director or Chief of a City office, department, division or agency and such other personnel as Council may require, shall take and subscribe to the following oath or affirmation to be filed and kept in the office of the City Clerk:

"I, \_\_\_\_\_ solemnly swear (or affirm) that I will support the constitution of the United States of America and of the State of West Virginia, and that I will, in all respects, observe the provisions of the Charter, ordinances, resolutions, regulations and rules of the City of Huntington, and will faithfully discharge the duties of \_\_\_\_\_ to the best of my skill and judgment."

When such officer or employee shall have taken and filed such oath with the City Clerk and shall have given such bond as may be required, he or she shall be considered as having qualified for the position to which he or she was elected, appointed or hired; provided, however, if any person so elected, appointed or hired shall not qualify in the manner herein prescribed within fifteen days after he or she shall have been officially declared elected, appointed or hired, said office or position shall by reason thereof, become vacant.

**SECTION 14.15. AUTHORITY TO CONVEY.**

Except as otherwise provided by general law, Council may authorize the Mayor or other officer of the City to execute all deeds, conveyances and other instruments on behalf of the City of Huntington and such person shall have authority to execute such instruments in the name of the City of Huntington.

**SECTION 14.16. ARTICLE AND SECTION TITLES.**

The article and section titles or headings in this Charter are intended for convenience only and shall be construed a mere "catchwords" to indicate the content of the article or section and shall not be deemed or taken to be a part of the article or section.

**SECTION 14.17. GENERAL ATTENDANCE REQUIREMENT.**

In addition to any attendance requirement contained in this Charter, if a member of any agency, board or commission authorized or created pursuant to this Charter or delegated authority by other law, absents himself or herself from forty or more percent of the regularly scheduled meetings of said agency, board or commission in any twelve month period, his or her office, position or appointment shall become vacant and such vacancy shall be filled according to applicable law.

**SECTION 14.18. EFFECTIVE DATE.**

This Charter shall become effective July 1, 1985.

(Ord. 5-8-89)

## SECTION 14.19. AMENDMENTS.

This Charter may be amended as provided in Chapter 8 of the Official Code of West Virginia, as amended, as therein provided.  
(Ord. 5-8-89)

APPENDIX A  
ELECTION DISTRICTS

NOTE: This information is from BOUND Charter book. D. Everett Fullerton

The nine municipal election districts shall be as follows: District One shall be composed of precinct numbers one and four of Cabell County, West Virginia, together with precinct numbers fifty-nine, sixty, sixty-one and sixty-three of Wayne County, West Virginia, with a total population of Seven Thousand Four Hundred Fifty-Four; District Two shall be composed of precinct numbers two, three, five, six, seven and ten of Cabell County with a total population of Six Thousand Eight Hundred Twenty-Six; District Three shall be composed of precinct numbers eleven, twelve, thirteen, fourteen and twenty-five of Cabell County with a total population of Six Thousand Nine Hundred Ninety-Seven; District Four shall be composed of precinct numbers eight, nine, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine and forty of Cabell County with a total population of Six Thousand Three Hundred Twenty-Nine; District Five shall be composed of precinct numbers twenty-seven, twenty-eight, thirty-one, thirty-two, thirty-three and thirty-four of Cabell County with a total population of Six Thousand Nine Hundred Fifty-Two; District Six shall be composed of precinct numbers thirty-seven, thirty-eight, forty-five, forty-six, forty-seven and forty-eight of Cabell County with a total population of Six Thousand Five Hundred Eighty-Nine; District Seven shall be composed of precinct numbers thirty-nine, forty, forty-one, forty-two, forty-three and forty-four of Cabell County with a total population of Seven Thousand Four Hundred Twenty-Three; District Eight shall be composed of precinct numbers fifteen, sixteen, seventeen, eighteen, nineteen and twenty of Cabell County with a total population of Seven Thousand Eight Hundred Fifty-Six; District Nine shall be composed of precinct numbers twenty-one, twenty-two, twenty-three, twenty-four, forty-nine and fifty of Cabell County with a total population of Seven Thousand Two Hundred Forty-Nine.

APPENDIX A  
ELECTION DISTRICTS

NOTE: This information is from small Charter book. D. Everett Fullerton

The nine municipal election districts shall be as follows: District One shall be composed of precinct numbers one A of Cabell County, West Virginia, together with precinct numbers fifty-nine, sixty, sixty-one and sixty-three of Wayne County, West Virginia, with a total population of Six Thousand Six Hundred; District Two shall be composed of precinct numbers one, two, three and five of Cabell County with a total population of Five Thousand Eight Hundred Ninety-Four; District Three shall be composed of precinct numbers eight, nine and eleven of Cabell County with a total population of Six Thousand Five Hundred Five; District Four shall be composed of precinct numbers four, six A, six B, seven and ten of Cabell County with a total population of Six Thousand Three; District Five shall be composed of precinct numbers twelve, sixteen, seventeen and twenty-one of Cabell County with a total population of Five Thousand Nine Hundred Twelve; District Six shall be composed of precinct numbers thirteen, fourteen, eighteen, twenty-two and twenty-five of Cabell County with a total population of Six Thousand Four Hundred Ten; District Seven shall be composed of precinct numbers twenty-three, twenty-four, twenty-eight and twenty-nine of Cabell County with a total population of Six Thousand Three Hundred Ninety-Six; District Eight shall be composed of precinct numbers nineteen, twenty, twenty-six and twenty-seven of Cabell County with a total population of Five Thousand Four Hundred Ninety-Three; District Nine shall be composed of precinct numbers thirty, thirty-one, thirty-two, thirty-three and thirty-four of Cabell County with a total population of Five Thousand Eight Hundred Three.

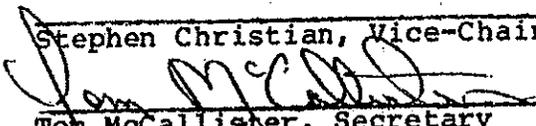
CERTIFICATE

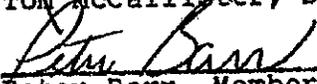
In witness of the completion and adoption of the final draft of the proposed Charter for the City of Huntington by the Huntington Charter Board after the conclusion of Board meetings and consideration of changes and revisions deemed necessary or desirable by the Board and public, after a public hearing, duly held and completed, the undersigned members of the Huntington Charter Board have hereunto signed their names, this \_\_\_\_ day of March, 1985.

HUNTINGTON CHARTER BOARD

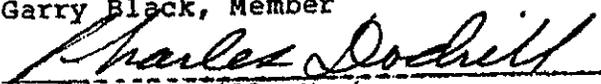
\_\_\_\_\_  
Charles Polan, Jr., Chairman

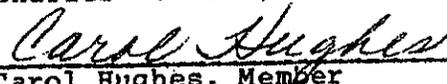
\_\_\_\_\_  
Stephen Christian, Vice-Chairman

  
\_\_\_\_\_  
Tom McCallister, Secretary

  
\_\_\_\_\_  
Peter Barr, Member

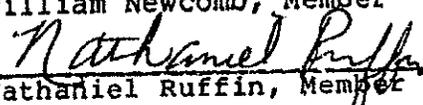
\_\_\_\_\_  
Garry Black, Member

  
\_\_\_\_\_  
Charles Dodrill, Member

  
\_\_\_\_\_  
Carol Hughes, Member

\_\_\_\_\_  
Michael Mansour, Member

\_\_\_\_\_  
William Newcomb, Member

  
\_\_\_\_\_  
Nathaniel Ruffin, Member

\_\_\_\_\_  
Thomas Scott, Member

CERTIFICATE

In witness of the completion and adoption of the final draft of the proposed Charter for the City of Huntington by the Huntington Charter Board after the conclusion of Board meetings and consideration of changes and revisions deemed necessary or desirable by the Board and public, after a public hearing, duly held and completed, the Huntington Charter Board has authorized its Secretary to execute this Certificate in witness thereof and in compliance with Chapter 8, Article 3, Section 3 of the Official Code of West Virginia, as amended, this \_\_\_\_ day of March, 1985.

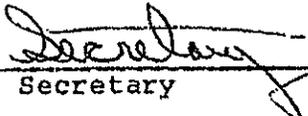
HUNTINGTON CHARTER BOARD

Peter Barr  
Garry Black  
Stephen Christian  
Charles Dodrill  
Carol Hughes  
Michael Mansour  
Tom McCallister  
William Newcomb  
Charles Polan, Jr.  
Nathaniel Ruffin  
Thomas Scott

By:

  
Tom McCallister

Its:

  
Secretary

APPENDIX A  
ELECTION DISTRICTS

AN ORDINANCE OF COUNCIL REDISTRICTING THE CITY OF HUNTINGTON FOR  
THE 2004 MUNICIPAL ELECTION. **Approved Ordinance (10-27-03)**

The nine municipal election districts shall be as follows: District One shall be composed of precinct numbers one A of Cabell County, West Virginia, together with precinct numbers fifty-nine, sixty, sixty-one and sixty-three of Wayne County, West Virginia, with a total population of Five Thousand and Eighty-eight (5,088); District Two shall be composed of precinct numbers one, two, three and five of Cabell County with a total population of Five Thousand One Hundred Eighty (5,180); District Three shall be composed of precinct numbers nine and eleven of Cabell County with a total population of Five Thousand Five Hundred Fifty-four (5,554); District Four shall be composed of precinct numbers four, six, six W and seven of Cabell County with a total population of Five Thousand Five Hundred Seventy (5,570); District Five shall be composed of precinct numbers ten, twelve, sixteen, seventeen and twenty-one of Cabell County with a total population of Six Thousand Five Hundred Ten (6,510); District Six shall be composed of precinct numbers thirteen, fourteen, eighteen, twenty-two, twenty-five and thirty-one of Cabell County with a total population of Six Thousand Five Hundred Eighty-seven (6,587); District Seven shall be composed of precinct numbers twenty-three, twenty-four, twenty-eight and twenty-nine of Cabell County with a total population of Five Thousand Four Hundred Fifty-Seven (5,457); District Eight shall be composed of precinct numbers nineteen, twenty and twenty-six of Cabell County with a total population of Five Thousand Two Hundred Twenty-Six (5,226); District Nine shall be composed of precinct numbers twenty-seven, thirty, thirty-two, thirty-three and thirty-four zero one of Cabell County with a total population of Six Thousand Three Hundred Three (6,303).

The total population count as per Year 2000 Census report is Fifty-One thousand Four Hundred Seventy-Five (51,475)

**AN ORDINANCE OF COUNCIL INCREASING THE AMOUNT  
OF COMPENSATION RECEIVED BY MEMBERS OF COUNCIL.  
(As Amended)**

WHEREAS, Section 3.14 of the Charter of the City of Huntington requires Council to address the compensation of its members every four years,

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that this Council does hereby INCREASE the compensation received by the members of Council to \$300.00 per meeting, not to exceed \$7,200.00 per annum, effective July 1, 2005.

SPONSORED BY: COUNCILMAN CHUCK POLAN

APPROVED AS TO FORM BY TEM

FIRST READING 12/13/2004 - Amended to omit increase for Mayor by Polan  
2nd by Patterson, amendment approved by vote of 9 yeas, 1 nay-Daniels,  
1 excused-McCallister. Ordered advertised.

SECOND READING 12/27/04 - ADOTPED (6 yeas, 3 nays-McCallister, Rufus,  
Daniels; 1 excused-Patterson; 1 absent-Kent)

DATE December 27, 2004

Barbara Nelson  
BARBARA NELSON, CITY CLERK

DATE 12/28/2004

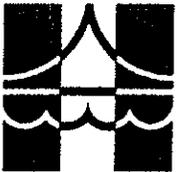
David A. Felinton  
DAVID A. FELINTON, MAYOR

APPROVE

DATE 12/29/04

VETO





**CITY OF  
HUNTINGTON**  
WEST VIRGINIA

**COUNCIL**  
City Hall, P.O. Box 1659, Zip 25717  
Phone (304) 696-5530

**AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND  
RE-ENACTING RULES FOR THE TRANSACTION OF BUSINESS BY  
THE HUNTINGTON CITY COUNCIL**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL  
AND WAYNE COUNTIES, WEST VIRGINIA, that the Rules for the Transaction of Business  
by the Huntington City Council are hereby AMENDED, MODIFIED and RE-ENACTED to  
read as follows:

**RULES FOR THE TRANSACTION OF BUSINESS  
BY THE HUNTINGTON CITY COUNCIL**

**SECTION 1 – MEETINGS**

**A. REGULAR MEETINGS**

Council shall meet regularly on the second and fourth Monday of each month at 7:30 p.m., in the Council Chambers of City Hall, excepting only when a regularly scheduled Council meeting shall occur on a legal holiday. Council may designate the City Auditorium, or such other appropriate and convenient location, as the Council Chambers for purposes of conducting its regular meetings and any special meetings that may be called pursuant to the provisions of Subsection B of this Section hereinafter set forth. Regular meetings of Council shall be televised.

**B. SPECIAL MEETINGS**

Special meetings may be called at any time, upon reasonable notice by the Mayor or the Chairperson of Council, and shall be so called by the Chairperson upon the request of a majority of all members of Council.

The requirement of reasonable notice may be satisfied by hand delivering or by sending by certified mail to each member of Council a written notice of the time, place and purpose of the special meeting. In any case delivery of notice must be made on each member of Council at least twelve hours prior to the time set for the meeting, provided a Council member may waive the notice requirement by filing a written statement of such waiver with the City Clerk prior to the meeting.

**C. LEGAL HOLIDAYS**

Whenever a regularly scheduled meeting shall fall on a legal holiday, the following day which is not a Saturday, Sunday or legal holiday shall be deemed to be in the one intended.

**D. WORK SESSIONS**

Work Sessions can be held at any location and are to be televised. No votes on legislation may be made with the exception that a vote may be taken to initiate legislation or in defining a purpose for future legislation.

The Chairperson of Council shall preside over the Work Sessions.

Work Sessions shall be announced at least twenty-four (24) hours prior to the meeting and shall contain the following information: time, place, subjects to be addressed.

Members of the public shall not be allowed to speak unless invited to do so by a majority of Council or when a Member of Council sponsors an expert to speak to Council Members.

**E. GOOD AND WELFARE**

1. Good and Welfare shall be scheduled for regular meetings of Council and may be scheduled for special call meetings.

2. Only new items not scheduled on the Agenda by either resolution and/or ordinance may be brought before Council by a Council Member or the public.

**SECTION 2 - CHAIRPERSON PRESIDING OFFICER: ABSENCE OF QUORUM**

The Chairperson shall preside at all meetings of Council.

At the appointed hour for the meeting, the Chairperson shall take the chair, and call the members of Council to order.

If a quorum be present, the meeting shall be opened for the transaction of business.

If a quorum shall fail to attend the meeting within twenty (20) minutes after the appointed time for such meeting, those present may adjourn to such time as a majority of those present shall determine, after the names of those present shall be entered in the journal.

A majority of the total number of Council members shall constitute a quorum for any purpose not requiring more than a majority vote of Council.

**SECTION 3 - PRESIDING OFFICER IN ABSENCE OF CHAIRPERSON**

In the absence of the Chairperson, the Vice-Chairperson shall preside at the meeting.

In the absence of the Chairperson and Vice-Chairperson, the Clerk shall call Council to order, and upon motion, Council shall elect one of its members present as a temporary Chairperson, and such temporary Chairperson shall preside at the meeting.

**SECTION 4 - POWERS OF PRESIDING OFFICER**

A. The presiding officer is vested with the authority to preserve order and decorum during meetings of Council. The presiding officer may call anyone in the Chamber to order who disrupts or otherwise interferes with the orderly conduct of business. The presiding officer shall also decide all points of order subject, however, to appeal to Council, and shall have the right to call any member of Council to the chair for any part of the meeting.

B. (1) The Mayor shall designate a Sergeant-At-Arms, which may be the Chief of Police or his designee.

(2) The Sergeant-At-Arms shall fall under the supervision of the Mayor and shall be a law enforcement officer having powers of arrest in accordance with the laws of the State of West Virginia and the City of Huntington.

(3) The Sergeant-At-Arms shall have the duties to maintain safety within Council Chambers during the meetings. The Sergeant-At-Arms may ask anyone to: (a) stop any behavior that is disruptive or interfering with the orderly conduct of business which include the turning off of any electronic devices that emit or interfere with the telecast of Council Meetings; (b) ask anyone under the influence of alcohol and/or drugs to leave a City Council Meeting; (c) confront anyone that he or she believes has brought a weapon into Council Chambers and may be a risk to the individuals present.

#### **SECTION 5 - ATTENDANCE AT MEETING AND VACANCIES IN COUNCIL**

Attendance at meetings and vacancies in Council shall be governed by Section 3.13 of the Charter of the City of Huntington.

In addition, members are expected to attend all work sessions, unless they notify the City Clerk or Assistant City Clerk of illness, absence from the City, or other appropriate excuse.

#### **SECTION 6 - ORDINANCES**

An ordinance shall be adopted by Council only in cases and with respect to the matters enumerated by the Charter of the City of Huntington or by general law.

If an ordinance is not required by the provisions of the Charter of the City of Huntington, or by general law, Council shall act by resolution.

#### **SECTION 7 - FILING OF ORDINANCES AND RESOLUTIONS**

A. All ordinances and resolutions shall be adopted in conformity with the provisions of general law, and shall be submitted to the City Clerk prior to 4:30 p.m. on the Wednesday before the meeting at which time the ordinance or resolution shall be submitted for its first or only reading, as may be required by general law.

B. All items submitted to the City Clerk as described in Paragraph A above shall be reviewed by the Chairperson for the items inclusion on the Agenda. The Chairperson shall establish the Agenda for the upcoming Council Meeting no later than 12:00 p.m. the Thursday before the meeting at which time the ordinance or resolution may be submitted for its first or only reading, as may be required by general law and make the final determination as to the items which will appear on the same. Provided That: any item which has been requested, in writing, by any Council member shall be placed on the Agenda with or without the consent of the Chairperson or any Council Member.

C. Notwithstanding Paragraph B, all items set for second reading on the upcoming Council Agenda may not be deleted from the same by the Chairperson.

D. Any item which does not appear on the Agenda, for which it has been submitted shall be deemed withdrawn and shall be required to be resubmitted as described in Paragraph A above for consideration and inclusion upon the next Council Agenda.

### **SECTION 8 - ORDINANCE PROCEDURE**

Proposed ordinances shall be read by title only at the first meeting that they are placed on the Council's agenda. Ordinances may be read in their entirety if requested by a member. There shall be no vote taken on first reading except where an amendment is proposed. When an amendment is proposed, only the issue as to whether the amendment should be incorporated shall be taken up by Council. If there are no amendments to a proposed ordinance on first reading, Council shall move to the next item without a vote. A motion to delete shall be in order on the first reading of an ordinance. If such a motion is made and properly seconded, Council shall vote on whether to delete the item, after giving the public an opportunity to comment. If, by a majority vote, Council votes to delete, the item will be removed from the agenda and will not be read a second time at the next meeting of Council.

If the principal object of an ordinance is the raising of revenue, the Clerk shall cause a Class I-O legal advertisement to be published giving notice of the proposed ordinance's consideration. The notice shall state the subject matter and title, the date, time and place of the proposed final vote on adoption, and the place or places within the municipality where the proposed ordinance may be inspected.

All ordinances shall be advertised before the second reading of each ordinance. Thereafter, a vote may be called. No material amendments may be made to an ordinance on second reading.

Where an ordinance, having been submitted to Council for consideration in accordance with the procedures set forth in this Section, and in Chapter 8, Article 11 of the West Virginia Code, as amended, and in SECTION 3.9 of the CHARTER OF THE CITY OF HUNTINGTON, WEST VIRGINIA, has failed to receive the number of votes of members of Council required for adoption and enactment into law, the Council shall not hear or consider said ordinance, nor shall such ordinance be read before the Council at any regular or special meeting thereof for a period of six (6) months immediately next succeeding the date that the ordinance was last considered and voted upon by the Council.

### **SECTION 9 - RESOLUTION PROCEDURE**

Every proposed resolution shall be read by title at one meeting of this Council.

### **SECTION 10 - STANDING COMMITTEES**

There shall be the following standing committees for the purpose of better informing the Council and its members of the work of various city departments, and for the purpose of working with the Mayor.

The standing committees shall include the following:

- a. Administration and Finance
- b. Personnel
- c. Public Works
- d. Economic and Community Development
- e. Public Safety (Police, Fire, Legal, Municipal Court)

- f. Recreation (Civic Center, Harris Riverfront Park)
- g. Solid Waste Management
- h. Planning and Zoning

In addition to the standing committees, special purpose committees may be appointed as the need arises.

Appointments to all committees will be made by the Chairperson with the advice and consent of Council.

Committees shall meet during budget preparation time and as needed. Written or oral reports will be made at least quarterly to the full Council.

### **SECTION 11 - ORDER OF BUSINESS**

At every regular meeting of Council, the order of business shall be as follows:

- a. Invocation
- b. Pledge to Flag
- c. Roll Call
- d. Reading of Synopsis of the Last Regular Meeting
- e. Reports of Mayor
- f. Ordinances on Second Reading
- g. Ordinances on First Reading
- h. Resolutions
- i. Good & Welfare

### **SECTION 12 - DEPARTURE FROM ORDER OF BUSINESS**

There is to be no departure from the order of business as set forth in these rules except upon the consent of eight of eleven of the members present and voting, seven of ten of the members of Council present and voting, or six of eight or nine of the members of Council present and voting.

### **SECTION 13 - SUSPENSION OF RULES**

No rule of Council shall be suspended except by consent of eight of eleven of the members present and voting, seven of ten of the members of Council present and voting, or six of eight or nine of the members of Council present and voting. Any such suspension of rules may be made by motion.

### **SECTION 14 - SPECIAL ORDER BUSINESS**

When any matter is made the special order of business for a future meeting, it shall take priority over all other business to be considered at said meeting.

### **SECTION 15 - WITHDRAWAL OF MATTERS BEFORE COUNCIL**

After any communication, petition, complaint, protest, ordinance, resolution or report has been read to the Council by the presiding officer, City Clerk, any member of Council or any other officer or party, the same shall be deemed to be in the possession of the Council, and cannot be withdrawn, except upon a majority vote of the members of Council present and voting.

### **SECTION 16 - MOTION**

After a motion is made and seconded, it shall be stated by the presiding officer before it is debated. The Councilperson making the motion shall be the first recognized.

### **SECTION 17 - METHOD OF VOTING**

A rolling roll call vote shall be used at each council meeting where a roll call vote is required to be used under these rules. A rolling roll call vote shall mean that at the first roll call vote of the meeting the Clerk shall call the roll in alphabetical order except that the Chairperson's name is called last. Upon each subsequent roll call vote taken at the same meeting, the Clerk will then begin the roll call with the next person's name in alphabetical order, so that the same person shall not be required to vote first on all issues: Provided, That the Chairperson shall always vote last.

All ordinances shall be voted upon by roll call. The presiding officer shall determine the method of voting on resolutions, whether it be roll call or voice vote: Provided, That all votes on financial matters and leases be by roll call; and Provided, That any member of Council may call for a roll call vote. If a roll call vote is not called for, the presiding officer shall determine the result. If there is a lack of a clear majority on a voice vote, a roll call vote shall be taken.

The presiding officer shall announce the result of each vote, and the Clerk shall enter the result in the journal.

All members present shall vote on the issue, question, motion, resolution, or other business, and no vote of abstention, disqualification, pass or other similar such vote shall be permitted except as provided by Charter or general law. If there is a conflict of interest, it must be stated before voting begins.

### **SECTION 18 - MEMBERS NOT TO WITHDRAW**

After a member of Council has, at any meeting, been recorded as present, he or she shall not, without permission of the presiding officer, absent himself from such meeting until adjourned.

### **SECTION 19 - CONDUCT OF MEMBERS**

Every member of Council shall confine himself or herself to the question before the Council, and avoid personal references or language which is not conducive to the orderly transaction of business.

No member shall interrupt another while speaking, except to make a point of order, the point to be briefly stated to the presiding officer.

No member shall, while the Council is sitting, interrupt or hinder its business by standing, moving about, talking, expressing approval or disapproval or any of the proceedings, or by tending to disrupt or confuse.

#### **SECTION 20 - RECOGNITION OF MEMBERS**

When two or more members of Council request recognition at the same time, the presiding officer shall name the one first to speak.

#### **SECTION 21 - LIMITATION ON NUMBER AND LENGTH OF SPEECHES**

No member of Council shall speak more than once on the same question, until every member choosing to speak shall have done so, nor more than twice, nor for a period of time in excess of fifteen minutes on any question, without permission of the majority of Council present at said meeting.

#### **SECTION 22 - CALLING MEMBERS TO ORDER**

If, in speaking, any member of Council transgresses the rules of the Council, the presiding officer shall call him or her to order.

If there be no appeal, the decision of the Chair shall govern.

If the decision of the Chair be in favor of the member called to order, he or she may proceed. If otherwise, he or she shall not proceed, except by a majority of the members of the Council present.

#### **SECTION 23 - RULES OF CONDUCT FOR PERSONS ATTENDING HUNTINGTON CITY COUNCIL MEETINGS**

Citizens of the City of Huntington are encouraged to attend and voice their opinions at public hearings and meetings of the Huntington City Council. The following rules of conduct to encourage free expression in the form of civil discourse, to insure that all citizens who attend and speak at hearings and meetings are treated with civility, and to further the orderly conduct of City business.

1. Speakers who are not members of Council are limited to three (3) minutes on any topic unless being questioned by a member of the Council. City Council may grant an extension of time to any speaker. No speaker may address the Council more than once during any hearing or meeting on any topic unless a majority of the Council present and voting concurs that an additional address or addresses may be made.

A. Speakers are expressly granted the right to speak upon resolutions, orders, and second readings of ordinances and any and all amendments thereafter.

B. Speakers are not allowed to speak on any matter relating to executive sessions or motions to go into executive sessions.

C. Speakers shall adhere to the items found in these rules and observe the rules of order as found in Robert's Rules of Order.

2. At public hearings, addresses will be limited to those matters before the Council at the public hearing. Any issue may be addressed during the Good and Welfare portion of regular council meetings, except for items on the agenda. During the Good and Welfare portion of regular Council meetings, speakers will not be permitted to address issues relative to agenda items previously discussed.

3. Every speaker shall avoid expressing himself or herself or behaving in a manner or language which tends to disrupt the ordinary transaction of business.

4. No person shall be interrupted while speaking except by the presiding officer to call time or by any member of Council who believes that the speaker has violated any of these rules. Any such interruption by a member of Council shall be briefly stated, without argument, to the presiding officer as a point of order to be ruled upon by the presiding officer or Council as explained below.

5. While any citizen is addressing the Council, no member of the Council or anyone else present at the hearing or meeting shall, except as stated in these rules, interrupt or hinder the speaker by standing, moving about, talking, or expressing approval or disapproval.

6. If any member of Council raises a point of order during any address by a citizen to the Council, that the speaker has violated these rules, the presiding officer shall rule upon the point of order. If the presiding officer rules in favor of the speaker, the speaker may proceed, and the interruption shall not be counted as part of his or her time to speak. If the presiding officer rules against the speaker, then the speaker shall be called to order, the presiding officer shall explain to the speaker how he or she has violated these rules and request that he or she stop doing so, and the speaker shall be warned that, if he or she is called to order a second time, his or her right to speak at the meeting may be terminated. If a speaker is called to order by the presiding officer a second time during any hearing or meeting, that speaker shall not proceed with his address or speak any further during that meeting or hearing unless a majority of the Council members present and voting lift the restriction.

7. Anyone present at any hearing or meeting who engages in conduct which, in the judgment of Council, is insulting, threatening or abusive to any other person present or which is otherwise disruptive to the orderly proceeding of the hearing or meeting shall be called to order by the presiding officer, requested to stop the offensive conduct and warned that, if he or she is called to order a second time, he or she may be removed from the hearing or meeting. If, after being warned in this way, anyone continues to engage in the same or similar conduct, the presiding officer may direct a vote of Council to remove the person from the hearing or meeting. No one shall be asked to leave or be removed from any hearing or meeting except at the direction of the presiding officer, unless their behavior is so aggressive that they may be a hazard under West Virginia Code §61-6-19. (Please See Section 26 of Council Rules.)

8. Anyone whose conduct constitutes a criminal violation may be subject to prosecution under applicable criminal statutes. Any person whose conduct in a hearing or meeting presents, in the judgment of the Council, an immediate threat of physical injury, death or damage to property may be removed from the meeting by the Sergeant-At-Arms.

9. Nothing contained herein shall be interpreted to prevent individuals from exercising their federal and/or state constitutional rights including, but not limited to, those of free expression and the right to petition the government for a redress of grievances.

## **SECTION 24 – ROBERT’S RULES OF ORDER**

The proceedings of Council, except as otherwise provided in these rules, shall be governed by the edition of Robert's Rules of Order maintained and used in the office of the City Attorney.

## **SECTION 25 - CHAIRPERSON & VICE-CHAIRPERSON**

A. At the first meeting of Council in January of each year, Council shall, by majority vote, elect one of its members as Chairperson, and one of its members as Vice-Chairperson, both of whom shall serve until the first meeting of Council at the next succeeding year, unless earlier removed by Council.

B. In the absence of a duly elected Chairperson and Vice-Chairperson of Council, Council shall elect an interim Chairperson and interim Vice-Chairperson for a specific period of time who shall exercise all powers of the Chairperson and Vice-Chairperson of Council as provided by the laws of the State of West Virginia and municipality of Huntington as provided by the Charter and ordinances, effective January, 2001.

## **SECTION 26 - PROCEDURE IN DEALING WITH A DISRUPTIVE PERSON DURING A MEETING OF CITY COUNCIL**

1. Determining what is disruptive. West Virginia Code §61-6-19 Willful Disruption of Governmental Process, provides for a misdemeanor for any person who willfully interrupts or molests the orderly and peaceful process of . . . state government or its political subdivisions.

A. The Council Chairman is responsible for the following:

1. The order of business of meetings;
2. Insuring the rights of the members;
3. Upholding the rules of Council; and
4. Calling individuals to order.

B. When calling a member to order, the Council Chairman shall say “the member and/or individual is out of order and shall refrain from . . . (whatever behavior is inappropriate).” If the individual fails to come to order, the Chairman shall record in the minutes as follows: “Let the minutes reflect that said member and/or individual was called to order but has failed to abide by the Rules of Council.” If the individual still fails to come to order, the Chairman shall say “the chair is willing to entertain a motion declaring the member and/or individual to be disruptive to the governmental process of City Council.”

2. Penalty for Disruptive Behavior. If there is an affirmative response to the vote that a member and/or individual has been declared to be “out of order,” the Chairman of Council will entertain a motion for penalty . . . motion that the individual be asked to leave or that he be escorted out of chambers until such time as they abide by the Rules of Council or for the remainder of the meeting. The declaration of Council that the individual is out of order should

be enough for a citation or arrest under §61-6-19 of the West Virginia Code and may be forcibly removed.

If the individual is so disruptive that the proceedings cannot continue, then the Sergeant-At-Arms shall place the individual under arrest pursuant to West Virginia Code §61-6-19 and then follow B above post facto to the arrest.

### SECTION 27 - EXECUTIVE SESSION.

**THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HUNTINGTON, WEST VIRGINIA, ACKNOWLEDGE AS REPRESENTATIVES OF THE PUBLIC THAT AT ALL TIMES POSSIBLE CITY BUSINESS SHALL BE CONDUCTED IN PUBLIC.**

1. Except as specifically provided for by West Virginia Code §6-9A-1 et seq., all meetings of the Council of the City of Huntington shall be open to the public. The primary purpose for an Executive Session by the Huntington City Council shall be to protect the individual rights, corporate proprietary interests and legal work product and strategies. Matters discussed in Executive Session by the Mayor, Council Members and legal counsel shall not be published with anyone outside the Executive Session unless required by law. Any individual doing so shall be subject to a fine in accordance with §28 of these Rules.
2. The Council must vote upon going into Executive Session.
  - A. A motion to go into Executive Session can only be made by a member of Council and requires a second.
  - B. During the open portion of the Meeting, prior to convening in Executive Session, the Chairman of Council shall restate the motion prior to the vote and shall state the specific section(s) of the West Virginia Code to which the motion pertains for the purpose of the Executive Session, and present it to Council and to the general public. However, there shall not be any public debate as to the reason or the merits of the subject matter for which Council is going into Executive Session. Council members and the Mayor shall also refrain from discussing the merits of the subject matter before going into Executive Session.
    1. It shall not be required for the Chairman to give any names or identify any entities that the subject of the Executive Session concerns.
    2. If the Executive Session concerns a personnel disciplinary issue, the individual shall be notified prior to the Executive Session and the Chairman shall provide the opportunity to the individual to request an open meeting. The Chairman shall have the sole responsibility in insuring that individual rights are not violated by having an Executive Session.
    3. When restating the motion to go into Executive Session the Chairman shall give reference to the West Virginia Code section which allows for the Executive Session. The motion is to go into Executive Session under:

- a. West Virginia Code §6-9A-4(b)(2)(A): Personnel matter concerning a public official or employee.
  - b. West Virginia Code §6-9A-4(b)(2)(B): A complaint on a public official or employee.
  - c. West Virginia Code §6-9A-4(b)(2)(B)(5): To discuss the mental or physical health of a person (must offer the individual the right to have the meeting in the open).
  - d. West Virginia Code §6-9A-4(b)(2)(B)(6): A discussion which would disclose any personal or family circumstances that would be consideration unwarranted invasion of privacy. Before using this, it is recommended that the City Attorney is consulted.)
  - e. West Virginia Code §6-9A-4(b)(2)(B)(7): To plan or consider an official investigation relating to crime prevention or law enforcement.
  - f. West Virginia Code §6-9A-4(b)(2)(B)(8): To develop (discuss) security personnel devices.
  - g. West Virginia Code §6-9A-4(b)(2)(B)(9): To discuss and consider matters involving or affecting the purchase, sale or lease or property, advance construction planning, the investment of public funds or other matters involving commercial competition, which if made public, might adversely affect the financial or other interest of the state or any political subdivision: Provided, That information relied on during the course of deliberations on matters involving commercial competition are exempt from disclosure under the open meetings requirements of this article only until the commercial competition has been finalized and completed.
  - h. West Virginia Code §§6-9A-4(b)(2)(B)(11): Attorney-Client Privilege to consider litigation, potential litigation, etc.
  - i. West Virginia Code §§6-9A-4(b)(2)(B)(12): Any matter declared confidential by rule of court or any matter provided for by federal law or any matter set forth by West Virginia Code §29B-1-1 et seq. (matters involving records that are personal in nature i.e. tax records, etc.)
4. Only Council Members and the Mayor have a right to be present during any Executive Session of Council, subject to No. 5 and 7 below.
  5. The Mayor's right to be present during an Executive Session of City Council is dependent upon the subject matter that is being discussed. The Mayor shall be excluded from Executive Session when:
    - a. Council is the only party named in the lawsuit.
    - b. Any legal action between the Council and the Mayor or vice versa.
    - c. Any personnel matter that deals with a member of Council or the Clerk's office.

- d. Other matters that deal with specific issues as outlined in West Virginia Code §6-9A-4 where Council is the sole appointing authority, etc.

In most circumstances, the Mayor shall be included when there is a vested interest by Charter, such as purchase of City property.

- 6. No votes shall be taken on any ordinances, resolutions or orders during an Executive Session. There shall be no requirement to maintain a record of any Executive Session, in accordance with state law. The Clerk shall be responsible to insure the Chambers audio and video equipment is turned off during the Executive Session.
- 7. Individuals who will provide expert testimony, guidance or can relate facts to the discussion may be invited to attend an Executive Session, i.e. City Engineer, insurance or other outside counsel, investigators, police officers, Personnel Director and/or Finance Director. Any person invited to attend shall be reminded of the confidentiality of the Executive Session.

**SECTION 28: VIOLATION OF EXECUTIVE SESSION**

Any individual, including public officials, Council Members, the Mayor or City of Huntington employees, who willfully violates any of the above sections shall be subject to a Five Hundred Dollar (\$500.00) fine and/or up to thirty (30) days in jail.

BE IT FURTHER ORDAINED that the Rules for the Transaction of Business by the Huntington City Council shall become effective upon its adoption by Council and approval by the Mayor.

**SPONSORED BY:** Councilman Ritter

**APPROVED AS TO FORM BY:** TEM

**FIRST READING:** 1/10/05 – (see original ordinance for amendments made during consideration)

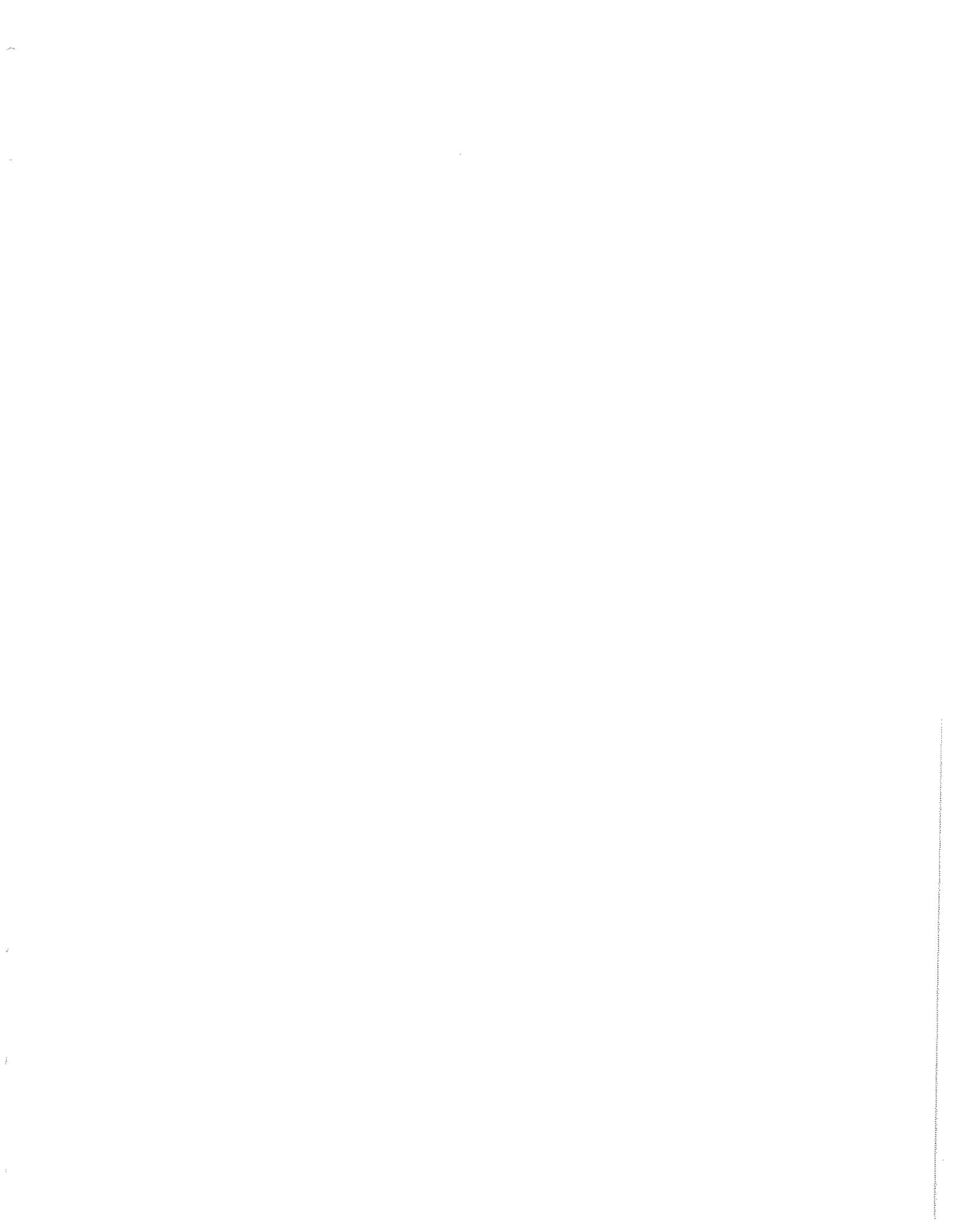
**SECOND READING:** 1/24/2005 – ADOPTED (7 yeas, 4 nays-Caserta, Jackson, Loudermilk, Insko)

**DATE:** January 24, 2005

ss/ Barbara Meadows, City Clerk

ss/ Mayor David Felinton w/approval

1/26/2005



**STATE OF WEST VIRGINIA**

**COUNTY OF CABELL**

This day came DAVID A. FELINTON who,  
being by the undersigned authority first duly sworn upon oath says the  
following:

"I solemnly swear (or affirm) that I will support the Constitution of the  
United States of America, and of the State of West Virginia, and that I will, in all  
respects, observe the provisions of the Charter, Ordinances, Resolutions,  
Regulations and Rules of the City of Huntington, and will faithfully discharge  
the duties of MAYOR \* for the City of Huntington to the best of my  
skill and judgment, so help me God."

Signed: David A. Felinton

\*also, member of the Huntington Sanitary Board

Taken, subscribed and sworn to before me this 30<sup>th</sup> day of  
December, 2004.

Barbara E. Nelson  
NOTARY PUBLIC  
Cabell County, West Virginia

My commission expires the 3<sup>rd</sup> day of May, 2012.

**STATE OF WEST VIRGINIA**

**COUNTY OF CABELL**

This day came P. D. Adkins who, being by the undersigned authority first duly sworn upon oath says the following:

"I solemnly swear (or affirm) that I will support the Constitution of the United States of America, and of the State of West Virginia, and that I will, in all respects, observe the provisions of the Charter, Ordinances, Resolutions, Regulations and Rules of the City of Huntington, and will faithfully discharge the duties of HUNTINGTON CITY COUNCIL for the City of Huntington to the best of my skill and judgment, so help me God."

Signed: Phillip D Adkins

Taken, subscribed and sworn to before me this 28 day of Dec, 2004.

Barbara E Nelson  
NOTARY PUBLIC  
Cabell County, West Virginia

My commission expires the 3<sup>rd</sup> day of May, 2012.

**STATE OF WEST VIRGINIA**

**COUNTY OF CABELL**

This day came Garry D. Black who, being by the undersigned authority first duly sworn upon oath says the following:

"I solemnly swear (or affirm) that I will support the Constitution of the United States of America, and of the State of West Virginia, and that I will, in all respects, observe the provisions of the Charter, Ordinances, Resolutions, Regulations and Rules of the City of Huntington, and will faithfully discharge the duties of HUNTINGTON CITY COUNCIL for the City of Huntington to the best of my skill and judgment, so help me God."

Signed: 

Taken, subscribed and sworn to before me this 30<sup>th</sup> day of Dec, 2004.

  
NOTARY PUBLIC  
Cabell County, West Virginia

My commission expires the 3<sup>rd</sup> day of May, 2012.

**STATE OF WEST VIRGINIA**

**COUNTY OF CABELL**

This day came Scott M. Caserta who,  
being by the undersigned authority first duly sworn upon oath says the  
following:

"I solemnly swear (or affirm) that I will support the Constitution of the  
United States of America, and of the State of West Virginia, and that I will, in all  
respects, observe the provisions of the Charter, Ordinances, Resolutions,  
Regulations and Rules of the City of Huntington, and will faithfully discharge  
the duties of HUNTINGTON CITY COUNCIL for the City of Huntington  
to the best of my skill and judgment, so help me God."

Signed: 

Taken, subscribed and sworn to before me this 27 day of Dec,  
20 07.



NOTARY PUBLIC  
Cabell County, West Virginia

My commission expires the 3<sup>rd</sup> day of May, 2012.

**STATE OF WEST VIRGINIA**

**COUNTY OF CABELL**

This day came Judith Clements who, being by the undersigned authority first duly sworn upon oath, says the following:

"I solemnly swear that I will support the Constitution of the United States of America, and of the State of West Virginia, and that I will, in all respects, observe the provisions of the Charter, Ordinances, Resolutions, Regulations and Rules of the City of Huntington, and will faithfully discharge the duties of HUNTINGTON CITY COUNCIL for the City of Huntington to the best of my skill and judgment, so help me God."

Signed: Judith M. Clements

Oath administered by: Kathryn A. Torlone

Taken, subscribed and sworn to before me this 30<sup>th</sup> day of October, 2007.

Kathryn A. Torlone  
NOTARY PUBLIC  
Cabell County, West Virginia

My commission expires the 18<sup>th</sup> day of November, 2013

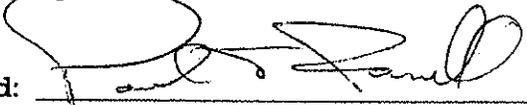


**STATE OF WEST VIRGINIA**

**COUNTY OF CABELL**

This day came PAUL T. FARRELL who,  
being by the undersigned authority first duly sworn upon oath says the  
following:

"I solemnly swear (or affirm) that I will support the Constitution of the  
United States of America, and of the State of West Virginia, and that I will, in all  
respects, observe the provisions of the Charter, Ordinances, Resolutions,  
Regulations and Rules of the City of Huntington, and will faithfully discharge  
the duties of HUNTINGTON CITY COUNCIL for the City of Huntington  
to the best of my skill and judgment, so help me God."

Signed: 

Taken, subscribed and sworn to before me this 30<sup>th</sup> day of December,  
2004.

  
NOTARY PUBLIC  
Cabell County, West Virginia

My commission expires the 18<sup>th</sup> day of Nov. 2013,  
~~3<sup>rd</sup> day of May, 2012.~~

**STATE OF WEST VIRGINIA**

**COUNTY OF CABELL**

This day came James N. Insko who, being by the undersigned authority first duly sworn upon oath says the following:

"I solemnly swear (or affirm) that I will support the Constitution of the United States of America, and of the State of West Virginia, and that I will, in all respects, observe the provisions of the Charter, Ordinances, Resolutions, Regulations and Rules of the City of Huntington, and will faithfully discharge the duties of HUNTINGTON CITY COUNCIL for the City of Huntington to the best of my skill and judgment, so help me God."

Signed: James N. Insko

Taken, subscribed and sworn to before me this <sup>27</sup>~~16<sup>th</sup>~~ day of <sup>Dec</sup>~~August~~, 2004.

Barbara E. Nelson  
NOTARY PUBLIC  
Cabell County, West Virginia

My commission expires the 3<sup>rd</sup> day of May, 2012.

**STATE OF WEST VIRGINIA**

**COUNTY OF CABELL**

This day came FRANCES JACKSON who, being by the undersigned authority first duly sworn upon oath, says the following:

"I solemnly swear that I will support the Constitution of the United States of America, and of the State of West Virginia, and that I will, in all respects, observe the provisions of the Charter, Ordinances, Resolutions, Regulations and Rules of the City of Huntington, and will faithfully discharge the duties of HUNTINGTON CITY COUNCIL for the City of Huntington to the best of my skill and judgment, so help me God."

XSigned: Frances Jackson

Oath administered by: Kathy Torlone

Taken, subscribed and sworn to before me this 13<sup>th</sup> day of December, 2004.



Kathryn A. Torlone  
NOTARY PUBLIC  
Cabell County, West Virginia

My commission expires the 18<sup>th</sup> day of November, 2013

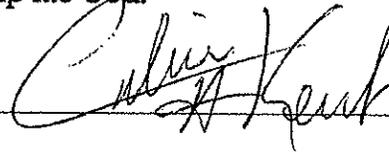
**STATE OF WEST VIRGINIA**

**COUNTY OF CABELL**

This day came Calvin Kent who, being by the undersigned authority first duly sworn upon oath says the following:

"I solemnly swear (or affirm) that I will support the Constitution of the United States of America, and of the State of West Virginia, and that I will, in all respects, observe the provisions of the Charter, Ordinances, Resolutions, Regulations and Rules of the City of Huntington, and will faithfully discharge the duties of HUNTINGTON CITY COUNCIL for the City of Huntington to the best of my skill and judgment, so help me God."

Signed: \_\_\_\_\_



Taken, subscribed and sworn to before me this 4<sup>th</sup> day of January, 2004.

Katherine A. Johnson  
NOTARY PUBLIC  
Cabell County, West Virginia

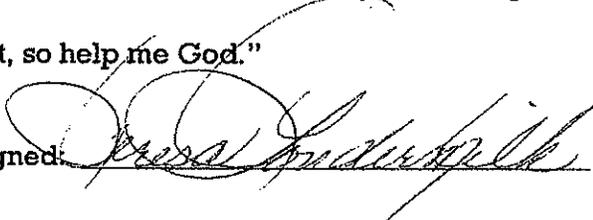
My commission expires the 18<sup>th</sup> day of Nov. 2013.

**STATE OF WEST VIRGINIA**

**COUNTY OF CABELL**

This day came Teresa Loudermilk who,  
being by the undersigned authority first duly sworn upon oath says the  
following:

"I solemnly swear (or affirm) that I will support the Constitution of the  
United States of America, and of the State of West Virginia, and that I will, in all  
respects, observe the provisions of the Charter, Ordinances, Resolutions,  
Regulations and Rules of the City of Huntington, and will faithfully discharge  
the duties of HUNTINGTON CITY COUNCIL for the City of Huntington  
to the best of my skill and judgment, so help me God."

Signed: 

Taken, subscribed and sworn to before me this 27<sup>th</sup> day of Dec,  
2004.



NOTARY PUBLIC  
Cabell County, West Virginia

My commission expires the 3<sup>rd</sup> day of May, 2012.

**STATE OF WEST VIRGINIA**

**COUNTY OF CABELL**

This day came Mary Neely who, being by the undersigned authority first duly sworn upon oath says the following:

"I solemnly swear (or affirm) that I will support the Constitution of the United States of America, and of the State of West Virginia, and that I will, in all respects, observe the provisions of the Charter, Ordinances, Resolutions, Regulations and Rules of the City of Huntington, and will faithfully discharge the duties of HUNTINGTON CITY COUNCIL for the City of Huntington to the best of my skill and judgment, so help me God."

Signed: \_\_\_\_\_

*Mary Neely*

Taken, subscribed and sworn to before me this <sup>27</sup>~~30~~ day of <sup>Dec</sup>~~August~~, 2004.

\_\_\_\_\_  
*Barbara E Nelson*

NOTARY PUBLIC  
Cabell County, West Virginia

My commission expires the 3<sup>rd</sup> day of May, 2012.

**STATE OF WEST VIRGINIA**

**COUNTY OF CABELL**

This day came James Ritter who, being by the undersigned authority first duly sworn upon oath says the following:

"I solemnly swear (or affirm) that I will support the Constitution of the United States of America, and of the State of West Virginia, and that I will, in all respects, observe the provisions of the Charter, Ordinances, Resolutions, Regulations and Rules of the City of Huntington, and will faithfully discharge the duties of HUNTINGTON CITY COUNCIL for the City of Huntington to the best of my skill and judgment, so help me God."

Signed: James Ritter

Taken, subscribed and sworn to before me this <sup>27</sup>~~10~~ day of <sup>Dec</sup>~~August~~, 2004.

Barbara E. Nelson  
NOTARY PUBLIC  
Cabell County, West Virginia

My commission expires the 3<sup>rd</sup> day of May, 2012.



AN ORDINANCE CREATING A SANITARY BOARD

WHEREAS, Chapter 25 of the Acts of the West Virginia Legislature, First Extraordinary Session 1933, as amended, authorizes this city to own, acquire, construct, equip, operate and maintain a sewerage collection system or a sewerage treatment plant or plants, and other works or projects incident thereto, and to acquire, by gift, grant, purchase, condemnation or otherwise, all necessary lands, rights-of-way and property therefor, and to issue revenue bonds to pay the cost thereof, but such bonds not to be obligations of this city, but to be payable solely from the funds provided for by said Act. And said Act further provides that this council, as the governing body of this city, shall create a Sanitary Board, composed of three members, two to be selected by this council and the third to be the Mayor of this city, who is by said Act made a member of said Board, and that the construction, acquisition, improvement, equipment, custody operation and maintenance of any such sewerage collection system or works, and the collection of revenues therefrom for the services rendered thereby, shall be under the supervision and control of such Sanitary Board; and

WHEREAS, it is considered to the best interests of this city that a Sanitary Board be created, as provided in said Act as amended.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HUNTINGTON, WEST VIRGINIA, that a Sanitary Board, within the meaning of said Act as amended, be, and the same is hereby created, and, pursuant to the provisions of said Act, the Mayor of this City is hereby designated as a member of said Board, and this council shall select the other two members of said Board at such time as this council may determine. The persons so selected and the terms of their respective offices and all other matters relating thereto shall be in accordance with the provisions of said Act, to which reference is hereby expressly made.

BE IT FURTHER ORDAINED, that the custody, administration, operation and maintenance of any sewerage collection system or other works that may be constructed or acquired under the provisions of said Act and of this ordinance shall be under the supervision and control of said Sanitary Board created as aforesaid. All necessary preliminary expense actually incurred by said Board in the making of surveys, estimates of costs and revenues, employment of

engineers, attorneys or other employees, the giving of notices, taking of options, and all other expense of whatsoever nature necessary to be paid prior to the issue and delivery of the revenue bonds, pursuant to the provisions of said Act, shall be paid out of the general funds of the city not otherwise appropriated, in the manner provided in Section 4 of said Act; provided, however, that the funds of said city from which such payments are made shall be fully reimbursed and repaid by the said Board out of the first proceeds of the sale of revenue bonds provided for in said Act.

BE IT FURTHER ORDAINED, that, until the further order of this council, the compensation of the two members of said Board to be selected by this council shall be, and the same is hereby fixed at Twenty-five Dollars (\$25.00) per month for each of said two members. The third member of said Board, being the Mayor of this city, who is already compensated, shall not receive any compensation for his services as a member of said Board in addition to the salary received by him as Mayor of this city. Said Board is hereby directed to select a Secretary and Treasurer, pursuant to the provisions of Section 18 of said Act. It is contemplated that such Secretary and Treasurer will be required to give only a part of his or her time to the duties of said office, and for such part time duties, his or her compensation shall be and is hereby fixed at Fifty Dollars (\$50.00) per month until changed by order of the council. The bond of the Treasurer is hereby fixed at Five Thousand Dollars (\$5,000.00). Such bonds shall be given by a recognized surety company, and the cost of the premium thereof shall be paid by said Board as part of its expense.

BE IT FURTHER ORDAINED, that the further regulation and control of said Sanitary Board, except in so far as said Board is given authority by said Act to organize itself and establish its own by-laws, rules and regulations, is hereby reserved and may be set forth from time to time by this council by proper ordinance, within the terms of said Act of the Legislature as necessity therefor may arise.

BE IT FURTHER ORDAINED THAT, until the further order of this council that the members of the Board hereby created shall serve without compensation. Said Board is hereby directed to select a Secretary and Treasurer pursuant to the provisions of Section 19 of said Act. It is contemplated that such Secretary and Treasurer will be required to give only a part of his or her time to

the duties of said office, and for such part time duties, his or her compensation shall be and he hereby fixed at Fifty Dollars (\$50.00) per month until changed by order of the council. The bond of the Treasurer is hereby fixed at Five Thousand Dollars (\$5,000.00) Such bonds shall be given by a recognized surety company, and the cost of the premium thereof shall be paid by said Board as part of its expenses.

PASSED BY THE COUNCIL OF THE CITY OF HUNTINGTON  
March 11, 1935.



**STATE OF WEST VIRGINIA**

**COUNTY OF CABELL**

This day came DAVID A. FELINTON who,  
being by the undersigned authority first duly sworn upon oath says the  
following:

"I solemnly swear (or affirm) that I will support the Constitution of the  
United States of America, and of the State of West Virginia, and that I will, in all  
respects, observe the provisions of the Charter, Ordinances, Resolutions,  
Regulations and Rules of the City of Huntington, and will faithfully discharge  
the duties of MAYOR \* for the City of Huntington to the best of my  
skill and judgment, so help me God."

Signed: David A. Felinton

\*also, member of the Huntington Sanitary Board

Taken, subscribed and sworn to before me this 30<sup>th</sup> day of  
December, 2004.

Barbara E. Nelson  
NOTARY PUBLIC  
Cabell County, West Virginia

My commission expires the 3<sup>rd</sup> day of May, 2012.

**STATE OF WEST VIRGINIA**

**COUNTY OF CABELL**

This day came JAMES D. ASHWORTH who,  
being by the undersigned authority first duly sworn upon oath says the  
following:

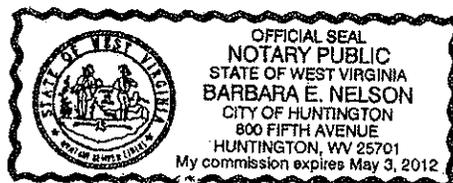
"I solemnly swear (or affirm) that I will support the Constitution of the  
United States of America, and of the State of West Virginia, and that I will, in all  
respects, observe the provisions of the Charter, Ordinances, Resolutions,  
Regulations and Rules of the City of Huntington, and will faithfully discharge  
the duties of HUNTINGTON SANITARY BOARD for the City of  
Huntington to the best of my skill and judgment, so help me God."

Signed: James D. Ashworth

Taken, subscribed and sworn to before me this 15<sup>th</sup> day of  
February, 2005.

Barbara E. Nelson  
NOTARY PUBLIC  
Cabell County, West Virginia

My commission expires the 3rd day of May, 2012.



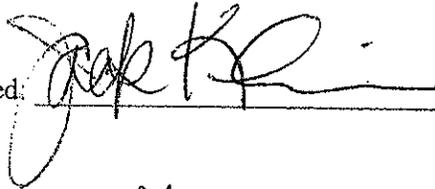
**STATE OF WEST VIRGINIA**

**COUNTY OF CABELL**

This day came JACK KLIM who, being by the undersigned authority first duly sworn upon oath, says the following:

"I solemnly swear that I will support the Constitution of the United States of America, and of the State of West Virginia, and that I will, in all respects, observe the provisions of the Charter, Ordinances, Resolutions, Regulations and Rules of the City of Huntington, and will faithfully discharge the duties of HUNTINGTON SANITARY BOARD for the City of Huntington to the best of my skill and judgment, so help me God."

Signed: \_\_\_\_\_



Oath administered by: \_\_\_\_\_



Taken, subscribed and sworn to before me this 19 day of June, 2006.

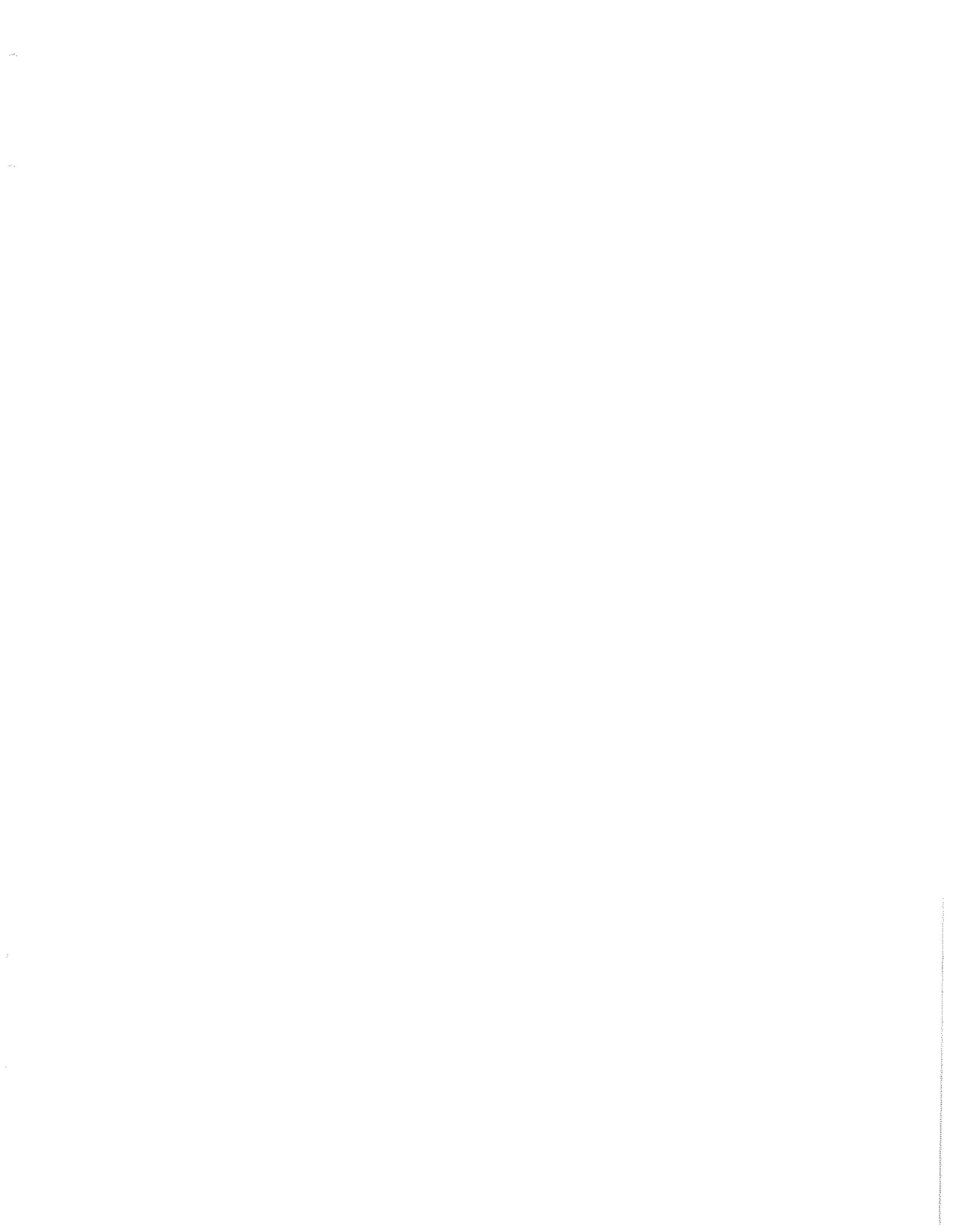


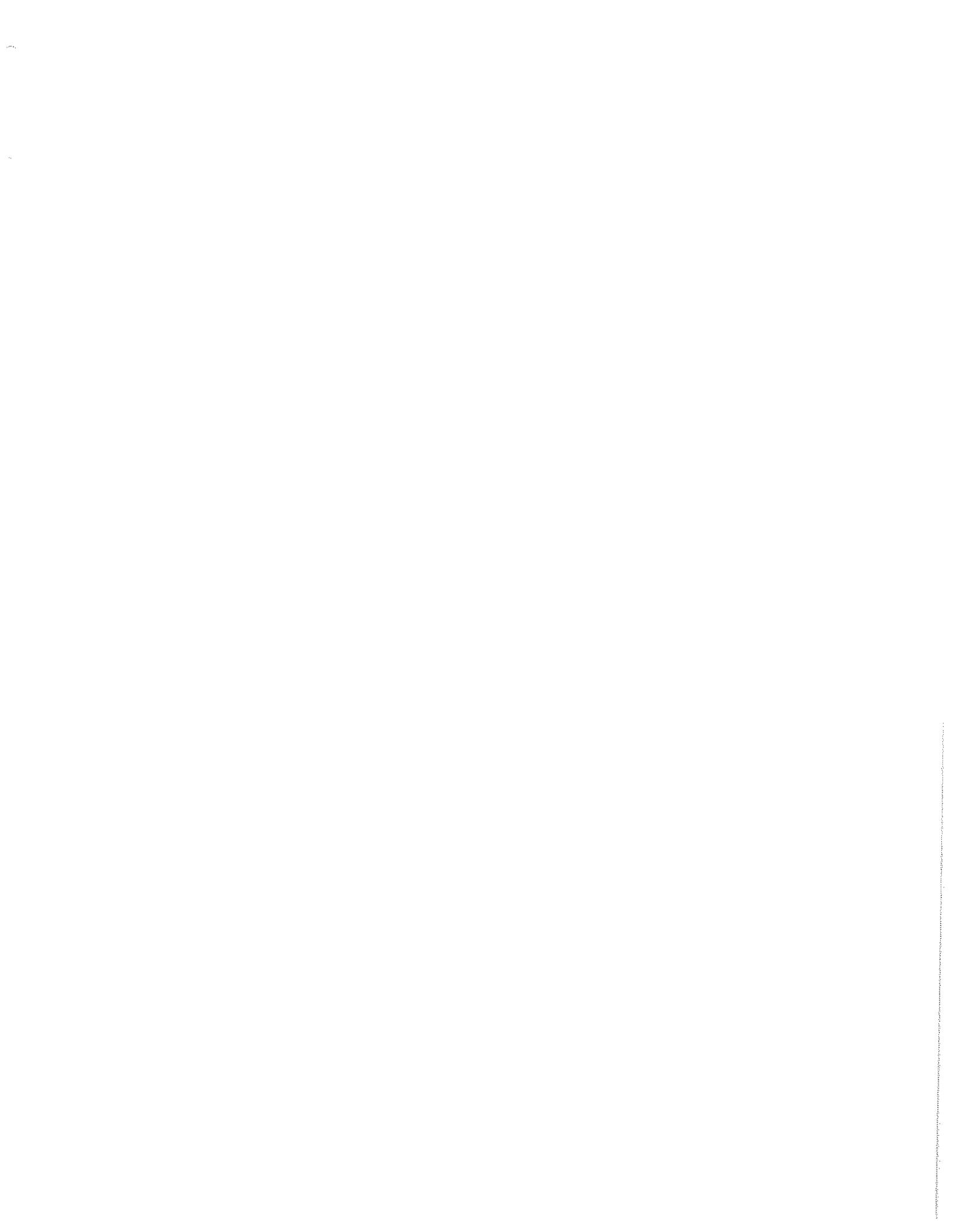
NOTARY PUBLIC

Cabell County, West Virginia

Commissioned as Barbara E Nelson

My commission expires the 3rd day of May, 2012





**REGULAR MEETING  
HUNTINGTON CITY COUNCIL  
DECEMBER 13 2004**

The December 13, 2004 Huntington City Council meeting convened at 7:30 p.m. with Chairman Insko presiding.

**INVOCATION AND PLEDGE:**

Councilman Patterson gave the invocation and Councilman Ritter led the Pledge of Allegiance to the Flag.

**ROLL CALL**

All members of Council were present.

John Daniels	Mary Neely
B. W. Ellis	Larry Patterson
Trey Hanshaw	Chuck Polan
Jim Insko	Jim Ritter
Cal Kent	Bob Rufus
Tom McCallister	

Also present were Mayor David Felinton, City Attorney Ted Morgan, Finance Director Bob Wilhelm, Bruce Fox, Sanitary Board Director, Richard Dixon, Planning & Development Director, Charlie Holley, Planning & Development and Assistant City Clerk Kathy Torlone.

**SYNOPSIS**

**SYNOPSIS**

Councilman Patterson moved for the approval of the synopsis of the November 22, 2004 City Council meeting, seconded by Councilman Ellis.

Upon voice vote duly taken, the synopsis was approved unanimously.

**REPORTS OF THE MAYOR**

**MAYOR'S  
REPORTS**

Mayor Felinton reported that Empire Bookstore opened at Pullman Square and Boston Beanery opened at the former Heritage Station location. This Friday, Starbucks will open at Pullman. Between 11/19 -12/09/04, 10.24 tons of asphalt were used; however, due to availability, 12/03/04 was the only day work was performed. A list of patched asphalt areas was given to the Clerk. From 11/19 to 12/09/04, trash crews picked up 191.06 tons of trash taken to Cooksey Landfill, 45 dump truck loads of yard waste were taken to Dietz Hollow Landfill. The total amount of trash year-to-date is 5,961,520 pounds has been picked up in addition to the weekly refuse pick up. The Mayor conveyed his wishes for a happy holiday season.

Bob Wilhelm, Director of Finance, presented a cash balance report as of 12/13/04, a copy of which is included in the meeting folder.

Chairman Insko announced a 100<sup>th</sup> birthday celebration of one of Huntington's long time residents and read a proclamation of City Council honoring Louise Lovisa.

Councilperson Neely offered greetings to her mother.

**Waive the Rules**

Councilman Kent motioned to waive the rules to move Item 19 next on the agenda; 2<sup>nd</sup> by Councilman Ellis.

After voice vote duly taken, the motion was approved.

**Resolution re: A RESOLUTION OF COUNCIL AND THE MAYOR HONORING YVONNE BALL**

**RESOLUTION RE YVONNE BALL**

Councilperson Neely moved for adoption; 2<sup>nd</sup> by Councilman Patterson.

Councilperson Neely asked that the resolution be read in entirety. The Clerk read as follows:

"WHEREAS, the Council and the Mayor wish to pay tribute to Yvonne Ball for her thirty-two (32) years of dedicated service to the citizens of the City of Huntington; and  
 WHEREAS, Yvonne Ball has been a dedicated and outstanding employee of the Huntington Municipal Parking Board since 1972; and  
 WHEREAS, Yvonne Ball began her tenure as a Secretary of the Huntington Municipal Parking Board, was promoted to Office Manager-Executive Secretary in 1975, appointed as Acting Coordinating Director by the Board in 1981 and appointed to the position of Coordinating Director in 1982 where she continued to serve until her retirement on November 30, 2004; and  
 WHEREAS, Yvonne Ball is a well-liked and respected individual who has served the City well,  
 NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL AND THE MAYOR OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that the Council and the Mayor hereby HONOR Yvonne Ball for her thirty-two (32) years of dedicated service to the citizens of the City of Huntington and wish her well in all of her future endeavors."

Mayor Felinton read a proclamation and thanked her for her years of service to the City. Mrs. Ball expressed her appreciation.

After voice vote duly taken, the resolution was unanimously adopted (11 yeas, 0 nay).

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL CREATING THE POSITION OF PUBLIC WORKS MANAGER FOR THE CITY OF HUNTINGTON**

**2<sup>ND</sup> READING ORDINANCE RE PUBLIC WORKS MANAGER**

Councilman Rufus moved for adoption; 2<sup>nd</sup> by Councilman Ellis.

Councilman Rufus moved to postpone to the first meeting in January; 2<sup>nd</sup> by Councilman Hanshaw.

Councilman McCallister will vote against the postponement.

Councilman Ritter asked the reason for postponement.

Mayor Felinton felt there is misunderstanding and questions over the cost of hiring a Public Works Director at an outside firm. Mr. Morgan has arranged for interviews next week and there will be more of an idea of cost after the interviews.

Councilman Ritter agreed with Mrs. Neely's comment about broadening the search for a director. A certified engineer from any state could acquire certification in West Virginia without a problem.

Councilman Patterson feels this issue should be dealt with and not passed onto a new council.

Councilperson Neely does not feel it should be delayed and also compared this to the Sanitary Board when it hired Chester Engineering Firm and the magnitude of money they

ended up paying. It would be difficult to pinpoint what a contract engineering firm would charge.

Mayor Felinton stated this is not for a particular project. He does not intend to pass this onto the new Council and would be content to postpone this to the December 27<sup>th</sup> meeting.

Councilperson Neely feels it is a violation of charter in that the city is required to have a Public Works Director who is an engineer. If a public works manager was approved and then a public works director was found, it would be difficult for the city to pay for both headcount. The situation has not been handled well.

Councilman McCallister feels that this is in violation of the charter and also in violation of Article 9.12 because the city has operated without a Public Works Director for eight months. Councilman McCallister asked Mr. Morgan to read into the record Article 9.12.

"Section 9.12. Personnel Powers and Duties of Mayor - The Mayor, or his or her subordinate, shall cause to be prepared, and timely reviewed and revised, personnel rules which shall be considered by Council and adopted as proposed, or amended by Council and adopted, by ordinance, or referred to the Mayor for additional study and resubmission. The rules shall provide: for the classification of all City positions based on the duties, authority and responsibility of each position with adequate provision for reclassification of any position whenever warranted; methods for determining the merit and fitness of candidates for appointment, employment or promotion; the hours of work, attendance regulations and provisions for sick and vacation leave; the policy and procedure governing persons holding provisional appointments; the policy and procedure governing persons holding provisional appointments; the policy and procedure governing relationships with employee organizations; the policy regarding in-service training programs; grievance procedures, including procedure for the hearing of grievances and for the reduction in force and removal of employees; and any other practices and procedures necessary to the administration of the City personnel system. Except as otherwise provided in this Charter, whenever it is deemed necessary, the officer or body having authority to appoint an officer or employee may appoint a temporary officer or employee; provided, however, such temporary appointment shall not extend beyond a term of sixty days. There shall be no extension of any temporary appointment."

Councilman Rufus commented that with all the questions Council members have presented, it should not be a problem that the Mayor be given additional time to do a cost analysis. There is added value to postpone the item so the administration can gather up more information.

Councilman Rufus moved to postpone until the meeting on 12/27/04; 2<sup>nd</sup> by Councilman Ellis.

Councilman McCallister moved to withdraw the item; 2<sup>nd</sup> by Councilperson Neely.

Councilman Rufus stated that the objective here is to provide public service.

Councilperson Neely feels the Public Works Director position was never advertised specifying an engineering background.

Mayor Felinton said the position was advertised as Public Works Director several months ago. The ad did not state that applicant had to be an engineer to apply.

Mrs. Neely feels that since the ad did not specifically require an engineering degree, she does not feel it was advertised properly. It was only advertised in the Huntington and Charleston newspapers and should have been placed in trade journals and in a broader scope.

Mayor Felinton stated that national advertising for this position would be expensive and that this may have been handled incorrectly before now.

Councilman Kent moved to table the item; 2<sup>nd</sup> by Councilperson Neely.

Upon vote duly taken, the motion to table was adopted (6 yeas, 5 nays-Daniels, McCallister, Patterson, Polan, Rufus)

Councilman McCallister was excused from the meeting at this time.

2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO TWO (2) CONTRACTS FOR ASBESTOS ABATEMENT SERVICES TO BE PERFORMED ON CERTAIN PROPERTIES LOCATED WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF HUNTINGTON

2<sup>ND</sup> READING  
ORDINANCE RE  
ASBESTOS  
ABATEMENT

Councilman Daniels moved for adoption; 2<sup>nd</sup> by Councilman Patterson.

Mayor Felinton explained that this is for two separate contracts for abatement which were advertised separately. Both contracts will be awarded to American Industrial Insulation of Nitro, WV, in the amount of \$16,254 and \$15,788.

After vote duly made, the ordinance was adopted (10 yeas, 1 excused-McCallister).

2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH LABOR, MATERIALS AND EQUIPMENT FOR THE RENOVATIONS AND ADDITIONS AT THE FAIRFIELD EAST COMMUNITY CENTER

2<sup>ND</sup> READING  
ORDINANCE RE  
RENOVATIONS &  
ADDITIONS  
FAIRFIELD EAST  
COMMUNITY CTR

Councilman Hanshaw moved for adoption; 2<sup>nd</sup> by Councilman Patterson.

The contract would be awarded to Portco, Inc. from Portsmouth, OH, in the amount of \$99,303.00. The money would come from 2003-2004 CDBG budget year.

After vote duly taken, the ordinance was adopted (10 yeas, 1 excused-McCallister).

1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 543 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED, BY AMENDING, MODIFYING AND RE-ENACTING SECTION 543 REGARDING HAZARDOUS MATERIALS

1<sup>ST</sup> READING  
ORDINANCE RE  
ARTICLE 543  
HAZARDOUS  
MATERIALS

Councilman Ritter has proposed this ordinance to deal with hazardous waste spills, as was recently experienced in Westmoreland, to give the city some authority in making sure companies who handle hazardous materials are properly certified to do so. Councilman Ritter asked if any review of the BZA or Planning & Zoning was required for this ordinance.

Council Chairman Insko stated that the ordinance could be postponed for review of the other committees if so desired. Mayor Felinton did not feel it was necessary.

Councilman Kent questioned the limit of 500 feet in Section 543.02, as the spill in Westmoreland ranged further than that.

City Attorney Ted Morgan said the 500 feet was for improper loading and unloading of hazardous materials.

Councilman Kent felt that if the improper action takes place 501 feet away, this does not apply so he would like to see that expanded to 1,000 feet.

Councilman Kent moved to amend Section 543.02 from 500 feet to 1,000 feet; 2<sup>nd</sup> by Councilman Ritter.

Councilman Daniels felt the occurrence in Westmoreland was not caused by loading or unloading. It was due to faulty equipment.

City Attorney Morgan cited an example of faulty equipment. If you filled up a container with gas at the gas station, if it is not an approved container, it is considered as improperly loading and unloading of hazardous materials. State and federal laws cover

these issues. The city ordinance allows the city to go after someone who has done something to create a problem so that they will be held accountable for the spill.

Councilman Kent moved to include in his prior amendment to change Section 543.03 to read "shall be subject to a fine up to Five Hundred Dollars (\$500.00) and/or up to thirty days (30) in jail or both;" 2<sup>nd</sup> by Councilman Ritter.

Upon vote duly taken, the amendment was adopted (10 yeas, 1 excused-McCallister).

Councilman Rufus questioned defining of certain terms in the ordinance. Mr. Morgan responded that terms were defined in federal regulations and was left off the proposed ordinance because hazardous materials issues are constantly changing.

Councilman Rufus and Mr. Morgan discussed issues relating to the interpretation of the ordinance, how federal regulations and state code come into play, and law enforcement officers' ability to enforce the resolution.

Councilman Ellis stated that the city and state follow code from the National Fire Protection Association which is revised every three years as changes are made. The city has adopted this and the fire marshal can enforce it. He feels that many times complaints or reports from citizens do not reach the right person.

The item will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL INCREASING THE AMOUNT OF COMPENSATION RECEIVED BY MEMBERS OF COUNCIL (AS AMENDED)**

**1<sup>ST</sup> READING  
ORDINANCE RE  
COUNCIL  
COMPENSATION**

Mayor Felinton is not in favor of receiving additional compensation but it is mandated by ordinance to review every four years. He does not wish to receive any increase in compensation.

Councilman Polan moved to amend the ordinance to remove the increase for the Mayor; 2<sup>nd</sup> by Councilman Ellis.

There being no further discussion, the amendment to the ordinance was approved (9 yeas, 1 nay-Daniels, 1 excused-McCallister)

This ordinance will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE AUTHORIZING THE ISSUANCE OF SEWER REVENUE BONDS, SERIES 2005 A (TAX-EXEMPT) OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$4,000,000 FOR THE PURPOSE OF PAYING THE OUTSTANDING PRINCIPAL BALANCE OF THE CITY'S SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2003 A (TAX-EXEMPT) AND PAYING COSTS OF ISSUANCE AND RELATED COSTS; AUTHORIZING THE ISSUANCE OF SEWER REVENUE BONDS, SERIES 2005 B (TAXABLE) OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$2,750,000 FOR THE PURPOSES OF PAYING THE OUTSTANDING PRINCIPAL BALANCE OF THE CITY'S SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2003 B (TAXABLE), FINANCING CERTAIN SINKING FUND AND DEBT SERVICE RESERVE ACCOUNT ARREARAGES FOR THE CITY'S PRIOR BONDS, AND PAYING COSTS OF ISSUANCE AND RELATED COSTS; AUTHORIZING THE ISSUANCE OF SEWER REFUNDING REVENUE BONDS, SERIES 2005 C (TAX-EXEMPT) OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$7,000,000 FOR THE PURPOSE OF REFUNDING THE CITY'S SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1993, AND PAYING COSTS OF ISSUANCE AND RELATED COSTS; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, CONTINUING DISCLOSURE AGREEMENT AND OTHER DOCUMENTS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO**

**1<sup>ST</sup> READING  
ORDINANCE RE  
AUTHORIZING  
SEWER REVENUE  
BONDS**

Councilman Kent explained that if the ordinance does not pass as of January 15, 2005, everyone's sewer bill will increase by \$7.50. This did come from the work done in the agreement that was reached, although it has been protested, with the Public Service Commission. It is something we have to do; this issue is not in dispute.

Councilman Rufus asked about different interest rates between old bonds and refinanced bonds.

Attorney Fred Williams of Steptoe & Johnson gave a brief description of the interest rates on the refunding bonds and how the rates will fluctuate for each series.

Councilman Rufus asked Mr. Williams about interest rates and also inquired as to IRS issues in regards to refunding the bonds.

There will be three readings of this ordinance and it will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE VACATING, CLOSING AND ABANDONING A 3,551 SQUARE FOOT PARCEL OF LAND SITUATE JUST WEST OF FIRST STREET ON ADAMS AVENUE IN THE CITY OF HUNTINGTON**

**1<sup>ST</sup> READING  
ORDINANCE RE  
ABANDONING  
PARCEL**

Mayor Felinton stated this is a small parcel located on the north side of the 100 block of Adams Avenue. It did receive a positive recommendation from the Planning Commission.

This item will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE AMENDING THE ZONING ORDINANCES OF THE CITY OF HUNTINGTON RELATING TO ARTICLE 1359 - SPECIAL PERMIT, REQUIREMENTS AND PROCEDURE (AS AMENDED)**

**1<sup>ST</sup> READING  
ORDINANCE RE  
ARTICLE 1359  
SPECIAL PERMIT  
REQUIREMENTS**

Mayor Felinton reported the ordinance had received a positive recommendation from the Planning Commission. In compliance with state law, it grants the approval of special permits to the Board of Zoning Appeals.

D. Everett Fullerton, 981 Madison Avenue, wanted to make sure that Council had the most current copy of the proposed ordinance.

Richard Dixon, Director of Planning and Development, described changes that need to be made to Article 1359. Article D needs to have the last sentence struck because State Code allows a 30-day appeal period. Article F, Paragraph 1 contains old language that should be stricken.

Councilman Patterson moved to accept the changes described by Mr. Dixon; 2<sup>nd</sup> by Councilman Ellis. The amendment was approved by unanimous voice vote.

The ordinance will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE HUNTINGTON SANITARY BOARD TO ENTER INTO A CONTRACT WITH SANITARY BOARD TO ENTER INTO A CONTRACT WITH E. L. ROBINSON ENGINEERING COMPANY, INC. FOR ENGINEERING DESIGN SERVICES FOR THE HARVEYTOWN SEWER LINE EXTENSION PROJECT**

**1<sup>ST</sup> READING  
ORDINANCE  
ENGINEERING  
DESIGN  
HARVEYTOWN  
SEWER LINE**

The contract would be awarded to E. L. Robinson. None of the funding for engineering costs or construction involves Sanitary Board funds but relies solely on grants that have been procured by Region II Planning and Development.

Doug Cade of E. L. Robinson Engineering spoke briefly on the contract.

Councilman Ellis asked if residents in the area been notified of the \$900 tap fee.

Bruce Fox, Director of Sanitary Board, responded that the project is not yet approved so notice has not been sent. When the project is complete, customers will be notified. A public meeting was held in Harveytown and the tap fee was explained to them.

Mayor Felinton asked if residents were required to tap in. Mr. Fox answered that they were. The residents are anticipating this project and are supportive of it. Wayne County has committed \$60,000 for this project.

Councilperson Neely asked if residents could make payments on the \$900 tap fee. Mr. Fox encouraged residents to use a payment plan that is available at the Sanitary Board.

The ordinance will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH SELF-CONTAINED BREATHING APPARATUS AND EQUIPMENT FOR THE HUNTINGTON FIRE DEPARTMENT**

**1<sup>ST</sup> READING  
ORDINANCE RE  
HFD BREATHING  
APPARATUS**

Mayor Felinton stated the contract would be awarded to Dill's Fire and Safety Company from Ravenswood, WV, in the amount of \$208,970. Funding comes from the Homeland Security Grant.

The ordinance will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH LABOR AND MATERIALS FOR ROOF REPLACEMENT AT THE FIRST STREET FLOODWALL PUMP STATION**

**1<sup>ST</sup> READING  
ORDINANCE RE  
ROOF  
REPLACEMENT  
PUMP STATION**

The contract would be awarded to Boggs Roofing in the amount of \$8,250. Money will come from the General Fund.

The ordinance will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH NEW REPLACEMENT PUMPS, ACCESSORIES AND CONTROLS FOR THE SUBMERSIBLE STORM WATER PUMP STATION AT THE TWENTIETH STREET VIADUCT**

**1<sup>ST</sup> READING  
ORDINANCE RE  
PUMP AT 20<sup>TH</sup>  
STREET VIADUCT**

Mayor Felinton stated the contract will be awarded to Marcum Pump & Equipment of Huntington in the amount of \$21,429.92. The pumps will aid in clearing water from the 20<sup>th</sup> Street viaduct during heavy rains and flooding situations.

A question was raised about warranty information on the pumps. Charles Holley stated that warranty information on Myers pumps was not yet available but would be made available to Council.

The ordinance will be advertised.

**WAIVE THE RULES**

Councilman Patterson moved to waive the rules in order to add an item to the agenda; 2<sup>nd</sup> by Councilperson Neely. Upon unanimous voice vote received, the waiver was approved.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE AMENDING THE ZONING ORDINANCES OF THE CITY OF HUNTINGTON RELATING TO ARTICLE 1361 – BOARD OF ZONING APPEALS (AS AMENDED)**

**1<sup>ST</sup> READING  
ORDINANCE RE  
ARTICLE 1361  
BZA**

Richard Dixon, Director of Development and Planning, explained that the ordinance relates to the amendment to Article 1359 which was considered earlier. Mr. Dixon said that the second sentence in Paragraph B should be changed to read: "No action of the Board is official, however, unless authorized by a majority of the Board present."

Councilman Patterson moved to change the sentence; 2<sup>nd</sup> by Councilman Kent. After voice vote duly take, the amendment was adopted unanimously.

Ted Morgan, City Attorney, suggested a change in Paragraph I, second sentence, which should read, "The appeal shall specify the grounds thereof and shall be filed within 30 days of the decision of the administrative official and in such form as may be prescribed by the Board by general rule."

Councilman Kent moved to accept the change; 2<sup>nd</sup> by Councilman Patterson. After voice vote duly taken, the amendment was adopted unanimously.

The ordinance will be advertised.

**Resolution re: A RESOLUTION OF COUNCIL REQUIRING AN INVESTIGATION OF THE USE OF DONATED MONIES AND COMMUNITY DEVELOPMENT BLOCK GRANT FUND APPLIED TO THE A. D. LEWIS COMMUNITY CENTER, FAIRFIELD EAST COMMUNITY CENTER AND FAIRFIELD WEST COMMUNITY GARDENS**

**RESOLUTION RE  
INVESTIGATION  
OF COMMUNITY  
CENTER MONIES**

Councilperson Neely moved to withdraw the item from the agenda; 2<sup>nd</sup> by Councilman Ritter. Upon voice vote duly taken, the motion to withdraw was approved.

**Resolution re: A RESOLUTION OF COUNCIL ACCEPTING THE TRANSFER OF PROPERTY LOCATED AT 2210 HARVEY ROAD, WITHIN THE CITY OF HUNTINGTON, FROM THE GUARDIAN AND CONSERVATOR FOR VIOLET MAE WEAVER**

**RESOLUTION RE  
ACCEPTING  
WEAVER  
PROPERTY**

"BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that Council does hereby ACCEPT the transfer of the property located at 2210 Harvey Road, within the City of Huntington, from the Guardian and Conservator for Violet Mae Weaver. A copy of the Deed transferring the property is attached hereto and made a part of this Resolution."

Councilman Polan moved for adoption; 2<sup>nd</sup> by Councilperson Neely.

Mayor Felinton stated that the city will assume title to the property. The house has been cited for code violations and is being held by an estate.

Ted Morgan said the property is located on Harvey Road which is just past the interstate near Heritage Farm. The house might be used for fire training tool and a check for asbestos will be performed.

Councilperson Neely is glad the house will be demolished because the property has been an issue in the neighborhood for a long while.

Mayor Felinton stated it might still be lengthy process to get the house torn down. The city may not be successful in recouping money spent on abatement and demolition.

There being no further discussion, the resolution was adopted (11 yeas, 1 excused-McCallister).

**Resolution re: A RESOLUTION OF COUNCIL RATIFYING, APPROVING AND CONFIRMING AN EMERGENCY PURCHASE AND EXPENDITURE FOR SERVICES BY THE MAYOR PURSUANT TO SECTION 107.01(k) OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON**

**RESOLUTION RE EMERGENCY PURCHASE-VALUE CITY CULVERT REPAIRS**

"BE IT HEREBY RESOLVED BY THE COUNCIL AND THE MAYOR OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that the Council of the City of Huntington does hereby RATIFY, APPROVE AND CONFIRM an emergency purchase and expenditure for services by the Mayor pursuant to Section 107.01, Sub-Section (k), of the Codified Ordinances of the City of Huntington, as revised, pertaining to the purchase of services for the repair of the 84" storm culvert at Roby Road performed by FAMCO, Inc. for the amount of \$340,818.34. The monies allocated for this project will come from the Department of Public Works with \$100,000 to be paid immediately with the rest to be paid as funds become available."

Councilman Patterson moved for adoption; 2<sup>nd</sup> by Councilperson Neely.

Mayor Felinton related the history of the emergency repairs that began a year and a half ago at the Value City Furniture property off of Roby Road. When the problem first occurred, the Public Works Director reported an estimate of \$50,000 to \$100,000 to repair the culvert. It has now surfaced that an estimated \$340,000 is owed to FAMCO, the contractor who was called in to do the repairs because the culvert was buried too deep for the city's equipment to reach. There is a budget revision proposed for payment of \$100,000 to FAMCO immediately and it is hoped to collect payment for the repairs from the property owner who by law is responsible for repairs to the culvert.

Councilman Kent stated his concern that the contractor performed work in good faith for the city and that the city is willing to pay only \$100,000 at this time.

City Attorney Ted Morgan speculated that FAMCO will take the \$100,000 at this time and will work with the city in pursuing remuneration from Value City. The city has a good relationship with FAMCO who has done quite a bit of work on other projects through the years. They are understanding of the city's cash flow situation and he feels they are willing to work with the city to get this resolved.

The conversation continued between Mr. Morgan and Councilman Kent regarding a potential lawsuit from FAMCO, and the inclusion of Value City as a third party in the suit.

Councilman Polan questioned the billing of the project throughout the duration, whether the city was receiving progress invoices from FAMCO, whether FAMCO had a written contract to perform the work, and other concerns he feels are irregularities in the way this particular project was handled. Councilman Polan asked Mr. Morgan about the professional liability insurance that would cover the Public Works Director position.

Councilman Hanshaw asked if repairs are complete at this time. Chairman Insko responded that paving has not been done but that it was not part of the FAMCO invoices.

Councilman Daniels asked what had caused the culvert to stop up. Chairman Insko explained that Council was told that the culvert was put in years ago with old steel tanks that have corroded over the years and caved in at the Value City property.

Councilman Ellis expressed disappointment that a project could go from an estimated \$100,000 to \$340,000 without Council or the Mayor being told about the magnitude of cost.

Councilman Rufus questioned why the resolution would approve \$340,000 to be paid, which would create an immediate obligation, when the city was only going to pay

\$100,000 at this time, as compared to approving only \$100,000 and agreeing to investigate and work with FAMCO through resolution of the issue.

Mr. Morgan stated that an obligation has already been created whether the resolution is approved or not.

Councilman Patterson stated that the Finance Committee did review this and gave it a favorable recommendation after the initial shock wore off. He is concerned about approving the full \$340,000 for payment when the administration has not identified where that money would be coming from.

Councilman Patterson made a motion to amend the resolution to reflect payment of \$100,000; 2<sup>nd</sup> by Councilman Ellis.

Councilman Kent is concerned with the amendment as it seems to limit the amount of payment to \$100,000. Questions about the billings from FAMCO should have been addressed before now.

Councilman Rufus moved to modify the proposed amendment to acknowledge the billing of \$340,818 and encourage the payment of \$100,000 which has been authorized, and agree to move forward with the investigation and resolution of the balance of the claim; 2<sup>nd</sup> by Councilman Hanshaw.

Councilman Kent suggested the following wording for the amendment: "The monies allocated for this project will come from the Department of Public Works with \$100,000 to be paid immediately with the rest to be paid as funds become available."

Councilman Polan feels there ought to be a review of the billing for the project and questions the authority of the Public Works Director to obligate the city for such a large sum. He feels Mr. Rufus's proposal is reasonable and urges support of the amendment.

Councilman Daniels moved to table the resolution until the next meeting of Council; 2<sup>nd</sup> by Councilperson Neely.

After vote duly taken, the motion to table failed (7 nays, 3 yeas-Daniels, Ellis, Insko, 1 excused-McCallister).

On the issue of Mr. Rufus's amendment, after vote duly taken, the amendment was approved (7 yeas, 3 nays-Daniels, Kent, Insko, 1 excused-McCallister)

Councilman Ritter inquired as to adding an amendment that would state the property owner is going to pay the full amount of the repairs. Mr. Morgan stated that would not be required. He has received instruction from the Mayor to proceed in collecting the money from the property owner.

Councilman Patterson moved to withdraw his amendment; 2<sup>nd</sup> by Councilman Ellis.

There being no further discussion, and after vote duly taken, the resolution as amended was adopted (6 yeas, 3 nays, 2 excused-Rufus, McCallister).

**Resolution re: A RESOLUTION OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A COLLECTIVE BARGAINING AGREEMENT WITH THE FRATERNAL ORDER OF POLICE, GOLD STAR LODGE #65**

**RESOLUTION RE FOP AGREEMENT**

"BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that the Mayor shall be, and he hereby is, AUTHORIZED to enter into, on behalf of the City of Huntington, a Collective Bargaining Agreement with the Fraternal Order of Police, Gold Star Lodge #65, providing for the promotion of a harmonious relationship between the City and the Fraternal Order of Police, Gold Star Lodge #65, the institution of equitable and peaceful procedures for the

resolution of differences as the same may arise, and the establishment of rates of pay, hours of work, and other conditions of employment. A copy of said Agreement is attached hereto and made a part of this Resolution."

Councilman Ritter moved for adoption; 2<sup>nd</sup> by Councilman Daniels.

Mayor Felinton stated that this would be a four year contract with the FOP. The copies furnished to Council included editing marks where changes had been made. Mr. Wilhelm distributed a cost analysis for the four-year contract.

Councilman Kent stated that the proposed contract would cost an additional \$978,000 over the four years and compared that amount to the hiring of an additional twenty policemen. Approving a contract of this magnitude makes us less capable of adding new hires to the force.

Councilman Kent asked Mayor Felinton and Mr. Wilhelm various questions regarding the contract.

Councilman Daniels requested verification of costs associated with holiday pay.

Councilman Kent's questions continued which included discussion regarding the Mountain State Blue Cross/Blue Shield insurance plan.

Sherry Lewis, Director of Personnel, explained the Option B plan that Blue Cross has designed for the city. Changes would only be made if mandated by the city. The life insurance is currently \$15,000 and will stay at that level for the contract period. When asked about the elimination of the insurance review committee, Ms. Lewis responded that protected health information laws have made it prudent at this time to eliminate the committee. There is still an administrative committee in place to handle any appeals regarding health insurance. The open enrollment obligation was already fulfilled thus it was taken out of the contract.

Councilman Rufus inquired about retirees supplemental insurance, and cost projections for the life of the contract. Mr. Wilhelm supplied information to explain the cost. Councilman Rufus had questions regarding holiday pay. Mr. Wilhelm referenced his costing worksheet to determine costs. It was determined that the holiday pay line item was incorrect. For the first year, the contract will cost an additional \$274,914. Funding for the new contract is taken care of for the remainder of this fiscal year. The ensuing years will be budgeted for during budget work sessions.

Councilman Kent stated that with the new contract and pension payments the city must come up with, it will be increasingly difficult to add any additional police officers in the future.

Sgt. Alan Rohrig, 38 Northcott Court, addressed some of Mr. Rufus's concerns. The contract is a good compromise between the city's needs and officers' needs and similar to the HFD contract.

Bryan Chambers, Herald-Dispatch, asked Councilman Kent why he feels it will be difficult to hire additional officers in the future.

Councilman Kent stated that the proposed contract will cost the city at minimum an additional \$1 million over the next four years. The revenue sources of the city have not increased over the past few years so covering the additional cost will be difficult.

There being no further discussion, and after vote duly taken, the resolution was adopted (9 yeas, 1 nay-Kent, 1 excused-McCallister).

Resolution re: A RESOLUTION OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A GRANT CONTRACT AGREEMENT WITH THE WEST VIRGINIA DEPARTMENT OF TRANSPORTATION DIVISION OF MOTOR VEHICLES

RESOLUTION RE GRANT CONTRACT

"BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that Council does hereby AUTHORIZE the Mayor to enter into a Grant Contract Agreement with the West Virginia Department of Transportation Division of Motor Vehicles in order to receive funds for the Click It or Ticket Challenge incentive awards. A copy of the Grant Contract Agreement is attached hereto and made a part of this Resolution."

Councilperson Neely moved for adoption; 2<sup>nd</sup> by  
Councilman Patterson.

Mayor Felinton explained that this is the "Click It or Ticket" program which is administered by Larry Kendall. This is for a one year contract that runs November 1<sup>st</sup> through October 31<sup>st</sup> and is for \$18,000.

There being no further discussion and after vote duly taken, the resolution was adopted (10 yeas, 1 excused-McCallister)

**Resolution re: A RESOLUTION OF COUNCIL AUTHORIZING THE MAYOR TO SUBMIT AN APPLICATION TO THE LOCAL ECONOMIC DEVELOPMENT ASSISTANCE PROGRAM (LEDA) WITH THE WEST VIRGINIA DEVELOPMENT OFFICE FOR MONIES FOR STUDENT ASPECT PREPARATORY SCHOOLS**

**RESOLUTION RE LEDA APPLICATION**

"BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that Council does hereby AUTHORIZE the Mayor to submit an application to the Local Economic Development Assistance Program (LEDA) with the West Virginia Development Office in the amount of Five Thousand Dollars (\$5,000.00) for Student Aspect Preparatory Schools to install fire doors and other upgrades to the building and equipment."

Councilperson Neely moved for adoption; 2<sup>nd</sup> by  
Councilman Hanshaw.

Mayor Felinton explained this approves an application for a grant from the LEDA program from the state for Student Aspect Preparatory Schools who will be using the money to install two fire doors and computers.

There being no further discussion and after vote duly taken, the resolution was adopted (10 yeas, 1 excused-McCallister)

**Resolution re: A RESOLUTION FOR THE REVISION OF THE FISCAL YEAR 2004-2005 GENERAL FUND BUDGET**

**RESOLUTION RE BUDGET REVISION**

"WHEREAS, the Council of the City of Huntington, Counties of Cabell and Wayne, has found it necessary to revise the fiscal year 2004-2005 Levy Estimate; and WHEREAS, these various adjustments are made on West Virginia State Auditor-Chief Inspector Division Forms CID BR 1180 which are attached hereto and made a part hereof. NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Huntington, Counties of Cabell and Wayne, that the Finance Director be and is hereby directed to submit a copy of the revision to the State Auditor of the State of West Virginia for his approval, under the provisions of Chapter II, Section 8, Articles 146, 25 and 26a of the Code of the State of West Virginia."

Councilperson Neely moved for adoption; 2<sup>nd</sup> by  
Councilman Patterson.

Mayor Felinton stated that this had gone through the Finance Committee and it is for a deduction of \$46,820 from federal grants in Revenues and Expenditures and \$3,000 from contingency to go towards the purchase of a van for the Animal Control Shelter which is desperately needed.

There being no further discussion and after vote duly taken, the resolution was adopted (10 yeas, 1 excused-McCallister)

**Resolution re: A RESOLUTION FOR THE REVISION OF THE FISCAL YEAR 2004-2005 GENERAL FUND BUDGET**

**RESOLUTION RE BUDGET REVISION**

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Councilman Patterson moved for adoption; 2<sup>nd</sup> by Councilperson Neely.

As Mayor Felinton described, this revision will move \$50,000 from Contingency into Streets that will go towards the Roby Road emergency repairs. This will make \$100,000 available for that project.

There being no further discussion and after vote duly taken, the resolution was adopted (9 yeas, 1 nay-Ritter, excused-McCallister)

**Re-Appointment re: RE-APPOINTMENT OF CONRAD H. "JACK" THORNBURGH - 2<sup>ND</sup> TERM (ADDITIONAL REPRESENTATIVE) HMDA**

**RE-APPOINTMENT**

Councilperson Neely moved for confirmation of the re-appointment; 2<sup>nd</sup> by Councilman Ellis.

This will re-appoint Mr. Jack Thornburgh to the HMDA.

There being no further discussion and after vote duly taken, the resolution was adopted (10 yeas, 1 excused-McCallister)

**Good & Welfare**

Councilperson Neely asked when repairs would be made at 13<sup>th</sup> Avenue and 10<sup>th</sup> Street where a hole remains. Also at 1<sup>st</sup> Street and 5<sup>th</sup> Avenue where vehicles turn onto 5<sup>th</sup> Avenue, there are no markings and it is very confusing for drivers and creates a dangerous situation. A sign is needed so that cars in the right lane turn right only onto 5<sup>th</sup> Avenue and not go straight. Also at 1213 and 1205 8<sup>th</sup> Street, it has been reported that there is tenant overcrowding at these two houses. Mrs. Neely also inquired why there were no Christmas wreaths or trees put up at City Hall.

Councilman Kent asked if any response from the state had been received about fixing the stoplight at Hal Greer and Washington. It continues to be a problem at the intersection due to the malfunctioning light. Mayor Felinton will follow up on this.

Councilman Daniels stated that at 21<sup>st</sup> Street and Madison Avenue on the north side of the intersection, there are large potholes. Quite a few people have complained about these on a few occasions. Also in the 2000 block of Jefferson Avenue, there is a large pothole in the middle of the traffic lane. Cars attempt to dodge the hole and cars parked along the street are going to be hit. Councilman Daniels also asked that a turn signal light be installed at 8<sup>th</sup> Street and 8<sup>th</sup> Avenue in both the east and west bound directions.

Councilman Ritter wished everyone a Merry Christmas.

Chairman Insko asked if everyone agreed to move the next work session to Monday, 12/27/04, at 6:30 p.m.

Chairman Insko also asked about fixing a hole between 8<sup>th</sup> & 9<sup>th</sup> Avenue on 3<sup>rd</sup> Street. Also at east 31<sup>st</sup> Street if you attempt to make a left turn to go across the bridge, there is no turn signal which is a major traffic jam during peak hours. He asked that the state be advised so a turn signal can be installed.

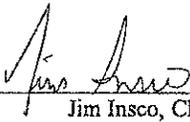
Councilman Kent asked if the Economic Development Committee meeting to be held on 12/17/04 that was scheduled to discuss the Olympic Pool, curb cuts, Fairfield East and other business was still necessary.

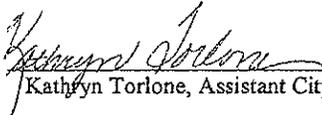
Mayor Felinton will follow up with Richard Dixon on this issue.

Councilman Kent stated he would not be in attendance for the next Council Meeting and conveyed to departing Council members his appreciation for a job well done.

Councilman Patterson discussed the new thruway at Cabell Huntington Hospital from Hal Greer to 17<sup>th</sup> Street and feels the traffic does not move correctly because one of the stop signs is not visible. He suggests the stop sign be moved further up the hill.

There being no further business to come before Council, the meeting was adjourned at 10:30 p.m.

  
\_\_\_\_\_  
Jim Insko, Chairman

  
\_\_\_\_\_  
Kathryn Torlone, Assistant City Clerk



**REGULAR MEETING  
HUNTINGTON CITY COUNCIL  
DECEMBER 27 2004**

The December 27, 2004 Huntington City Council meeting convened at 7:30 p.m. with Chairman Insko presiding.

**INVOCATION AND PLEDGE:**

Councilman Daniels gave the invocation and Councilman Hanshaw led the Pledge of Allegiance to the Flag.

**ROLL CALL**

The following Council Members were present:

John Daniels	Mary Neely
B. W. Ellis	Larry Patterson
Trey Hanshaw	Chuck Polan
Jim Insko	Jim Ritter
Tom McCallister	Bob Rufus

Also present were Director of Administration & Finance Jack Thornburgh, City Attorney Ted Morgan, Planning & Development Director Richard Dixon, Purchasing Director Darryl Miller, and City Clerk Barbara Nelson.

**SYNOPSIS**

**SYNOPSIS**

Councilman Patterson moved for the approval of the synopsis of the December 13, 2004 City Council meeting, seconded by Councilman Ellis. Upon voice vote duly taken, the synopsis was approved unanimously.

**REPORTS OF THE MAYOR**

**MAYOR'S  
REPORTS**

Jack Thornburgh, Director of Finance & Administration, read a Proclamation honoring those who coordinate the Guyandotte Civil War Days which is held the first weekend of November each year. The proclamation declared December 27, 2004 to be Guyandotte Civil War Days and Raid On Guyandotte Inc. day in the City of Huntington. All citizens are encouraged to continue observe these activities so that the lessons of our heritage are not lost to future generations.

Tedra Cremeans, president of Guyandotte Civil War Days & Raid on Guyandotte Inc., came forward along with other re-enactors to accept the proclamation. Ms. Cremeans thanked all who help with funding for this very worthy yearly project that is an effort to preserve the heritage of Guyandotte.

Trash Report: Trash Report: during the period of 12/10 – 12/23/04 trash crews picked up 155.71 tons of trash which were taken to Cooksey Brothers disposal facility; and 35 dump truck loads of yard waste were taken to Dietz Hollow Landfill.

**Swear-In Council Members**

**SWEAR-IN**

All those present who were elected to serve as Huntington City Council Members for the 2005-2008 term were asked to come forward to be sworn into office. City Clerk Barbara Nelson gave the oath of office to the following members of the 2005-2008 Council: Garry Black, Scott Caserta, Paul Farrell, Jim Insko, Frances Jackson, Brandi Jacobs-Jones, Teresa Loudermilk, Mary Neely, Jim Ritter.

**Waive the Rules:**

**WAIVE RULES**

Councilman Ritter made a motion to move Item #20 forward to be considered next on the agenda, 2<sup>nd</sup> by Councilman McCallister. Upon voice vote duly taken, adopted.

**Resolution re: A RESOLUTION OF COUNCIL AND THE MAYOR HONORING AGENCIES AND INDIVIDUALS WHO RESPONDED TO THE CHEMICAL LEAK IN THE WESTMORELAND SECTION OF THE CITY OF HUNTINGTON ON OCTOBER 28, 2004**

**RESOLUTION RE HONORING THOSE RESPONDING TO CHEMICAL LEAK**

WHEREAS, on October 28, 2004 a railcar leaked approximately 22,000 gallons of Coal Tar Light Oil at the Tech Sol Chemical facility in the Huntington community of Westmoreland; and  
WHEREAS, Coal Tar Light Oil is hazardous material that poses a serious threat to the community due to the potential for explosion and toxic exposure; and  
WHEREAS, emergency and industrial responders from a number of local, state and federal entities deployed their resources in a well organized team effort to minimize the impact of the incident on the citizens, workers and visitors to our city; and  
WHEREAS, the outstanding effort of these responders prevented an immediate catastrophe and initial loss of life in our city; and  
THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that Council and the Mayor do hereby HONOR and THANK all who played a role in the response to this incident including: West Virginia Regional Response Team; Huntington Fire Department; Huntington Police Department; Public Works Department of the City of Huntington; Wayne County Sheriff's Department; Wayne County Office of Emergency Services; Cabell County Office of Emergency Services; Wayne County Office of Emergency Services; Cabell County Office of Emergency Services; Cabell County Emergency Medical Services; Cerodo Volunteer Fire Department; Milton Volunteer Fire Department; England Hill Volunteer Fire Department; Marathon Ashland Petroleum Cateletsburg Refinery Fire Department; Marathon Ashland Petroleum Emergency Response Team; Allegheny Power; West Virginia American Water Company; Wayne County Health Department; Wayne County Board of Education; American Electric Power; Salvation Army; American Red Cross; Cabell County 911 Emergency Communications Center; Tri-State Airport; Big Sandy Superstore Arena; West Virginia Department of Environmental Protection; United States Environmental Protection Agency; West Virginia State Police; Tri-State Transit Authority; Wayne County 911 Emergency Communications Center; Huntington Sanitary Board; Ironton Fire Department; Onyx Corporation; and all other individuals and entities who played a role in assisting with this incident, including the citizens of Westmoreland who assisted their family, neighbors and friends during this time of crisis."

Councilman Ritter moved for adoption, 2<sup>nd</sup> by Councilman Ellis.

The City Clerk read the resolution into the record at this time.

Councilman Ritter pointed out that this had been a trying time for those who live in the area, but the response team did an outstanding job in response to the incident.

Greg Fuller, Fire Chief, stated that West Virginia has been hailed as a state that has utilized Homeland Securities monies in a very efficient, effective manner by developing this system of regional response. Responders came from as far away as Wheeling to help with this incident. He pointed out that Mayor Felinton was the first mayor in West Virginia to sign the Memorandum of Agreement to allow members of the city's police and fire departments to become part of the Regional Response Team, and Huntington was the first city in the state to utilize it at its full capability to minimize the impact of a catastrophe. Chief Fuller introduced Darren Demattie, a firefighter who has trained and is a member of the Regional Response Team and asked him to come forward to accept the resolution on behalf of all emergency and industrial responders who responded.

Darren Demattie, 4121 Brandon Road, member of the WV Regional Response Team and City of Huntington Fire Department, came forward and accepted the resolution on behalf of Neil Sharp, the response team director.

Upon roll call vote duly taken, the resolution was adopted unanimously (10 yeas, 0 nays, 1 absent-Kent).

**Waive the Rules:**

**WAIVE RULES**

Councilman Ritter made a motion to remove an ordinance which was placed on the table at the last Council meeting, 2<sup>nd</sup> by Councilman McCallister. Upon voice vote duly taken, adopted with Mr. Rufus voting in the opposition.

**Ordinance re: AN ORDINANCE OF COUNCIL CREATING THE POSITION OF PUBLIC WORKS MANAGER FOR THE CITY OF HUNTINGTON**

**ORDINANCE RE PUBLIC WORKS MANAGER**

Councilman Ritter moved for adoption, 2<sup>nd</sup> by Councilman McCallister.

Councilman Ritter brought this off the table because he felt this Council should dispose of this matter by either voting it up or down and not let it fall to the new council.

Councilman Patterson has asked from the administration detailed information as to how this proposed position of Public Works Manager would be handled, i.e. how it would be funded, how it would intertwine with the Public Works Director. This information has still not been received which concerns him. He does not feel adequate attempts have been made to fill the still vacant position of Public Works Director. He encouraged that this be defeated.

Councilman McCallister feels that the Charter is clear in that it requires a Public Works Director, which he feels has not been advertised. This ordinance would create a new position, which is not provided for in the current budget. He would vote against this ordinance.

Councilperson Neely, as in previous meetings, stated her feelings that advertising for the position of Public Works Director had not been properly handled. She is concerned that this position is not provided for in the budget. She would vote no.

Councilman Rufus felt this ordinance would bring the administration flexibility with respect to public service because it gives strategy opportunities to provide enhanced services to the city. Approval of this ordinance would not do away with the Public Works Director position.

Councilman Hanshaw feels that sections of the Charter are unclear and suggested that the new council reinstate the Charter Review Committee to review it for needed changes.

Councilman Patterson felt that any new initiative such as this should be accompanied by a detailed plan, which had not been provided.

Councilman McCallister pointed out that the city is currently out of compliance with the Charter due to the fact that the Public Works Director retired several months ago and the position has not yet been filled as required by Charter.

Mr. Thornburgh stated that Public Works Director has been advertised. He feels that residency requirement makes it hard to fill the position. What is needed in the Public Works Department is a manager who can oversee daily work. An engineer is not necessary on a daily basis. An engineer did apply for Public Works Director but was unwilling to move to Huntington.

Councilperson Neely feels the Public Works Director position should be advertised in trade magazine(s). The concept of having a manager in the department is good, but this has not been handled properly.

Councilman Rufus pointed out this ordinance was for the creation of a position and would not replace the Public Works Director.

Councilman McCallister pointed out that Charter provides that no positions are to go unfilled for longer than 60 days, which the Public Works Director has. Thus there is a Charter violation. The Public Works Director position needs filled as prescribed by Charter.

Kent Fletcher, 6160 Rosalind Road, felt that Council should be sure they understand the intent of the ordinance before voting on it.

Upon vote duly taken, the ordinance failed by a vote of 2 yeas-Rufus, Daniels; 8 nays; 1 absent-Kent).

Councilman Patterson was excused from the meeting at this time.

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 543 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED, BY AMENDING, MODIFYING AND RE-ENACTING SECTION 543 REGARDING HAZARDOUS MATERIALS**

**2<sup>ND</sup> READING  
ORDINANCE RE  
ARTICLE 543  
HAZARDOUS  
MATERIALS**

Councilman Ritter moved for adoption, 2<sup>nd</sup> by Councilperson Neely.

Councilman Ritter explained that this would give the city the ability to ensure that those handling hazardous materials have the proper permits and licenses to do so. This also increases the distance a facility handling such materials can be located in relation to a residential area.

Upon roll call vote duly taken, adopted (9 yeas, 0 nay, 1 excused-Patterson, 1 absent-Kent).

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL INCREASING THE AMOUNT OF COMPENSATION RECEIVED BY MEMBERS OF COUNCIL (amended)**

**2<sup>ND</sup> READING  
ORDINANCE RE  
COUNCIL  
COMPENSATION**

Councilman Ritter moved to adopt, 2<sup>nd</sup> by Councilman Polan.

Mr. Thornburgh explained that this would increase Council compensation to \$300 per meeting, not to exceed \$7,200 per year.

Councilman McCallister explained that Charter requires that this be reviewed every four years. He would vote against this due to budget constraints over the last several years.

Upon roll call vote duly taken, adopted (6 yeas, 3 nays-McCallister, Rufus, Ellis, 1 excused-Patterson, 1 absent-Kent).

Councilman McCallister was excused at this time.

**2<sup>nd</sup> Reading of an Ordinance re:** AN ORDINANCE AUTHORIZING THE ISSUANCE OF SEWER REVENUE BONDS, SERIES 2005 A (TAX-EXEMPT) OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$4,000,000 FOR THE PURPOSE OF PAYING THE OUTSTANDING PRINCIPAL BALANCE OF THE CITY'S SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2003 A (TAX-EXEMPT), AND PAYING COSTS OF ISSUANCE AND RELATED COSTS; AUTHORIZING THE ISSUANCE OF SEWER REVENUE BONDS, SERIES 2005 B (TAXABLE) OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$2,750,000 FOR THE PURPOSES OF PAYING THE OUTSTANDING PRINCIPAL BALANCE OF THE CITY'S SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2003 B (TAXABLE), FINANCING CERTAIN SINKING FUND AND DEBT SERVICE RESERVE ACCOUNT ARREARAGES FOR THE CITY'S PRIOR BONDS, AND PAYING COSTS OF ISSUANCE AND RELATED COSTS; AUTHORIZING THE ISSUANCE OF SEWER REFUNDING REVENUE BONDS, SERIES 2005 C (TAX-EXEMPT) OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$7,000,000, FOR THE PURPOSE OF REFUNDING THE CITY'S SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1993, AND PAYING COSTS OF ISSUANCE AND RELATED COSTS; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, CONTINUING DISCLOSURE AGREEMENT AND OTHER DOCUMENTS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO

**2<sup>ND</sup> READING  
ORDINANCE RE  
ISSUANCE OF  
SEWER REVENUE  
BONDS**

Chairman Insko pointed out that this would require a third reading.

Councilman Ritter moved to adopt, 2<sup>nd</sup> by Councilman Daniels.

Councilman Ellis expressed his opposition to this because he felt that in 1993 a sewer system was illegally installed and the matter had not been handled properly.

Fred Williams, Attorney with Steptoe & Johnson, explained this ordinance would authorize three things. A year or so ago the city issued bond anticipation notes, both tax-exempt and taxable. The tax-exempt series provided monies for certain improvements to the incinerator and other items; and the taxable series provided funding for items that were not permitted under a tax exempt basis under federal law. Those bond anticipation notes were issued in anticipation of being refinanced by long-term bonds. Part of this ordinance will provide that. Though, before any bonds are issued, after the third reading, the city will need to adopt a supplemental resolution. Also, in 1993, the city issued refunding bonds, the proceeds of which were used to refund bonds from 1987 and bonds from 1980. Interest rates have dropped and there would be the opportunity for the city to refinance that much like refinancing a house at lower interest rates and save money to the city. The only way this would be done is if there actually was a savings; and based upon today's market, there would be a savings. Part of the Series A and B bonds helps to fund back up to required levels the reserve funds for the various Sanitary Board Bonds.

There being no further discussion, Chairman Insko called for the vote.

Upon roll call vote duly taken, adopted (7 yeas, 1 nay- Ellis, 2 excused-McCallister and Patterson; 1 absent-Kent).

**2<sup>nd</sup> Reading of an Ordinance re:** AN ORDINANCE VACATING, CLOSING AND ABANDONING A 3,551 SQUARE FOOT PARCEL OF LAND SITUATE JUST WEST OF FIRST STREET ON ADAMS AVENUE IN THE CITY OF HUNTINGTON

**2<sup>ND</sup> READING  
ORDINANCE  
ABANDONING  
PARCEL**

Councilperson Neely moved to adopt, 2<sup>nd</sup> by Councilman Ellis.

Mr. Thornburgh said this would abandon the parcel to Mr. John F. Mandt who owns abutting property.

Upon roll call vote duly taken, adopted (8 yeas, 0 nay, 2 excused-Patterson, McCallister; 1 absent-Kent).

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE AMENDING THE ZONING ORDINANCES OF THE CITY OF HUNTINGTON RELATING TO ARTICLE 1359 – SPECIAL PERMIT, REQUIREMENTS AND PROCEDURE**

**2<sup>ND</sup> READING ORDINANCE RE ARTICLE 1359 SPECIAL PERMITS**

Councilman Ritter moved to adopt, 2<sup>nd</sup> by Councilman Hanshaw.

Mr. Thornburgh stated this will bring the Board of Zoning Appeals in compliance with state code.

Upon roll call vote duly taken, adopted (8 yeas, 0 nay, 2 excused-Patterson, McCallister; 1 absent-Kent).

Councilman Polan was excused from the meeting.

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE HUNTINGTON SANITARY BOARD TO ENTER INTO A CONTRACT WITH E. L. ROBINSON ENGINEERING COMPANY, INC. FOR ENGINEERING DESIGN SERVICES FOR THE HARVEYTOWN SEWER LINE EXTENSION PROJECT**

**2<sup>ND</sup> READING ORDINANCE RE HARVEYTOWN SEWER LINE EXTENSION**

Councilperson Neely moved to adopt, 2<sup>nd</sup> by Councilman Daniels.

Mr. Thornburgh stated this would approve a \$46,500 contract with E. L. Robinson Engineering Co., Inc. of which \$32,000 would be for design engineering and \$5,600 for bidding services, and \$8,900 for basic engineering. This would be paid through Region II Planning and Development through federal, state and local funding.

Councilman Ritter asked for an explanation of the federal funding. Chairman Insko explained that this would be partially funded through a federal grant, the applicant through sewer taps would be funded at \$39,520, the state portion would be \$240,400 and the Sanitary Board is contributing \$60,000.

Upon roll call vote duly taken, adopted (7 yeas, 0 nay, 3 excused-Patterson, McCallister, Polan; 1 absent-Kent).

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH SELF-CONTAINED BREATHING APPARATUS AND EQUIPMENT FOR THE HUNTINGTON FIRE DEPARTMENT**

**2<sup>ND</sup> READING ORDINANCE RE HFD BREATHING APPARATUS**

Councilman Ellis moved to adopt, 2<sup>nd</sup> by Councilman Daniels.

Mr. Thornburgh explained that this would award the contract to Dill's Fire & Safety Company of Ravenswood, West Virginia in the amount of \$208,970. The purchase would be funded through the Homeland Security Grant.

Councilman Rufus asked if the grant were an open grant. Greg Fuller, Fire Chief, explained that the grant had certain criteria for which the funds could be spent. This does qualify under those criteria.

Councilman Hanshaw asked what if this would utilize all of the Homeland Security Grant funds. Chief Fuller explained that the Grant in the amount of \$750,000 was divided equally between the Police and Fire Departments. There would be funds still available after if this is adopted.

Mr. Thornburgh stated that there is a time limitation on spending the Homeland Security Grant funds.

Upon roll call vote duly taken, adopted (7 yeas, 0 nay, 3 excused-Patterson, McCallister, Polan; 1 absent-Kent).

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH LABOR AND MATERIALS FOR ROOF REPLACEMENT AT THE FIRST STREET FLOODWALL PUMP STATION**

**2<sup>ND</sup> READING  
ORDINANCE  
PUMP STATION  
ROOF  
REPLACEMENT**

Councilman Hanshaw moved to adopt, 2<sup>nd</sup> by Councilman Daniels.

Mr. Thornburgh explained the successful bidder was Boggs Roofing, Inc. of Huntington for \$8,250. This will be paid through the general fund maintenance line item.

Chairman Insko asked if there were a reason for the price differential among the bids received. Darryl Miller, Purchasing Director, was unsure of the difference and indicated that the Boggs bid met all specifications required.

Upon roll call vote duly taken, adopted (6 yeas; 1 nay-Insko; 3 excused-McCallister, Patterson, Polan; and 1 absent-Kent).

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH NEW REPLACEMENT PUMPS, ACCESSORIES AND CONTROLS FOR THE SUBMERSIBLE STORM WATER PUMP STATION AT THE TWENTIETH STREET VIADUCT**

**2<sup>ND</sup> READING  
ORDINANCE RE  
REPLACEMENT  
PUMPS FOR 20<sup>TH</sup>  
STREET VIADUCT**

Councilperson Neely moved for adoption, 2<sup>nd</sup> by Councilman Daniels.

Mr. Thornburgh stated the successful bidder was Marcum Pump & Equipment, Inc. of Huntington for \$21,429.92, and would be paid through the general fund capital street improvement line item. This is a much-needed street improvement that will provide access to the south side during heavy rainstorms.

Councilman Ritter pointed out there is a one-year warranty on the pumps.

Upon roll call vote duly taken, adopted (7 yeas; 0 nay; 3 excused-McCallister, Patterson, Polan; 1 absent-Kent).

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE AMENDING THE ZONING ORDINANCES OF THE CITY OF HUNTINGTON RELATING TO ARTICLE 1361 - BOARD OF ZONING APPEALS (as amended)**

**2<sup>ND</sup> READING  
ORDINANCE RE  
ARTICLE 1361  
BZA**

Councilperson Neely moved for adoption, 2<sup>nd</sup> by Councilman Daniels.

Mr. Thornburgh explained that this ordinance addresses the system for filing appeals with the Board of Zoning Appeals.

Councilman Polan returned to the meeting.

Upon roll call vote duly taken, adopted (8 yeas; 0 nay; 2 excused-Patterson, McCallister; 1 absent-Kent).

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 169 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED, BY AMENDING, MODIFYING AND RE-ENACTING SECTION 169.01 REGARDING BOARD MEMBERS**

**1<sup>ST</sup> READING  
ORDINANCE RE  
ARTICLE 169  
BOARD  
MEMBERS**

Chairman Insko turned the chair over to Vice Chairperson Neely.

Mr. Thornburgh explained that this would change the structure of the Huntington Sanitary Board by adding two additional members. The Mayor would still be designated a member and chairman of the board. The two new positions would be appointed by Council and may be members of Council. The other two appointments would remain the same with some leniency.

Councilman Insko stated that the current engineer and CPA on the Sanitary Board want to leave the board as their terms have expired. It is difficult finding qualified persons willing to fill these positions. By increasing the number of members and allowing them to be council members it will allow Council the ability to have first-hand knowledge of what is going on at the Huntington Sanitary Board.

Councilman Rufus said this was a good request and would add flexibility to management.

Councilman Ritter thought this to be a good change in the structure of the Sanitary Board.

This ordinance will be advertised.

Councilman Insko resumed the chair at this time.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR DEMOLITION SERVICES TO BE PERFORMED ON CERTAIN PROPERTIES LOCATED WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF HUNTINGTON**

**1<sup>ST</sup> READING  
ORDINANCE RE  
DEMOLITION  
SERVICES**

Mr. Thornburgh explained that the successful bidder had been KAR Construction of Lesage, WV for a total cost of \$12,650. Properties to be included are: 2948 7<sup>th</sup> Avenue; 1069 Adams Avenue, 917 Norway Avenue, and 534 7<sup>th</sup> Avenue (house/garage). This will be funded by Community Development Block Grant monies.

This ordinance is to be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO TWO (2) CONTRACTS FOR ASBESTOS ABATEMENT SERVICES TO BE PERFORMED ON CERTAIN PROPERTIES LOCATED WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF HUNTINGTON**

**1<sup>ST</sup> READING  
ORDINANCE RE  
ASBESTOS  
ABATEMENT**

Mr. Thornburgh stated this would award two contracts for asbestos abatement services to be performed as follows:

- American Industrial Insulation, Nitro, WV, at a total cost of \$5,548. Properties include 2807 Wilson Street, and 2349 8<sup>th</sup> Avenue.
- Justice Business Services, Marietta, OH at a cost of \$11,175 for properties located at 1667 12<sup>th</sup> Avenue, 1693 Daulton Avenue, 1839 Tenth Avenue, 309 Prospect Street, 205 Davis Street, 1324-1326 Monroe Avenue, and 299 Bellevue Road.

This will be funded through Community Development Block Grant monies.

This ordinance will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH LABOR, MATERIALS AND EQUIPMENT FOR THE REMOVAL OF OLD GENERATOR AND INSTALLATION OF A NEW 15 KW GENERATOR AT THE ROTARY PARK FACILITY**

**1<sup>ST</sup> READING  
ORDINANCE RE  
ROTARY PARK  
GENERATOR**

Mr. Thornburgh explained the successful bidder was McDaniel Electric, Inc., Huntington, WV, for \$19,960, which will be paid through Homeland Security Grant funds.

Councilman Hanshaw asked what the generator was for. Fire Chief Greg Fuller explained that it provides backup power in the event of power failure for police, fire, and emergency communications within the city.

This item will be advertised.

Councilman McCallister returned to the meeting.

**Resolution re: A RESOLUTION OF COUNCIL AUTHORIZING THE MAYOR TO SUBMIT AN APPLICATION TO THE LOCAL ECONOMIC DEVELOPMENT ASSISTANCE PROGRAM (LEDA) WITH THE WEST VIRGINIA DEVELOPMENT OFFICE FOR MONIES FOR THE WESTMORELAND NEIGHBORHOOD ASSOCIATION**

**RESOLUTION RE  
LEDA  
APPLICATION  
FOR  
WESTMORELAND  
BOYS & GIRLS  
CLUB**

"BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that Council does hereby AUTHORIZE the Mayor to submit an application to the Local Economic Development Assistance Program (LEDA) with the West Virginia Development Office in the amount of Five Thousand Dollars (\$5,000.00) for installation of air conditioning units into the Westmoreland Boy's and Girl's Club building, benefiting both the Club and the Senior Citizens Center located next door."

Councilman Ritter moved to adopt, 2<sup>nd</sup> by Councilperson Neely.

Mr. Thornburgh explained this would be to submit an application to the WV Development Office for \$5,000 to be used for installation of air conditioning units at the Westmoreland Boy's and Girl's Club.

Mr. Dixon explained that this would be added to CDBG funds allocated to aid in the installation of the air conditioning units.

Upon roll call vote duly taken, adopted (9 yeas, 0 nay, 1 excused-Patterson, 1 absent-Kent).

**Resolution re: A RESOLUTION OF COUNCIL APPROVING THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, BOARD OF ZONING APPEALS RULES OF PROCEDURE**

**RESOLUTION RE  
BZA RULES**

"BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that Council does hereby APPROVE the City of Huntington, Cabell and

Wayne Counties, West Virginia Board of Zoning Appeals Rules of Procedure. A copy of the Rules of Procedure for the Board of Zoning Appeals is attached hereto and made a part of this Resolution."

Councilperson Neely moved to adopt, 2<sup>nd</sup> by  
Councilman Daniels.

Mr. Thornburgh said this would establish rules for the Board of Zoning Appeals.

Councilperson Neely explained this had been brought forward because over the years, the BZA rules had been lost. D. Everett Fullerton was instrumental in the compilation of these rules.

D. Everett Fullerton, 981 Madison Ave., explained that under WV Code 8A-8-9-6 there are four criteria that give authorization for the BZA to set rules of procedure.

Upon roll call vote duly taken, adopted unanimously (9  
yeas, 0 nay, 1 excused-Patterson, 1 absent-Kent).

**Resolution re: A RESOLUTION OF COUNCIL AUTHORIZING  
A SUBSTANTIAL CHANGE OF COMMUNITY  
DEVELOPMENT BLOCK GRANT PROJECT**

**RESOLUTION RE  
CHANGE OF  
CDBG PROJECT**

"WHEREAS, the Council of the City of Huntington is authorized by the U.S. Department of Housing and Urban Development (HUD) to approve changes in the Community Development Block Grant (CDBG) funded projects within guidelines as established by the City of Huntington; and  
WHEREAS, for Fiscal Year 2002, \$74,856.12 in funds are allocated for Street Improvements and is available for reallocation; and  
WHEREAS, for Fiscal Year 2003, funds were allocated for administration and planning purposes of which \$26,003.88 is available for reallocation; and  
WHEREAS, for Fiscal Year 2004, an additional \$96,996.25 was received as program income and remains available for reallocation; and  
WHEREAS, a total of \$197,865.61 is available for reallocation,  
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that Community Development Block Grant Action Plan is amended as follows:

1. \$3,114.53 will be reallocated to Fiscal Year 2004 for additional monies for the construction of the center addition at the Fairfield East Community Center.
2. \$37,000.00 will be reallocated for a new Fiscal Year 2004 project for the repayment of the 108 loan at the Douglass Center.
3. \$47,751.08 will be reallocated to Fiscal Year 2004 for the completion of handicap curb cuts in conjunction with the City of Huntington's street reconstruction project.
4. \$48,800.00 will be reallocated for a new Fiscal Year 2004 project for the removal of slum and blight at the Olympic Pool.
5. \$1,200.00 will be the reallocated for a new Fiscal Year 2004 project for an arts enrichment program for low income children provided by the ARTS at the Huntington High Renaissance Center."

Councilman Hanshaw moved to adopt, 2<sup>nd</sup> by  
Councilman Daniels.

Richard Dixon, Development & Planning, explained that this would reallocate \$197,865.61 in unused Community Development Block Grant funds (\$74,856.12 from street improvements; \$26,003.88 from administration and planning; and \$96,996.25 from program income). The funds would be reallocated as follows:

- \$63,114.53 for construction of center addition @ Fairfield East Community Center
- \$37,000 for repayment of 108 Loan at Douglass Centre – This is necessary because the third floor of the building is currently not leased which has caused cash flow problems. The City is guarantor on the 108 Loan.
- \$47,751.08 to complete handicap curb cuts
- \$48,800 for removal of slum & blight at Olympic Pool
- \$1,200 for arts enrichment program at the Huntington High Renaissance Center which is for children at the YMCA day care and is predominantly offered to low-income families

Councilman Rufus asked if the \$37,000 for the Douglass Centre is the balance of the loan. Mr. Dixon said the loan was in the amount of \$1.6 million and the payment is for interest only. Payments are made semi-annually. The next payment on the loan will be for interest and principal in the approximate amount of \$145,000 and would be proposed for payment in the next year's block grant budget.

Councilman Polan asked if there were prospects to lease the space at the Douglass Centre. Dorothy Turner-Lacy, Community Development Specialist, stated there are interested tenants.

Mr. Polan asked if the CDBG program has guaranteed other loans. Mr. Dixon said there are four loans guaranteed - 1. Huntington Industrial Center which cash flows and makes its payments, 2. Huntington High Renaissance Project, which was set up for the Block Grant program would make payments over a 15-year period; however they will begin to repay the loan over a 40-year period; 3. Kinetic Park - this year's payment was made through CDBG and the next year would not be made through CDBG at ~\$265,000, 4. Douglass Centre which is currently interest only @ \$37,000 twice a year.

Mr. Polan asked what would be used to make the Kinetic Park payment the next year. Mr. Dixon said the Huntington Municipal Development Authority would use proceeds from the sales of properties to make the payments. Mr. Polan asked if any of the properties were cross-collateralized. Mr. Dixon would check on this. Mr. Polan asked if there were limits on the amount of CDBG funds that could be used to repay loans. Mr. Dixon said there were no restrictions as long as the property is used for CDBG eligible activities.

Councilman Ellis asked if 27<sup>th</sup> Street East would be included in the curb cuts. Mr. Dixon said it is included in the current contract.

Councilman Rufus asked if Ebenezer had made any payments on the Douglass Centre loan. Mr. Dixon said they made the first payment this year. Mr. Rufus asked if refinancing had been considered. Mr. Dixon said that was not an option until year ten of the loan.

Mr. Rufus asked how it is decided to distribute the CDBG funds. Mr. Dixon explained that several requests for funding are received and considered.

Councilman Ritter commented that Block Grant Funds were to be used in low to moderate-income areas, including funds for street paving. Mr. Dixon explained that the city now has funds for street paving and the CDBG funds are used for curb cuts, which aids the persons with disabilities.

Upon roll call vote duly taken, adopted unanimously (9 yeas, 0 nay, 1 excused-Patterson, 1 absent-Kent).

**Resolution re: A RESOLUTION OF COUNCIL TRANSFERRING MONIES FROM THE CAPITAL IMPROVEMENTS FUND TO THE GENERAL FUND**

**RESOLUTION RE TRANSFER MONIES**

Councilman Ritter moved to adopt, 2<sup>nd</sup> by Councilperson Neely.

Councilman Ritter moved to withdraw this item, 2<sup>nd</sup> by Councilman Rufus. The motion to withdraw was adopted by unanimous voice vote.

**Resolution re: A RESOLUTION FOR THE REVISION OF THE FISCAL YEAR 2004-2005 GENERAL FUND BUDGET**

**RESOLUTION RE BUDGET REVISION**

Councilman Ritter moved to adopt, 2<sup>nd</sup> by Councilperson Neely.

Councilman Ritter moved to withdraw this item, 2<sup>nd</sup> by Councilman Rufus. The motion to withdraw was adopted by unanimous voice vote.

**Resolution re: A RESOLUTION FOR THE REVISION OF THE FISCAL YEAR 2004-2005 GENERAL FUND BUDGET**

**RESOLUTION RE BUDGET REVISION**

"WHEREAS, the Council of the City of Huntington, Counties of Cabell and Wayne, has found it necessary to revise the fiscal year 2004-2005 Levy Estimate; and WHEREAS, these various adjustments are made on West Virginia State Auditor - Chief Inspector Division Forms CID BR 1180 which are attached hereto and made a part hereof, NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Huntington, Counties of Cabell and Wayne, that the Finance Director be and is hereby directed to submit a copy of the revision to the State Auditor of the State of West Virginia for his approval, under the provisions of Chapter II, Section 8, Articles 146, 25 and 26a of the Code of the State of West Virginia."

Councilman Ritter moved to adopt, 2<sup>nd</sup> by Councilperson Neely.

Mr. Thornburgh explained that this would recognize receipt of state and federal grants, transfer \$28,947 from contingency to the police pension fund, would recognize \$30,000 received from the County fire levy for the Fire Department.

Councilman Polan asked who had decided there was an additional approximately \$30,000 needed for the Police Pension Fund. Chairman Insko explained this was provided through the actuarial study which is required by the police department on a three year basis.

Councilman Hanshaw asked from where the \$200,000 in miscellaneous revenue was received. Chairman Insko explained that it is money received from settlements and agreements reached with property owners concerning suits filed.

Upon roll call vote duly taken, adopted (9 yeas, 0 nay, 1 absent-Kent, 1 absent-Patterson).

**Waive the Rules**

**WAIVE RULES**

Councilman Rufus made a motion to waive the rules to add an item to the agenda, 2<sup>nd</sup> by Councilman Ritter.

Councilman Rufus stated the request was for a resolution to earmark the funds referred to earlier. Upon voice vote duly taken, adopted with Mr. Polan and Insko voting against.

Councilman Rufus orally submitted the resolution to be as follows: resolution to earmark the funds from the refinancing or payoff of the Huntington bond which was approximately \$48,000 for use at the Olympic Pool for improvement and maintenance that would facilitate its opening in the current year. Councilman McCallister 2<sup>nd</sup> the motion.

Councilman Rufus explained that Council recently agreed to support a commitment of \$100,000 for improvement and maintenance of the Olympic Pool of which \$48,800 is to be provided through Community Development Block Grant funds just adopted. These funds to be earmarked could be used to facilitate the opening of the pool.

Councilman Polan expressed his urgent concern that is was not the proper way to handle this budgetary matter.

Councilman McCallister felt there to be an immediate need to ensure these funds are allocated for use at the pool.

Councilperson Neely pointed out that if the pool is not opened for use as a pool that the property would revert back to the Park Board.

Councilman Ritter felt the Mayor did intend to open the pool next season. He asked from where the funds were received and for what it was supposed to be allocated. Chairman Insko explained it was money received from bonds that were paid off early on a housing consortium loan. Mr. Ritter asked if the funds had been allocated elsewhere. Chairman Insko stated that it had not been allocated from the Council's standpoint.

Mr. Morgan explained that the funds received on the bond issue had been unexpected, but to say it has not been allocated may be a misnomer.

Councilman Rufus stated that Council had no way of knowing how the funds had been accounted for. Mr. Morgan stated that the finance director indicated the funds would be placed in miscellaneous income in the general fund. Mr. Rufus pointed out that one of Council's responsibilities is to decide how to allocate proceeds and he felt that allocating these funds for the Olympic Pool would be a good use of funds.

Councilman Hanshaw is concerned that this would bind the new council to do something it may or may not agree with.

Councilperson Neely stated that when Council acknowledged the unexpected revenue from the bond refund it was discussed and a consensus reached that the funds would be used for the pool.

Councilman McCallister stated that if allowed he would take the funds and refurbish the facility and make it better than when it originally opened. This would be done through volunteer labor.

Kent Fletcher, 6160 Rosalind Road, felt that funds invested in the pool would be a good investment in the future of the city.

Bryan Chambers, Herald Dispatch, asked for clarification on the resolution adopted by Council to seek \$100,000 in funding for the Olympic Pool. Chairman Insko explained it was to seek \$100,000 to benefit the Olympic Pool for repairs and renovations; of which \$48,800 has been identified through CDBG funds and the remainder is what is currently being discussed is from the bond refund. The original resolution was read into the record as follows:

A resolution of Council requesting the Mayor to amend the city's Community Development Block Grant action plan for the removal of slum and blight at the Olympic Pool. Be it resolved by the Council of the city of Huntington, Cabell and Wayne Counties, West Virginia, the Council does hereby request the Mayor to amend the Community Development Block Grant Action Plan to include \$100,000 for the removal of slum and blight at the Olympic Pool.

Councilman Ritter asked if this request was to take \$48,000 out of the contingency or the general fund. Chairman Insko explained this was to request that the funds received from the refinancing of the Huntington Housing Bonds and it should be in the general fund.

Scott Caserta, 3041 Wallace Circle, supports funding renovations at the pool.

Councilman Insko restated the motion is to earmark the \$48,000 from the Huntington Housing bond refinancing for repairs at the pool. City Attorney Morgan stated that if the amount is not exactly as stated in the resolution it would nullify the resolution, and suggested stating it as the amount refunded. Chairman Insko agreed not to state an amount in the resolution, to which there was no opposition.

Upon roll call vote duly taken, the resolution was adopted (6 yeas, 3 nays-Ritter, Polan, Insko, 1 excused-Patterson, 1 absent-Kent).

**Good & Welfare**

**GOOD &  
WELFARE**

Councilman Polan wished his wife a happy birthday. He commended Mr. Irvin Brown, who owned and operated Brown's Apparel for decades, on his 100<sup>th</sup> birthday on December 17<sup>th</sup>. Councilman Polan also expressed appreciation for courtesies extended to him as a member of Council.

Councilman Ritter thanked Council members who are departing and reflected on his personal interaction with each of them.

Councilman Daniels thanked the citizens of Huntington for allowing him to serve for four years and reflected upon the progress of the city during that time.

Councilman Ellis spoke of the privilege he felt in serving with each of the Council members and gave special thanks to Councilman Rufus for a job well done.

Councilman Hanshaw thanked his fellow Council members and feels the city is better and stronger than four years ago when he took office.

Councilman Rufus thanked everyone for the opportunity to serve on Council. He hopes the new Council will be prepared to step up to the challenge.

Councilperson Neely thanked her fellow Council members and wished everyone a happy new year.

Chairman Insko reflected on the problems this Council worked through, the city's financial woes, and the teamwork this Council has shown to get through problems. He hoped that the next four years would bring the success of Pullman Square and Kinetic Park, and feels the city is moving forward. He invited Mr. Ellis to share his talents and knowledge on a board or authority for the city.

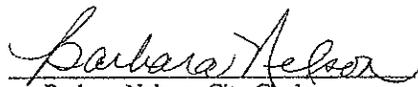
D. Everett Fullerton, 981 Madison Avenue, appreciated all that has been done by the Council. He hoped all departing Council members would stay involved by joining a board or commission for the city.

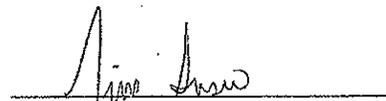
Kent Fletcher, 6160 Rosalind Road, thanked everyone for making Huntington a place he wanted to come home to and is interested in serving on a board or commission for the city.

Mary Anderson, 1423 Grove Street, thanked Council members and administration for their service, and looks forward to next year.

Chairman Insko commended City Clerk Barbara Nelson on a job well done and offered congratulations on her upcoming wedding.

There being no further business to come before Council, the meeting adjourned at 10:02 p.m.

  
Barbara Nelson, City Clerk

  
Jim Insko, Chairman

**REGULAR MEETING  
HUNTINGTON CITY COUNCIL  
JANUARY 10, 2005**

The January 10, 2005 Huntington City Council meeting convened at 7:30 p.m. with Chairman Insko presiding.

**INVOCATION AND PLEDGE:**

The invocation was led by Councilman Kent.

The Pledge of Allegiance was led by Boy Scout Troop 7 from First United Methodist Church.

**ROLL CALL**

All members of Council were present:

P. D. Adkins	Brandi Jacobs-Jones
Garry Black	Cal Kent
Scott Caserta	Teresa Loudermilk
Paul Farrell	Mary Neely
Jim Insko	Jim Ritter
Frances Jackson	

Also present were Mayor David Felinton, Director of Administration & Finance Jack Thornburgh, Director of Finance Bob Wilhelm, Director of Personnel Sherry Lewis, Director of Planning & Development Richard Dixon, Director of Purchasing Darryl Miller, Acting Director of Public Works Charles Holley, Jim Smith, Chief Greg Fuller, Lt. Hank Dial, Assistant City Attorney Scott McClure, Sanitary Board Director Bruce Fox, and Assistant City Clerk Kathy Torlone.

**ELECTION OF COUNCIL CHAIRMAN**

The Assistant City Clerk called for nominations to the office of Chairman of Council. Councilman Farrell nominated Jim Insko; 2<sup>nd</sup> by Councilperson Neely. Councilman Kent moved that nominations be closed; 2<sup>nd</sup> by Councilman Ritter; adopted by unanimous voice vote. Upon roll call vote duly taken, Mr. Insko was unanimously elected as Chairman for the ensuing year.

**ELECTION OF COUNCIL VICE-CHAIRMAN**

The Assistant City Clerk called for nominations to the office of Vice Chairman of Council. Councilman Ritter nominated Mary Neely; 2<sup>nd</sup> by Councilman Kent. Councilman Kent moved that nominations be closed; 2<sup>nd</sup> by Councilman Ritter; adopted by unanimous vote. Upon roll call vote duly taken, Mrs. Neely was unanimously elected as Vice Chairperson for the ensuing year.

**SYNOPSIS**

**SYNOPSIS**

Councilman Kent moved for the approval of the synopsis of the December 27, 2004 City Council meeting; 2<sup>nd</sup> by Councilperson Neely. Upon voice vote duly taken, the synopsis was approved unanimously.

**REPORTS OF THE MAYOR****MAYOR'S  
REPORTS**

Mayor Felinton presented Marnie Graley with a plaque in appreciation for conducting a team building workshop. Ms. Graley thanked the Mayor for seeing the importance of the workshop and thanked those Council members who attended.

Mayor Felinton reported a shift in the hill at Kinetic Park caused by recent heavy rain. HMDA immediately had the fallen trees removed to protect homes nearby. The HMDA and Enslow Park Committee will meet on Tuesday morning at 10:00 a.m. Mr. Bill Toney is available for questions.

Councilman Farrell requested that all department heads address Council at the front microphone.

Bob Wilhelm, Director of Finance, welcomed new members of Council and gave a finance report as of 12/31/04 that is included in the Council meeting folder. Accounts payable is at \$1,000,000 compared to \$979,000 at the same period last year. Revenue is at \$16,681,529 compared to \$15,607,002 last year. Mr. Wilhelm described each of the different reports he handed out.

Councilman Ritter requested that the collections report be included in the information that Council receives.

Councilperson Neely asked about a potential merger between the Collections and Legal Departments. Mayor Felinton responded it would be brought up when the budget is prepared.

Councilman Kent asked if December financial statements would still be provided before the next Finance Committee meeting. Mr. Wilhelm requested that the Finance Committee hold a meeting prior to next Council session.

Councilman Caserta asked if names were published in legal ads for collection lawsuits. Assistant City Attorney Scott McClure explained that circuit court suits are published in the newspaper. Other cases would be published only as a means of communication.

Councilman Farrell and Mr. Wilhelm discussed the medical fund deficit.

Mayor Felinton had invited all department heads to the meeting so that new members of Council could meet them. Mayor Felinton is looking forward to working with members of Council over the next four years.

Mayor Felinton presented Marnie Graley with a plaque in appreciation for conducting a team building workshop. Ms. Graley thanked the Mayor for seeing the importance of the workshop and thanked those Council members who attended.

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Councilman Farrell and Mr. Wilhelm discussed the medical fund deficit.

Mayor Felinton had invited all department heads to the meeting so that new members of Council could meet them. Mayor Felinton is looking forward to working with members of Council over the next four years.

**3<sup>rd</sup> Reading of an Ordinance re:** AN ORDINANCE AUTHORIZING THE ISSUANCE OF SEWER REVENUE BONDS, SERIES 2005 A (TAX-EXEMPT) OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$4,000,000 FOR THE PURPOSE OF PAYING THE OUTSTANDING PRINCIPAL BALANCE OF THE CITY'S SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2003 A (TAX-EXEMPT), AND PAYING COSTS OF ISSUANCE AND RELATED COSTS; AUTHORIZING THE ISSUANCE OF SEWER REVENUE BONDS, SERIES 2005 B (TAXABLE) OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$2,750,000 FOR THE PURPOSES OF PAYING THE OUTSTANDING PRINCIPAL BALANCE OF THE CITY'S SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2003 B (TAXABLE), FINANCING CERTAIN SINKING FUND AND DEBT SERVICE RESERVE ACCOUNT ARREARAGES FOR THE CITY'S PRIOR BONDS, AND PAYING COSTS OF ISSUANCE AND RELATED COSTS; AUTHORIZING THE ISSUANCE OF SEWER REFUNDING REVENUE BONDS, SERIES 2005 C (TAX-EXEMPT) OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$7,000,000, FOR THE PURPOSE OF REFUNDING THE CITY'S SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1993, AND PAYING COSTS OF ISSUANCE AND RELATED COSTS; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, CONTINUING DISCLOSURE AGREEMENT AND OTHER DOCUMENTS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO

**3<sup>RD</sup> READING OF AN ORDINANCE RE SEWER REVENUE BONDS**

Councilman Kent moved for adoption; 2<sup>nd</sup> by Councilman Ritter.

Councilman Kent stated this is part of the order that came from the PSC regarding the Sanitary Board and its rates. This will bring all outstanding obligations in arrears up to date.

Councilman Black asked about 1993 AAA rating of the bonds and the inability of the Sanitary Board to obtain rating on the current bond refinancing and the estimate of cost and interest expense due to the lack of credit rating.

Brian Nerrick, Ross and Claren Associates, explained that in 1993 the Sanitary Board issued refinancing bonds that were AAA rated. Now because of the inability of the Sanitary Board to meet debt service ratios, the bonds to be issued will be non-rated and the difference in interest rate is going to be 1.5%.

There being no further comments, and after roll call vote duly taken, the ordinance was adopted (10 yeas, 0 nay, 1 excused-Adkins)

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 169 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED, BY AMENDING, MODIFYING AND RE-ENACTING SECTION 169.01 REGARDING BOARD MEMBERS**

**2<sup>ND</sup> READING  
ORDINANCE RE  
ARTICLE 169**

Motion to adopt by Councilman Ritter; 2<sup>nd</sup> by Councilman Kent.  
Motion to withdrawal by Councilman Ritter; 2<sup>nd</sup> by Councilman Kent. Upon voice vote duly taken, the ordinance was withdrawn by unanimous vote.

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR DEMOLITION SERVICES TO BE PERFORMED ON CERTAIN PROPERTIES LOCATED WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF HUNTINGTON**

**2<sup>ND</sup> READING  
ORDINANCE RE  
DEMOLITION  
SERVICES**

Motion to adopt by Councilman Ritter; 2<sup>nd</sup> by Councilperson Neely.

Mayor Felinton reported that the contract would be awarded to KAR Construction of Lesage in the amount of \$12,650. The funding comes from CDBG funds. The contractor is licensed with the city, the state of WV and is current on B&O taxes.

After role call duly taken, the ordinance was adopted (10 yeas, 0 nay, 1 excused-Adkins).

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO TWO (2) CONTRACTS FOR ASBESTOS ABATEMENT SERVICES TO BE PERFORMED ON CERTAIN PROPERTIES LOCATED WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF HUNTINGTON**

**2<sup>ND</sup> READING  
ORDINANCE RE  
ASBESTOS  
ABATEMENT**

Motion to adopt by Councilperson Neely; 2<sup>nd</sup> by Councilman Kent

Mayor Felinton reported that contracts will be awarded to American Industrial of Nitro, WV in the amount of \$5,548 and Justice Business of Marietta, OH, in the amount of \$11,175. Funding for these properties comes from CDBG. Both contractors are licensed with the city and state and are current on B&O taxes.

Upon vote duly taken, the ordinance was adopted (10 yeas, 0 nay, 1 excused-Adkins).

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH LABOR, MATERIALS AND EQUIPMENT FOR THE REMOVAL OF OLD GENERATOR AND INSTALLATION OF A NEW 15 KW GENERATOR AT THE ROTARY PARK FACILITY**

**2<sup>ND</sup> READING  
ORDINANCE RE  
NEW ROTARY  
PARK  
GENERATOR**

Motion to adopt by Councilperson Neely; 2<sup>nd</sup> by Councilman Kent

Mayor Felinton stated that the contract would be awarded to McDaniel Electric of Huntington in the amount of \$19,960. The funding for the generator is from the Homeland Security Grant. Purchases from the Grant are approved at the state level to assure proper use of the money.

Upon vote duly taken, the ordinance was unanimously adopted (11 yeas, 0 nay).

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 169 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED, BY CREATING SECTION 169.08 REGARDING SEWER RATES, FEES AND CHARGES**

**1<sup>ST</sup> READING  
ORDINANCE RE  
CREATING  
SECTION 169.08**

Councilman Kent moved for withdrawal of the ordinance; 2<sup>nd</sup> by Councilman Ritter. Upon voice vote duly taken, the motion to withdraw was approved.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING RULES FOR THE TRANSACTION OF BUSINESS BY THE HUNTINGTON CITY COUNCIL**

**1<sup>ST</sup> READING  
ORDINANCE RE  
RULES OF  
COUNCIL**

Councilman Ritter reviewed the changes proposed in the ordinance in the current rules of Council.

Councilperson Jackson motioned to change the first sentence under D. Work Sessions to read, "Work Sessions are to be televised." 2<sup>nd</sup> by Councilman Caserta.

Councilman Farrell stated the reason this was placed in the ordinance was for Council to informally hold work sessions in the Mayor's conference room. He is opposed to the amendment.

Councilperson Neely has received calls from constituents who want televised work sessions to continue.

Councilman Kent feels that people who are not mobile depend on the work sessions being televised to keep up with what is going on.

John Vance, 1328 9<sup>th</sup> Avenue, feels that Council would be hiding something if work sessions were not televised.

Chairman Insco stated that even if work sessions were not televised, they would still be open meetings.

Ray Browning, 146 Gallaher Street, feels that all gatherings of six or more Council must be televised.

Jacqui Lewis, 1962 Underwood, welcomed new members, and feels this to be a tool to shut the public out.

There being no further comment, and after roll call duly taken, the amendment was approved (7 yeas, 4 nays- Adkins, Black, Farrell, Ritter).

Councilman Farrell moved to strike the paragraph in parenthesis in Section E. Good and Welfare; 2<sup>nd</sup> by Councilman Ritter. Upon vote duly taken, the amendment was approved by unanimous vote (11 yeas, 0 nay)

Councilman Kent moved to add the following paragraph; 2<sup>nd</sup> by Councilman Ritter.

“Orders.” Orders of Council shall be used to express the intent of Council to approve or disapprove actions of the Mayor and to employ those who will report solely to the Council. Orders shall be handled in the same fashion as resolutions, but shall not be subject to approval by the Mayor.”

Mayor Felinton feels the amendment is not necessary as the charter speaks to ordinances and resolutions only. There are circumstances that would pertain only to Council, but the charter gives the mayor veto power for a reason.

Councilman Kent stated it was not his intent to change ordinances or resolutions which would still be subject to veto by the mayor. Council has been issuing orders for a number of years and there is no specific provision allowing this.

Councilman Black does not recall City Council issuing orders until the current administration was elected.

Councilman Kent stated that resolutions are subject to veto by the mayor. An order would not be subject to veto and could be used only for appointment of the city clerk or assistant city clerk or to confirm appointments. Orders have also been used to employ outside counsel when the city attorney could not represent Council due to conflict.

Councilman Black stated that the charter gives Council the power to appoint a city clerk and assistant city clerk. The charter provides a checks and balances system which is important and will vote against the amendment.

Kent Fletcher, 6160 Rosalind Road, felt the mayor is the ultimate representative of the city and should not be deprived of his powers.

John Vance, 1328 9<sup>th</sup> Avenue, called this micromanagement.

There being no further discussion, and after vote duly taken, the amendment failed (9 nays, 2 yeas-Kent, Neely).

Councilman Kent moved to strike the words “first and” in Paragraph A on Page 10; and to strike the phrase “not addressed by resolution and/or ordinance” in the second sentence in Paragraph 2 on Page 10, and delete “subject to these rules” at the end of the second sentence in Paragraph 2; and add “except for items on the agenda” at the end of the second sentence in Paragraph 2; 2<sup>nd</sup> by Councilperson Loudermilk.

There being no further discussion, the amendment was approved by unanimous vote (11 yeas, 0 nay).

D. Everett Fullerton, 981 Madison Avenue, cited State Code Section 6-9a-3 that gives public the right to speak.

Chairman Insko requested that the City Attorney research this section.

Ray Browning, 146 Gallaher Street, does not want the change from five to three minutes.

Raben Crisel, 67 Grand Boulevard, does not want the change from five to three minutes.

This ordinance will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH THE HUNTINGTON POLICE DEPARTMENT WITH ONE (1) NEW 2006 EVIDENCE COLLECTION VEHICLE**

**1<sup>ST</sup> READING  
ORDINANCE RE  
HPD VEHICLE**

Mayor Felinton stated that the contract would be awarded to Sirchie Vehicle Division of Medford, NJ, in the amount of \$90,670. The funding comes from the Homeland Security Grant.

This ordinance will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH THE HUNTINGTON POLICE DEPARTMENT WITH ONE (1) NEW 2005 CHEVROLET EXPRESS CARGO VAN**

**1<sup>ST</sup> READING  
ORDINANCE RE  
HPD CARGO VAN**

The vehicle will be paid from Homeland Security Grant money and the contract would be awarded to Glen Dale Motor Company in the amount of \$14,422.00. The vehicle would transport traffic diversion devices.

This ordinance will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF HUNTINGTON, WEST VIRGINIA, 1998, AND THE ZONE MAP ATTACHED THERETO AS A PART THEREOF, BY ZONING TO C-1 NEIGHBORHOOD COMMERCIAL FROM R-5 RESIDENTIAL THE PROPERTIES LOCATED 303 THROUGH 401 ADAMS AVENUE, CABELL COUNTY TAX MAP 28, PARCELS 230 THROUGH 243**

**1<sup>ST</sup> READING  
ORDINANCE RE  
REZONING**

Mayor Felinton explained that the ordinance would allow for the rezoning in the 300 block of Adams Avenue from residential to C-1 neighborhood commercial. This received a positive recommendation from the Planning Commission and eighty-five percent of the neighbors signed a petition agreeing to the change.

The ordinance will be advertised.

**Vetoed Resolution re: A RESOLUTION OF COUNCIL REGARDING FUNDS RECEIVED FROM THE HUNTINGTON BOND REFUND**

**VETOED  
RESOLUTION RE  
BOND REFUND**

Councilman Ritter moved to bring the resolution to the floor; 2<sup>nd</sup> by Councilman Kent.

Mayor Felinton vetoed this because the rules were waived at the previous meeting and did not go through the proper procedure which would involve a budget revision.

Councilman Kent will vote to sustain the veto because he feels the resolution did not go through the proper procedure as well. This is something that needs to be reconsidered in the budget.

Councilman Ritter asked for an explanation of the special fund.

Mayor Felinton said the fund comes from unanticipated funds as a result of closing of bonds several years ago in the amount of \$45,000-50,000.

Councilman Ritter feels the money should be reflected in the general fund. He believed there would be \$200,000.

Bob Wilhelm, Director of Finance, knows of no special fund. The money was deposited into the general fund under "Miscellaneous Income." The \$200,000 referred to is actually a budgeted amount of revenue for the fiscal year. It cannot be allocated. A budget revision would have to be done.

Councilperson Neely recalled a resolution of Council approving \$50,000 for the pool.

Mr. Wilhelm has not received a budget revision request to reallocate \$50,000 to be used at the pool. Mrs. Neely requested that whatever needs to be done to designate \$50,000 for the pool opening be done.

Councilman Black stated that the budget was in balance and that any variation would have to be offset to absorb the \$50,000.

Councilman Caserta said that an initial request of \$48,800 amount was to come from CDBG fund. The \$48,000 voted on at the previous meeting was to come from the \$200,000 of miscellaneous revenue that was received in the amount of \$48,000 to add to the \$48,800.

Mr. Wilhelm stated that this could not be done without cutting back on expenses. The \$200,000 line item is anticipated revenue.

Councilperson Neely understood from the previous meeting that the \$200,000 had been received. Many people who will not be happy if the pool is not opened this year.

Councilman Kent had looked at a financial statement and as of 12/31/04, only \$40,425 had been received in miscellaneous revenue. This means a sizeable deficit will have to be covered.

Councilman Ritter stated that there is some confusion from the previous meeting as to what monies are available in the miscellaneous revenue line item.

Councilman Kent, in a point of order, stated that the reason why the resolution is on the agenda is to determine whether to sustain the veto or not. The correct procedures were not followed and that is the issue we are dealing with.

Mary Anderson, 1423 Grove Street, inquired about the cost of operating the wading pool and there are many above-ground improvements that could be done with CDBG funds.

D. Everett Fullerton, 981 Madison Avenue, had attended the previous meeting and feels that Council presumed that the \$48,000 would be available for them to open the pool. He feels it is not Council's decision where to use that money. Council and the Mayor need to work together to open the pool.

There being no further discussion, and upon vote duly taken, the veto was sustained (10 yeas, 1 nay-Neely).

**Resolution re: A RESOLUTION OF COUNCIL FINALIZING THE BOUNDARIES OF THE PROPOSED KINETIC PARK TAX INCREMENT FINANCING DISTRICT FOR THE CITY OF HUNTINGTON, MAKING CERTAIN FINDINGS WITH RESPECT TO THE PROPOSED TAX INCREMENT FINANCING DISTRICT AND AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR CREATION OF THE DISTRICT TO THE DIRECTOR OF THE WEST VIRGINIA DEVELOPMENT OFFICE**

**RESOLUTION RE KINETIC PARK TIF DISTRICT BOUNDARIES**

"WHEREAS, the City of Huntington, West Virginia (the "City") is authorized by the West Virginia Tax Increment Financing Act, Chapter 7, Article 11B of the West Virginia Code of 1931, as amended (the "Act") to create a development or redevelopment project area or district, cause project plans to be prepared, issue tax increment financing obligations and take other actions to facilitate the orderly development and economic stability of the City, all as more fully set forth in the Act; WHEREAS, the City is, upon its own initiative, considering the creation of a development/redevelopment district (the "TIF District") in the Kinetic Park section of the City;

WHEREAS, on November 22, 2004 the City's Council (the "City Council") adopted a resolution providing for a public hearing to be held on January 10, 2005 with respect to the city's proposed creation of the TIF District;

WHEREAS, the City Council has held a public hearing with respect to the proposed creation of a development/redevelopment district following publication of notice of such public hearing and a map of the proposed boundaries of the District in accordance with the Act (a copy of such notice and map are attached hereto as Exhibit A);

WHEREAS, the City Council has, following such public hearing, found and determined that (a) the creation of the District will benefit the City, its residents and the real property located in the TIF District by facilitating the orderly development and economic stability of the City, (b) that development or redevelopment in the District will encourage investing in job-producing private development within the City, will result in the increase in the value of property located in the TIF District and will result in increased employment and business activity within the TIF District; (c) that the development or redevelopment which will occur within the TIF District with tax increment revenues will not be solely used for development of commercial businesses that will unfairly compete in the local economy and that such development or redevelopment will be in the public interest because it will (i) result in increased employment in the City and (ii) will result in preservation or enhancement of the tax base of the City; and (d) the creation of the TIF District will serve a public purpose of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HUNTINGTON, WEST VIRGINIA, AS FOLLOWS:

1. The City hereby approves and ratifies the findings set forth in the preambles of this Resolution and the information contained in the notice of public hearing, a copy of which is attached hereto as Exhibit A.
2. The final boundaries of the TIF District shall be as set forth in Exhibit B attached hereto and incorporated herein by reference.
3. It is hereby further determined that the City shall submit an application and all supporting materials for the creation of the TIF District to the West Virginia Development office for its approval.
4. The Mayor and his designees are hereby authorized and directed to take such actions as they shall deem appropriate in assisting and supporting the creation of the District.
5. This Resolution shall become effective immediately upon adoption.

Motion to adopt by Councilman Kent; 2<sup>nd</sup> by  
Councilperson Jackson.

Mayor Felinton explained that the resolution would set the geographic boundaries for the TIF district at Kinetic Park. This is the second step the city needs to take to establish the district. The next step is to forward it to the WV Development Office for approval. After that, it will return to Council for an ordinance.

Fred Williams, Steptoe & Johnson, pointed out that part of this involves a public hearing that was advertised. To the extent that anyone wants to comment, this would be an opportunity to do so.

Councilman Farrell asked about the percentage of excess levies.

Mr. Williams submitted information to the Clerk and explained that Class IV property tax rate for 2004 is \$2.91 per \$100 of assessed valuation and is inclusive of excess levies for bond issues, school board, etc. Current levy amount is \$1.90. For every one million dollars of fair market value of improvements, \$11,400 per year would be generated based upon existing tax rates.

There being no further comment, and upon vote duly taken, the resolution was unanimously adopted (11 yeas, 0 nay).

**Resolution re: A RESOLUTION OF COUNCIL APPROVING  
THE REAPPOINTMENT OF SHARON FRAZIER TO THE  
POSITION OF MUNICIPAL JUDGE**

**RESOLUTION RE  
MUNICIPAL  
JUDGE  
APPOINTMENT**

"WHEREAS, Mayor David Felinton has reappointed Sharon Frazier to fill the position of Municipal Judge;  
and

WHEREAS, Council desires to confirm the reappointment of Sharon Frazier,  
NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COUNCIL OF THE CITY OF  
HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that this Council does hereby  
APPROVE the reappointment of Sharon Frazier to the position of Municipal Judge for the City of  
Huntington."

Motion to adopt by Councilperson Jones; 2<sup>nd</sup> by Councilman Ritter.

Mayor Felinton said this resolution would reappoint Judge Sharon Frazier who has served as Municipal Judge the past few years. She does an outstanding job and this would be for a four-year term.

There being no further discussion, and upon roll call duly taken, the reappointment was unanimously approved (11 yeas, 0 nays).

**Resolution re: A RESOLUTION OF COUNCIL APPROVING THE APPOINTMENT OF SCOTT E. MCCLURE TO THE POSITION OF CITY ATTORNEY**

**RESOLUTION RE CITY ATTORNEY APPOINTMENT**

"WHEREAS, Mayor David Felinton has appointed Scott E. McClure to fill the position of City Attorney; and WHEREAS, Council desires to confirm the appointment of Scott E. McClure, NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that this Council does hereby APPROVE the appointment of Scott E. McClure to the position of City Attorney for the City of Huntington."

Motion to adopt by Councilman Caserta; 2<sup>nd</sup> by Councilperson Neely.

Mayor Felinton stated that Mr. McClure has served for several years as Assistant City Attorney and is eligible to serve as City Attorney, a position recently vacated by the resignation of Ted Morgan. He has done a good job and worked for the City in other capacities while attending law school. This is for a four-year term.

Councilperson Neely remarked that Mr. McClure has done a commendable job as Assistant City Attorney. She was disappointed to see this on the agenda as she had not been made aware the Mr. Morgan had resigned. Mr. McClure's resume should have been provided as back up to the resolution as well.

Councilman Farrell motioned that Council recess to executive session stating §6-9a-4b-2a to discuss personnel matters; 2<sup>nd</sup> by Councilperson Neely. Upon roll call taken, motion to recess to executive session was approved (9 yeas, 2 nays-Jackson, Insko).

The meeting recessed for executive session at 9:15 p.m.

The meeting resumed at 9:30 p.m.

Chairman Insko stated that no decisions were made and no vote was taken during executive session. On behalf of Council, he expressed disappointment to the Mayor as to the manner the resignation of the City Attorney was handled. It is hoped this situation will not hinder any future relationships between Council and the Mayor.

Mayor Felinton stated he attempted to notify each member of Council via email or by phone.

Councilman Kent requested Mr. McClure to prepare for the next Council meeting his plan for running the City Attorney's office. This is a unique appointment because the City Attorney works for both the Mayor and Council.

Councilman Ritter has known Scott for a long time and he will be a fine City Attorney. The Assistant City Attorney position should not go unfilled.

Councilman Caserta is appreciative of Scott's ability to step up to the new position.

Mayor Felinton explained that there are two positions that serve concurrent with the mayor's term; that is the Municipal Court Judge and the City Attorney.

Chairman Insko stated that Mr. McClure is a fine man whom he respects. Mr. McClure will do a good job for the city.

There being no further discussion, the resolution was adopted by unanimous vote (11 yeas, 0 nay).

**Resolution re: A RESOLUTION OF COUNCIL ACCEPTING NINTH STREET BACK INTO THE PUBLIC TRANSPORTATION GRID**

**RESOLUTION RE NINTH STREET**

"WHEREAS, Section 8.9 of the Official Charter of the City of Huntington requires the official acceptance of streets and rights-of-way intended for public dedication by resolution of Council, NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that Council does hereby ACCEPT Ninth Street back into the public transportation grid."

Motion to adopt by Councilman Adkins; 2<sup>nd</sup> by Councilman Kent.

Mayor Felinton stated the purpose is for a portion of 9<sup>th</sup> Street that is newly recreated with the construction of Pullman Square which will be maintained by the city.

Councilperson Jackson asked if parking meters will be installed. Mayor Felinton responded it has been discussed and will be determined at a later date.

Councilman Farrell requested which avenues this would entail.

Mayor Felinton responded Veterans Memorial Boulevard to 3<sup>rd</sup> Avenue and it is possible that 9<sup>th</sup> Street will be converted to two-way.

Councilman Kent stated that 9<sup>th</sup> Street was previously closed because of construction of Pullman Square. This resolution reverts it back to the city.

Councilman Farrell inquired as to maintenance of the internal streets at Pullman Square.

Mayor Felinton stated that the Transit Authority will be responsible for those.

There being no further comments, and after vote duly taken, the resolution was unanimously adopted (11 yeas, 0 nay).

**Resolution re: A RESOLUTION OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A GRANT CONTRACT AGREEMENT WITH WEST VIRGINIA DEPARTMENT OF TRANSPORTATION DIVISION OF MOTOR VEHICLES**

**RESOLUTION RE WV DOT GRANT CONTRACT**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that Council does hereby AUTHORIZE the Mayor to enter into a Grant Contract Agreement with the West Virginia Department of Transportation Division of Motor Vehicles in order to receive funds to continue the Safe traffic Operations Program. A copy of the Grant Contract Agreement is attached hereto and made a part of this Resolution."

Motion to adopt by Councilman Kent; 2<sup>nd</sup> by Councilperson Neely.

Mayor Felinton explained this to be a grant from the WV State Department of Motor Vehicles for the safe traffic operations program that is administered by Larry Kendall. This is a regional grant for \$71,947.

There being no further discussion, and after vote duly taken, the resolution was unanimously adopted (11 yeas, 0 nay).

**Resolution re: A RESOLUTION FOR THE REVISION OF THE FISCAL YEAR 2004-2005 GENERAL FUND BUDGET**

**RESOLUTION RE BUDGET REVISION**

Motion to adopt by Councilperson Jackson; 2<sup>nd</sup> by Councilman Kent.

Councilman Kent moved that this resolution be referred to Finance Committee and brought back to Council at its next meeting; 2<sup>nd</sup> by Councilperson Neely.

After voice vote duly taken, motion to refer to Finance Committee was unanimously approved.

**Resolution re: A RESOLUTION FOR THE REVISION OF THE FISCAL YEAR 2004-2005 GENERAL FUND BUDGET**

**RESOLUTION RE BUDGET REVISION**

Councilman Kent moved for adoption; 2<sup>nd</sup> by Councilperson Neely.

Councilman Kent moved that the resolution be referred to the Finance Committee and brought back to Council at its next meeting; 2<sup>nd</sup> by Councilperson Neely.

After voice vote duly taken, motion to refer to Finance Committee was unanimously approved.

**Resolution re: A RESOLUTION FOR THE REVISION OF THE FISCAL YEAR 2004-2005 GENERAL FUND BUDGET**

**RESOLUTION RE BUDGET REVISION**

"WHEREAS, the Council of the City of Huntington, Counties of Cabell and Wayne, has found it necessary to revise the fiscal year 2004-2005 Levy Estimate; and WHEREAS, these various adjustments are made on West Virginia State Auditor – Chief Inspector Division Forms CID BR 1180 which are attached hereto and made a part hereof, NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Huntington, Counties of Cabell and Wayne, that the Finance Director be and is hereby directed to submit a copy of the revision to the State Auditor of the State of West Virginia for his approval, under the provisions of Chapter II, Section 8, Articles 146, 25 and 26a of the Code of the State of West Virginia."

Motion to adopt by Councilman Black; 2<sup>nd</sup> by Councilperson Neely.

Mayor Felinton explained this to be acknowledgment of grants received from the state for the Governor's Highway Safety Program and the Division of Culture and History.

Councilman Kent extended thanks to legislative delegation for getting this money channeled to the area, especially Senator Plymale. The money allows patrolling on I-64.

There being no further discussion and after vote duly taken, the resolution was unanimously adopted (11 yeas, 0 nay).

**Good & Welfare**

Councilman Kent expressed concern over the deterioration of 13<sup>th</sup> Avenue which was recently paved. The contractor should be brought back to make repairs.

Mayor Felinton stated there is a warranty on the work and that the contractor will make repairs.

Councilperson Neely asked who inspects paving when jobs are completed. She feels that a poor job was done by both the paving contractor and the inspector on 13<sup>th</sup> Avenue. A barrel should be placed in the holes due to their size. There is a barrel located on 10<sup>th</sup> Street at 13<sup>th</sup> Street that needs to be dealt with. Tree roots have caused major damage to a sidewalk at 10<sup>th</sup> Street. The city needs to contact the property owner to have this fixed. She thanked workers for cleaning out the ditch on Honeysuckle and added that the culvert needs to be cleaned out as well. There is a large pothole on 7<sup>th</sup> Avenue and 3<sup>rd</sup> Street West that needs to be repaired. Leaves need to be picked up along North Boulevard. Also 5<sup>th</sup> Street Hill is full of debris and the grassy areas need to be cut.

Councilman Ritter thanked Mayor Felinton and Richard Dixon and his staff and the Corps of Engineers for the fine job being done at Krauts Creek.

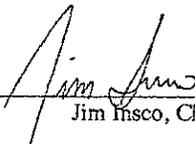
Mary Durstein, 2960 3<sup>rd</sup> Avenue, reported an abandoned house at 2962 3<sup>rd</sup> Avenue which attracts vagrants and drug activity and she fears for the safety of her family and property. Mrs. Durstein asked that the city look into cleaning 3<sup>rd</sup> Avenue. Leaves need to be picked up and the street surface cleaned. She would also like to see new curbs installed along 3<sup>rd</sup> Avenue and for the city to look into the possibility of converting 3<sup>rd</sup> Avenue into 2-way. This would help the flow of traffic at St. Mary's. The WV DOH reports that a traffic study needs to be done. Mrs. Durstein expressed her excitement over Pullman Square.

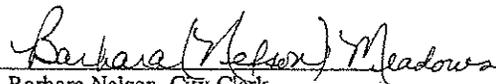
Ray Browning, 146 Gallaher Street, welcomed new members of Council. There are unlicensed vehicles along Upper Union and Francis Court that sit right in the curve and if emergency vehicles would have a hard time getting through at this area. There was sewer work done recently at Norway Avenue and Locust Street that is sinking causing chunks of concrete to break away. Also on Locust at Allen Avenue, there is a depression in the street which is very well sewer related. At Roby Road and Maupin Road, there is a sewer grating that is sub-terrain that needs to be raised up. The Maupin Road sign needs to be put back up on the west side of Roby Road. There is a trash pile on 27<sup>th</sup> Street just north of 4<sup>th</sup> Avenue on the west side. The Communications Committee has recently put bids out for new cameras in Council Chambers.

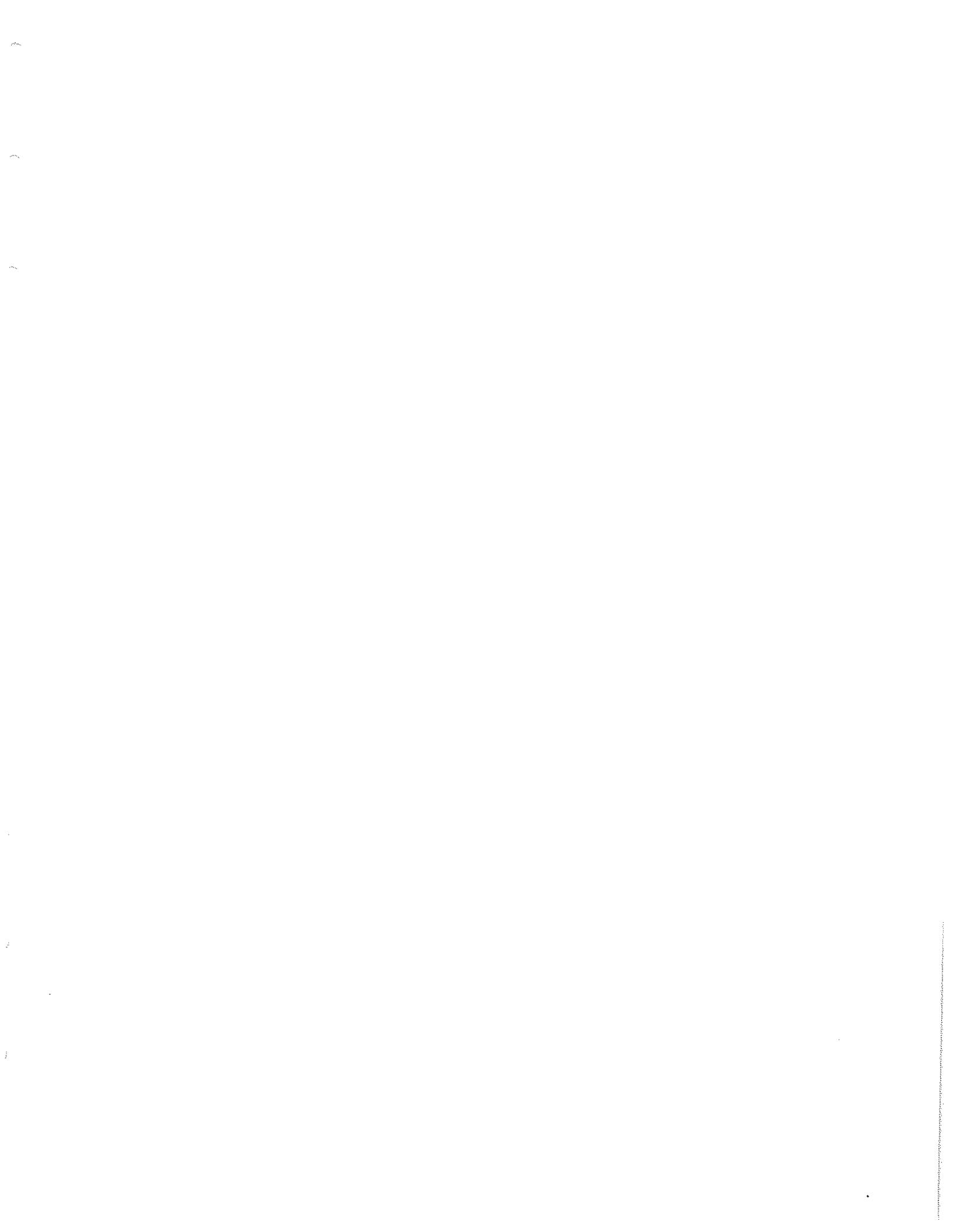
Joyce Ann Carey Mayberry, 509 Adams Avenue, commented on some problems she is having with her neighbors.

John Vance, 1328 9<sup>th</sup> Avenue, congratulated Council members and the mayor for winning the election. He reminded members of Council that they were elected by citizens.

There being no further business to come before Council, the meeting was adjourned at 10:30 p.m.

  
\_\_\_\_\_  
Jim Insco, Chairman

  
\_\_\_\_\_  
Barbara Nelson, City Clerk  
Meadows



# AFFIDAVIT OF PUBLICATION

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

I, Mary Gibson being first duly sworn, depose and say that I am Legal Clerk for The Herald-Dispatch, a corporation, who publishes at Huntington, Cabell County, West Virginia, the newspaper: The Herald-Dispatch, an independent newspaper, in the morning seven days each week, Monday through Sunday including New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving and Christmas; that I have been duly authorized by the Board of Directors of such corporation to execute this affidavit of publication for and on behalf of such corporation and the newspaper mentioned herein; that the legal advertisement attached in the left margin of this affidavit and made a part hereof and bearing number LH- 444599 was duly published in

The Herald-Dispatch

one time, once a week for 2 successive weeks, commencing with its issue of the 13 day of 05, 2004 and ending with the issue of the 20 day of 05, 2004 and was posted at the East door of the Cabell County Courthouse on 13 day of 05, 2004; that said legal advertisement was published on the following dates:

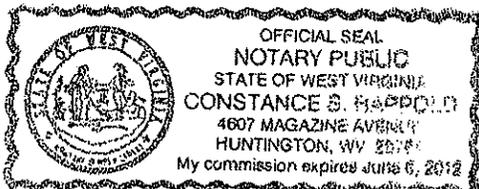
5-13-20-04

that the cost of publishing said annexed advertisement as aforesaid was \$72.45; that such newspaper in which such legal advertisement was published has been and is now published regularly, at least as frequently as once a week for at least fifty weeks during the calendar year as prescribed by its mailing permit, and has been so published in the municipality of Huntington, Cabell County, West Virginia, for at least one year immediately preceding the date on which the legal advertisement set forth herein was delivered to such newspaper for publication; that such newspaper is a newspaper of "general circulation" as defined in Article 3, Chapter 59, of the West Virginia Code, within the publication area or areas of the municipality of Huntington, Cabell and Wayne Counties, West Virginia, and that such newspaper is circulated to the general public at a definite price or consideration, that such newspaper on each date published consists of not less than four pages without a cover; and that it is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices.

Mary Gibson

Taken, subscribed and sworn to before me in my said county this 27 day of 05, 2004

My commission expires June 6, 2012



Constance S. Rappold

Notary Public  
Cabell County  
West Virginia

LEGAL  
Notice is hereby give that on the 24th day of May, 2004, a public hearing of 7:30 p.m. or as soon thereafter as the matter can be heard the Council of the City of Huntington, West Virginia, at the Council Chambers, in the City of Huntington, West Virginia, proposes to final vote on the adoption of an ordinance, the subject matter of which is as follows:  
AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND ENACTING ARTICLE 933 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON AS REVISED REGARDING SEWER RATES AND CHARGES (as amended postponed)  
Such ordinance is filed in the office of the Clerk of said city in City of Huntington, West Virginia, where the same may be inspected by the public, and interested parties may appear at meeting and be heard with respect to the proposed Ordinance.  
Dated this 12th day of May, 2004.  
Barbara E. Nelson  
City Clerk  
LH-444599-6-13-20



CITY OF HUNTINGTON  
Sewerage System Refunding Revenue Bonds, Series 2007

**PETITION OF SANITARY BOARD**

The Sanitary Board of the City of Huntington (the "City") hereby petitions the Council of the City to enact an ordinance directing that sewerage system refunding revenue bonds of the City be issued pursuant to the provisions of Chapter 16, Article 13 of the West Virginia Code of 1931, as amended, such bonds to be in an amount not to exceed \$7,000,000 for the purpose of refunding the City's existing Sewerage System Refunding Revenue Bonds, Series 1993, dated November 1, 1993, and paying costs of issuance and related costs of such bonds.

Directed this 27th day of December 2007.

SANITARY BOARD OF THE CITY OF HUNTINGTON

By:   
Its: Chairman

12.17.07  
435500.00010





THE CITY OF HUNTINGTON

**ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 933 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED, REGARDING SEWER RATES AND CHARGES, (as amended)**

THE COUNCIL OF THE CITY OF HUNTINGTON HEREBY ORDAINS:

**SECTION 1. SCHEDULE OF RATES, CHARGES AND PENALTY**

**933.07 COMBINED SEWERS.**

The provisions of this article do not prohibit the present or future discharge of storm water runoff to combined sewers.

No person shall permit storm water runoff to be discharged into sanitary sewers of the City, in situations where persons now direct storm water into combination sewers that are also used for sanitation, nothing in this article shall be construed to require these persons to cease directing storm water to the combined sewer until such time as **deemed necessary by the Sanitary Board**. Structures built prior to 1980 shall be exempt from the stormwater runoff combined system separation requirements until such time as is required by federal law, regulation or state law, and modified in fact by City Council.

**933.22 SERVICE CHARGE.**

There is hereby levied and assessed against all persons, firms or corporations having any active connection with the publicly owned sewage treatment plant of the City of Huntington (the "POTW") or otherwise discharging sewage, industrial wastes, water or other liquids either directly or indirectly into such POTW or any part thereof, a service charge payable as hereinafter provided and in the amount hereinafter provided.

The service charge for any person, firm or corporation situated within or outside the corporate limits of the City of Huntington having any connection with the City's POTW and discharging sewage, industrial wastes, water or other liquids into such POTW, shall be based upon the quantity of water used on or in the premises as the same is measured by the West Virginia American Water Company meter or meters there in use. The following schedule of sewer rates, disconnection charge, reconnection charge and late payment penalty are hereby fixed and determined as the sewer rates, disconnection charge, reconnection charge and late payment penalty available for general domestic, commercial and industrial service and shall be charged per quarter year or monthly at the following rates:

5/24/04

## SCHEDULE I

### APPLICABILITY

Applicable in entire territory served.

### (C) AVAILABILITY OF SERVICE

Available for domestic, commercial, industrial (except unusual industrial waste) and resale (non contract) sewer service.

### (C,I) INITIAL RATE (Based upon metered volume of water supplied)

First 300 cubic feet used per month \$3.21 per ccf  
Next 1,700 cubic feet used per month \$2.39 per ccf  
Next 18,000 cubic feet used per month \$2.16 per ccf  
Next 980,000 cubic feet used per month \$1.73 per ccf  
All over 1,000,000 cubic feet used per month \$1.24 per ccf

### (C,I) SECOND YEAR RATE (Based upon metered volume of water supplied)

First 300 cubic feet used per month \$3.43 per ccf  
Next 1,700 cubic feet used per month \$2.56 per ccf  
Next 18,000 cubic feet used per month \$2.31 per ccf  
Next 980,000 cubic feet used per month \$1.85 per ccf  
All over 1,000,000 cubic feet used per month \$1.33 per ccf

### (C,I) MINIMUM BILL

Each customer shall pay a minimum charge of **\$11.00** per month

### MULTIPLE OCCUPANCY

Apartment buildings and other multiple occupancy buildings shall be required to pay not less than the monthly minimum bill for each unit. Hotels and motels shall be exempt from this multiple occupancy charge. House trailer or mobile home courts served through a single meter shall be required to pay the monthly minimum bill multiplied by the number of units in place at the time the meter is read each month.

### (C,I) UNMETERED RATE

A flat fee of **\$ 19.45**, based on 600 ccf of water usage per month, will be charged for all unmetered water customers.

### SERVICE CONNECTION CHARGE

**\$900.00**

### DELAYED PAYMENT PENALTY

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

- (I) Indicates increase (C) Indicates change in wording  
(C,I) WATER DISCONNECT-RECONNECT-ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of sewer bills, a disconnection fee of **\$25.00** shall be charged; or in the event the delinquent sewer bill is collected in the field, an administrative fee of **\$25.00** shall be charged. A **\$25.00** reconnection fee will be assessed for each occurrence where water service to sewer customers is restored, after water service has been terminated for non-payment of sewer bills.

- (C) RETURNED CHECK CHARGE

If a check received is returned by the bank for any reason, the bank's charge to the City shall be the City's charge to the customer for such returned check and under no circumstances shall the fee collected by the City exceed **\$25.00**.

## SCHEDULE II

### APPLICABLE INSIDE AND OUTSIDE OF THE CORPORATE LIMITS OF

#### THE CITY OF HUNTINGTON

Where the amount of sanitary sewage discharged into the Huntington wastewater collection and/or transmission and/or treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plant's water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Huntington Sanitary Board a sewer charge calculated at fifty (50) gallons of water per each employee at the plant each working day.

This explanation is not part of the rate schedule:

This schedule is included on an if-and-when basis.

- (N)

## SCHEDULE III

- (N) APPLICABILITY

Applicable in entire territory served.

- (N) AVAILABILITY OF SERVICE

Available for wastewater and leachate haulers.

5/24/04

- (I) Indicates increase (C) Indicates change in wording (N) Indicates new  
(N) RATES

Commodity Charge - Each hauler shall pay a commodity charge of **\$15.00** per 1,000 gallons per load. Load will be **two** times the actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined or verified by the City.

DELAYED PAYMENT PENALTY

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

- (N) RETURNED CHECK CHARGE

If a check received is returned by the bank for any reason, the bank's charge to the City shall be the City's charge to the customer for such returned check and under no circumstances shall the fee collected by the City exceed **\$25.00**.

- (I) Indicates increase (C) Indicates change in wording (N) Indicates new

**933.23 LATE PAYMENT PENALTY AND DISCONNECT FOR NON-PAYMENT**

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

If any bill is not paid within 60 days from the date of the bill, water service to the customer will be discontinued and will not be restored until all past due bills have been paid in full, together with all penalty charges, subject to applicable rules of the Public Service Commission of West Virginia.

**933.24 WATER METERS**

Each meter shall be considered a separate billing unit in applying the above rates. The registration of water on two or more meters shall be combined and billed to each user as though registered on one meter **in the event that the meters are located in only one**

facility with one sanitary sewer connection subject to the approval of the Sanitary Board.

In the event any person, firm or corporation discharging sanitary sewage, industrial waste, water or other liquids into the City's POTW, either directly or indirectly, obtains part or all of the water used by him from sources other than the West Virginia-American Water Company, such user of other water shall, at his own expense, install and maintain water meters satisfactory to the Board for measuring all water usage other than that obtained from the West Virginia-American Water Company, and the quantity of water used to determine the sewerage service charge, as above set forth, shall be the sum of the quantity measured by all such meters plus the quantity of water obtained from the West Virginia-American Water Company.

### **933.25 WATER NOT ENTERING THE POTW.**

In the event it is established to the satisfaction of the Sanitary Board that a portion of the water measured by the above-named meter or meters does not and cannot enter the public sanitary sewerage system, and in the event that the total water used by such person, firm or corporation exceeds 40,000 cubic feet per month, then the Board may determine, in such manner and by such method as it may deem practical, the percentage of the metered water entering the sanitary sewerage system, or the Board may require or permit the installation of additional meters in such a manner as to determine either the quantity of the water excluded from the sewerage system or the quantity of water, sewerage or industrial waste actually entering the sewerage system, exclusive of storm water runoff. The sewerage service charge shall be based upon the quantity of water estimated, measured or computed by the Board to be actually entering the sewerage system, exclusive of storm water runoff, subject to the minimum charge provision set up in Section 933.22.

Persons, industries or corporations requesting consideration for a reduction in the sewerage service charge because of water not entering the POTW shall make written application to the Board for such consideration, giving the name of the firm, industry or business, address, West Virginia-American Water account number and supporting data fully describing other sources entering the POTW. Upon request by the Board, the application shall be accompanied by a sketch to approximate scale showing the plan of the property, water distribution system, sewer layout, existing meters and any proposed meters in sufficient detail to determine the quantity of flow entering, or not entering, the sewerage system. The cost of furnishing, installing and maintaining any meters other than those utilized to measure water purchased from the West Virginia-American Water Company shall be borne by the applicant. The type, size, location, arrangement and maintenance of such meters shall be subject to the approval of the Board.

### **SECTION 2. EFFECTIVE DATE**

The Rates and Charges provided herein shall be effective 45 days after the enactment

*Stallor*

hereof.

### **SECTION 3. SEPARABILITY: REPEAL OF CONFLICTING ORDINANCES**

The provisions of this Ordinance are separable, and if any clause, provision or section hereof shall be held void or unenforceable by the West Virginia Public Service Commission or any court of competent jurisdiction, such clause, provision or section shall be deemed void and shall not affect the remainder of this Ordinance. Upon the effective date hereof, all ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflicts, hereby repealed; and to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, orders or parts thereof, the same shall remain in full force and effect.

### **SECTION 4. STATUTORY NOTICE AND PUBLIC HEARING**

Upon introduction hereof, the City Clerk shall publish a copy of this Ordinance once a week for 2 successive weeks within a period of 14 consecutive days, with at least 6 full days intervening between each publication, in the Herald Dispatch, a qualified newspaper published and of general circulation in the City of Huntington, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council at the City Hall, Huntington, West Virginia, on the 24th day of May, 2004, at 7:30 p.m., which date is not less than 10 days subsequent to the date of the first publication of the Ordinance and notice, and present protests. At such hearing all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper in the premises. Copies of this Ordinance shall be available to the public for inspection at the office of the City Clerk in the City Hall, Huntington, West Virginia.

SPONSORED BY COUNCILMAN CAL KENT

APPROVED AS TO FORM BY TEM

FIRST READING 4/12/04-Amendment adopted to 933.07 to add "Structures built prior to 1980 shall be exempt from the stormwater runoff combined system separation requirements until such time as is required by federal law regulation or state law and modified in fact by City Council."

10 yeas, 1 nay-McCallister

SECOND READING 4/26/04 - Ordered Advertised for 3rd reading

THIRD READING: 5/10/04 - Postponed till 5/24/04 meeting (6 yeas, 5 nays-Daniels, Inscó, Kent, Patterson, Ritter)

POSTPONED 3rd READING: 5/24/04 - ADOPTED - 6 yeas; 4 nays-McCallister, Polan, Ritter, and Ellis; 1 absent-Thompson

DATE May 24, 2004

Barbara Nelson  
BARBARA NELSON, CITY CLERK

DATE 5/25/04

Paul G. Felton  
DAVID A. FELINTON, MAYOR

✓  
APPROVE

DATE 5/25/04

          
VETO

5/24/04



# AFFIDAVIT OF PUBLICATION

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

I, Mary Gibson being first duly sworn, depose and say that I am Legal Clerk for The Herald-Dispatch, a corporation, who publishes at Huntington, Cabell County, West Virginia, the newspaper: The Herald-Dispatch, an independent newspaper, in the morning seven days each week, Monday through Sunday including New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving and Christmas; that I have been duly authorized by the Board of Directors of such corporation to execute this affidavit of publication for and on behalf of such corporation and the newspaper mentioned herein; that the legal advertisement attached in the left margin of this affidavit and made a part hereof and bearing number LH-444599 was duly published in

The Herald-Dispatch

one time, once a week for 2 successive weeks, commencing with its issue of the 13 day of 05, 2004 and ending with the issue of the 20 day of 05, 2004 and was posted at the East door of the Cabell County Courthouse on 13 day of 05, 2004: that said legal advertisement was published on the following dates:  
5-13-20-04

that the cost of publishing said annexed advertisement as aforesaid was \$72.45; that such newspaper in which such legal advertisement was published has been and is now published regularly, at least as frequently as once a week for at least fifty weeks during the calendar year as prescribed by its mailing permit, and has been so published in the municipality of Huntington, Cabell County, West Virginia, for at least one year immediately preceding the date on which the legal advertisement set forth herein was delivered to such newspaper for publication; that such newspaper is a newspaper of "general circulation" as defined in Article 3, Chapter 59, of the West Virginia Code, within the publication area or areas of the municipality of Huntington, Cabell and Wayne Counties, West Virginia, and that such newspaper is circulated to the general public at a definite price or consideration, that such newspaper on each date published consists of not less than four pages without a cover; and that it is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices.

Mary Gibson

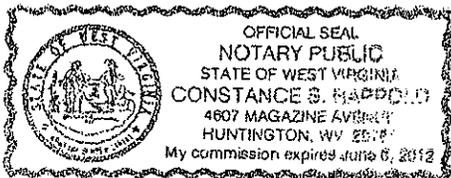
Taken, subscribed and sworn to before me in my said county this 27 day of 05, 2004

My commission expires \_\_\_\_\_

June 6, 2012

Constance S. Rappold

Notary Public  
Cabell County  
West Virginia



LEGAL

Notice is hereby given that on the 24th day of May, 2004, at the hour of 7:30 a.m., the matter herein was heard by the Council of the City of Huntington, West Virginia, at the Council Chambers, in the City Hall, Huntington, West Virginia, proposes to finally vote on the adoption of an ordinance, the subject matter of which is as follows:

AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 933 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED, REGARDING SEWER RATES AND CHARGES (as amended, postponed)

Such ordinance is filed in the office of the Clerk of said city in City Hall, Huntington, West Virginia, where the same may be inspected by the public, and interested parties may appear at the meeting and be heard with respect to the proposed Ordinance.

Dated this 12th day of May, 2004.

Barbara E. Nelson  
City Clerk  
LH444599 5-13-2004



**REGULAR MEETING  
HUNTINGTON CITY COUNCIL  
April 12, 2004**

The April 12, 2004 Huntington City Council meeting convened at 7:30 p.m. with Chairman Insko presiding.

**INVOCATION AND PLEDGE:**

Councilman Patterson gave the invocation and Councilman Hanshaw led the Pledge of Allegiance to the Flag.

All council members were present.

**ROLL CALL:**

All council members were present:

John Daniels	Mary Neely
B. W. Ellis	Larry Patterson
Trey Hanshaw	Chuck Polan
Jim Insko	Jim Ritter
Cal Kent	Charlie Thompson
Tom McCallister	

Also present were Mayor David Felinton, City Attorney Ted Morgan, Director of Administration & Finance Jack Thornburgh, Director of Finance Bob Wilhelm, Sanitary Board Director Bruce Fox, Planning & Development Director Richard Dixon, and Assistant City Clerk Kathy Torlone

**SYNOPSIS**

**SYNOPSIS**

Councilman Kent moved for the approval of the synopsis of the March 22, 2004 City Council meeting, seconded by Councilman Thompson. Upon voice vote duly taken, the synopsis was approved unanimously.

**REPORTS OF THE MAYOR**

**MAYOR'S  
REPORTS**

Paving has begun from the list approved last fall. Riverside Drive and Lower Terrace have been done so far. Grading began on Avondale. Work will be done east to west to make for easier movement of equipment. A list of streets to be paved is available in the Mayor's office.

Bob Wilhelm, Director of Finance, stated that February financial statements had been distributed. General fund balance is at \$2.7 million. Expenses do not appear out of order. Medical funds are slightly higher. The city maintains a line of credit with Fifth Third for \$3 million. After this was renewed, actuarial determination was received from Workers Comp Commission and a security amount of \$3.8 million is now required. We will be responding to the Commission regarding this. Administration of workers comp claims begins on 7/01/04. Estimated March numbers were distributed and reviewed.

Councilman Polan asked what the \$3.8 million determination from Workers Comp represents. Mr. Wilhelm responded that it is an actuarial calculation used to determine how much required security the Commission feels the city needs to have. It factors in claims and claims history back to 1982. Approximately a half million dollars is paid out each year on average. It is a regulatory requirement.

Councilman Polan asked if anything had ever been done to seek relief from the Commission.

Councilman Kent said that a contingent went to the Commission last year to discuss the city's situation. He feels it might be warranted to meet with them again to attempt to get a better explanation as to why an additional \$800,000 is required.

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO TRANSFER PROPERTY TO THE TRI-STATE TRANSIT AUTHORITY IN CONNECTION WITH PULLMAN SQUARE**

**2<sup>ND</sup> READING  
ORDINANCE RE  
TRANSFER  
PROPERTY TO  
TTA**

Councilperson Neely moved for adoption, 2<sup>nd</sup> by Councilman Patterson.

Mayor Felinton said this would transfer a 25 x 580 foot portion of Third Avenue to the Tri-State Transit Authority (TTA) to be abandoned for Pullman Square.

Councilman McCallister had requested the dimension of the walk and had not received the information yet.

Mayor Felinton stated the average distance is 14', and extends to 27' wide.

Vickie Shaffer, General Manager of the TTA, 1120 Virginia Ave. W., introduced Jerry Kaler, Construction Superintendent of Continental Building Systems. Mr. Kaler showed a diagram of Pullman Square that exhibited that Building 6 protrudes about 10' beyond Love Hardware.

Councilman Polan asked if copies of the deed had been received transferring this property.

Mr. Morgan stated that the draft deed should have no changes and is satisfactory.

Raben Crisel, 67 Grand Boulevard, is concerned that this will set a precedence.

Mayor Felinton felt this is being done by an ordinance and that any other changes would have to be done in the same fashion.

D. Everett Fullerton, 981 Madison Avenue, is concerned that a study has not been done to evaluate traffic flow across 6<sup>th</sup> Street Bridge. A two-way traffic pattern on 3<sup>rd</sup> Avenue will create a bottleneck.

Mayor Felinton stated that the traffic study is in progress that will address funneling higher speed traffic onto Veteran's Memorial Boulevard and west to the 6<sup>th</sup> Street Bridge. Mr. Fullerton stated that 7<sup>th</sup> Street from Veteran's Memorial Boulevard to 3<sup>rd</sup> Avenue is blocked off at times for functions at the Big Sandy Superstore Arena.

John Vance, 1328 9<sup>th</sup> Avenue, thought it would be good to include the block where C.M. Love and Mack & Dave's are located.

Ray Browning, 146 Gallaher Street, is opposed to the expansion onto 3<sup>rd</sup> Avenue. He supports the Pullman Square project but feels that approving this places the BZA in a problematic situation for future development. He opposes two-way traffic on 3<sup>rd</sup> Avenue.

Lura Miller, 918 23<sup>rd</sup> Street, asked if changes to 3<sup>rd</sup> Avenue were presented in the initial plans for Pullman Square.

Vickie Shaffer exhibited the original plan of Pullman Square that was presented in January 2000, and showed Ms. Miller the proposed area on 3<sup>rd</sup> Avenue.

Ms. Miller asked if Council minutes would reflect any approvals given for Pullman Square, and if copies of plans could be available for the public to view.

Mayor Felinton said that plans would be available in his office for public viewing.

Richard Monga, Holiday Inn Hotel and Suites on 3<sup>rd</sup> Avenue, endorses the project as it will benefit the downtown area.

David Cohen, 1424 Morris Court, owner of Mack & Dave's for 55 years, feels it will be beneficial to change 3<sup>rd</sup> Avenue to two-way traffic and parking.

Phil Cline, 11 Parkway Drive, General Manager of Radisson Hotel, feels that two-way traffic on 3<sup>rd</sup> Avenue and angle parking will benefit the area.

Angela Langley, 3736 Riverside Drive, asked if the speed limit will be lowered on 3<sup>rd</sup> Avenue.

Mayor Felinton said it would be determined as part of the traffic study.

Councilman McCallister is concerned that angle parking creates problems when backing out. He feels that information has been kept from him and he will vote no.

There being no further discussion, and upon vote duly taken, the ordinance was adopted (10 yeas, 1 nay-McCallister).

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR THE PURCHASE OF MATERIALS TO REBUILD THE EXISTING DISSOLVED AIR FLOTATION UNITS FOR THE HUNTINGTON SANITARY BOARD**

**2<sup>ND</sup> READING ORDINANCE RE REBUILD AIR FLOTATION UNITS**

Councilman Ritter moved for adoption; 2<sup>nd</sup> by Councilman Patterson.

Mayor Felinton explained this to be two separate contracts. One is for U.S. Filter/Envirex in the amount of \$3,008, and the other is Motion Industries for \$24,225.80. The money will be taken from the sewer revenue fund.

There being no further discussion, the ordinance was adopted (10 yeas, 1 nay-Polan).

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE HUNTINGTON HUMAN RELATIONS COMMISSION TO ENTER INTO A CONTRACT FOR THE COMMUNICATIONS AND PUBLIC AWARENESS PROPOSAL WITH MOUNTAINSIDE MEDIA, INC.**

**2<sup>ND</sup> READING RE HRC CONTRACT WITH MOUNTAINSIDE MEDIA**

Councilman Patterson moved for adoption; 2<sup>nd</sup> by Councilman Thompson.

Mayor Felinton stated this is a public awareness campaign for the Human Relations Commission. The contract is awarded to Mountainside Media for \$70,815 that comes out of the HRC's budget.

Upon vote duly taken, the ordinance was adopted by a unanimous vote (11 yeas, 0 nay).

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 933 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED, REGARDING SEWER RATES AND CHARGES**

**1<sup>ST</sup> READING ORDINANCE RE SEWER RATES AND CHARGES**

Chairman Kent explained that the sewer rate increase was passed a while back. Complications arose regarding final notice to the public which was not done causing the PSC to reject the ordinance as previously passed. This needs to come back for consideration because it is appropriate for City Council to determine the rates rather than leaving it to the PSC or courts. Counsel for the bondholders feels that we are in violation of the covenants of the bond issues, and as a result, legal action could occur. The PSC feels that the city's current rate structure is inadequate to meet the requirements of the

bonds. The increase proposed is not the full amount the Sanitary Board would wish to have, they will be receptive to the proposed 20%-5% rate increase.

Councilman McCallister does not fear the PSC as there have been unchallenged cases. Mr. McCallister exhibited a package submitted by the Sanitary Board to the PSC for a 44% rate increase.

Councilman Ellis pointed out that when this was brought to Council before, 933.07 contained a statement about buildings built prior to 1980 not having to comply with this ordinance until the federal government orders such.

Councilman Ellis moved to add this statement to the ordinance; 2<sup>nd</sup> by Councilman Ritter.

Councilman Thompson feels the city's street drain systems are in poor shape and left clogged for long periods of time. Rainfall causes many problems and memos have been written to get something done, especially on Eighth Avenue.

Councilman McCallister says that for thirty years the law has banned co-mingling of sanitary waste and storm water. He also feels that the city's drains need to be cleaned. During heavy rains, the Sanitary Board cannot handle the estimated 40-50 million gallons of wastewater.

City Attorney Ted Morgan suggested that the language read: "Structures built prior to 1980 shall be exempt from storm water runoff combined system separation requirements until such time as is required by federal law regulation or state law, and modified in fact by City Council."

Chairman Insko called for a vote on the amendment.  
The amendment was approved (10 yeas, 1 nay-McCallister).

Councilman Kent noted that Section 4 is not filled in and that it should be completed prior to the 2<sup>nd</sup> reading by adding the actual date and time for the public hearing. It does not require an amendment.

Councilman McCallister asked Mr. Morgan before the next scheduled Council meeting to take a look at the federal law prohibiting the co-mingling of sanitary system and storm water to reinforce that this is wrong. He asked that Mr. Morgan deliver the documentation to each Council member prior to the next meeting.

Mary Anderson, 1423 Grove Street, stated that the League of Women Voters is interested in this issue and in keeping the sewer system working. She stated that at 15<sup>th</sup> Street southeast corner of Grove Street, she personally cleaned debris away from the drain that was clogged.

Angela Langley, 3736 Riverside Drive, asked if it would be considered to investigate the Sanitary Board to see where money could be saved.

Mayor Felinton stated that some savings had been put in place such as insurance. The operation and maintenance are not out of line and run very efficiently. This is the largest sanitary operation in the State of West Virginia.

Ms. Langley expressed concern that low income people will have a difficult time paying increased rates.

Councilman McCallister asked Ms. Langley to get these people to the next meeting to speak against the proposed rate increase. The increase will also hurt businesses and he will not support it.

Mayor Felinton recalled a rate comparison that was distributed and that Huntington's rates are among the lowest in the state. After a comment from Ms. Langley, Mayor Felinton encouraged citizens who could not attend a council meeting to voice their opinion on the rate increase either by mail or phone call to his office.

Wesley Thacker, 284 South Walnut Street, cannot afford any increase. He had a problem with storm drain runoff at his house because of the location of a water meter.

Scott Caserta, 3041 Wallace Circle, questioned if the 25% and 44% increases would both be passed on to citizens, or will the Sanitary Board rescind their request to the PSC.

Chairman Insco felt that if this ordinance was approved, the Sanitary Board would not withdraw their request for a 44% rate hike.

Mayor Felinton felt that the Sanitary Board would endorse the 25% increase; however, it is a short-term solution. They may have to come back for a supplement rate hike.

Lura Miller, 918 23<sup>rd</sup> Street, asked if areas outside West Virginia had been looked at as a comparison of sewer rates.

Mayor Felinton replied that only cities within West Virginia were used because we operate with the same PSC and DEP regulations that would vary in surrounding states.

Ms. Miller felt the city should look into alternatives such as burning of solid waste.

Mayor Felinton said the Department of Environmental Protection does not allow the city to burn its solid waste.

Councilman McCallister stated that a pilot program can be initiated under current law. It was suggested that a representative from state government be present at the next meeting to get input from legislation regarding incinerating waste.

D. Everett Fullerton, 981 Madison Avenue, feels there is a big difference between a 20+5% increase and a 44% increase.

This item will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH THE STREET DIVISION WITH ONE (1) NEW WHEEL LOADER**

**1<sup>ST</sup> READING  
ORDINANCE RE  
NEW WHEEL  
LOADER**

Chairman Insco noted that the word "Street" should be changed to "Trash" in the title. It is not necessary to have an amendment on this.

Jack Thornburgh, Director of Finance and Administration, said that West Virginia Tractor of Charleston, WV, is the successful bidder at a cost of \$63,000. It is to be purchased on a five-year lease program.

Councilman Thompson stated this vehicle will be used to pick up trash, yard waste, and rubbish. It will maneuver quite well through smaller streets.

This item will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH PROFESSIONAL SERVICES FOR THE DEVELOPMENT OF A MASTER PLAN FOR GUYANDOTTE STREETSCAPE RENOVATIONS**

**1<sup>ST</sup> READING  
ORDINANCE RE  
GUYANDOTTE  
STREETSCAPE  
RENOVATIONS**

Mr. Thornburgh stated that the successful bidder for this project is Potesta & Associates in Charleston for a price of \$25,500.

This item will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH THE CITY OF HUNTINGTON WITH A VISION CARE PROGRAM**

**1<sup>ST</sup> READING  
ORDINANCE RE  
VISION CARE  
PROGRAM**

Mr. Thornburgh said that the successful bidder is Tri-State Eye Care Center at a price of \$7.38 for designees with dependents and \$3.20 for designees without dependents.

Councilman Hanshaw asked if there were any other bidders. Mr. Thornburgh stated that there were no other bidders.

Councilperson Neely added that the annual cost is \$44,220.96.

This item will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF HUNTINGTON, WEST VIRGINIA, 1998, AND ZONE MAP ATTACHED THERETO AS A PART THEREOF, BY ZONING TO I-1 INDUSTRIAL FROM R-2 RESIDENTIAL THE PROPERTY LOCATED AT 500 JACKSON AVENUE, TAX MAP 42, PARCEL 297**

**1<sup>ST</sup> READING  
ORDINANCE RE  
RE-ZONING 500  
JACKSON  
AVENUE**

Mayor Felinton stated that this had received a positive recommendation from Planning Commission.

Councilman McCallister attended the Planning Commission Meeting where this was discussed and feels it is an example of spot zoning. There is a traffic flow problem at this street and the proposed fencing will make it difficult for vehicles to see oncoming traffic. The owner of Nancy's School of Dance is very interested in leasing this property. He feels the contractor who wants this space could be accommodated elsewhere in the city. This property would be best used as a parking lot for Nancy's School where there are 500 students.

Councilman McCallister made a motion to table this item; motion died for lack of 2nd.

Councilman McCallister asked Mr. Morgan to look at spot zoning laws prohibited in the State Code. He will have citizens from that area here at the next Council Meeting to speak on this.

Councilman Hanshaw asked if Bill Toney, Director of HMDA, could address this issue and asked Mr. Toney if this parcel and also parcels on the other side of the viaduct are owned by the HMDA. Mr. Toney confirmed that HMDA does own the parcels.

Councilman Hanshaw asked how HMDA found out about the potential tenant.

Mr. Toney stated that the tenant contacted HMDA's office. This will be a five-year lease.

Councilman Hanshaw asked how much the property will be leased for.

Mr. Toney stated the lease amount was discussed in executive session.

Councilman Thompson asked if the property is a parking lot.

Mr. Toney confirmed that it is on the corner of 5<sup>th</sup> Street West and Jackson Avenue on the right hand side.

Councilperson Neely understood that the tenant will store equipment and will be constructing a fence around the lot. Mr. Toney stated that the tenant will construct a 6' high chain link fence.

Councilman McCallister said that the lot is at the edge of the sidewalk and if a fence was erected and there is a dump truck sitting inside that fence, it is obvious that it would obstruct the view. He said that Nancy's School of Dance has 500 students, many of whom are small children, and the fence will obstruct the view of vehicles and be dangerous for these children.

Councilperson Neely stated that the people who are opposed to this can speak at the second reading.

Councilman Ellis commented that there are height requirements for fencing and that there are a certain number of feet from the property line where fencing can be placed.

Mr. Toney responded that the Planning Commission told the prospective tenant what the requirements are and they have agreed to them.

Councilman Ellis stated his concern for the safety of the children if a fence is constructed.

Councilman Daniels feels the sidewalk at the 700 block should be kept the same on the 600 and 500 blocks. That would put the property line back about 15' from the curb.

Mr. Toney felt that a survey would determine exactly where the property line is. The required setbacks will be adhered to.

Councilman Patterson asked if privacy slats are required in the fence.

Richard Dixon, Director of Development and Planning, did not know if privacy slats had been required. The ordinance is for approval of rezoning and includes set back on the corner so traffic can be seen. He would require privacy slats because the lot is across the street from a nice neighborhood.

Councilman Ellis asked to speak again; Councilperson Neely moved to let Mr. Ellis speak; 2<sup>nd</sup> by Councilman Thompson. Upon unanimous voice vote duly taken, Councilman Ellis was allowed to speak for a third time.

Councilman Ellis asked if residents along 5<sup>th</sup> Street West were sent notices about the changes and if any residents showed up at the meeting to voice complaints or concerns.

Councilman McCallister responded that there were residents from this neighborhood present at the meeting.

D. Everett Fullerton, 981 Madison Avenue, asked if Nancy's School of Dance had approached Mr. Toney about renting the property. He understood that trucks were already parked on the property.

Mr. Toney stated that no trucks are parked there at the present time but it is a paved lot.

Mr. Fullerton feels that HMDA is not a good steward of the property because there are vehicles parked at the property and that more investigation should be done because Nancy's School has been there for such a long time and would be a good tenant.

Gary Elaney, 539 Jackson Avenue, is owner of the business who wants to lease the property. Nancy's School of Dance does use the property for parking.

Councilman McCallister feels it is appropriate for the kids at the dance school to have a safe place. He supports business growth but feels other suitable property could be located to house the equipment.

Councilperson Neely felt it unfortunate that Nancy's did not know lot was available.

This ordinance will be advertised.

Chairman Insko called for a five-minute recess. The meeting resumed after recess.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF HUNTINGTON, WEST VIRGINIA, 1998, AND THE ZONE MAP ATTACHED THERETO AS A PART THEREOF, BY ZONING TO C-1 NEIGHBORHOOD COMMERCIAL FROM R-2 RESIDENTIAL PROPERTY LOCATED AT THE INTERSECTION OF CARSON STREET & BRADLEY ROAD, WAYNE COUNTY SHEET MAP 6, PARCELS 16, 17 & 18**

**1<sup>ST</sup> READING  
ORDINANCE RE  
REZONING  
CARSON ST. &  
BRADLEY ROAD**

Mayor Felinton explained that this is for a rezoning at the intersection of Bradley Road and Carson Street as indicated on the attached map.

Councilman McCallister asked if Mr. Ritter had any input from residents in that area.

Councilman Ritter said Mr. Plymale had met with the citizen's group and no adverse comments were received. The parcel is a vacant lot. The B&O right-of-way is Parcel 14.

Councilman Ellis asked if any property will be involved with the new sewer line.

Councilman Ritter said the line will go down Carson Street and should not affect the rezoning. Councilman Ritter asked Mr. Plymale to speak on behalf of the project.

Tom Plymale, Plymale and Maddox, 4334 Piedmont Road, has been in the Westmoreland area since 2000. Part of the plan includes the old B&O right-of-way to be used for parking. The plan was presented to the community group and no opposition was voiced. Their concern is for no changes to be made to the agreement in place regarding the B&O property. Additional parking is necessary for the size of building planned. There is no access to Rt. 60 from the parking lot, therefore no compromise of traffic flow. The only access to the parking lot will be on Bradley Street and landscape is being planned that will enhance the look of the neighborhood.

Councilman Ritter felt that the citizens group is concerned with the B&O right of way being used for commercial use; however, no adverse comments have been received.

Councilman Patterson suggested reading Item 14 into the record as it relates to Item 13. After voice vote duly taken and approved, the Clerk read as follows:

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE AMENDING  
THE ZONING ORDINANCE OF THE CITY OF HUNTINGTON  
RELATING TO SPECIAL ZONING DISTRICTS**

**1<sup>ST</sup> READING  
ORDINANCE RE  
SPECIAL ZONING  
DISTRICTS**

Mr. Plymale continued that Danny Hardy who lives on Bradley was at the community meeting and was quite concerned. But plans were explained to him and he felt at ease. He understands it is limited as to who can apply for use of the B&O right-of-way in this area. From there, it goes to the Planning Commission and then to Council for approval, so there are plenty of safeguards in place.

Councilman McCallister commended Mr. Plymale and his firm for their efforts in improving the area.

Councilman Ellis commented that Bradley Street on the map should be listed as Bradley Road and asked Mr. Plymale if the parking lot will be landscaped.

Mr. Plymale confirmed that it will be landscape and will not abut Route 60 in any way. There will be no signage except to direct traffic into the lot from Bradley Road.

Councilman Kent stated that this rezoning is only for a small portion of the B&O right-of-way. It will not change the regulations for the entire area. Richard Dixon confirmed that.

John Belcher, 944 Monroe Avenue, has spoken with Joyce Clark of the Westmoreland Neighborhood Association and they do not oppose this.

Both Item #13 and Item #14 will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL  
APPROVING THE PURCHASE AND INSTALLATION OF  
IMPROVEMENTS AND MODIFICATIONS FOR THE  
PROCESSING EQUIPMENT FOR THE HUNTINGTON  
SANITARY BOARD**

**1<sup>ST</sup> READING  
ORDINANCE RE  
SANITARY  
BOARD  
PROCESSING  
EQUIPMENT**

Mayor Felinton stated that the contract would be awarded to Thermal Processes at a total of \$2,035,000.

Councilman Ellis asked if this is the same person recently hired by the Sanitary Board to provide consulting services. Mayor Felinton stated that Mr. Vernankar has been associated with the Sanitary Board for a long time.

Councilman McCallister asked if the bidding process had been followed.

Mayor Felinton responded that it was and Mr. Vernankar's bid was the only one received.

Bruce Fox, Executive Director of the Huntington Sanitary Board, stated this item is before Council as a result of the bid process. Mayor Felinton added this would be purchased by the Sanitary Board and was included in the bond anticipation notes that were issued a few months ago.

Angela Langley, 3736 Riverside Drive, feels replacement of the heat exchanger seems wasteful when it could be retrofit. Delegate Morgan had relayed to her that after speaking with a state attorney, there is a provision clause which would allow a pilot project for Huntington to incinerate its waste.

This item will be advertised.

**Resolution re: A RESOLUTION OF COUNCIL AUTHORIZING  
A SUBSTANTIAL CHANGE OF COMMUNITY  
DEVELOPMENT BLOCK GRANT PROJECTS TO BE USED  
FOR PROGRAM CONSTRUCTION (Amended & Postponed)**

**RESOLUTION RE  
CDBG PROJECTS**

"WHEREAS, the Council of the City of Huntington is authorized by the U.S. Department of Housing and Urban Development (HUD) to approve changes in the Community Development Block Grant (CDBG) funded projects within guidelines as established by the City of Huntington; and

WHEREAS, for Fiscal Year's 2000, 2001 and 2002, \$45,609.35 remains unencumbered and available for reallocation; and (Fairfield West Redevelopment \$15,000.00; Street Reconstruction \$11,496.00; Curb cuts \$14,113.35; and Fifth & Sixth Avenue Sidewalks \$5,000.00)

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that the FY 2001 Community Development Block Grant Action Plan is amended as follows:

1. An additional \$45,609.35 will be allocated for the A. D. Lewis Center Improvements, and
2. The U.S. Department of Housing and Urban Development (HUD) and all Departments, Divisions, and Agencies of the City of Huntington that are charged with the administration and operations of the Community Development Block Grant shall be properly notified of the provisions herein."

Councilman Patterson moved for adoption; 2<sup>nd</sup> by Councilman Thompson.

Mayor Felinton stated this is for a budget resolution of CDBG funds in the amount of \$45,000 which would be committed to the A.D. Lewis Community Center. This is for a budget revision only and the expenditures would come to Council for approval.

Councilman Patterson said this would commit money to be used at the Center as part of the Master Plan that was previously approved. There are many things needed at the Center and he endorses its approval.

Councilman McCallister feels that this is part of the Master Plan and endorses its approval.

There being no further comment, and upon vote duly taken, the resolution was unanimously approved (11 yeas, 0 nays).

**Resolution re: A RESOLUTION OF COUNCIL REGARDING  
THE RATE HIKE BY THE HUNTINGTON SANITARY BOARD**

**RESOLUTION RE  
SANITARY  
BOARD RATE  
HIKE**

“BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that the City Council does hereby DECLARE its absolute opposition to the forty-four percent (44%) rate increase proposed by the Huntington Sanitary Board through its attorney to the West Virginia Public Service Commission. BE IT FURTHER RESOLVED that the Council does hereby DIRECT the City Clerk to send a certified copy of this Resolution to the West Virginia Public Service Commission.”

Councilman McCallister moved for adoption; 2<sup>nd</sup> by  
Councilman Thompson.

Councilman McCallister presented a packet of information for the 44% increase request by the Huntington Sanitary Board. This resolution would send to the PSC Council's opposition to the 44% rate increase. It is a duty of Council to raise rates, not the PSC.

There being no further comment and upon vote duly taken, the resolution was unanimously adopted (11 yeas, 0 nay).

Chairman Insko asked the Clerk to forward a copy of this resolution to the PSC.

**Resolution re: A RESOLUTION OF COUNCIL REGARDING  
THE PROPOSED RATE INCREASE BY THE WEST VIRGINIA  
AMERICAN WATER COMPANY**

**RESOLUTION RE  
WATER  
COMPANY RATE  
INCREASE**

“BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that the City Council does hereby OPPOSE the proposed twenty percent (20%) rate by the West Virginia American Water Company. BE IT FURTHER RESOLVED that the Council does hereby DIRECT the City Clerk to send a certified copy of this Resolution to the West Virginia American Water Company.”

Councilman McCallister moved for adoption; 2<sup>nd</sup> by  
Councilman Ellis.

Councilman McCallister stated that this is in response to the proposed 20% increase by WV American Water. Council needs to collectively inform the water company that we are opposed to any rate increase on behalf of the citizens of Huntington.

Councilman Kent gave a reason for the rate increase. Two of the water company's largest customers have been lost. This increase reflects inflation and to make up for the loss of major customers. He is reluctant to take such position until the rate increase filing is looked at in more depth.

Councilman Polan asked if a representative from the water company is present and if anyone had been in contact with the water company.

Councilman McCallister does not favor a foreign firm controlling the water supply for the state and he plans to form a committee to buy the water company back to be owned by the city.

Councilman Polan questioned how efficiently the city would be able to operate the water company.

Councilman Kent said the rate is governed by state law and water company is guaranteed to make a certain rate of return on equity. The PSC determines whether they are making a return on equity.

Mayor Felinton commented that the PSC does hold public hearings to discuss rate increases. He thinks resolutions such as this would carry some weight.

Councilman Daniels asked Councilman Kent to provide the names of the two major water customers who were lost.

Councilman McCallister moved to amend the resolution by adding that a certified copy be provided to the PSC; 2<sup>nd</sup> by Councilman Thompson.

Councilman Thompson supports the resolution and feels it does carry weight at the PSC.

Ray Browning, 146 Gallaher Street, feels this should be passed unanimously for the citizens of Huntington.

John Vance, 1328 9<sup>th</sup> Avenue, stated that Council should look out for the citizens who voted them into office.

Angela Langley, 3736 Riverside Drive, supports the resolution.

Upon vote duly taken, the amendment was approved by a unanimous vote (11 yeas, 0 nay).

Lura Miller, 918 23<sup>rd</sup> Street, asked if any Council members owned WV American Water stock.

There being no further discussion and upon vote duly taken, the resolution as amended was approved (9 yeas, 2 nays-Polan, Kent).

**Resolution re: A RESOLUTION OF COUNCIL APPROVING THE CITY OF HUNTINGTON'S GRANT APPLICATION TO THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION PROGRAM**

**RESOLUTION RE DELINQUENCY PREVENTION PROGRAM GRANT**

"BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that Council does hereby APPROVE the City of Huntington's Grant Application to the Juvenile Justice and Delinquency Prevention Program in order to apply for funds to provide diversionary arts and recreational programming for at risk juveniles on Saturdays at the A. D. Lewis Center, Football Field, and Dr. J. Alexander Baseball Field. This grant would fund three (3) hourly recreation workers and provides program related travel and promotional materials, and professional program evaluation."

Councilperson Neely moved for adoption; 2<sup>nd</sup> by Councilman Ellis.

Mayor Felinton stated this is for a resolution that must be sent along with a grant application for the juvenile justice and delinquency prevention program which allows diversionary arts and recreation for at-risk youth.

Brandi Jacobs, 1737 Artisan Avenue, is here on behalf of the D. C. Express Executive Board of Directors to ask for support of this resolution.

There being no further comments and upon vote duly taken, the resolution was approved by unanimous vote (10 yeas, 1 abstain-Patterson).

**Resolution re: A RESOLUTION FOR THE REVISION OF THE FISCAL YEAR 2003-2004 GENERAL FUND BUDGET**

**RESOLUTION RE 2003-2004 GENERAL FUND**

"WHEREAS, the Council of the City of Huntington, Counties of Cabell and Wayne, has found it necessary to revise the fiscal year 2003-2004 Levy Estimate; and WHEREAS, these various adjustments are made on West Virginia State Auditor-Chief Inspector Division Forms CID BR 1180 which are attached hereto and made a part hereof,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Huntington, Counties of Cabell and Wayne, that the Finance Director be and is hereby directed to submit a copy of the revision to the State Auditor of the State of West Virginia for his approval, under the provisions of Chapter II, Section 8, Articles 146, 25 and 26a of the Code of the State of West Virginia.”

Councilman Kent moved for adoption; 2<sup>nd</sup> by  
Councilman Ellis.

Mayor Felinton explained that \$80,000 is from the state which was raised by the Huntington Foundation for repairs to the roof and \$50,000 is from contingency to be used for Olympic Pool. These amounts will be placed into Building Maintenance.

Councilman McCallister stated that repairs to the west wall were to have been made; roof repairs were made at the west portico but water continues to leak in. Council approved \$30,000 out of block grant funds as well as \$50,000 to help replace the roofs at the pool.

Numerous concerns were stated about the west wall leak still occurring. Mayor Felinton confirmed nothing would be paid out until the work was satisfactorily completed.

There being no further discussion and upon vote duly taken, the resolution was unanimously approved (11 yeas, 0 nays).

**Resolution re: A RESOLUTION FOR THE REVISION OF THE FISCAL YEAR 2003-2004 GENERAL FUND BUDGET**

**RESOLUTION RE 2003-2004 GENERAL FUND**

“WHEREAS, the Council of the City of Huntington, Counties of Cabell and Wayne, has found it necessary to revise the fiscal year 2003-2004 Levy Estimate; and WHEREAS, these various adjustments are made on West Virginia State Auditor – Chief Inspector Division Forms CID BR 1180 which are attached hereto and made a part hereof, NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Huntington, Counties of Cabell and Wayne, that the Finance Director be and is hereby directed to submit a copy of the revision to the State Auditor of the State of West Virginia for his approval, under the provisions of Chapter II, Section 8, Articles 146, 25 and 26a of the Code of the State of West Virginia.”

Councilman Patterson moved for adoption; 2<sup>nd</sup> by  
Councilman Thompson.

Mayor Felinton stated this would take \$20,000 from contingency to Parks and Recreation for A. D. Lewis and Fairfield East Community Centers who are in need of money to get through the remainder of the fiscal year.

There being no further discussion and upon vote duly taken, the resolution was approved (10 yeas, 1 nay-Polan).

**Order re: AN ORDER OF COUNCIL DIRECTING THE MAYOR TO PROVIDE INFORMATION ON THE CITY OF HUNTINGTON'S LOCK BOX SERVICE WITH FIFTH THIRD BANK (postponed)**

**ORDER RE INFO ON LOCK BOX**

Councilman Thompson moved for adoption; 2<sup>nd</sup> by  
Councilman McCallister.

Mayor Felinton stated that information has been distributed to Council.  
Councilman Thompson acknowledged receipt of the information.

Councilman McCallister moved for acceptance of the report; 2<sup>nd</sup> by Councilman Thompson.

Upon voice vote duly taken, the information was accepted in response to the order.

#### GOOD & WELFARE

#### GOOD & WELFARE

Councilman McCallister discussed the problems with the E-911 system as far as response time which in turn slows down the response time for the city police. An investigation should be done to see if there are any monies due the city from the 75-cent phone surcharge, part of which was to offset renovations at the Jean Dean Public Safety Building.

Councilman Thompson asked if the state could be notified of a pothole on 5<sup>th</sup> Avenue east of 15<sup>th</sup> Street in the south lane. He again mentioned the curve at 8<sup>th</sup> Avenue and that problem with standing water that the state should take care of.

Councilman Patterson thanked Council for support on issues on the agenda. There have been complaints received regarding school buses coming from Spring Hill Elementary and the poor condition of the road. Also lighting around the school is needed and an effort should be made to contact American Electric Power to install lights.

Councilman Kent has been asked by David Newton of 28 Pogue Street to request the city to fix potholes and also place Pogue Street on the list for future paving consideration.

Councilman Ritter commented about Sanitary Board issues and lack of recorded minutes which is not in compliance with the agreement between City Council and the Sanitary Board.

Mayor David Felinton stated that minutes do exist. Notification was given to the director that tapes need to be kept permanently in the future. Pay increases came from the budget.

Councilman Ritter asked of the Sanitary Board's budget sessions were recorded.

Mayor Felinton responded that the Board's budget session was held during a regular Board meeting. Meetings were all recorded but he feels tapes were not kept after a certain amount of time.

Chairman Insko reminded everyone of a special call meeting on 4/20/04 at 4:00 p.m. to lay the levy.

D. Everett Fullerton, 981 Madison Avenue, stated that the map in the City Clerk's Office is still inaccurate.

Ray Browning, 146 Gallaher Street, remarked that the missing microphone is repaired and waiting for a purchase order. There is a bad curb cut at 9<sup>th</sup> Street and 6<sup>th</sup> Avenue that needs to be smoothed. He would like to see a map pinpointing all of the bars and video lottery establishments.

Councilman Patterson stated that a map had been prepared and distributed to Council some time ago. An ordinance had recently been passed decreasing the distance between establishments.

Mr. Browning asked about a rate review board for municipal fees.

Chairman Insko said municipal and refuse appeals board has been appointed.

They meet when an appeal is filed.

Mr. Browning questioned why there are only three Sanitary Board members. City Attorney Ted Morgan said that is the required number according to state law.

Mary Anderson, 1423 Grove Street, wanted to verify that the wading pool at Olympic will be open this year. She complimented Councilman McCallister for taking care of items in District 2.

Angela Langley, 3736 Riverside Drive, asked if the pool had been leased. If not, she knows of an interested 501(c)(3) group.

Mayor Felinton said that Sid Cooper would be operating the pool and that his was the only bid received.

Ms. Langley mentioned concerns she had received that the Mayor was not in attendance when President Bush visited Huntington. She asked that the city map be completed by the election.

John Vance, 1328 9<sup>th</sup> Avenue, says the alley behind Sunset Drive has never been paved and asked if something can be done. Mr. Vance feels the annex building is dilapidated and HMDA is willing to take it over and renovate it.

Mayor Felinton says there are a few parties interested in buying the annex building.

Mr. Vance commended the Mayor for not being in attendance at President Bush's visit.

Pete Vaughn, 1035 9<sup>th</sup> Avenue, thanked the Mayor and Council for the job done on curb cuts.

Raben Crisel, 67 Grand Boulevard, asked that potholes on Grand Boulevard be patched.

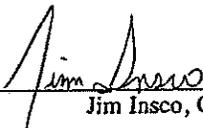
Wesley Thacker, 284 South Walnut, had contacted Councilman Patterson about the poor road conditions for school buses servicing Spring Hill Elementary. Lighting also needs to be added.

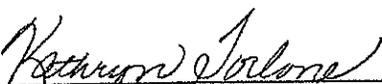
Councilman Ellis asked the Mayor to address the panhandling problem on 9<sup>th</sup> Street Plaza. An effort should be made to clean up the area so that people are not afraid to come to the downtown area.

Councilman Polan asked that a curb cut be done at 8<sup>th</sup> Avenue and 3<sup>rd</sup> Street that was omitted during the recent work.

Chairman Insko welcomed Mr. Polan to City Council.

There being no further business to come before Council, the meeting was adjourned at 10:30 p.m.

  
\_\_\_\_\_  
Jim Insko, Chairman

  
\_\_\_\_\_  
Kathryn Torlone, Asst. City Clerk

**REGULAR MEETING  
HUNTINGTON CITY COUNCIL  
April 26, 2004**

The April 26, 2004 Huntington City Council meeting convened at 7:30 p.m. with Chairman Insko presiding.

**INVOCATION AND PLEDGE:**

Councilman Ellis gave the invocation and Councilman Thompson led the Pledge of Allegiance to the Flag.

**ROLL CALL:**

All council members were present.

John Daniels	Mary Neely
B. W. Ellis	Larry Patterson
Trey Hanshaw	Chuck Polan
Jim Insko	Jim Ritter
Cal Kent	Charlie Thompson
Tom McCallister	

Also present were Mayor David Felinton, City Attorney Ted Morgan, Director of Administration & Finance Jack Thornburgh, Sanitary Board Director Bruce Fox, Planning & Development Director Richard Dixon, Bill Toney, Huntington Municipal Development Authority; and City Clerk Barbara Nelson.

**SYNOPSIS**

**SYNOPSIS**

Councilperson Neely moved for the approval of the synopsis of the April 12, 2004 City Council Meeting, seconded by Councilman Thompson. Upon voice vote duly taken, the synopsis was approved unanimously.

**REPORTS OF THE MAYOR**

**MAYOR'S  
REPORTS**

The trash report for the period of April 9-16 showed 84.54 tons of trash being taken to Cooksey Brothers, 10 dump truck loads of yard waste taken to Dietz Hollow. The citywide trash cleanup began on April 19 in Zone 1 and will continue in that area through April 30.

The patch/asphalt report was given for the period of April 8-21 during which 93.58 tons of asphalt was used for patch work.

Financial report: The March 2004 financial statement should be completed by week end. Cash balance as of April 23 was \$1,445,956; accounts payable as of today is \$1,188,860. There will be a budget revision at the next meeting for a federal grant in the amount of \$13,393 to the Fair Housing Assistance Program and a contribution to the Community Development Block Grant program for Prester Center for Oak Tree supportive housing for \$30,000.

A meeting has been requested with the Workers Comp Commission regarding the increase in the city's security.

A delinquency collection report was provided. During March, \$50,391 was collected, which brings total collections for the fiscal year to \$467,098.

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 933 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED, REGARDING SEWER RATES AND CHARGES**

**2<sup>ND</sup> READING  
ORDINANCE RE  
SEWER RATES  
AND CHARGES**

Councilman Kent moved for adoption, 2<sup>nd</sup> by Councilman Hanshaw. No vote taken.

Councilman Kent stated that all information provided indicates that the Sanitary Board cannot meet its operating and bonding expenses without a rate increase. The question is not whether rates will increase. The question is who will raise them and by how much.

This request is for an overall 20% rate increase for this year with a 5% increase the next year. The Sanitary Board feels this may not be adequate. The Public Service Commission indicated that the city has to develop a plan to meet deficiencies in the revenue stream for the Huntington Sanitary Board. Bond covenants are not being met, which opens up the possibility of lawsuits.

Council should adopt this rate increase rather than allowing another entity such as the PSC make this decision.

Councilman McCallister pointed out that state code 8.11.3 says that only council can set fines or fees. Some of the Sanitary Board bonds are currently being challenged in court. He did not support this.

Councilman Thompson feels that persons on fixed income will not be able to afford such an increase. He opposes this ordinance.

Ray Browning, 146 Gallaher St., asked if the second part of the rate increase, the 5%, would be based on current rates or if it would be imposed on the rates with the 20% imposition. Chairman Insco said the 5% would be imposed on the increased rate. Mr. Browning asked if there is a committee established to review and adjust rates for low-income citizens. Mr. Insco said there is none.

Councilman Daniels was excused from the meeting at this time.

Lucille Wight, 3721 3<sup>rd</sup> Ave., Guyandotte, feels that the Sanitary Board should make in-house adjustments before any rate increase is approved.

Pete Vaughn, 1035½ 9<sup>th</sup> Avenue, did not remember a sewer system rate increase in over 20 years. The base rate is currently \$2.00, which is lower than any utility, and that barely pays for the billing. Any increase should have been done on an incremental basis, but that never happened. Thus there is now a crisis necessitating this request.

Lura Miller, 918 23<sup>rd</sup> St., understood that the reason no increase has been requested in previous years was due to surplus funds at the Sanitary Board. She felt those funds were spent irresponsibly and did not support any rate increase.

Angela Langley, 3736 Riverside Dr., feels that most citizens cannot afford the increase.

Raben Crisel, 67 Grand Blvd., suggested addressing various problems at the Sanitary Board before approving the increase.

Councilman McCallister made a motion to postpone. The motion died for the lack of a 2<sup>nd</sup>.

Councilman McCallister made a motion to table. The motion died for the lack of a 2<sup>nd</sup>.

This item will be advertised for a third reading.

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH THE TRASH DIVISION WITH ONE (1) NEW WHEEL LOADER**

**2<sup>ND</sup> READING  
ORDINANCE RE  
WHEEL LOADER**

Councilman Thompson made a motion to adopt, 2<sup>nd</sup> by Councilperson Neely.

Mayor Felinton stated the contract would be awarded to WV Tractor, Charleston, WV, at a purchase price of \$63,000. This will be purchased on a five-year lease purchase and will be used by the trash division. This is being paid from the trash division's portion of the general fund budget.

Upon vote duly taken, the ordinance was adopted unanimously (10 yeas, 0 nay, 1 excused-Daniels).

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH PROFESSIONAL SERVICES FOR THE DEVELOPMENT OF A MASTER PLAN FOR GUYANDOTTE STREETSCAPE RENOVATIONS**

**2<sup>ND</sup> READING  
ORDINANCE RE  
GUYANDOTTE  
STREETSCAPE  
RENOVATIONS**

Councilman Hanshaw moved for adoption, 2<sup>nd</sup> by Councilman Kent.

Mayor Felinton said this was for the master plan for Guyandotte Streetscapes. This will be on Bridge Street from the river to Short Street. The contract is to be awarded to Potesta & Associates, Charleston, WV, which works primarily with redevelopment projects with historical emphases. The contract amount would be \$25,500 and will be paid out of Community Development Block Grant fund.

Lucille Wight felt that other parts of Guyandotte should receive the same attention as this area.

Mayor Felinton pointed out that Short Street to the river is the commercial district in Guyandotte.

Upon vote duly taken, the ordinance was adopted unanimously (10 yeas, 0 nay, 1 excused-Daniels).

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH THE CITY OF HUNTINGTON WITH A VISION CARE PROGRAM**

**2<sup>ND</sup> READING  
ORDINANCE RE  
VISION CARE  
PROGRAM**

Councilperson Neely moved for adoption, 2<sup>nd</sup> by Councilman McCallister.

Mayor Felinton said this would extend the current vision care contract with Tri-State Eye Care for two years. The annual cost is \$44,220, and begins May 31, 2004 and ends May 31, 2006.

Lura Miller asked if this insurance is available to council members. Chairman Insco was unsure if it is. Councilman McCallister felt it could be purchased.

Upon vote duly taken, the ordinance was adopted unanimously (10 yeas, 0 nay, 1 excused-Daniels).

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF HUNTINGTON, WEST VIRGINIA, 1998, AND ZONE MAP ATTACHED THERETO AS A PART THEREOF, BY ZONING TO I-1 INDUSTRIAL FROM R-2 RESIDENTIAL THE PROPERTY LOCATED AT 500 JACKSON AVENUE, TAX MAP 42, PARCEL 297**

**2<sup>ND</sup> READING  
ORDINANCE RE  
RE-ZONING 500  
JACKSON  
AVENUE**

Councilman Thompson moved for adoption, 2<sup>nd</sup> by Councilman Patterson.

Mayor Felinton said this received a positive recommendation from the Planning Commission.

Councilman McCallister attended the Planning Commission meeting at which this was discussed and spoke against the rezoning. The reason for the opposition is because Nancy's School of Dance would like to acquire the property for parking. He felt this could be considered spot zoning. The fence to be erected could block the view of both pedestrians and vehicles.

Councilperson Neely said this is a residential area. She asked if Mrs. Carter, owner of the dance school, had spoken with Mr. Toney. Bill Toney, Huntington Municipal Development Authority, said Mrs. Carter was to take a survey to determine the residents' feeling toward leasing the lot as requested in this ordinance, but he has not heard back from her. There is to be no heavy equipment stored on the lot if this is approved. The company has agreed to follow all guidelines associated with this zoning. Mrs. Neely opposes this rezoning.

Councilman Thompson moved to table this ordinance indefinitely, 2<sup>nd</sup> by Councilman McCallister.

Upon vote duly take, the motion to table was adopted (6 yeas; 4 nays-Patterson, Polan, Hanshaw, Kent); 1 excused-Daniels.

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF HUNTINGTON, WEST VIRGINIA, 1998, AND THE ZONE MAP ATTACHED THERETO AS A PART THEREOF, BY ZONING TO C-1 NEIGHBORHOOD COMMERCIAL FROM R-2 RESIDENTIAL PROPERTY LOCATED AT THE INTERSECTION OF CARSON STREET & BRADLEY ROAD, WAYNE COUNTY SHEET MAP 6, PARCELS 16, 17 & 18**

**2<sup>ND</sup> READING  
ORDINANCE RE  
REZONING  
CARSON ST. &  
BRADLEY ROAD**

Councilman Ritter made a motion to adopt, 2<sup>nd</sup> by Councilperson Neely.

Mayor Felinton said this would rezone a vacant lot at the intersection of Carson Street & Bradley Road from R2 to C1. This received a positive recommendation from the Planning Commission.

Councilman Ritter felt this would be a positive improvement for the neighborhood.

Upon vote duly taken, the ordinance was adopted unanimously (10 yeas, 0 nay, 1 excused-Daniels).

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF HUNTINGTON RELATING TO SPECIAL ZONING DISTRICTS**

**2<sup>ND</sup> READING  
ORDINANCE RE  
SPECIAL ZONING  
DISTRICTS**

Councilman Ritter moved for adoption, 2<sup>nd</sup> by Councilman Patterson.

Mayor Felinton said this would amend the ordinance regarding the B&O right-of-way, which is the subject of the just adopted Ordinance #10. This will allow a parking lot on the property.

Councilman Ritter said he received no opposition to this suggested parking lot on the B&O right-of-way. He would vote against this due to his commitment of several years ago regarding the B&O right-of-way.

Councilman Kent pointed out that this did not apply citywide.

Upon vote duly taken, the ordinance was adopted by a vote of 9 yeas, 1 nay-Ritter, 1 excused-Daniels.

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL APPROVING THE PURCHASE AND INSTALLATION OF IMPROVEMENTS AND MODIFICATIONS FOR THE PROCESSING EQUIPMENT FOR THE HUNTINGTON SANITARY BOARD**

**2<sup>ND</sup> READING  
ORDINANCE RE  
PROCESSING  
EQUIPMENT FOR  
SANITARY BRD.**

Councilman Kent moved for adoption, 2<sup>nd</sup> by Councilman Patterson.

Mayor Felinton said this would be a contract to complete repair work on the heat exchanger. The cost of the contract would be \$2,035,000 and Kris Vernenkar of Thermal Processes out of Connecticut would perform the services. The source of funding is from refinancing and bond anticipation notes that the Sanitary Board had issued for this purpose.

Councilman Kent pointed out this needs to be adopted due to safety concerns. Also, the system is outdated.

Councilman McCallister stated he previously presented to council a proposal to convert the furnace in order to burn sludge and possibly garbage in the incinerator generating electricity. The generated electricity could be sold and would be an income source. If the unit were used to produce electricity, the heat exchanger would not be needed.

Councilman Thompson asked from where the funding for the repairs would come. Mayor Felinton explained this comes from the bond anticipation notes recently issued.

Councilman Polan asked the source of funding to pay off the bond anticipation notes. Mayor Felinton said it would come from future bond issuance.

Councilman McCallister said bond counsel indicated that rates would need raised at the end of the three-year bonds.

John Vance, 1328 9<sup>th</sup> Ave., asked if the plan to produce electricity could work. Mayor Felinton felt it would be a very, very costly venture. Councilman McCallister said it could be done and at the cost of \$1 million or less. The electricity produced and sold back to the electric company should quickly repay upfront costs. Mr. Vance felt the facts on this need to be obtained before this ordinance is adopted.

Bruce Fox, Huntington Sanitary Board Director, said the incinerator permit is specific exclusively to burn solid waste generated by the wastewater plant and could not be modified or changed. The proposal could be studied, but studies are costly also.

Councilman McCallister felt a pilot program could be used in this matter.

Angela Langley asked for clarification regarding the funding for these repairs. Mayor Felinton said the initial funding comes from the bond anticipation notes. Eventually, there would need to be a rate increase, one way or another. The project does not depend

on the rate increase, but the bond anticipation notes do. The bond anticipation notes have been issued primarily for the repairs to the heat exchanger.

Mrs. Langley remarked on the proposed waste energy program that Councilman McCallister spoke about. She feels the waste energy project would be good for the city and could be profitable. She pointed out that Delegate Jim Morgan informed her there is a provision for a pilot project which could be used for the waste energy program.

Lura Miller has visited a city and viewed such waste energy project. That city is profiting from the program. Huntington should consider such a project.

Daniel Labella, 3003 7<sup>th</sup> Ave., said more information needed to be provided on the waste energy program before an educated decision can be made.

John Bruce, 601 Jefferson Ave., former Ashland Petroleum employee, worked at a facility that produced energy from waste and said it was profitable, clean operation. This would be a worthwhile project.

Councilman Kent read into the record a letter from Richard Pino, solid waste permitting unit, from the WV Dept. of Environmental Protection; "As discussed earlier, the Huntington Sanitary Board's incinerator was grandfathered and actually permitted as part of a waste water treatment permit as a dedicated means to dispose of sewage sludge. With the enactment of Chapter 22, Article 15, Section 19 of the Code of WV, the use of incineration as a means for solid waste disposal was specifically banned. Therefore, no such activity is allowed, nor would it be possible to modify the existing incinerator's permit to allow such activity."

With regard to pilot projects, Councilman Kent read 22.15.19 of the WV Code; "Notwithstanding any other provision of this code to the contrary, it is unlawful to install, establish or construct a new municipal or commercial solid waste facility utilizing incineration technology for the purpose of solid waste incineration: Provided, That such prohibition does not include the development of pilot projects which may include tire or tire material incineration, designed to analyze the efficiency and environmental impacts of incineration technologies: Provided, however, That any pilot project proposing to incinerate solid waste must comply with regulatory requirements for solid waste facilities established in this chapter and shall demonstrate with particularity to the division that it has the financial and technical ability to comply with all rules applicable to solid waste facilities utilizing incineration technologies. The division shall require a surety bond, deposit or similar instrument in an amount sufficient to cover the costs of potential future environmental harm at the site." So there could be a pilot project if it meets all requirements, some of which have severe time restraints and permits being issued. There are costs associated with obtaining such a permit.

Mr. Vernenkar has provided a letter indicating that such a project would cost over \$12 million. Thus Councilman Kent feels that safety issues need to be considered immediately; thus supports adoption of this ordinance.

Councilman McCallister again stated his feeling that a waste to energy project is viable.

Councilman McCallister made a motion to postpone this for 30 days, 2<sup>nd</sup> by Councilman Thompson.

Councilman McCallister stated the postponement was to be able to obtain information, including costs, related to a waste to energy project.

Councilman Thompson asked if Councilman McCallister would provide this information, which he responded he would.

John Vance, Mary Anderson, Lura Miller and Ray Browning were all in favor or postponing.

Councilman Polan asked if there were any health or safety issues that need considered regarding postponement. Mr. Fox said there were two reasons not to delay action: 1) the cost of metals is skyrocketing which could increase the price; 2) the system is permitted for the incineration of municipal sewage waste. It would be wonderful to come up with a municipal system that could generate profits for the Sanitary Board, but that cannot be done with the current permit and current process in place. Also, the parts of the heat

exchanger that have not been replaced are in danger of failure. He could not say exactly how long the repairs will hold.

Councilman Patterson felt it would take longer than 30 days to put together a proposal and even much longer to have it in place for a waste to energy program. Mr. Fox agreed. The Sanitary Board's engineer reported that sewage sludge is mostly moisture there is a tremendous energy loss in converting to solids, and he said mixing the two is not feasible. A pilot study can be done any time, if the state will modify the permit. Time is of the essence for the improvements in this ordinance.

Councilman McCallister felt the incinerator was designed to burn municipal sludge and trash with some modification.

There being no further discussion, Chairman Insko called for the vote on the postponement.

Upon vote duly taken, the ordinance was postponed to the 2<sup>nd</sup> meeting in May by a vote of 7 yeas; 3 nays (Ritter, Kent, Patterson); 1 excused-Daniels.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 788 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED, CONCERNING B & O TAX INCENTIVES**

**1<sup>ST</sup> READING  
ORDINANCE RE  
B&O TAX  
INCENTIVES**

Mayor Felinton said this would aid in marketing KineticPark. It would create tax incentives for businesses locating there. With a \$2 million or more investment and the creation of at least five new jobs or a 20% increase in employees, the business would be eligible for graduated scale B&O taxes as follows: year 1 @ 25%, year 2-3 @ 50%; year 4-5 @ 75% of full tax amount; thereafter the full taxes would be due.

Councilman Kent said this came to council from the Huntington Municipal Development Authority. This should make taxes for the area comparable to that of other developments. This alone will not encourage development in KineticPark, but without it the city will not be able to attract tenants.

Councilman Polan asked why this required only a base of five new employees for any one business. Councilman Kent said this was because high tech firms, which are being recruited, generally have a small number of employees.

Ray Browning inquired about signs at KineticPark. Mr. Toney said the cost to redo the signs had come in at \$4,000.00, which they are attempting to reduce.

Raben Crisel remembered that Amazon.com was at one time going to locate at KineticPark and asked the status. Mr. Toney said their option to locate there had not been exercised.

Councilman Polan asked for information on the Amazon lease and the commercial land at KineticPark, which was provided.

Councilman Ritter requested that a copy of the Amazon.com lease be provided to council.

Councilman Patterson was unsure whether this proposal was adequate. He asked if these incentives would be competitive enough to attract business to the KineticPark. Mr. Toney said this would be a beginning point and is a good opportunity to make adjustments to the B&O tax structure to meet our needs. Councilman Patterson felt this needed careful review.

This ordinance is to be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO AMEND THE CONTRACT FOR LEGAL SERVICES PROVIDED TO THE HUNTINGTON HUMAN RELATIONS COMMISSION**

**1<sup>ST</sup> READING  
ORDINANCE RE  
LEGAL SERVICES  
HHRC**

Mayor Felinton stated this would allow the Huntington Human Relations Commission to amend the contract for legal services to add \$7,500.00. This is funded through federal housing funds.

Okey Napier, Huntington Human Relations Commission, explained this would be a continuation of the current three-year contract.

This ordinance is to be advertised.

**Resolution re: A RESOLUTION OF COUNCIL AND THE MAYOR THANKING DATABASE NETWORK ADMINISTRATION**

**RESOLUTION RE  
THANKING  
DATABASE  
NETWORK**

Councilman Thompson moved for adoption, 2<sup>nd</sup> by Councilman Ritter.

Mayor Felinton said this was requested by Councilman Patterson to thank Database Network Administration for developing a web site a gratis for the Neighborhood Institute. The site is HuntingtonSafety.net.

The Clerk read the resolution as follows:

"WHEREAS, Database Network Administration is a start-up company located in South Charleston, West Virginia; and  
WHEREAS, the owners, Richie Ruiz and Robert Stapleton, have developed and designed HuntingtonSafety.net, a website for the Neighborhood Institute; and  
WHEREAS, the development of this website was done free of charge as a public service to the citizens of the City of Huntington;  
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL AND THE MAYOR OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that the Council does hereby THANK Database Network Administration for their support of the City of Huntington and service to its citizens.  
BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded by the City Clerk to Database Network Administration upon its approval by Council and adoption by the Mayor."

Joyce Clark, 840 Camden Rd., president of the Neighborhood Institute, expressed her thanks on behalf of the institute to this company for their assistance.

Upon vote duly taken, the resolution was unanimously adopted (9 yeas, 0 nay, 1 excused during vote-Kent, 1 excused-Daniels).

**Resolution re: A RESOLUTION OF COUNCIL APPROVING EQUIPPING THE OLD FIRE DEPARTMENT LADDER TRUCK #2 WITH SURVEILLANCE EQUIPMENT**

**RESOLUTION RE  
SURVEILLANCE  
EQUIPMENT**

Councilman McCallister moved for adoption, 2<sup>nd</sup> by Councilperson Neely.

Councilman McCallister moved to use a substitute resolution, 2<sup>nd</sup> by Councilperson Neely. Upon voice vote duly taken, adopted unanimously.

The title of the substitute resolution is as follows: **RESOLUTION OF COUNCIL ENCOURAGING THE USE OF THE OLD FIRE DEPARTMENT LADDER TRUCK #1 FOR CRIME PREVENTION**

"WHEREAS, the City is attempting to divert crime within the corporate limits of the City of Huntington; and  
WHEREAS, the old Fire Department Ladder Truck #1 could be equipped with surveillance equipment which then could be placed in high crime areas; and  
WHEREAS, by placing surveillance equipment on the old Fire Department Ladder Truck #1, it would allow for an extension of 100 feet.  
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that the Council does ENCOURAGE the City of Huntington Police Department's use of Homeland Defense Equipment for additional crime prevention."

Councilman McCallister noted that that ladder truck #1 has recently been replaced and it could be used for other various purposes. Through Homeland Security there is a trailer at the capitol designed for surveillance purposes, and it could be requested for use in the city. It is hoped that this can be utilized by the police department.

Councilman Hanshaw requested who would staff the equipment. Councilman McCallister said it would be done through the Huntington Police Department and would be used in high crime areas.

Councilman Patterson asked for clarification between the ladder truck and the Homeland Security equipment. Councilman McCallister said the ladder truck could be kept in reserve for possible future use by the police department. Mr. Morgan pointed out that the resolution would also encourage the Huntington Police Department to use Homeland Defense equipment.

Police Chief Baumgardner said the Homeland Defense equipment has one truck available for use throughout the entire state. Availability for use is unknown at present, but he will inform council and the administration when he knows more.

Upon vote duly taken, the substitute resolution was adopted unanimously (10 yeas, 0 nays, 1 excused-Daniels).

Councilman McCallister made a motion for a five-minute recess, 2<sup>nd</sup> by Councilman Ritter. Upon voice vote duly taken, the motion failed (3 yeas-Polan, Ritter, Thompson; 7 nays, 1 excused-Daniels).

**Resolution re: A RESOLUTION OF COUNCIL ESTABLISHING THE MONTHS OF OPERATION FOR THE OLYMPIC POOL**

**RESOLUTION RE OLYMPIC POOL OPERATION**

Councilman Thompson moved for adoption, 2<sup>nd</sup> by Councilperson Neely.

Councilman Thompson said if adopted this would set the dates to open and close the Olympic Pool for the coming season as May 31 through Labor Day weekend.

Angela Langley asked if this would be for both the small and large pools. Councilman Thompson said it would be for both. Mrs. Langley expressed her support for the resolution.

Mary Anderson, 1423 Grove St., asked if a new schedule would be set for volunteers. Councilman McCallister offered to organize volunteers, as he had done last year, but indicated he would need access to the property in order to do so.

Mayor Felinton said the city has to supervise the volunteers for liability reasons. Volunteers are invited to work during regular business hours. Opening the pool is contingent on volunteers. He did not feel it proper to commit to opening the large pool without additional funds, especially without volunteers.

Councilman Ritter did not feel it proper for council to set the dates as this is an administrative function.

Councilman Patterson asked the Mayor if the administration has a suggested date as to when the pool will be ready to open. Mayor Felinton said the goal would be for Memorial Day weekend, with a fallback goal of after school is out for summer.

There being no further discussion, the vote was duly taken and the resolution failed by a vote of 5 yeas-Ellis, McCallister, Neely, Ritter, Thompson; 5 nays-Hanshaw, Kent, Patterson, Ritter, Insko; and 1 excused-Daniels.

**Resolution re: A RESOLUTION OF COUNCIL  
APPROVING THE EXPENDITURE OF FUNDS IN ORDER  
TO UPGRADE TO THE VIDEO EQUIPMENT IN CITY  
COUNCIL CHAMBERS**

**RESOLUTION RE  
VIDEO UPGRADE  
IN CHAMBERS**

"BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that Council does hereby APPROVE the expenditure of funds in order to upgrade to the video equipment in City Council Chambers consistent with the recommendations of the Communications Board."

Councilman McCallister moved for adoption, 2<sup>nd</sup> by Councilperson Neely.

Councilman McCallister pointed out that this was to give council's intent to upgrade the video equipment in council chambers so citizens watching can see as well as hear meetings. He felt the cost to add 3-4 additional cameras would be approximately \$3,000 to \$4,000.

Mayor Felinton said a member of the Communications Committee had explained that more equipment other than just the cameras would be needed and would be more costly than suggested.

Councilman Patterson would like to let the Communications Committee work on this and make its recommendation to council.

Councilman Kent made a motion to amend the resolution by adding the wording, "consistent with recommendations from the Communications Committee" at the end of the resolution; 2<sup>nd</sup> by Councilman McCallister.

Councilman McCallister has spoken with Mary Cliff, Chair of the Communications Committee, who expressed no difficulty with this resolution. The resolution only gives council's intent to fund improvements at some time.

Upon vote duly taken, the amendment was unanimously adopted (10 yeas, 0 nay, 1 excused-Daniels).

Ray Browning understood that the total cost to upgrade the video and audio equipment in chambers was estimated to be \$15,000 to \$18,000. Equipment other than just cameras will be needed. He also pointed out that he has volunteered his time to work with the Communications Committee.

John Vance suggested the use of additional stationary cameras rather purchasing ones that move, this would be less costly.

Angela Langley asked how to make monetary donations for this project. Chairman Insko suggested giving the donations to Mr. Glaser who is on the Communications Committee. Mrs. Langley suggested that the public access channel, on which city meetings are broadcast, be included in Direct-TV packages.

Herman Glaser, 1931 3<sup>rd</sup> Ave., Communications Board member, explained system changes that the Board has been considering. The cost is unknown at present.

Donna Rumbaugh, 722 22<sup>nd</sup> St. W., suggested that donations be made through the Neighborhood Institute due to the 501-3-C status.

Upon vote duly taken, the resolution was unanimously adopted as amended (10 yeas, 0 nay, 1 excused-Daniels).

**Resolution re: A RESOLUTION OF COUNCIL  
ESTABLISHING AN INVESTIGATIVE AUTHORITY IN  
ORDER TO INVESTIGATE THE HUNTINGTON  
SANITARY BOARD**

**RESOLUTION RE  
INVESTIGATE  
SANITARY  
BOARD**

Councilman McCallister moved for adoption. The motion died for the lack of a second.

**Resolution re: A RESOLUTION OF COUNCIL  
AUTHORIZING A SUBSTANTIAL CHANGE OF  
COMMUNITY DEVELOPMENT BLOCK GRANT  
PROJECTS**

**RESOLUTION RE  
CHANGE OF  
CDBG PROJECTS**

"WHEREAS, the Council of the City of Huntington is authorized by the U.S. Department of Housing and Urban Development (HUD) to approve changes in the Community Development Block Grant (CDBG) funded projects within guidelines as established by the City of Huntington; and  
WHEREAS, for Fiscal Year 2000, \$25,000.00 was allocated to Rehab-Tenant Grants; \$25,000.00 was allocated to Rehab-Landlord Grants and \$11,000.00 was allocated to the Boys and Girls Clubs and of those totals \$48,500.00 remains unencumbered and available for reallocation; and  
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that the Community Development Block Grant Action Plan is amended as follows:

1. \$15,000 will be reallocated for funding of renovations of the Guyandotte Swimming Pool; \$3,500.00 for the removal of Architectural Barriers in City Hall; \$15,000 for removal of Architectural Barriers in Single-Family Residential Structures; and \$15,000.00 for the removal of Architectural Barriers in Multi-Family Residential Structures; and
2. The U.S. Department of Housing and Urban Development (HUD) and all Departments, Divisions, and Agencies of the City of Huntington that are charged with the administration and operations of the Community Development Block Grant shall be properly notified of the provisions herein."

Councilman Patterson moved for adoption, 2<sup>nd</sup> by Councilman Kent.

Mayor Felinton explained this would be a revision to the Community Development Block Grant budget and would reallocate \$48,500 from prior year allocations. These funds would be reallocated to:

- \$15,000 - Guyandotte Swimming Pool renovations
- \$3,500 - Architectural Barrier removal in City Hall
- \$15,000 - Architectural Barrier removal in single-family residential structures
- \$15,000 - Architectural Barrier removal in multi-family residential structures

Councilman Kent asked for which single-family and multi-family residential structures this be used. Richard Dixon said it would be based on income and would be distributed on a first come, first serve basis.

Councilman Polan asked specific questions as to how this money would be distributed and for what it could be used, which Mr. Dixon responded to.

Councilman Ellis asked if the funds could be used for chair lifts. Mr. Dixon said the funds were to be used for structural improvements, not mechanical.

Councilman Patterson felt there should be several avenues to disseminate information regarding the availability of these funds.

Councilman Polan asked when applications would be accepted for these funds. Mr. Dixon said they would be accepted immediately if this is adopted.

Rebecca Thacker, 601 Veterans Memorial Blvd., urged adoption of this resolution.

Upon vote duly taken, the resolution was unanimously adopted (10 yeas, 0 nay, 1 excused-Daniels).

**Resolution re: A RESOLUTION OF THE COUNCIL OF THE CITY OF HUNTINGTON APPROVING THE FISCAL YEAR 2004 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG), HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME), EMERGENCY SHELTER GRANT PROGRAM (ESG), AND THE FISCAL YEAR 2004 ANNUAL ACTION PLAN**

**RESOLUTION RE APPROVING CDBG, HOME, ESG ACTION PLAN**

"WHEREAS, under Title I of the Housing and Community Development Act of 1974, as amended, the Secretary of the U.S. Department of Housing and Urban Development is authorized to extend financial assistance to communities in the elimination or prevention of slums or urban blight, or activities which will benefit low and moderate income persons, or other urgent community development needs; and WHEREAS, under the HOME Investment Partnerships Program created by the National Affordable Housing Act of 1990, as amended, the Secretary of the U.S. Department of Housing and Urban Development is authorized to extend financial assistance to participating jurisdictions to expand the supply of decent, safe, sanitary and affordable housing; and WHEREAS, under the Emergency Shelter Grant Program (ESG) contained in the Stewart B. McKinney Homeless Assistance Act of 1988, as amended, the Secretary of the U.S. Department of Housing and Urban Development is authorized to extend financial assistance to grantees and non-profit agencies which provide essential services, operations, homeless prevention and shelter rehabilitation for homeless persons; and WHEREAS, the U.S. Department of Housing and Urban Development has advised the City of Huntington that under Fiscal year 2004, the City is eligible to apply for the following entitlement grants: CDBG \$2,546,000.00; HOME \$1,127,127.00; and ESG \$94,156.00; and WHEREAS, in addition to the entitlement funds, the City expects to receive \$100,000.00 in CDBG program income, and \$50,000 in HOME program income; and WHEREAS, the Huntington Department of Development & Planning has prepared an Annual Action Plan for Fiscal Year 2004 which proposes how the entitlement grants will be expended to address the housing and community development needs identified in the City's Five Year Consolidated Plan; and WHEREAS, the draft of the Annual Action Plan for Fiscal year 2004 was on public display from March 18, 2004 through April 19, 2004 and the City held a series of public meetings and hearings on the said Plan and the comments of various agencies, groups, and citizens were taken into consideration in the preparation of the final document.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, AS FOLLOWS:

SECTION 1. That the Annual Action Plan for the Fiscal Year 2004 CDBG, HOME, and ESG Programs is hereby in all respects APPROVED and the City Clerk is hereby DIRECTED to file a copy of said Annual Action Plan for Fiscal Year 2004 with the official minutes of the Regular Meeting of this Council.

SECTION 2. That the City is COGNIZANT of the conditions that are imposed in the undertaking and carrying out of the community development, affordable housing, and emergency homeless activities with Federal financial assistance, including those relating to (a) the relocation of site occupants, (b) the prohibition of discrimination because of race, color, age, religion, sex, disability, familial status, or national origin, and other assurances as set forth under the certifications.

SECTION 3. That the Mayor, on behalf of the City of Huntington, Cabell and Wayne Counties, West Virginia, is AUTHORIZED to file an Application for financial assistance with the U.S. Department of Housing and Urban Development which has indicated its willingness to make available funds to carry out the CDBG Program in the amount of \$2,546,000; the HOME Program in the amount of \$1,127,127.00; and the ESG Program in the amount of \$94,156.00; and is further AUTHORIZED to act as an authorized representative of the City of Huntington to sign any and all documents in regard to these programs.

SECTION 4. That the Mayor, on behalf of the City of Huntington, Cabell and Wayne Counties, West Virginia, is AUTHORIZED to provide assurances and/or certifications as required by the Housing and Community Development Act of 1974, as amended; the National Affordable Housing Act of 1990, as amended; and the Stewart B. McKinney Homeless Assistance Act, as amended; and any other supplemental or revised data which the U.S. Department of Housing and Urban Development may request in review of the City's Application."

Councilperson Neely moved for adoption, 2<sup>nd</sup> by Councilman Kent.

Mayor Felinton said this was for adoption of the budgets for these programs. He delineated the amounts for distribution under the CDBG program, a list of which is attached to the ordinance.

Councilman McCallister stated he made a request for funds to be allotted in his district, which is not included in this budget. With these requests not being included, he could not support this ordinance.

Councilman Ritter asked why funds were being provided for KineticPark when it had received a federal grant. Mayor Felinton explained that these funds were part of the original financing package which requires a payment now and again in the future. Mr. Ritter asked what community centers were included. Mayor Felinton said it was A. D. Lewis and Fairfield East Community Centers.

Councilman Polan asked Mr. Dixon several questions about the distribution of the funds in the housing program, to which Mr. Dixon replied.

Councilman McCallister again pointed out that funds he had requested were not included in the budget and would not support it without these allocations in his district. He also pointed out that the Adams Avenue district area as well as the Guyandotte area district are supposed to have community centers, but they are still nonexistent.

Mayor Felinton stated that CDBG funding for street paving has to be for residential streets, which those requested by Mr. McCallister were not residential. He also pointed out that there are allotments in District 2 - \$170,000 for the new fire station and \$100,000 for 14<sup>th</sup> Street West streetscapes.

Pastor Pete Davidson, Huntington City Mission Executive Director, reported on the need for funds to help remodel the men's shelter to provide beds for men who are currently sleeping on mats in the hallways. He requested a \$100,000 allocation of CDBG funds to help with remodeling the men's shelter.

Councilman Kent asked if this request was filed during the proper filing period. Mr. Dixon said they did make a request but it was not received in the proper timeframe.

David Duffield, 3389 Woodville Dr., Board Member of Huntington City Mission, asked that the homeless not be forgotten. Several years ago, the City requested the Mission's assistance in getting the homeless off the streets, which it did. Now the Mission is asking for the City's help in providing shelter and beds to these people.

Councilman Polan made a motion to amend the CDBG budget by taking the \$100,000 from 'Acquisition, New Housing Sites' and moving it to 'Public Facilities & Improvements for the Huntington City Mission'; motion 2<sup>nd</sup> by Councilman Thompson.

Chairman Insko asked Mr. Dixon if this amendment was appropriate, which Mr. Dixon replied it was.

Councilman Patterson asked what the new housing site funds were supposed to be used for. Mr. Dixon said it was requested by Habitat for Humanity and the Housing Development Corporation. Habitat requested and received funds in 2004 which were used for the purchase of five or six lots.

Councilman Kent pointed out that three public hearing were held regarding CDBG funds and requests for such, at which this request could have been presented but was not. He did not feel it appropriate to reallocate funds when proper procedures were not followed in making the request. The Economic Development Committee should review the budget to see where funds could be found for this project.

Councilman Polan felt this was the time to move these funds to be used for the City Mission, which does much good for the community.

John Vance felt it would be more beneficial to help put several persons by having beds available for their use rather than help only a few people through new housing.

Ray Browning felt that funds could be made available to Habitat from the contingency funds of the Huntington Housing Authority.

Joyce Clark pointed out that the Huntington Area Habitat for Humanity had strictly followed timelines in requesting CDBG funds, and they were diligent in attending the public hearings. The City Mission is a worthwhile cause, but she disagreed with the amendment to reallocate funds.

John Mendez, Director of Operations, Huntington City Mission, pointed out that the Missions demand for services had increased dramatically compared to 2003. This is the reason for the request for funds to assist in remodeling for the homeless.

Lucille Wight expressed opposition to the amendment.

Caleb Gibson, Pres. Marshall University Republicans, spoke in favor of this amendment.

David Duffield urged support of this amendment.

Raben Crisel supports the amendment.

Rebecca Thacker spoke against this amendment.

Lura Miller urged failure of the amendment.

Donna Rumbaugh suggested that the funds for the Mission be supplied out of the city's general fund, as the Mission is taking care of the homeless people as a service to the city.

Councilman Kent made a motion to postpone further consideration of this resolution, including the amendment, with the objective of trying to find funds for the City Mission without taking it away from the Site Acquisition line item. The motion was 2<sup>nd</sup> by Councilman Ritter.

Councilman McCallister felt that postponing would jeopardize adoption of this budget.

Upon vote duly taken, the motion to postpone failed by a vote of 5 yeas-Patterson, Ritter, Hanshaw, Kent, Insko; 5 nays-Neely, Polan, Thompson, Ellis, McCallister; 1 excused-Daniels.

There being no further comments on the amendment, Chairman Insko called for the vote.

Upon vote duly taken, the amendment was adopted by a vote of 6 yeas; 4 nays-Ritter, Hanshaw, Kent, Insko; 1 excused-Daniels.

There being no further comment on the resolution as amended, the vote was called for.

Upon vote duly taken, the resolution was adopted as amended by a vote of 10 yeas, 0 nay, 1 excused-Daniels.

**Order re: AN ORDER OF COUNCIL DIRECTING THE MAYOR TO HAVE A CORRECTED MUNICIPAL MAP PREPARED**

**ORDER RE  
CORRECTED  
MUNICIPAL MAP**

Councilman McCallister moved for adoption, 2<sup>nd</sup> by Councilman Thompson.

Councilman McCallister pointed out there is a charter provision requiring proper mapping of the city. This needs taken care of as quickly as possible.

Councilman Kent asked what the problem is in having this prepared.

Richard Dixon explained that his department has worked with the Sanitary Board, who has the only mapping system in the city; and found they have other priorities ahead of this request. They have since worked with the county which also has priorities ahead of the city's. He will continue to work diligently with them to have this prepared as quickly as possible.

D. Everett Fullerton, 981 Madison Avenue, read Article 135.01 of the City Ordinances, which states that the map shall be maintained in the city engineer's office.

Angela Langley noted that District 9 needs mapped properly when this is done.

Raben Crisel felt that the districts were not laid out as squarely as they should be and thought that could possibly be due to gerrymandering.

Upon vote duly taken, the order was adopted unanimously (10 yeas, 0 nays, 1 excused-Daniels).

**Order re: AN ORDER OF COUNCIL DIRECTING THE DIRECTOR OF FINANCE TO WITHHOLD COMPENSATION TO THE MAYOR OF THE CITY OF HUNTINGTON**

**ORDER RE WITHHOLD MAYOR COMPENSATION**

Councilman McCallister moved for adoption. The motion failed due to the lack of a 2<sup>nd</sup>.

Councilman McCallister excused himself from the meeting at this time.

**Appointment: HUNTINGTON MUNICIPAL DEVELOPMENT AUTHORITY - David L. Helmer (to fill unexpired Term)**

**APPOINTMENT - HMDA**

Councilman Kent moved for adoption, 2<sup>nd</sup> by Councilperson Neely.

Upon vote duly taken, adopted unanimously (9 yeas, 0 nay, 2 excused-Daniels, McCallister).

**Reappointment: HUNTINGTON MUNICIPAL DEVELOPMENT AUTHORITY - Lenora Sutphin (1<sup>st</sup> full term)**

**REAPPOINTMENT - HMDA**

Councilperson Neely moved for adoption, 2<sup>nd</sup> by Councilman Kent.

Mayor Felinton stated that Ms. Sutphin is an asset to this authority and supports this reappointment.

Upon vote duly taken, adopted unanimously (9 yeas, 0 nay, 2 excused-Daniels, McCallister).

## GOOD &amp; WELFARE

Councilperson Neely asked why trees in front of City Hall had been cut. Mayor Felinton said they were causing damage and would be replaced.

Councilman Ritter received a complaint from Mr. Caperton of Bradley Road regarding how paving had been done on this street where the paving was stopped a foot away from his driveway. Mayor Felinton is to check into this.

Councilman Ellis asked what would be done with the old #4 fire station in the west end of town. This is a historical building that should be preserved. Mayor Felinton said the city intends to turn the building over to a group for historical preservation and purposes sometime in the future.

Councilman Hanshaw pointed out that the official map that Mr. Fullerton referred to would be huge in size and questioned the need for such a large map.

Councilman Kent reported a sandbar in 4 Pole Creek beside Donald Avenue. The residents have asked to have the creek dredged to alleviate flooding problems in the neighborhood.

Residents are happy with the repaving of Enslow Boulevard, although some concern has been mentioned regarding debris left along the side of the road and pushed into drains.

Councilman Thompson asked about the progress of the roofing of City Hall. Mayor Felinton said it is in progress and noted that leak in the 8<sup>th</sup> Street entrance has been repaired.

Councilman Polan asked about the status of possibly having handicap curb cuts installed at 8<sup>th</sup> Avenue and 3<sup>rd</sup> Street. Mayor Felinton said this would most likely be included in the next curb cut contract.

Ray Browning asked where political signs picked up by city workers are being stored. He was told those were being stored at the floodwall building.

Regarding donations for the sound and video upgrades to council chambers, these can be made through the Neighborhood Institute which allows the donations to be claimed as charitable.

Raben Crisel said Fairfax Drive was repaved but requested a center line painted.

John Vance received conflicting messages from the Huntington Municipal Development Authority regarding possibly refurbishing the Annex Building to be rented. Councilman Kent explained that the HMDA must have a revenue source; in the case of KineticPark the revenue sources were grants and loans received for financing. There must be a revenue source to cover the cost to renovate the Annex Building such as tenants who have signed leases.

Councilperson Neely was excused from the meeting at this time.

Lura Miller wondered if the currently stored antique streetlights could be used on 14<sup>th</sup> Street West. Mayor Felinton said that possibility could be explored, noting that there would be a cost associated with light installation. Councilman Kent pointed out that the lights may be used in Pullman Square, though this is not definite. Mrs. Miller wondered if the Pullman Square developer would pay for the lights.

Mrs. Miller made inquiries into Sanitary Board expenditures. Mayor Felinton said he would review that budget and respond to Mrs. Miller.

Sandra Ray, 617 Vernon St., asked for a report on requested repairs to Vernon Street. Councilman Ritter pointed out that paving funds have already been designated, and

GOOD &  
WELFARE

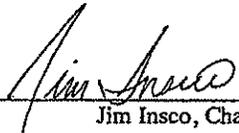
Vernon Street is not currently included in the contract. Mrs. Ray said that heavy trucks are causing the deterioration of this street and requested it soon be considered for repaving.

Donna Rumbaugh commented on recent flooding in the Westmoreland district. She understood a tree was stuck in the floodwall gate that caused subsequent flooding. She requested this be attended to before another heavy rain so flooding does not occur again.

Herman Glaser feels that tenants need found for KineticPark; however, he disagrees with the reduction of B&O taxes to induce occupancy. This would be unfair to those currently in business and paying 100% of this tax. Incentives are necessary to attract business to KineticPark, but this would be unfair.

Councilman Polan felt that the Annex Building could be sold or auctioned off, the funds used for street paving, and then the property would be back on the tax rolls. Mayor Felinton said the city is open to all offers.

There being no further business to come before council the meeting was adjourned at midnight.

  
\_\_\_\_\_  
Jim Insko, Chairman

  
\_\_\_\_\_  
Barbara Nelson, City Clerk

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**REGULAR MEETING  
HUNTINGTON CITY COUNCIL  
May 24, 2004**

The May 24, 2004 Huntington City Council meeting convened at 7:30 p.m. with Chairman Insko presiding.

**INVOCATION AND PLEDGE:**

Councilman Kent gave the invocation and Councilperson Neely led the Pledge of Allegiance to the Flag.

**ROLL CALL:**

All council members were present except Councilman Thompson.

John Daniels	Mary Neely
B. W. Ellis	Larry Patterson
Trey Hanshaw	Chuck Polan
Jim Insko	Jim Ritter
Cal Kent	
Tom McCallister	

Also present were Mayor David Felinton, City Attorney Ted Morgan, Director of Administration & Finance Jack Thornburgh, Sanitary Board Director Bruce Fox, Finance Director Bob Wilhelm, and City Clerk Barbara Nelson.

**SYNOPSIS**

**SYNOPSIS**

Councilman Ellis moved for the approval of the synopsis of the May 10, 2004 City Council Meeting, seconded by Councilman Daniels. Upon voice vote duly taken, the synopsis was approved unanimously.

**REPORTS OF THE MAYOR**

**MAYOR'S  
REPORTS**

Mayor Felinton wished Jacob Insko, the council chairman's son, a happy 6<sup>th</sup> birthday.

Mayor Felinton announced that the Olympic Pool would open on Saturday, May 29. Bill Purdue and many volunteers have worked hard to have it ready for the summer.

Presentation: The Governor's Highway Safety Program and the City of Huntington Safe Traffic Operations Program funded a program to increase seatbelt use by high school students. Schools participating were Huntington High, Hurricane High, Scott High and Spring Valley High. Awards were presented as follows: 4<sup>th</sup> place - Huntington High, 3<sup>rd</sup> place - Hurricane High, 2<sup>nd</sup> place - Scott High, and 1<sup>st</sup> place - Spring Valley.

Trash Report - from May 7-20 the trash division has picked up 242.81 tons of trash were taken to Cooksey Brothers Landfill, and 48 dump truck loads of yard waste were taken to Dietz Hollow. The Operation Make Huntington Shine program is ongoing and crews are currently in Zone 3.

The Patch/Asphalt Report for May 7-19, 2004 is included in the council meeting file for reference. During this reporting period a total of 55.55 tons of asphalt was used throughout the city.

Finance Report - Bob Wilhelm, Finance Director, said the April financial statement should be ready for distribution within the next week. The general fund balance for April is currently at \$3.3 million. A Fund Balance report was distributed, and a copy is included in the council meeting file for reference.

Mr. Wilhelm and several others attended a meeting last week in Charleston regarding the Worker's Compensation situation wherein it has been requested that the city increase its bond by \$800,000, which would be a total bond of \$3,800,000. Councilman Polan asked whom the city is dealing with at Worker's Compensation. Mr. Wilhelm said they were working with several people including Jenny Hoover and Lisa Teal. Mr. Polan asked if these people had the authority to modify the Worker's Comp position. Mr. Wilhelm felt it might need to go to a higher level for approval. He was now trying to schedule a meeting with the Secretary, Mr. Burton. Councilman Kent explained that Worker's Comp is requesting evidence that the city cannot provide bond at the increased rate. Another problem is that Worker's Comp will not release data used to make their calculations. Councilman Polan asked when the \$3 million bond would expire to which Mr. Wilhelm responded 3/1/2005. Councilman Kent stated the Worker's Comp established two pools and they are expecting the city to make payments into those pools, even though we are self-insured. It would cost the city millions of dollars to buy out the current liabilities under the current system and enter the state's system. Other options are being investigated to ease the city's liability.

Mayor Felinton announced the City of Huntington Foundation Reverse Raffle would be held on Thursday.

**3<sup>rd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL APPROVING THE PURCHASE AND INSTALLATION OF IMPROVEMENTS AND MODIFICATIONS FOR THE PROCESSING EQUIPMENT FOR THE HUNTINGTON SANITARY BOARD (postponed)**

**3<sup>RD</sup> READING  
ORDINANCE RE  
MODIFICATIONS  
FOR EQUIPMENT  
FOR SANITARY  
BOARD**

Councilman Kent moved for adoption, 2<sup>nd</sup> by  
Councilman Daniels.

Mayor Felinton said the contract would be awarded to Thermal Processes LLC for a total amount of \$2,035,000. Funding comes from the Sanitary Board's recently issued bond anticipation notes.

Councilman McCallister referred to a report from Kris Vernenkar of Thermal Process LLC which is several years old that he felt indicated the heat exchanger would not be needed if the facility were converted to generate electricity. He feels this should be postponed until the next council meeting to allow Murphy Development International time to provide the city with a complete study on the waste to energy program they have proposed.

Councilman Hanshaw pointed out that the preliminary report from Murphy indicates the need for a heat exchanger at the Sanitary Board plant. He asked if such a proposal would need to be put out to bid. Mayor Felinton said it would probably require an RFQ. Mr. Hanshaw stated this could cause a delay.

Bruce Fox, Sanitary Board Director, stated that the full Sanitary Board approved the Thermal Process LLC contract and recommended adoption. If this ordinance is approved, the Sanitary Board could work with Murphy to do a feasibility study.

Mary Anderson, 1423 Grove St., asked for clarification as to what was being considered for vote. Chairman Insko explained that the vote would be on installation of improvements to the heat exchanger. Mrs. Anderson asked what problems would be caused, if any, if this were postponed. Chairman Insko said it would delay the process of designing and building the heat exchanger.

John Vance, 1328 9<sup>th</sup> Ave., asked for clarification on how payment for the heat exchanger would be handled. Councilman Kent said it would have to be paid for whether through the Sanitary Board's funding or if it is included in the proposal to be presented by Murphy. If Murphy includes it in their proposal, it would be paid through their performance contract. If not, it would be paid through the recently issued bond anticipation notes.

Raben Crisel, 67 Grand Blvd., felt the vote should be put off until the next regularly scheduled meeting.

Mayor Felinton asked Mr. Fox his opinion on delaying this vote. Mr. Fox did not feel this should be delayed.

Councilman Polan understood the feasibility study would cost between \$25,000 and \$30,000, and asked Mr. Fox if the Sanitary Board had such funds available. Mr. Fox understood that the report would be about \$24,000 and they would have to look at paying that out of the \$2,035,000 if this ordinance is adopted.

Councilman Patterson commended the Sanitary Board for its interest in looking at the Murphy proposal, because such a project would have to have the Board's approval to move forward. He urged adoption of the ordinance.

Councilman Kent understood that it would take Murphy Development approximately 30 days to prepare a detailed feasibility study. Chairman Insko said that was correct.

Councilman McCallister moved to postpone voting on this ordinance until the next regular council meeting, 2<sup>nd</sup> by Councilman Ellis.

Councilman McCallister felt the study could be prepared by the next regular meeting due to the extra week between meetings.

Ray Browning, 146 Gallaher St., encouraged postponing.

Mayor Felinton noted that the Murphy Development representative indicated there would be no problems on their side if this ordinance is adopted.

Upon vote duly taken, the motion to postpone failed by a vote of 2 yeas-Ellis & McCallister, 8 nays; 1 absent-Thompson.

At this time, Chairman Insko called for the vote on ordinance.

Upon vote duly taken, the ordinance was adopted by a vote of 7 yeas; 3 nays-Ellis, McCallister, Polan; 1 absent-Thompson.

**3<sup>rd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 933 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED, REGARDING SEWER RATES AND CHARGES**

**3<sup>RD</sup> READING  
ORDINANCE RE  
SEWER RATES  
AND CHARGES**

Councilman Kent moved for adoption, 2<sup>nd</sup> by Councilman Patterson.

Mayor Felinton said this was the third reading on the requested sewer rate increase.

Councilman McCallister asked the Clerk to read into the record several questions regarding this rate increase asking that they be answered.

Ms. Nelson read: "1. Was there ever an ordinance issued by council for the approval of the Inwood-Shockey sewer project?" Mr. McCallister asked for an answer because if adopted these funds would pay the sewer bonds for the Inwood-Shockey project. Ted Morgan, City Attorney, explained that approval by council had been given after the fact that Inwood-Shockey had begun.

Ms. Nelson read: "2. If there was no approval, can this be deemed illegal according to the codes set forth in the WV State statutes?" Mr. Morgan said that until such time it is adjudicated it stands legal. Mr. McCallister felt this did not need

adjudicated because in accordance with WV Code 8-11-3 fines and fees are set by the governing body.

Ms. Nelson read: "3. If the project was illegal, can the bonds (\$3,039,000) issued for reimbursement also be considered illegal?" Mr. Morgan said the bonds have not been declared illegal. For a bond to be declared illegal, they have to proceed through proper litigation. This does not negate the fact that the Sanitary Board has used the funds and received benefit from it. Mr. McCallister asked Lisa Thornburg, formerly with the State Auditor's Office, what had happened regarding the 1997 bond issue. Lisa Thornburg indicated she conducted the special audit of the Sanitary Board bond issue and issued a report in January 2002 stating that the bonds had not been properly approved by council and council had not approved the supplemental resolution as required by the bond ordinance. On the advice of council, they were told that the bonds would be issued and could not go forth until the special resolution was adopted. The special report was given to the Cabell County Prosecuting Attorney as well as to the city. Bond counsel and people from the Department of Environment Protection thereafter came to her office indicating they took exception with the findings and asked that they be changed, which she refused to do. Councilman McCallister reiterated that this rate increase would cover payments on this bond.

Councilman Kent said bond counsel strongly disagrees with Ms. Thornburg's report. Bond counsel is willing to have the matter adjudicated, but no one has proceeded because they feel they are on safe grounds.

Mayor Felinton pointed out that a rate increase is being considered and that discussion of prior bond issues was inappropriate.

Councilman McCallister asked that the next question be read.

Ms. Nelson read: "4. Since the project was paid for with Sanitary Board Funds and then reimbursed with a bond, can this be construed as receiving monies under false pretenses?" Mr. Morgan did not believe so.

Ms. Nelson read: "5. If any part of the bond monies was invested, does it violate the arbitrage laws of the IRS?" Mr. Morgan answered, there is arbitrage on some of the bonds if they are in a non-taxable status, and he could not comment on this status as he was not bond counsel.

Ms. Nelson read: "6. Is the IRS looking at this bond issue, as well as others given to the Sanitary Board?" Mr. Morgan answered, yes.

Ms. Nelson read: "7. Were any affidavits signed by the previous administration, namely Jean Dean and bond counsel, Vince Collins that the project followed all state codes and was deemed legal?" Mr. Morgan answered, yes.

Ms. Nelson read: "8. Has the Inwood-Shockey bond ever been adjudicated?" Mr. Morgan answered, no.

Ms. Nelson read: "9. Were any other monies missing or not accounted for during the last audit of the Sanitary Board?" Mr. Morgan had no knowledge of that.

Councilman McCallister asked that the Clerk read section 10-6 of the WV State Constitution into the record as follows: "CON 10-6. Credit of State not to be granted in certain cases. The credit of the state shall not be granted to, or in aid of any county, city, township, corporation or person; nor shall the state ever assume, or become responsible for the debts or liabilities of any county, city, township, corporation or person; nor shall the state ever hereafter become a joint owner, or stockholder in any company or association in this state or elsewhere, formed for any purpose whatever." Mr. McCallister asked if 10-6 had been repealed. Mr. Morgan said it has not.

Chairman Insko asked Vice Chair Neely to take the chair at this time.

Mary Anderson asked the exact amount of this rate increase. Vice Chair Neely said it would be 20% in the first year and 5% the following year. Mrs. Anderson, speaking for herself and the League of Women's Voters, urged adoption.

Gil Vanderkraats, 547 N. Inwood Dr., felt there are options other than a rate increase that could solve the Sanitary Board's financial problems. Regarding the 1997 bond issue, of course the bond counsel will say it is legal. Lisa Thornburg was helpful in getting this

matter in federal court. This matter should be adjudicated so that the citizens don't have to pay for what he feels is an illegal bond. He suggested finding funding sources elsewhere before asking the people to pay a rate increase.

Mayor Felinton stated that the Sanitary Board has been asking for a rate increase for about a year now. There is a hearing with the Public Service Commission at which time they will decide whether to move to the court to put the Sanitary Board in receivership. Thus some definitive action needs taken as quickly as possible.

Bob Letender, 2095 Miller Rd., felt that Steptoe & Johnson was being protected while the citizens are paying for their mistakes. He pointed out that the State Auditor's Office is a legal identity in the state and they provided a report saying that this bond is illegal.

D. Everett Fullerton, 981 Madison Ave., urged council to take some action to settle the matter of the 1997 bond issuance. One way or another, a rate increase is needed in order to work on the city's sewer infrastructure.

Pete Vaughn, 1035½ 9<sup>th</sup> Ave., agreed that the city's infrastructure is in poor condition and needs addressed immediately, which will take additional funds.

Councilman Ritter pointed out that in 1998 a new city council passed the bond that the previous council voted down. He asked Lisa Thornburg how she thought this would stand in a court. Ms. Thornburg said that from the perspective of the audit, they did not feel it would supercede what had taken place before - they look at the matter chronologically - the bond was issued, council via resolution decided not to issue the bonds, so when the city issued the bonds without approval, by subsequent event of the subsequent council approving it after the fact that the city was obligated, that did not change what happened and did not change the legality of the bond in their opinion.

Councilman Ellis asked who would be responsible, the Sanitary Board or Council, for taking the 1997 bond issuance to court to have the matter adjudicated. Ms. Thornburg pointed out that WV Code 11-8-26 states that if something is done in an unauthorized manner that the officials who acted can be held personally liable, thus the council members at that time may want to pursue the matter for personal reasons.

Councilman Ritter asked who would have standing to litigate the 1997 bond issuance. Mr. Morgan said council could have standing. The prosecutor looked at it once and decided not to proceed.

Bob Letender again pointed out that the Auditor's Office is a legal identity in this state, so their determination that the bond issue is illegal should be heeded. The burden of proof is now on the bond counsel to prove the Auditors wrong. Mr. Letender suggested a committee be formed to take this matter forward.

Councilman Polan asked to be provided information on the percentage of residential customers who pay the minimum charge, what the current minimum charge is and what it will be under the proposed rate change. Mr. Fox said 46% of customers use less than an average 4500 gallons per month; the minimum bill would be \$11 and the 20% rate increase should generate about 14% more revenue.

There being no further discussion, Vice Chair Neely called for the question.

Upon vote duly taken, the ordinance was adopted by a vote of 6 yeas; 4 nays-McCallister, Polan, Ritter, Ellis; and 1 absent-Thompson.

Chairman Insko resumed the chair at this time.

Councilman McCallister was excused at this time.

**3<sup>rd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 788 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED, CONCERNING B & O TAX INCENTIVES (Amended)**

**3<sup>RD</sup> READING  
ORDINANCE RE  
B&O TAX  
INCENTIVES**

Councilman Kent moved for adoption, 2<sup>nd</sup> by Councilman Daniels.

Councilman Kent moved to have section 788.07 amended as follows: "Notwithstanding the provision of 788.06 of this Article, any prospective business locating within KineticPark who invests Ten Million Dollars or more in new real estate and structure, equipment and corporate property, and who has a minimum of 150 employees and increases their employment by 20% shall be entitled to a Fifty Percent (50%) reduction in the amount taxed computed under the provisions of this article during the first year or portion thereof, of the new or relocating business operations and for Nineteen (19) successive years thereafter", 2<sup>nd</sup> by Councilman Ritter.

Councilman Daniels asked if this referred to municipal fees also. Councilman Kent said it only refers to the B&O tax.

Ray Browning asked if this was confined only to KineticPark. Chairman Insko said it is only for KineticPark.

Upon vote duly taken, the amendment was adopted by a vote of 9 yeas; 0 nay; 1 excused during vote-McCallister; 1 absent-Thompson.

Chairman Insko pointed out this would be back on the next agenda as a fourth reading.

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR DEMOLITION SERVICES TO BE PERFORMED ON CERTAIN PROPERTY LOCATED WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF HUNTINGTON**

**2<sup>ND</sup> READING  
ORDINANCE RE  
DEMOLITION  
SERVICES**

Councilman Patterson moved for adoption, 2<sup>nd</sup> by Councilman Neely.

Mayor Felinton pointed out that funding comes from the Community Development Block Grant budget and the first contract would be awarded to KAR Construction at an amount of \$11,800 and includes the following properties: 314 & 316 18<sup>th</sup> Street W., 1452 Hall Street, and 1301 Adams Avenue. The second contract would be awarded to R & B Tassen Construction of Huntington at an amount of \$9,000 and the properties include the following: 409 & 411 Avondale Road.

Upon vote duly taken, the ordinance was adopted by a vote of 9 yeas, 0 nay, 1 excused during the vote-McCallister, 1 absent-Thompson.

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR ASBESTOS ABATEMENT SERVICES TO BE PERFORMED ON CERTAIN PROPERTY LOCATED WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF HUNTINGTON**

**2<sup>ND</sup> READING  
ORDINANCE RE  
ASBESTOS  
ABATEMENT**

Councilman Daniels moved for adoption, 2<sup>nd</sup> by Councilman Patterson.

Mayor Felinton stated that this would be paid through Community Development Block Grant funds and the contract would be awarded to Justice Business Supply, Marietta, Ohio at \$13,100. Properties included are 1896 Marshall Avenue, 2666 Chesterfield Avenue, and 222 Fifth Avenue.

Councilman Insko asked if this company has ever done such work for the city before. Mayor Felinton said this was their first award.

Upon vote duly taken, the ordinance was adopted by a vote of 9 yeas, 0 nays, 1 excused during the vote- McCallister, 1 absent-Thompson.

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF HUNTINGTON RELATING TO WALL SIGNS IN THE C-3 CENTRAL BUSINESS DISTRICT**

**2ND READING ORDINANCE RE WALL SIGNS**

Councilperson Neely moved for adoption, 2<sup>nd</sup> by Councilman Daniels.

Mayor Felinton said this would change regulations in the C-3, downtown commercial district, and make it more consistent with I-1 industrial and highway commercial. This increases the formula for the maximum wall sign size from 10% of the area of the first two stories of the building to 20% of the area of the first two stories of the building. This received a positive recommendation from the Planning Commission.

Councilman Patterson stated his opposition to this ordinance indicating that this could lead to future requests for even larger signs.

Councilperson Neely asked the Mayor if any requests for larger signs have been received from downtown businesses. Mayor Felinton said that does happen and the variance requests go before the Board of Zoning Appeals for approval.

Councilman Polan felt this was before council due to a request having been made for a larger sign. Mayor Felinton knew of no business awaiting passage in order to have larger signs. He did feel that building owners should have some flexibility as to the size of signs placed on their buildings.

Councilman Kent felt that this could lead to very large signs on some downtown buildings. The Board of Zoning Appeals is in place to deal with requests for larger signs. He opposes the ordinance.

D. Everett Fullerton, Board of Zoning Appeals member, stated his opposition to this until a study is done to determine why variance requests are made of the BZA. Councilman Polan asked if Mr. Fullerton could give an estimate as to how many variance requests the BZA received in the last year. Mr. Fullerton said that at least one-third of the BZA agendas deals with signs. Also, the city has conflicting sign ordinances on the books currently.

Councilman Patterson suggested that the Planning Commission review the current sign ordinance(s) and make recommendations accordingly.

Councilman Ritter made a motion to postpone this item until the 2<sup>nd</sup> meeting in June, 2<sup>nd</sup> by Councilperson Neely.

Councilman Patterson felt that if postponed, the ordinance should also be recommended back to the Planning Commission.

Councilman Ritter withdrew his motion to postpone, and Councilperson Neely agreed to withdraw her 2<sup>nd</sup>.

Councilman Patterson made a motion to send the ordinance back to the Planning Commission for them to review the current sign ordinance(s) and report back thereafter with a recommendation, 2<sup>nd</sup> by Councilperson Neely.

Mayor Felinton saw no harm in a delay but questioned sending it back to the Planning Commission when they already gave the ordinance a positive recommendation.

Councilman McCallister returned to the meeting at this time.

D. Everett Fullerton stated that the recommendation to refer this back to the Planning Commission should include that they revisit the current sign ordinances. Councilman Patterson said that was included.

Raben Crisel, 67 Grand Blvd., expressed his opposition to the ordinance.

Upon vote duly taken, the motion to refer the ordinance to the Planning Commission was adopted by a vote of 7 yeas, 3 nays-Hanshaw, Kent, Insko, and 1 absent-Thompson.

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF HUNTINGTON, WEST VIRGINIA, 1998, AND THE ZONE MAP ATTACHED THERETO AS A PART THEREOF, BY ZONING TO C-2 HIGHWAY COMMERCIAL FROM SPECIAL B&O DISTRICT THE PROPERTY LOCATED AT THE INTERSECTION OF CAMDEN ROAD & US ROUTE 60, WAYNE COUNTY SHEET MAP 3, PARCEL 348**

**2<sup>ND</sup> READING  
ORDINANCE RE  
ZONING CAMDEN  
RD. & US RT. 60**

Councilman Ritter moved for adoption, 2<sup>nd</sup> by Councilperson Neely.

Mayor Felinton explained this would rezone to C-2 the property shown on the attached map. This rezoning to highway commercial would make the property consistent with property across Camden Road. This received a positive recommendation from the Planning Commission.

Councilman Ritter had received no complaints on this rezoning from anyone in his district. This will be an improvement to the neighborhood.

Upon vote duly taken, the ordinance was adopted by a vote of 10 yeas, 0 nay, 1 absent-Thompson.

**2<sup>nd</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO EXECUTE FOR AND ON BEHALF OF THE CITY OF HUNTINGTON A QUITCLAIM DEED FOR THE PURPOSE OF THE ABANDONMENT OF CERTAIN CITY RIGHTS OF WAY IN AND AROUND THE CAMPUS OF ST. MARY'S MEDICAL CENTER, INC., A WEST VIRGINIA NOT FOR PROFIT CORPORATION, FOR THE PURPOSE OF THE CONSTRUCTION OF NEW HEALTHCARE FACILITIES AT SAID HOSPITAL**

**2<sup>ND</sup> READING  
ORDINANCE RE  
ABANDONMENT  
AROUND ST.  
MARY'S  
MEDICAL  
CENTER**

Councilman Ellis moved for adoption, 2<sup>nd</sup> by Councilman Daniels.

Mayor Felinton explained this would be to transfer rights-of-way for expansion construction at St. Mary's Hospital.

Paul Farrell, Attorney for St. Mary's Hospital, urged support.

D. Everett Fullerton asked the price per square foot that this was being sold to the hospital. Richard Dixon, Development & Planning, the property was appraised at \$6,600 and a check has been deposited with the city in that amount; the square footage was 8,823.

Upon vote duly taken, the ordinance was adopted by a vote of 10 yeas, 0 nays, 1 absent-Thompson.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE ENACTING ARTICLE 937 OF THE HUNTINGTON CITY CODE, APPOINTING THE HUNTINGTON SANITARY BOARD AS THE MANAGERS OF THE HUNTINGTON STORMWATER SYSTEM AND ENACTING THE STORMWATER MANAGEMENT CONTROL ACT**

**1<sup>ST</sup> READING  
ORDINANCE RE  
ARTICLE 937  
STORMWATER  
MANAGEMENT**

Councilperson Neely moved to have this item withdrawn from the agenda, 2<sup>nd</sup> by Councilman Daniels. Upon voice vote duly taken, adopted unanimously.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE PROVIDING FOR THE COOPERATION OF THE CITY OF HUNTINGTON WITH THE CABELL COUNTY COMMISSION FOR THE IMPLEMENTATION OF 9-1-1 ADDRESSING AND MAPPING PROGRAM WITHIN THE CITY OF HUNTINGTON, CABELL COUNTY, WEST VIRGINIA, IN CONNECTION WITH THE WEST VIRGINIA STATEWIDE ADDRESSING AND MAPPING PROJECT**

**1<sup>ST</sup> READING  
ORDINANCE RE  
9-1-1 ADDRESSING  
AND MAPPING  
PROGRAM**

Mayor Felinton stated this is a requirement of the State to allow the city participation in the 9-1-1 addressing and mapping program. There is no charge to the city but this is a requirement. Charles Stover in the engineering department will continue mapping city properties.

This ordinance will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR DEMOLITION SERVICES TO BE PERFORMED ON CERTAIN PROPERTY LOCATED WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF HUNTINGTON**

**1<sup>ST</sup> READING  
ORDINANCE RE  
DEMOLITION  
SERVICES**

Mayor Felinton said the contract would be awarded to Scarberry & Sons Demolition of Huntington in the amount of \$7,800 and the property to be demolished is 222 5<sup>th</sup> Avenue.

This ordinance will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH THE SANITATION DIVISION WITH ONE (1) NEW TEN FOOT (10') DUMP TRUCK AND ONE (1) NEW CAB & CHASSIS WITH A TWENTY FIVE CUBIC YARD REFUSE PACKER**

**1<sup>ST</sup> READING  
ORDINANCE RE  
DUMP TRUCK  
AND REFUSE  
PACKER**

Mayor Felinton said the cab and chassis with refuse packer would be paid out of the 2003-2004 sanitation division budget. The 10-foot dump truck would be paid from the street division budget's 2004-2005 budget. The contract would be awarded to McCoy Freightliner of Kenova for a total amount of \$146,900.

Councilman Kent asked for clarification on who would receive and pay for this equipment. Mayor Felinton said it would be both and the sanitation division would

receive the cab and chassis with refuse packer. Councilman Kent felt that the title should be amended to indicate that funds would come from both the street and sanitation divisions.

Chairman Insko asked Mr. Morgan if this should be placed on two separate ordinances since it would be paid from two department budgets. Mr. Morgan felt it could be done with one ordinance since both divisions are a part of the Public Works Department.

Councilman Patterson felt it would be better to consider this under two separate ordinances.

Mr. Morgan suggested a motion for division so that two ordinance could be prepared and this would not need to come back for a third reading.

Councilman Kent moved for division of the ordinance,  
2<sup>nd</sup> by Councilman Daniels. Upon voice vote duly  
taken, adopted unanimously.

This ordinance will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL  
AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT  
TO FURNISH THE STREET DIVISION WITH TWO (2)  
STAINLESS STEEL SPREADERS AND TWO (2) TRAILER  
MOUNTED 17 CUBIC YARD LEAF COLLECTORS**

**1<sup>ST</sup> READING  
ORDINANCE RE  
SPREADERS AND  
LEAF  
COLLECTORS**

Mayor Felinton explained this would be paid from the 2004-2005 street division budget. This is for two spreaders that will be used primarily for salt, and two leaf collectors. This will be additional equipment. The total contract amount is \$66,000 and would be awarded to WV Tractor of Charleston.

Chairman Insko asked for clarification as to which year's budget this would be from. Mayor Felinton said this would be the 2004-2005 budget. Mr. Insko pointed out there needed to be a correction to the ordinance as it listed this as the 2003-2004 budget. Mr. Morgan said this was a typographical error and would be corrected.

This ordinance will be advertised.

**1<sup>st</sup> Reading of an Ordinance re: AN ORDINANCE OF COUNCIL  
AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT  
WITH SMG FOR THE MANAGEMENT OF THE BIG SANDY  
SUPERSTORE ARENA**

**1<sup>ST</sup> READING  
ORDINANCE RE  
CONTRACT WITH  
SMG**

Mayor Felinton stated this would be a five-year renewal of the contract with SMG, with a five-year continuation option.

Councilman Polan asked if the option would be to Big Sandy or the city. Mayor Felinton said it would be SMG's option.

Councilman Kent asked for an explanation of section 4.2 of the contract. Mr. Morgan explained that in a fiscal year if SMG hits the revenue benchmark of \$1,750,000 the excess revenue would be broken down as to how it is split between SMG and the city. Councilman Kent asked if this referred to gross revenues. Mr. Morgan answered, yes. Councilman Kent pointed out that this would be irrespective of their expenses and felt this should be based on net and not gross revenues. Councilman Polan agreed with Dr. Kent.

Councilman Ritter commended Mr. Murnick, the Arena's current manager, on the excellent job he is doing. He then asked if some stipulation could be included in the contract regarding Mr. Murnick's replacement, if and when that time comes.

Councilman Polan commented that the city is at SMG's mercy as to the management of the Arena and felt that the city should have some input in such matters.

Mr. Morgan explained various alternatives such as including a performance clause in the contract. Such changes would require the mayor to reopen contract negotiations with SMG.

Councilman Polan feels that the city's interest needs protected in this issue. The city's interest in the Arena is to the extent to which we must subsidize its operations. Another alternative may be that if the subsidy goes beyond an agreed-upon level the city would have the right to terminate the contract.

Mayor Felinton said these ideas could be looked into.

Chairman Insko pointed out that the current contract does not expire until September.

Mr. Morgan commented that SMG wants to move the contract forward in order to make physical changes at the facility.

Councilman Kent expressed further concern with section four of the contract.

Elliott Murnick, Manager of the Big Sandy Superstore Arena, noted that he did interview with Mayor Felinton before his appointment. Through conversations he has had with SMG, he feels that they understand what positive thinking and staff motivation can and has done to increase the Arena's profitability. SMG has made a commitment to redo the box office area, and an ATM should be on the property soon.

Mr. Hanshaw asked about problems with the telescopic seating at the Arena. Mr. Murnick said they are not fixable.

This ordinance will be advertised.

**Resolution re: RESOLUTION OF COUNCIL DECLARING THE RESULTS OF THE MUNICIPAL PRIMARY ELECTION HELD ON THE 11<sup>TH</sup> DAY OF MAY 2004**

**RESOLUTION RE DECLARING RESULTS OF ELECTION**

"WHEREAS, the Municipal Primary Election for the City of Huntington was held on the 11<sup>th</sup> day of May, 2004; and

WHEREAS, following the same, the Commission of the County of Cabell, West Virginia, as ex-officio Board of Canvassers, convened and canvassed the results of said election; and

WHEREAS, West Virginia Code §3-6-9 provides that after holding such canvass, the Board of Canvassers shall publicly declare the results of the election.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that the results of the Municipal Primary Election of the City of Huntington, West Virginia held on the 11<sup>th</sup> day of May, 2004, are hereby PUBLICLY DECLARED according to the table attached hereto as an exhibit and incorporated herein by reference.

BE IT FURTHER RESOLVED that if within forty-eight (48) hours of the adoption of this Resolution no recount has been demanded pursuant to the laws of the State of West Virginia, this Council shall reconvene at 3:00 o'clock p.m. on the 1<sup>st</sup> day of June, 2004 for the purpose of certifying the results of said Municipal Primary Election."

Councilman Polan moved for adoption, 2<sup>nd</sup> by Councilman Patterson.

Mayor Felinton stated that this is a procedural matter that needs handled with regard to the primary election.

Chairman Insko said that if no recount is demanded and this is adopted the time and date to reconvene to certify the results would be at 3:00 p.m. on the 1<sup>st</sup> day of June, 2004.

Upon vote duly taken, the resolution was unanimously adopted (10 yeas, 0 nay, 1 absent-Thompson).

**Resolution re: A RESOLUTION OF COUNCIL DECLARING THE RESULTS OF THE MUNICIPAL PRIMARY ELECTION HELD ON THE 11<sup>TH</sup> DAY OF MAY 2004 FROM THE FOUR PRECINCTS WITHIN THE CITY OF HUNTINGTON WHICH ARE LOCATED IN WAYNE COUNTY, WEST VIRGINIA**

**RESOLUTION RE DECLARING ELECTION RESULTS**

“WHEREAS, the Municipal Primary Election for the City of Huntington was held on the 11<sup>th</sup> day of May, 2004; and  
 WHEREAS, following the same, the Commission of the County of Wayne, West Virginia, as ex-officio Board of Canvassers, convened and canvassed the results of said election from the four (4) precincts within the City of Huntington which are located in Wayne County, West Virginia; and  
 WHEREAS, West Virginia Code §3-6-9 provides that after holding such canvass, the Board of Canvassers shall publicly declare the results of the election.  
 NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that the results of the Municipal Primary Election of the City of Huntington, West Virginia held on the 11<sup>th</sup> day of May, 2004, are hereby PUBLICLY DECLARED according to the table attached hereto as an exhibit and incorporated herein by reference.  
 BE IT FURTHER RESOLVED that if within forty-eight (48) hours of the adoption of this Resolution no recount as to the results of the Municipal Primary Election from the four (4) precincts within the City of Huntington which are located in Wayne County, West Virginia has been demanded pursuant to the laws of the State of West Virginia, this Council shall reconvene at three o'clock p.m. on the 1<sup>st</sup> day of June, 2004 for the purpose of certifying the results of said Municipal Primary Election from the four (4) precincts within the City of Huntington which are located in Wayne County, West Virginia.”

Councilman Ellis moved for adoption, 2<sup>nd</sup> by Councilperson Neely.

Mayor Felinton explained that this was also a procedural matter with regard to the primary election and dealt with the city’s precincts located in Wayne County.

Chairman Insko said that if no recount is demanded and this is adopted the time and date to reconvene to certify the results would be at 3:00 p.m. on the 1<sup>st</sup> day of June, 2004.

Upon vote duly taken, the resolution was unanimously adopted (10 yeas, 0 nay, 1 absent-Thompson).

Councilman Patterson was excused from the meeting at this time.

**Resolution re: A RESOLUTION OF COUNCIL REQUESTING THE MAYOR TO DRAFT A CITY OF HUNTINGTON RESIDENTS AIDE PROGRAM**

**RESOLUTION RE RESIDENTS AIDE PROGRAM**

“WHEREAS, certain residents within the city of Huntington fall below the national poverty guideline, and  
 WHEREAS, it is in the best interest of the city to recognize the needs of these residents, and  
 WHEREAS, the current State, County and Municipal tax and fee structure is regressive and fails this segment of the community of Huntington.  
 BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that the Mayor of the City of Huntington have drafted an Ordinance that would establish guidelines in providing aid to individuals and families that fall below the United States of America Federal Poverty guideline to aide these individuals or families in the payment of their Municipal, Refuse and/or Sanitary Fees from funds budgeted and appropriated annually from the city’s general fund for such purpose.”

Councilman Kent moved for adoption, 2<sup>nd</sup> by Councilman Daniels.

Councilman Kent said this is a request for the Mayor to perfect an ordinance establishing an aid program for low income persons within the community to help them with their increased sewer fees.

Councilman McCallister did not feel this could be done.

Councilman Polan moved to amend the resolution by striking the period at the end of the resolution and adding the words "from funds budgeted and appropriated annually from the city's general fund for such purpose." Councilman Kent 2<sup>nd</sup> the motion.

Councilman Polan felt it is a good idea to help low income persons, but the burden should not be placed on other rate payers but should be spread broadly throughout the residents and taxpayers of the city. One way to do this is to require council to treat this as any other appropriation during the annual budget process by designating a pool of funds from which these benefits would come.

Councilman McCallister asked the City Attorney to give an opinion as to whether this could legally be done. Mr. Morgan stated the aid program could not be predicated on the fees in relationship to how much an individual makes. What an aid program can do is to recognize individuals who make application for aid from the City of Huntington. The City of Huntington could then give the individual \$X that they can in turn pay their fees with. It can be stated that an individual earning \$X would receive \$X in aid, which is not predicated on their fees, but would be predicated on income, and in this way the most underprivileged of the city could be given aid. Councilman McCallister asked if this would be questionable due to equality laws. Mr. Morgan said this would be new to the area, but if structured properly it should work.

Upon vote duly taken, the amendment was adopted unanimously (9 yeas, 0 nays, 1 excused-Patterson, 1 absent-Thompson).

There being no further discussion, Chairman Insko called for the vote on the resolution as amended.

Upon vote duly taken, the resolution was adopted as amended by a vote of 9 yeas, 0 nays, 1 excused-Patterson, 1 absent-Thompson.

#### GOOD & WELFARE

#### GOOD & WELFARE

Councilman McCallister stated that he would pursue legal remedies for the lewd comment Mr. Fox made to him during this evening's meeting. This will be done in accordance with City Council's Rules of Procedure. Mr. McCallister then excused himself from the meeting.

Councilman Ellis announced that the Big Bear building on 1<sup>st</sup> Street has been sold and will be remodeled. The company that bought the building has seven other businesses in the area, but this will be their first in Huntington. He wondered if the company would be eligible for any tax incentives. Chairman Insko pointed out there are currently B&O incentives on the books which could help the company; and the area qualifies for Empowerment Zone funds. Mayor Felinton suggested they contact his office.

Councilman Hanshaw gave Mayor Felinton a list of street problems which citizens have reported to him.

Councilman Ritter asked for a report on the Krauts Creek project. Mayor Felinton said that would be done pointing out that Mr. Dixon and Mr. Holley have been hard at work on the project.

Councilperson Neely invited all to attend the Harveytown Park Phase I dedication and reception on May 27 at 3:30 p.m. on Harvey Road.

Councilman Polan reported weed problems at the intersection of 6<sup>th</sup> Avenue & 1<sup>st</sup> Street that need addressed. In the 5½ Alley between 3<sup>rd</sup> & 4<sup>th</sup> Streets, trash containers have

been put in the alley that obstruct traffic. He has received several inquiries about board and committee meeting attendance. Has the mayor's office provided an analysis of the previous year's attendance?

Mayor Felinton said one has been done of the last calendar year's attendance. He is in the process of obtaining an interpretation on whether attendance is to be calculated on a calendar year basis or otherwise. Councilman Polan asked if there were any violations of the 60% attendance requirement. Mayor Felinton said there were some which would be taken care of soon.

Councilman Polan commended the Public Works Department on the good job being done on the citywide trash cleanup.

Councilman Daniels pointed out that the handicap ramps installed at 21<sup>st</sup> Street & Jefferson Avenue needed some attention to a gap in the pavement.

Chairman Insko reported that in the 3800 block of Riverside Drive a house is being demolished and when the end loader was unloaded it damaged the newly paved street. He thanked the administration for efforts in having high grass cut in his district.

John Vance reported on work having been done without proper building permits being issued. Mayor Felinton pointed the difficulty in catching all such offenders. Mr. Vance inquired into a possible ordinance limiting the number of dogs a person can own within city limits. Mr. Morgan said that is being looked into from both a health and a safety standpoint. Mr. Vance feels that the 1997 bond issuance should be investigated.

Raben Crisel reported that at 146 Gallagher Street there are two potholes that need repaired.

Ray Browning reported high grass at Gallaher Street & Norway Avenue. He inquired into the status of the project along Roby Road between Maupin Road and Rt. 60. Mayor Felinton thought this was being done with Enhancement Funds and would check with Mr. Holley on the status.

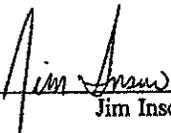
D. Everett Fullerton asked what was to be done about members of the Board of Zoning Appeals members who had absentee problems. Chairman Insko has contacted the Mayor's office regarding board and committee meeting attendance and will take appropriate measures after a response is received.

A discussion ensued regarding how attendance is recorded and whether the period to be considered would be a calendar year 12-month period or any 12-month period.

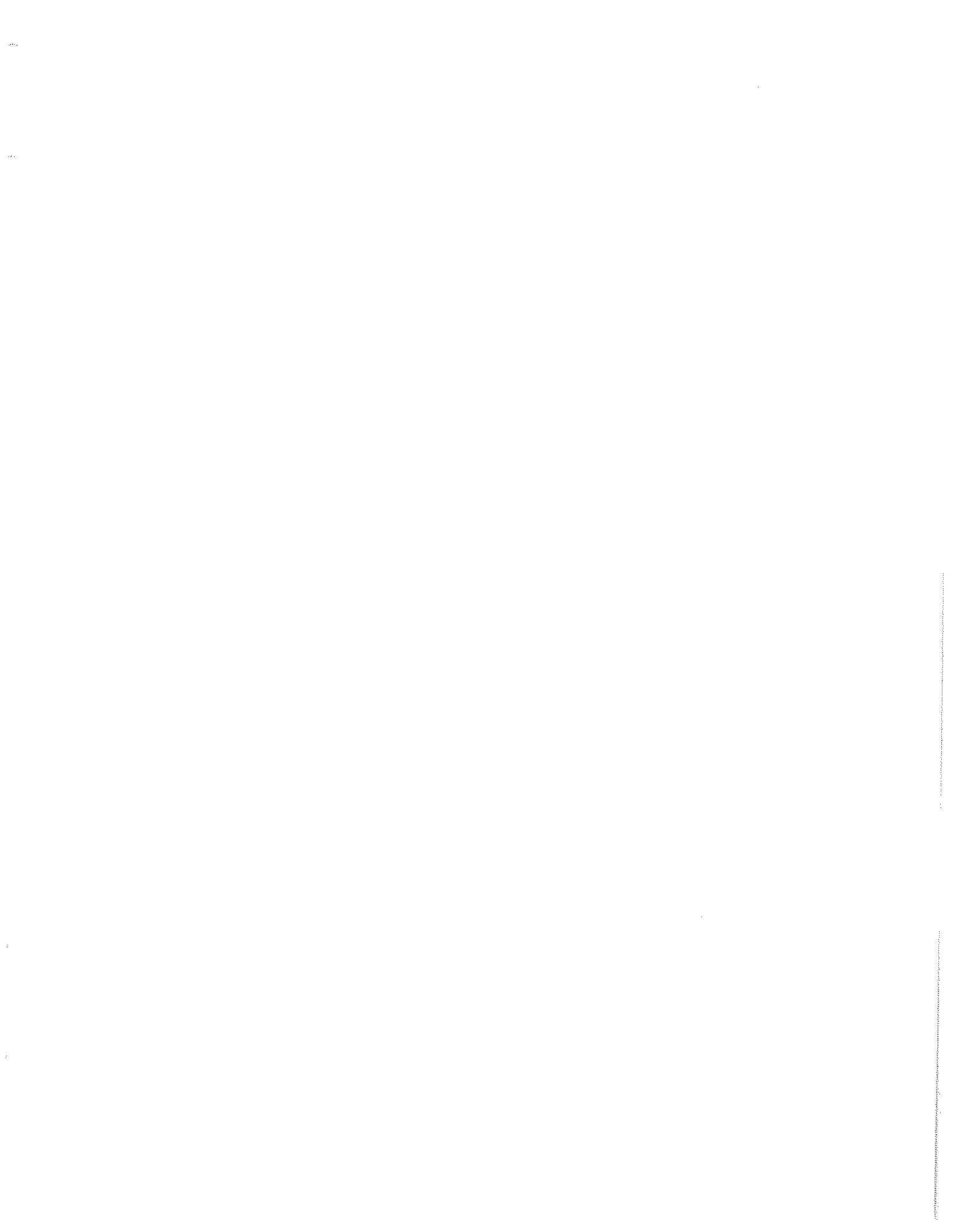
Mr. Fullerton inquired as to whether the Clerk's office maintains a list of persons who have volunteered to serve on various boards and commissions. Chairman Insko said that the Clerk and Assistant do make note of anyone who is recommended to serve.

Mr. Fullerton pointed out that when Article 190 was amended in December 2002, the amendment required quarterly attendance reports.

There being no further business to come before council, and upon motion duly made and 2<sup>nd</sup>, the meeting was adjourned at 11:20 p.m.

  
\_\_\_\_\_  
Jim Insko, Chairman

  
\_\_\_\_\_  
Barbara Nelson, City Clerk



**ENTERED**

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

Order Book 04-ANN

**ORIGINAL**

At a session of the Public Service Commission of West Virginia, in the City of Charleston, on the 14<sup>th</sup> day of December, 2004.

~~CASE NO. 03-1678-S-C~~

THE WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY, 180 Association Drive, Charleston,  
Kanawha County, a West Virginia State Agency,

Complainant,

v.

CITY OF HUNTINGTON, a municipality  
and  
CITY OF HUNTINGTON SANITARY BOARD,  
a municipal utility,

Defendants

And

CASE NO. 04-0949-S-MA

CITY OF HUNTINGTON,  
a municipal utility.

Investigation and suspension of increase  
in sewer rates and charges as a result  
of petitions filed in accordance with  
West Virginia Code §24-2-4b.

**COMMISSION ORDER**

The Commission denies the petition to reconsider and adopts the addendum to the prior stipulation.

**BACKGROUND**

On November 5, 2004, the Commission entered an order in these cases that (1) established rates and charges for use by the City of Huntington Sanitary Board (Board) in

place of the rates passed by the City of Huntington's May 24, 2004, ordinance; (2) approved a Stipulation that established surcharges to address the City's West Virginia Water Development Authority (WDA) bond deficiencies and past due accounts payable; and (3) abrogated the rate provisions of the Service Agreements between the Board and Northern Wayne, Ceredo and Kenova.

On November 15, 2004, Northern Wayne and Ceredo filed a Petition for Reconsideration. Northern Wayne and Ceredo argued that the Commission (1) wrongfully concluded that it had jurisdiction over the municipal appeal; (2) failed to establish that the contract rates were unjust or unreasonable, thus failing to satisfy the necessary predicate to enable it to modify such rates; (3) relied on an economies of scale rationalization which is inherently inequitable under the circumstances; (4) exaggerated the possibility of setting an adverse precedent; and (5) inappropriately disregarded the principal of gradualism.

On November 16, 2004, a Commission Corrective Order was issued to rectify the omission of a portion of the tariff provision titled "Surface or Ground Water Surcharge."

On November 23, 2004, the City filed a letter stating that it had been the intention of the parties to eliminate the Surface or Ground Water Surcharge provisions of the tariff. The City asked that the Commission issue a corrective order to that effect.

On November 24, 2004, the City filed a reply to the petition for reconsideration. The City stated its concurrence with the Commission's November 5, 2004, order in this matter, including the treatment of the Board's resale customers. The City believed that the rates implemented by the Commission based upon the cost of service study are fair and equitable to all parties involved, particularly in light of the significant increase in the cost of using the sewer system by the residents of the City. Increases to the City residents include the various surcharges imposed.

On December 3, 2004, the City filed an "Addendum to Joint Stipulation" (Addendum) that the City asked the Commission to adopt and approve. The Addendum stated that the parties thereto agreed that the Surface or Ground Water Surcharge provisions should be removed from the Board's tariff. The parties to the Addendum are the City, the Board, the WDA and Staff.

### DISCUSSION

#### *Petition to reconsider*

None of the arguments presented in the petition are new or present positions that were

not addressed in the Commission's November 5, 2004, order. The petition is merely Northern Wayne and Ceredo's statement of disagreement with the Commission's decision. The Commission stands by its prior discussion and order and will not restate all of those decisions herein.

Nonetheless, the Commission is bewildered by Northern Wayne and Ceredo's continued contention that the Commission does not have the authority to proceed in this matter.<sup>1</sup> The Commission had no reason to doubt Mr. Vanderkraats' standing as a customer of the Board at the time the petition was filed. The statute does not require that the petition specifically state that the petitioner is a customer. Further, if a municipality objects to the validity of the petition filed to challenge the rate ordinance, the Commission's rules provide a mechanism for such a challenge. *See*, Rule 44 of the Rules for the Construction and Filing of Tariffs, (Tariff Rules), § 150-2-22.3.d. That process was not invoked in this case. Thus, the Commission concluded that Mr. Vanderkraats had standing to file the petition.

The Commission will deny the petition to reconsider.

#### *Addendum*

Upon consideration, the Commission will approve the Addendum and remove the Surface or Ground Water Surcharge provisions from the Board's tariff. However, the Commission's approval of the Addendum in this case should not be construed by the City or the Board as a statement that the use of such a provision would be beneficial to the Board's system.

#### **FINDINGS OF FACT**

1. On November 15, 2004, Northern Wayne and Ceredo filed a Petition for Reconsideration of the Commission's November 5, 2004, order. Northern Wayne and Ceredo argued that the Commission (1) wrongfully concluded that it had jurisdiction over the municipal appeal; (2) failed to establish that the contract rates were unjust or unreasonable, thus failing to satisfy the necessary predicate to enable it to modify such rates; (3) relied on an economies of scale rationalization which is inherently inequitable under the

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<sup>1</sup> While Northern Wayne and Ceredo continue to object to the Commission proceeding under the municipal appeal provisions of the *Code*, in their September 30, 2004, motion to dismiss, Northern Wayne and Ceredo indicated that it had no objection to the Commission proceeding to consider *West Virginia Water Development Authority v. City of Huntington and City of Huntington Sanitary Board*, Case No. 03-1678-S-C. That case was consolidated with the municipal appeal case, and sought similar relief, i.e. for the Commission to review the Board's finances, set appropriate rates and charges to meet operation and maintenance expenses and impose surcharges.

circumstances; (4) exaggerated the possibility of setting an adverse precedent; and (5) inappropriately disregarded the principal of gradualism.

2. On November 24, 2004, the City filed a reply to the petition for reconsideration. The City stated its concurrence with the Commission's November 5, 2004, order in this matter, including the treatment of the Board's resale customers.

3. On December 3, 2004, the City, the Board, the WDA and Staff asked the Commission to approve an Addendum to Joint Stipulation wherein the parties agreed that the Surface or Ground Water Surcharge provisions should be removed from the Board's tariff.

### CONCLUSIONS OF LAW

1. It is appropriate to deny the petition to reconsider.

2. It is reasonable to approve the Addendum and remove the Surface or Ground Water Surcharge provisions from the Board's tariff.

### ORDER

IT IS, THEREFORE, ORDERED that the Petition for Reconsideration of Northern Wayne County Public Service District and the Town of Ceredo is denied.

IT IS FURTHER ORDERED that the Addendum to Joint Stipulation filed on December 3, 2004, is approved

IT IS FURTHER ORDERED that the Surface or Ground Water Surcharge provisions of the tariff approved by the Commission on November 5, 2004, and corrected by order dated November 16, 2004, shall be removed from the tariff.

IT IS FURTHER ORDERED that the rates and charges set forth in Attachment A are hereby approved and shall replace the rates and charges approved by the Commission on November 5, 2004, and corrected by order dated November 16, 2004.

IT IS FURTHER ORDERED that upon entry of this order, this case shall be removed from the Commission's docket of active cases.

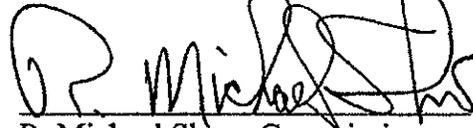
IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this order upon all parties of record by United States First Class Mail and upon Commission Staff by hand delivery.



E. H. Staats, Chairman



Martha Y. Walker, Commissioner



R. Michael Shaw, Commissioner

JMH/sek  
031678cr.wpd

**CITY OF HUNTINGTON  
and  
HUNTINGTON SANITARY BOARD  
APPROVED RATES AND CHARGES**

(C) APPLICABILITY

Applicable within the entire territory served.

(C) AVAILABILITY OF SERVICE

Available for domestic, commercial and industrial sewer service (except unusual industrial waste).

(C,I) RATES:

Customer Charge		\$2.49 per month
First	2,240 gallons of water used per month	\$3.35 per 1,000 gallons
Next	12,720 gallons of water used per month	\$3.30 per 1,000 gallons
Next	134,640 gallons of water used per month	\$3.14 per 1,000 gallons
Next	7,330,000 gallons of water used per month	\$3.04 per 1,000 gallons
All Over	7,480,000 gallons of water used per month	\$1.41 per 1,000 gallons

(N) FLAT RATE CHARGE (non metered water supply)

Equivalent of 4,500 gallons of water usage, \$17.45 per month.

(C,I) MINIMUM CHARGE

No bill will be rendered for less than \$2.49 per month which is the equivalent of the customer charge

(N) RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(C,I) DISCONNECT/RECONNECT /ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with West Virginia American Water Company, a disconnection fee of \$25.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company, an administrative fee of \$25.00 will be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with the West Virginia American Water Company, is reconnected a reconnection fee of \$25.00 shall be charged.

(C) DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

(N) SURCHARGE

\$1.00 per bill per month from the effective date of this tariff will be charged in order to eliminate overdue accounts payable identified in the order in Case No. 04-0949-S-MA until the level of such payables as of the effective date of this tariff has been reduced to current liabilities.

An additional \$2.00 per bill per month from the effective date of this tariff will be charged in order to pay for the financing of the City's taxable Bond Anticipation Notes and the deficiency in the City's bond accounts held by the West Virginia Water Development Authority. In the event that the City Council has not passed an ordinance financing the taxable Bond Anticipation Notes and the deficiency in the City's bond accounts held by the West Virginia Water Development Authority on or before January 15, 2005, an additional surcharge of \$7.50 per bill per month shall be charged in addition to the \$2.00 surcharge.

These surcharges shall remain in effect until the refinancing is paid in full or until the deficiencies in the bond accounts held by the West Virginia Water Development Authority are cured, all as set forth in the Commission Order and stipulation approved in Case No. 04-0949-S-MA.

(C) TAP FEE

The following charges are to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of \$900.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

(N) LEAK ADJUSTMENT

\$.33 per 1,000 gallons of water is to be used when a bill reflects unusual water

consumption which can be attributed to eligible leakage on customer's side of meter. This rate shall be applied to all such consumption above the customer's historical average usage.

(N) INDUSTRIAL SURCHARGE RATES

Rate applicable to Biological Oxygen Demand (BOD)

Concentration in excess of 300 mg/l                      \$ .12/pound

Rate applicable to Total Suspended Solids (TSS)

Concentration in excess of 350/mg/l                      \$.106/pound

SCHEDULE II

(N) APPLICABILITY

Applicable in entire territory served.

(N) AVAILABILITY OF SERVICE

Available for resale customers.

(N) RESALE RATES

Based on flow of sewage from flow meter reading.                      \$1.886 per 1,000 gallons.

Based on water usage    \$2.330 per 1,000 gallons

(N) RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(N) DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

(N) SURCHARGE

\$1.00 per bill per month from the effective date of this tariff will be charged in order to eliminate overdue accounts payable identified in the order in Case No. 04-0949-S-MA until the level of such payables as of the effective date of this tariff has been reduced to current liabilities.

An additional \$2.00 per bill per month from the effective date of this tariff will be charged in order to pay for the financing of the City's taxable Bond Anticipation Notes and the deficiency in the City's bond accounts held by the West Virginia Water Development Authority. In the event that the City Council has not passed an ordinance financing the taxable Bond Anticipation Notes and the deficiency in the City's bond accounts held by the West Virginia Water Development Authority on or before January 15, 2005, an additional surcharge of \$7.50 per bill per month shall be charged in addition to the \$2.00 surcharge.

These surcharges shall remain in effect until the refinancing is paid in full or until the deficiencies in the bond accounts held by the West Virginia Water Development Authority are cured, all as set forth in the Commission Order and stipulation approved in Case No. 04-0949-S-MA.

### SCHEDULE III

(N) APPLICABILITY

Applicable in entire territory served.

(N) AVAILABILITY OF SERVICE

Available for wastewater and leachate haulers.

(N) RATES

Commodity Charge - Each hauler shall pay a commodity charge of \$30.00 per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined or verified by the City.

(N) RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(N) DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

(N) SURCHARGE

\$1.00 per bill per month from the effective date of this tariff will be charged in order to eliminate overdue accounts payable identified in the order in Case No. 04-0949-S-MA until the level of such payables as of the effective date of this tariff has been reduced to current liabilities.

An additional \$2.00 per bill per month from the effective date of this tariff will be charged in order to pay for the financing of the City's taxable Bond Anticipation Notes and the deficiency in the City's bond accounts held by the West Virginia Water Development Authority. In the event that the City Council has not passed an ordinance financing the taxable Bond Anticipation Notes and the deficiency in the City's bond accounts held by the West Virginia Water Development Authority on or before January 15, 2005, an additional surcharge of \$7.50 per bill per month shall be charged in addition to the \$2.00 surcharge.

These surcharges shall remain in effect until the refinancing is paid in full or until the deficiencies in the bond accounts held by the West Virginia Water Development Authority are cured, all as set forth in the Commission Order and stipulation approved in Case No. 04-0949-S-MA.

(I) Indicated Increase (C) Indicates change in wording (N) Indicates New

MUNICIPAL EXCISE TAX SURCHARGE

The municipality listed below, having imposed public utility tax computed on the basis of two percent of revenues from sewer service sales by the sewer utility within the corporate limits of such municipalities, shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

The sewer utility is required to collect the utility tax pursuant to West Virginia Code Section 8-13-5a.

Customers receiving sewer service within the corporate limits of the specified municipality shall pay a surcharge on the following surcharge rates.

	<u>Utility Excise Tax</u>	
<u>Municipality</u>	<u>Local Tax Rate</u>	<u>Surcharge Rate</u>
Huntington	2%	2%



December 27, 2007

The City of Huntington  
(West Virginia)  
Sewerage System Refunding Revenue Bonds, Series 2007

The City of Huntington  
Huntington, West Virginia

Financial Security Assurance Inc  
New York, New York

Ross, Sinclaire & Associates, LLC  
Frankfort, Kentucky

Water Development Authority  
Charleston, West Virginia

Department of Environmental Protection  
Charleston, West Virginia

Ladies and Gentlemen:

We have examined a record of proceedings relating to the issuance by The City of Huntington (West Virginia) (the "Issuer") of its \$5,500,000 aggregate principal amount Sewerage System Refunding Revenue Bonds, Series 2007 (the "Series 2007 Bonds").

The Series 2007 Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act") and a Bond Ordinance duly enacted by the Issuer on January 10, 2005, as supplemented by a Supplemental Parameters Resolution duly adopted by the Issuer on December 10, 2007 (said Ordinance, as so supplemented, herein called the "Ordinance") and are subject to all the terms and conditions of the Ordinance.

The Series 2007 Bonds are issued in fully registered form, are dated December 27, 2007, upon original issuance, mature on November 1 in years and amounts and bear interest payable each May 1 and November 1, commencing May 1, 2008, and are subject to optional and mandatory sinking fund redemption prior to maturity on the dates, in the amounts and at the redemption prices, all as set forth in the Ordinance.

The Ordinance provides that the issue is for the purposes of currently refunding the Issuer's Sewerage System Refunding Revenue Bonds, Series 1993, funding a debt service reserve account for the Series 2007 Bonds, and paying costs of issuance of the Series 2007 Bonds and related costs.

Upon refunding of the Series 1993 Bonds, the Issuer has outstanding the following bonds payable from the Net Revenues of the System that are on parity with the Series 2007 Bonds: (i) Sewer Revenue Bonds, Series 1997 (West Virginia SRF Program), dated November 25, 1997, issued in the original aggregate principal amount of \$3,039,895, (ii) Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), dated June 22, 1999, issued in the original aggregate principal amount of \$2,083,550, (iii) Sewer Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated October 10, 2000, issued in the original aggregate principal amount of \$1,832,399, and (iv) Sewer Revenue Bonds, Series 2006 A, dated November 30, 2006, issued in the original aggregate principal amount of \$3,150,000 (collectively, the "Prior Bonds").

The Series 2007 Bonds have been sold to Ross, Sinclair & Associates, LLC (the "Purchaser"), pursuant to a Bond Purchase Agreement dated December 18, 2007, and accepted by the Issuer (the "Bond Purchase Agreement").

As to questions of fact material to our opinion, we have relied upon representations and certifications of the Issuer and others, contained in the Ordinance and in the certified proceedings and other certifications of certain officials furnished to us without undertaking to verify the same by independent investigation.

Based upon the foregoing, and assuming compliance with the covenants, representations and certifications of the Issuer and others, pertaining to tax matters set forth in the Ordinance and with certain certificates delivered in connection with the issuance of the Series 2007 Bonds, we are of the opinion, under existing law, that:

1. The Issuer is a duly created and validly existing municipal corporation under and pursuant to the laws of the State of West Virginia, with full power and authority to enact the Ordinance, enter into the Bond Purchase Agreement, perform its obligations under the terms and provisions thereof and to issue and sell the Series 2007 Bonds, all under the provisions of the Act and other applicable provisions of law.
2. The Issuer, through its governing body, has legally and effectively enacted the Ordinance, has authorized, executed and delivered the Bond Purchase Agreement and has issued and delivered the Series 2007 Bonds to the Purchaser pursuant to the Bond Purchase Agreement. The Ordinance is in full force and effect as of the date hereof.
3. The Ordinance and, assuming due authorization, execution and delivery by the other parties thereto, the Bond Purchase Agreement and other transaction documents constitute a valid, legal, binding and enforceable obligation of the Issuer in accordance with its terms; and the Series 2007 Bonds, subject to the terms thereof, constitute valid, legal, binding and enforceable limited obligations of the Issuer, payable from the Net Revenues and issued on a parity with respect to liens, pledge and source of and security for payment with the Prior Bonds, and enforceable in accordance with their terms and the terms of the Ordinance, and are entitled to the benefits of the Ordinance and the Act.

4. The Series 2007 Bonds are payable from and secured by a valid lien on and pledge of the Net Revenues in the manner and to the extent provided in the Ordinance. The Issuer is duly authorized to pledge such Net Revenues on parity with the Prior Bonds, and only the consent of the holders of the Prior Bonds is required to perfect the same or the interest of the Bondowners therein.
5. Under existing laws, regulations, published rulings and judicial decisions of the United States of America, as presently written and applied, the interest on the Series 2007 Bonds (including original issue discount properly allocable to owners of the Series 2007 Bonds) is excludable from gross income of the owners thereof for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed upon individuals and corporations. It should be noted, however, that for the purpose of computing the alternative minimum tax on corporations (as defined for federal income tax purposes), such interest is taken into account in determining adjusted current earnings. Ownership of tax-exempt obligations, including the Series 2007 Bonds, may result in collateral federal income tax consequences to certain taxpayers, including without limitation, financial institutions, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry such obligations. We offer no opinion as to such collateral tax consequences. Prospective purchasers of the Series 2007 Bonds should consult their own tax advisors as to such consequences. The opinions set forth above are subject to the condition that the Issuer comply, on a continuing basis, with all requirements of the Internal Revenue Code of 1986, as amended, and regulations thereunder (the "Code") that must be satisfied subsequent to issuance of the Series 2007 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 Series 2007 Bonds set forth in the Ordinance and the certificate relating to arbitrage. Failure to comply with such Code provisions or such certifications, covenants and representations could cause the interest on the Series 2007 Bonds to be includable in gross income retroactive to the date of issuance of the Series 2007 Bonds. We express no opinion regarding other federal tax consequences arising with respect to the Series 2007 Bonds.
6. Under the Act, the Series 2007 Bonds and the interest thereon, are exempt from personal and corporate income taxes imposed directly thereon by the State of West Virginia.
7. The Issuer has designated the Series 2007 Bonds as "qualified tax-exempt obligations" for purposes of Section 265 (b)(3)(B) of the Internal Revenue Code of 1986, as amended, which relates to the ability of certain financial institutions to deduct interest expense allocable to holding and carrying tax-exempt obligations for federal income tax purposes. Representatives of the Issuer have certified that they do not anticipate that the aggregate amount of tax-exempt obligations which will be

issued by or on behalf of the Issuer in calendar year 2007 will exceed \$10 million. Therefore, the Series 2007 Bonds are “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Code.

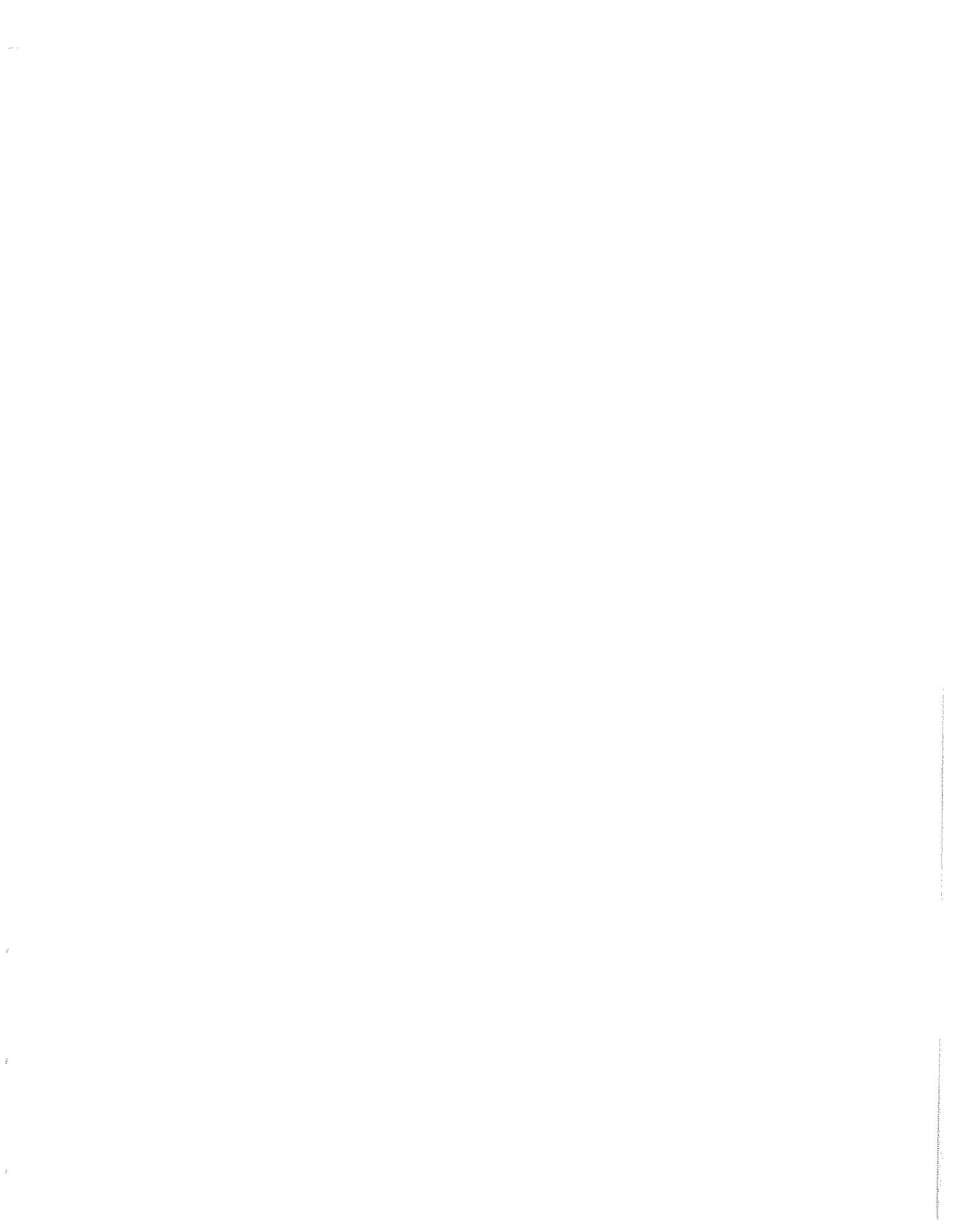
8. The Net Revenues are “special revenues” and the Insured Bonds constitute “special revenue” bonds as such term is used in Article 9 of the United States Bankruptcy Code.
9. The Series 2007 Bonds are exempted securities within the meaning of Section 3(a)(2) of the Securities Act of 1933, as amended, and the West Virginia Uniform Securities Act, as amended, and it is not necessary, in connection with the public offering and sale of the Series 2007 Bonds, to register any securities under said Securities Acts.

It is to be understood that the rights of the holders of the Series 2007 Bonds and the enforceability of liens, pledges, rights or remedies with respect to the Series 2007 Bonds, the Ordinance and the Bond Purchase Agreement are subject to any applicable bankruptcy, reorganization, insolvency, moratorium or other similar laws heretofore or hereafter enacted affecting creditors’ rights or remedies generally, and that their enforcement may also be subject to the application of public policy, general principles of equity and the exercise of judicial discretion in appropriate cases.

We have examined the executed and authenticated Bond No. R-1 through R-14 of said issue, and in our opinion, said Bonds are in proper form and have been duly executed and authenticated.

Very truly yours,

  
STEPTOE & JOHNSON, PLLC



December 27, 2007

The City of Huntington  
(West Virginia)  
Sewerage System Refunding Revenue Bonds, Series 2007

The City of Huntington  
Huntington, West Virginia

Ross, Sinclaire & Associates, LLC  
Frankfort, Kentucky

Financial Security Assurance Inc.  
New York, New York

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance and sale by The City of Huntington (the "City" or "Issuer") of its \$5,500,000 aggregate principal amount of Sewerage System Refunding Revenue Bonds, Series 2007 (the "Series 2007 Bonds"). In our capacity as bond counsel, we are delivering an opinion of even date herewith concerning the legality of the Series 2007 Bonds and the exclusion of interest on the Series 2007 Bonds from gross income for federal income tax purposes (the "Bond Opinions"). We have examined the documents and instruments as described in the Bond Opinions, the Official Statement and such other matters as we have deemed necessary or appropriate to render this opinion. Words and terms used in this opinion shall have the meanings assigned to them in the Bond Purchase Agreement (the "Bond Purchase Agreement") dated December 18, 2007, between the City and Ross, Sinclaire & Associates, LLC (the "Underwriter"), and approved by the City.

Based upon the foregoing, we are of opinion that:

- (1) The Bond Purchase Agreement has been authorized, executed and delivered by the City and, assuming due authorization, execution and delivery by the other parties thereto, is a legal, valid, binding and enforceable obligation of the City (except to the extent that enforceability may be limited by bankruptcy, insolvency or other laws or equitable principles affecting creditors' right generally).

- (2) The City, under the Act, has full power and authority to enact the Ordinance, enter into the Bond Purchase Agreement and perform its obligations thereunder.
- (3) The Official Statement has been duly approved, signed and delivered by the City, and the City has authorized the distribution of the Official Statement and the use thereof by the Underwriter in connection with the offering of the Series 2007 Bonds.
- (4) The statements and information contained in the Official Statement under the captions or subcaptions "Series 2007 Bonds," "Security for the Bonds," "No Litigation," "Tax Matters" and, if applicable, the definitions and the summary of the Ordinance in the Official Statement (except for financial or statistical data therein as to which no opinion is hereby expressed) do not contain any untrue statement of a material fact or omit to state a material fact necessary to make such statements, in light of the circumstances under which they were made, not misleading in any material respect.
- (5) There is no litigation or other proceeding pending or, to the best of such counsel's knowledge, threatened in any court, agency or other administrative body (either State or Federal) which could have a material adverse effect on (a) the financial condition of the Issuer, (b) the ability of the Issuer to perform its obligations under the Ordinance, the Supplement thereto, the Series 2007 Bonds, and other transaction documents (collectively, the "Related Documents"), (c) the security for the Bonds, (d) the transactions contemplated by the Related Documents or (e) the ability of the Issuer to maintain and operate the System.
- (6) The Series 2007 Bonds are exempt from registration pursuant to the Securities Act of 1933, as amended, and the Ordinance is exempt from qualification as an indenture pursuant to the Trust Indenture Act of 1939, as amended.

Very truly yours,

  
STEPTOE & JOHNSON PLLC

12.21.07  
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December 27, 2007

The City of Huntington  
(West Virginia)  
Sewerage System Refunding Revenue Bonds, Series 2007

The City of Huntington  
Huntington, West Virginia

Ladies and Gentlemen:

We have acted as disclosure counsel to The City of Huntington (the "City") in connection with the issuance and sale by the City of its Sewerage System Refunding Revenue Bonds, Series 2007, in the original aggregate principal amount of \$5,500,000 (the "Series 2007 Bonds"). In connection with rendering this opinion, we have examined the Official Statement.

Without having undertaken to determine independently the accuracy or completeness of the statements contained in the Official Statement, but on the basis of our conferences with representatives of the City, and counsel for the City, and our examination of certain documents referred to in the Official Statement, nothing has come to our attention that would lead us to believe that the Official Statement (excluding therefrom the financial and statistical data included in the Official Statement, including Appendix A and Appendix C thereto as to which we express no opinion) contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading.

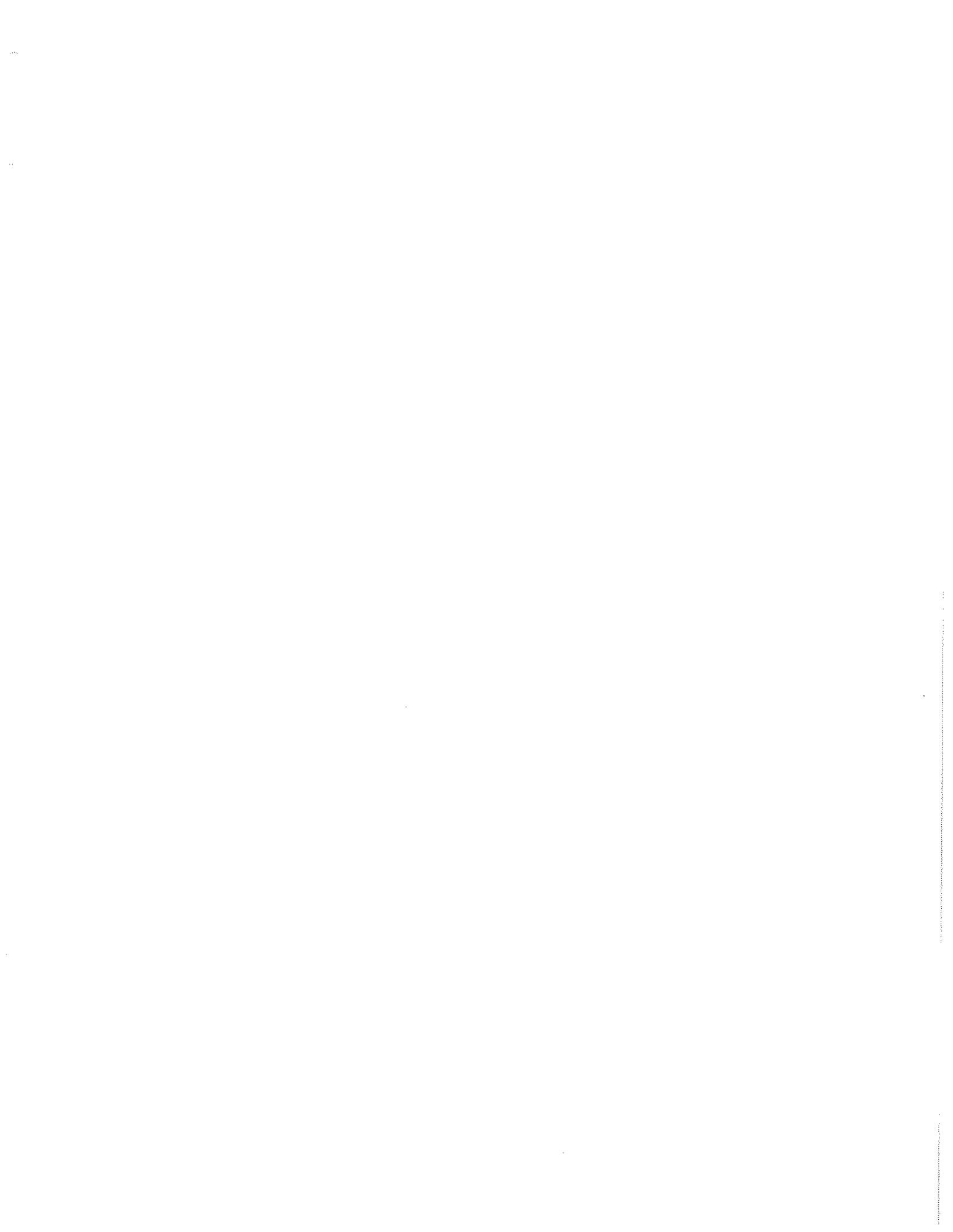
This opinion is solely for the benefit of, and may be relied upon only by you; and it is not to be used, circulated, quoted or otherwise referred to for any other purpose, except that a copy hereof may be included in the transcript of closing documents pertaining to the delivery of the Series 2007 Bonds.

Very truly yours,

  
STEP TOE & JOHNSON PLLC

12.18.07  
435500.00010

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**REED & JOHNSON**

Attorneys at Law

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GILLARD B. JOHNSON, III  
LEXINGTON, KENTUCKY

HENRY M. REED III  
LOUISVILLE, KENTUCKY

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(502) 899-3880  
FAX (502) 899-3882

December 27, 2007

Ross, Sinclair & Associates, LLC  
400 Democrat Drive  
Frankfort, Kentucky 40601

**Re: \$5,500,000 The City of Huntington, West Virginia Sewerage System  
Refunding Revenue Bonds, Series 2007 (Tax-Exempt)**

Ladies and Gentlemen:

We have served as counsel to you (the "Underwriter") in connection with the issuance and sale by The City of Huntington, West Virginia (the "City") of its Bonds, Series 2007 (Tax-Exempt) in the aggregate principal amount of \$5,500,000 (the "Series 2007 Bonds"). In connection with rendering this opinion, we have examined the Official Statement, dated December 18, 2007 (the "OS"), the Bond Purchase Agreement, dated December 27, 2007 (the "Purchase Agreement"), and Rule 15c2-12 of the Securities and Exchange Commission promulgated under the Securities Exchange Act of 1934, as amended (the "Rule"). Capitalized terms used but not defined herein shall have the meanings set forth in the Purchase Agreement.

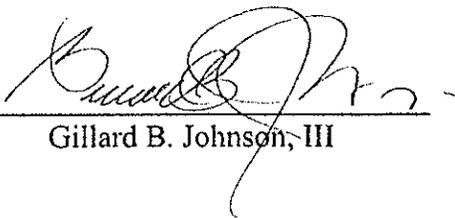
We are not passing upon, and do not assume any responsibility for, the accuracy, completeness, or fairness of any of the statements in the OS, and make no representation that we have independently verified the accuracy, completeness or fairness of any such statements. However, to assist you in your investigation concerning the OS, we have reviewed certain documents to include Bond Ordinance, Approving Opinion of Steptoe & Johnson, PLLC, Bond Counsel, Supplemental Opinion of Steptoe & Johnson, PLLC, Bond Counsel, Opinion of Scott McClure, Counsel to the City, General Certificate of Issuer, Rule 15c2-012 Certificate, Registrar's Certificate, Underwriter's Certificate, and the Purchase Agreement, and have participated in conferences and/or conversations with Bond Counsel in which the contents of the OS were discussed, including correspondence to and from Bond Counsel. During the course of our work on this matter, nothing has come to our attention that would lead us to believe that the OS (excluding therefrom the financial and statistical data included in the OS, including Appendix A, Appendix B, and Appendix C thereto, as to which we express no opinion) contains any untrue statement of a material fact or omits to state a material fact necessary in order to make

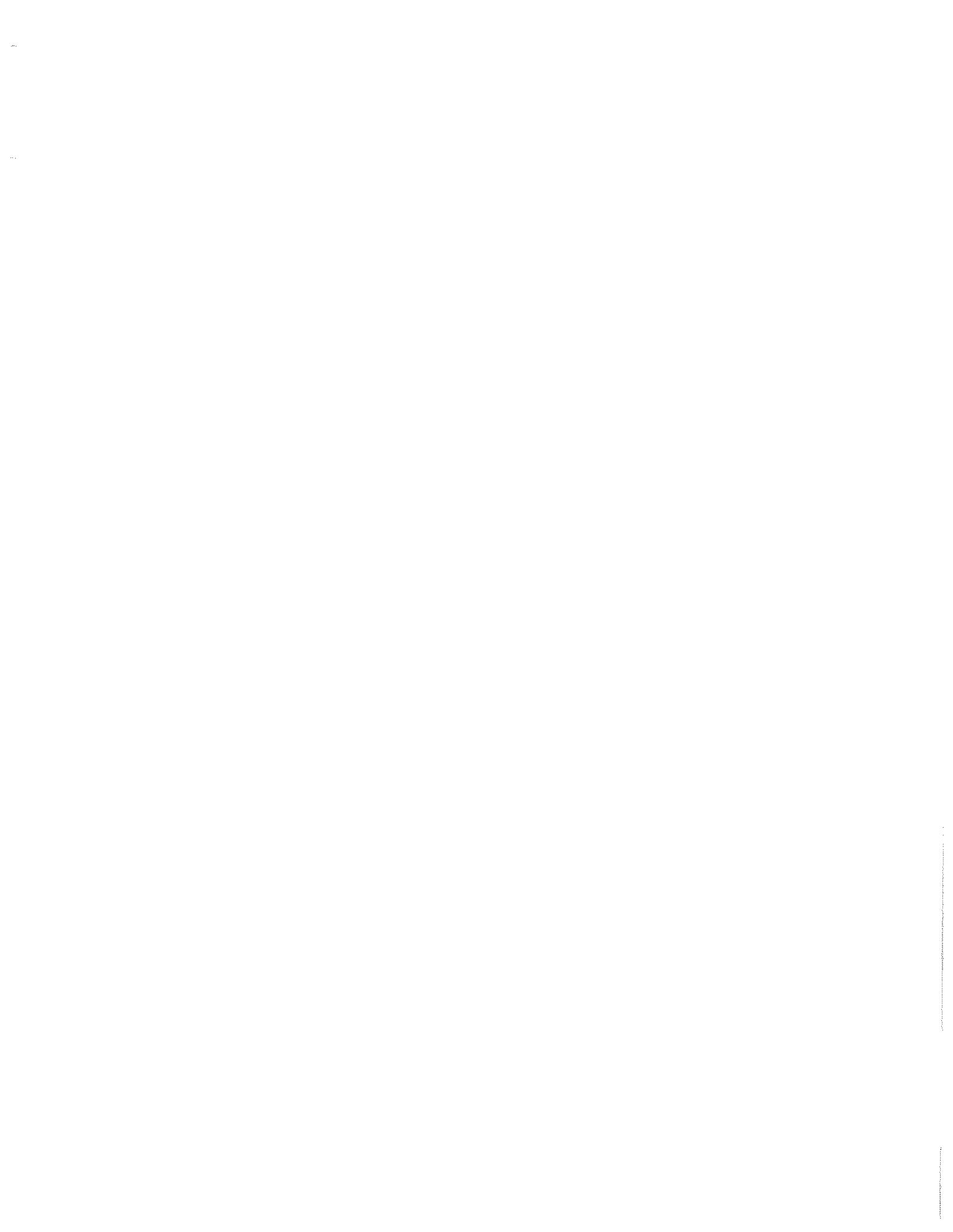
the statements made therein, in light of circumstances under which they were made, not misleading.

This opinion is solely for the benefit of, and may be relied upon only by, the Underwriter, and it is not to be used, circulated, quoted or otherwise referred to for any other purpose, except that a copy hereof may be included in the transcript of closing documents pertaining to the delivery of the Series 2007 Bonds.

Sincerely,

REED & JOHNSON

By:   
Gillard B. Johnson, III





December 27, 2007

The City of Huntington  
(West Virginia)  
Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt)

The City of Huntington  
Huntington, West Virginia

Step toe & Johnson PLLC  
Charleston, West Virginia

Ross, Sinclair & Associates LLC  
Frankfort, Kentucky

Financial Security Assurance Inc.  
New York, New York

Ladies and Gentlemen:

I have acted as counsel for The City of Huntington, West Virginia (the "City") and have acted as such in connection with the sale of the above-referenced Bonds (collectively, the "Series 2007 Bonds"), which are being delivered and sold pursuant to a Bond Purchase Agreement dated as of December 18, 2007 (the "Purchase Agreement") between Ross, Sinclair & Associates LLC (the "Underwriter Agent") and the City. Any capitalized term used herein and not defined shall have the meaning assigned to it in the Purchase Agreement.

In this connection, I have reviewed and examined certain proceedings and documents with respect to the Bonds, any such records, certificates and other documents as I have considered necessary or appropriate for the purposes of this opinion, the Constitution and the laws of the State of West Virginia, including Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), the Ordinance of the City relating to the Bonds enacted on January 10, 2005, as supplemented by a supplemental parameters resolution adopted by the Council of the City on December 10, 2007 (collectively, the "Ordinance"), the Bond Purchase Agreement and the Official Statement dated December 18, 2007, with respect to the issuance and offering of the Series 2007 Bonds, and certifications of the City. Based on such review and such other considerations of law and fact as I believe to be relevant, I am of the opinion that:

1. The City is a municipal corporation duly organized and existing under the laws and Constitution of the State of West Virginia. The City is authorized by the laws of the State of West Virginia, as provided by the Act, to enter into and perform its obligations under the Ordinance and the Bond Purchase Agreement.

2. The City has full power and authority to consummate all transactions contemplated by the Bonds, the Bond Purchase Agreement and any other agreements relating thereto, to which the City is a party.

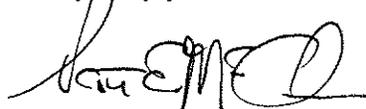
3. The City is not in violation of any provision of, or in default under, West Virginia statutes organizing and governing the City.

4. There are no legal or governmental actions, proceedings, inquiries or investigations pending or threatened by governmental authorities or to which the City is a party or of which any property of the City is subject, except as described in the Official Statement, which, if determined adversely to the City, would individually or in the aggregate (i) materially and adversely affect the validity or the enforceability of the Series 2007 Bonds or the Bond Purchase Agreement, (ii) otherwise materially or adversely affect the ability of the City to comply with its obligations under the Bond Purchase Agreement, or materially and adversely affect the transactions contemplated by the Official Statement to be engaged in by the City.

I hereby consent to the references made to me in the Official Statement.

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

Very truly yours,



Scott E. McClure,  
City Attorney

SEM/

12.27.07  
435500.00010

CH933419.2



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

AREA CODE 304  
343-1654  
FACSIMILE  
343-1657

December 27, 2007

The City of Huntington  
(West Virginia)  
Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt)

The City of Huntington  
Huntington, West Virginia

Step toe & Johnson PLLC  
Charleston, West Virginia

Ross, Sinclair & Associates LLC  
Frankfort, Kentucky

Financial Security Assurance Inc.  
New York, New York

Ladies and Gentlemen:

I am special counsel to The City of Huntington in Cabell County, West Virginia (the "Issuer"). As such counsel, I have represented the Issuer before the Public Service Commission of West Virginia in connection with the issuance of the above-referenced bonds.

I am of the opinion that the Issuer has received the Commission Orders of the Public Service Commission of West Virginia dated November 5, 2004 and December 14, 2004 in Case No. 03-1678-S-C and Case No. 04-0949-S-MA, approving the rates and Surcharge of the System. The time for appeal of such Commission Orders has expired prior to the date hereof without any appeal having been filed. Such Orders remain in full force and effect.

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

Sincerely,

  
Robert R. Rodecker



THE CITY OF HUNTINGTON  
(WEST VIRGINIA)

Sewerage System Refunding Revenue Bonds, Series 2007

**GENERAL CERTIFICATE OF THE CITY ON:**

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS
4. RATES
5. PUBLICATION OF NOTICES
6. AWARD OF BONDS; SIGNATURES
7. DELIVERY AND PAYMENT
8. CERTIFICATION OF DOCUMENTS
9. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
10. MEETINGS, ETC.
11. INCUMBENCY AND OFFICIAL NAME
12. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE
13. DEFEASANCE OF SERIES 2003 A NOTES AND SERIES 2003 B NOTES
14. SPECIMEN BONDS
15. NO FEDERAL GUARANTY
16. IRS INFORMATION RETURN
17. OFFICIAL STATEMENT CERTIFICATION
18. CERTIFICATIONS REGARDING BOND PURCHASE
19. DESIGNATION OF REGISTRAR, PAYING AGENT AND DEPOSITORY BANK
20. COUNTERPARTS

We, the undersigned MAYOR and CITY CLERK of The City of Huntington, West Virginia (the "Issuer"), hereby certify in connection with the 5,500,000 aggregate principal amount of The City of Huntington (West Virginia) Sewerage System Refunding Revenue Bonds, Series 2007 (the "Series 2007 Bonds" or "Bonds"), as follows:

1. **TERMS:** All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meanings as set forth in the Bond Ordinance of the Issuer enacted January 10, 2005, as supplemented by a Supplemental Parameters Resolution of the Issuer adopted December 10, 2007 (collectively, the "Ordinance").

2. **NO LITIGATION:** Except as otherwise disclosed in the Official Statement, no controversy or litigation of any nature is now pending or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting in any manner the issuance,

sale and delivery of the Bonds, the refunding of the Series 1993 Bonds, the collection or use of the revenues of the System or the Surcharge, or the respective pledge thereof to the payment of the principal and interest on the Bonds, nor in any manner questioning the proceedings and authority by which the Issuer authorized the issuance and sale of the Bonds, nor in any manner affecting the validity or enforceability of the Bonds, the Ordinance or the Bond Purchase Agreement or any agreement or instrument relating thereto, used or contemplated by the Bond Purchase Agreement or any provisions made or authorized for the payment of the Bonds; nor in any manner questioning the valid existence of the Issuer or the authority or titles of the Mayor, City Clerk and the members of the Council and other officials of the Issuer to their respective offices; nor in any manner questioning any proceeding, procedure, action or thing followed, taken or done in connection with the issuance, sale and delivery of the Bonds or the refunding and payment of the Series 1993 Bonds, which is not set forth in the Official Statement relating to the Bonds.

3. GOVERNMENTAL APPROVALS: All applicable approvals and certificates required by law for operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Bonds, have been obtained as of the date hereof and remain in full force and effect.

4. RATES: On May 24, 2004, the Issuer passed a sewer rate ordinance establishing new rates and charges for the System. On June 24, 2004, the Public Service Commission of West Virginia asserted jurisdiction over the rate ordinance due to a protest received by a customer. By Commission Orders entered on November 5, 2004, and December 14, 2004, in Case No. 03-1678-S-C and Case No. 04-0949-S-MA, the Commission approved the rates and surcharges for the System. Such Orders remain in full force and effect.

5. PUBLICATION OF NOTICES: Notice of the public hearing upon the Ordinance was duly published as required by law. The Council approved the Ordinance, and the Ordinance became fully effective January 10, 2005, as supplemented, and remains in full force and effect.

6. AWARD OF BONDS; SIGNATURES: The Series 2007 Bonds were awarded to Ross, Sinclair & Associates LLC (the "Underwriter"), upon a negotiated basis at the price of \$5,423,613.85 (par amount of \$5,500,000.00 plus original issue premium of \$2,113.85, and less underwriter's discount of \$78,500.00). As of the date hereof, the Bonds were duly signed by the manual signature of the Mayor, and the official seal of the Issuer, which seal is impressed upon this Certificate, was impressed or imprinted thereon and attested by the manual signature of the City Clerk.

7. DELIVERY AND PAYMENT: The undersigned Mayor did, on the date hereof, deliver to the Underwriter, the entire issue of the Series 2007 Bonds, numbered R-1 to R-14.

At the time of delivery of the Series 2007 Bonds, there was paid to the Issuer (or others, on behalf of the Issuer) the agreed price therefor as follows:

Par Amount of Series 2007 Bonds	\$5,500,000.00
Plus: Original Issue Premium	2,113.85
Less: Underwriter's Discount	( 78,500.00 )
Total	\$5,423,613.85

8. CERTIFICATION OF DOCUMENTS: There are delivered herewith true and correct copies of the following documents, all which remain in full force and effect and have not been amended, modified, supplemented or repealed unless changed by the terms of other documents listed below:

Bond Ordinance

Supplemental Parameters Resolution

Tax and Non-Arbitrage Certificate of City

Certificate of Determinations

City Charter

City Council Rules of Procedure

Oaths of Office of Councilmembers

Ordinance Creating Sanitary Board

Oaths of Office of Board Members

Affidavit of Publication of Abstract of Bond Ordinance

Certified Copies of Minutes on Enactment of Bond Ordinance and Adoption of Supplemental Parameters Resolution

Petition of Sanitary Board

Public Service Commission Orders Approving Surcharge

Prior Bonds Ordinances and Supplemental Resolutions

Preliminary Official Statement

Official Statement

Bond Purchase Agreement

Continuing Disclosure Agreement

Rule 15c-2-12 Certificate

9. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: Except as otherwise disclosed in the Official Statement, there has been no adverse change in the financial condition of the Issuer or the System since December 18, 2007. The Issuer has heretofore financed the acquisition and construction of the System and certain additions, betterments and improvements thereto by the issuance of its bonds, of which there are presently outstanding its (i) Sewer Revenue Bonds, Series 1997 (West Virginia SRF Program), dated November 25, 1997, issued in the original aggregate principal amount of \$3,039,895, of which approximately \$1,855,973 is currently outstanding, (ii) Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), dated June 22, 1999, issued in the original aggregate principal amount of \$2,083,550, of which approximately \$1,446,709 is currently outstanding, (iii) Sewer Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated October 10, 2000, issued in the original aggregate principal amount of \$1,832,399, of which approximately \$1,394,818 is currently outstanding, and (iv) Sewer Revenue Bonds, Series 2006 A, dated November 30, 2006, issued in the original aggregate principal amount of \$3,150,000, of which \$3,150,000 is currently outstanding (collectively, the "Prior Bonds"). The Prior Bonds are secured by a first lien on Net Revenues of the System. The Series 2007 Bonds are issued on a parity with respect to liens, pledge and source of and security for payment and in all respects with the Prior Bonds. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The respective debt service reserve funds for the Prior Bonds are fully funded as of the date hereof.

10. MEETINGS, ETC.: All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds were authorized or adopted at meetings of the Council of the Issuer duly and regularly called and held pursuant to the City Charter and City Council Rules of Procedure, and all applicable statutes, including Chapter 6, Article 9A of the Official West Virginia Code of 1931, as amended, and a quorum of duly elected, qualified and acting members of the council was present and acting at all times during all such meetings.

11. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "The City of Huntington" and it is a municipal corporation of the State of West Virginia, in Cabell and Wayne Counties of said state. The governing body of the Issuer is its Council consisting of 11 members. The names and terms of office of the members of Council, the Mayor and the City Clerk are as follows:

		Term
Mayor 2008	David A. Felinton	January 1, 2005 to December 31,

Council Chairman 2008	Scott Caserta	January 1, 2005 to December 31,
Council Members 2008	P.D. Adkins	January 1, 2005 to December 31,
2008	Garry Black	January 1, 2005 to December 31,
2008	Sandra Clements	October 1, 2007 to December 31,
2008	Paul Farrell	January 1, 2005 to December 31,
2008	James Insko	January 1, 2005 to December 31,
2008	Frances Jackson	January 1, 2005 to December 31,
2008	Calvin "Cal" Kent	January 1, 2005 to December 31,
2008	Teresa Loudermilk	January 1, 2005 to December 31,
2008	Mary Neely	January 1, 2005 to December 31,
2008	James Ritter	January 1, 2005 to December 31,

The Sanitary Board is composed of the following members:

- David A. Felinton, Chairman
- John J. Klim, Jr., Member
- James D. Ashworth, Member, Vice-Chairman and Engineer

The duly appointed and acting Counsel to the Issuer is Scott McClure, Esquire, Huntington, West Virginia.

12. PUBLICATION AND PUBLIC HEARING ON NOTES ORDINANCE:

Upon adoption of the Bonds Ordinance, an abstract thereof, determined by the Council of the Issuer 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 Herald Dispatch, a newspaper published and of general circulation in the City of Huntington, together with a notice to all persons concerned, stating that the Bonds Ordinance had been adopted and that the Issuer contemplated the issuance of the Bonds described in such Ordinance, stating that any person interested may appear before the Council at the public hearing held at a public meeting of Council on the 10th day of January, 2005, at 7:30 p.m., in the Council Chambers of the City Hall of the City of Huntington and present protests, and stating that a certified copy of the Bonds 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 City Clerk. At

such hearing all objections and suggestions were heard by the Council of the Issuer and the Bonds Ordinance became finally adopted, enacted and effective as of the date of such public hearing, and remains in full force and effect.

13. DEFEASANCE OF THE SERIES 1993 BONDS: As of the date of hereof, the Series 1993 Bonds have been prepaid and refunded and the liens and pledges securing the Series 1993 Bonds have been discharged and defeased.

14. SPECIMEN BONDS. Delivered concurrently herewith are true and accurate specimens of the Bonds.

15. NO FEDERAL GUARANTY: The Series 2007 Bonds are not, in whole or part, and will not be, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

16. 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, Ogden, Utah, with respect to the Series 2007 Bonds.

17. OFFICIAL STATEMENT CERTIFICATION: At and since the date of the Official Statement nothing has come to the attention of any signer hereof which would lead any such signer to believe that the Official Statement contains an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

18. CERTIFICATIONS REGARDING BOND PURCHASE: In addition to the foregoing, the undersigned Mayor hereby certifies as follows: (i) the Issuer has duly performed all of its obligations to be performed at or prior to the Closing and each of the Issuer's representations and warranties contained in the Bond Purchase Agreement are true as of Closing; (ii) the Issuer has authorized, by all necessary action, the refunding of the Series 1993 Bonds, the execution, delivery, receipt and due performance of the Bonds, the Undertaking, the Ordinance and any and all such other agreements and documents as may be required to be executed, delivered and received by the Issuer in order to carry out, give effect to and consummate the transactions contemplated hereby and by the Official Statement; (iii) to my knowledge no litigation is pending, or to my knowledge threatened, to restrain or enjoin the refunding of the Series 1993 Bonds, the issuance or sale of the Bonds or on any way affecting any authority for or the validity of the Bonds or the Ordinance; (iv) the execution, delivery, receipt and due performance of the Bonds, the Undertaking, the Ordinance and the other agreements contemplated hereby and by the Official Statement under the circumstances contemplated thereby and the Issuer's compliance with the provisions thereof will not conflict with or constitute on the Issuer's part a breach of or a default under any existing law, court or administrative regulation, decree or order or any agreement, indenture, mortgage, lease or other instrument to which you are subject or by which the Issuer is or may be bound; and (v) except as set forth in the Official Statement, the Issuer is in full compliance with all of its prior written

continuing disclosure undertakings entered into pursuant to the provisions of Rule 15c2-12-(b)(5).

19. DESIGNATION OF REGISTRAR, PAYING AGENT AND DEPOSITORY BANK: The Issuer hereby confirms the appointment of (a) United Bank, Inc., Charleston, West Virginia, as Registrar, (b) Fifth Third Bank, Huntington, West Virginia, as Depository Bank and (c) West Virginia Municipal Bond Commission, Charleston, West Virginia, as Paying Agent.

20. COUNTERPARTS: This Certificate may be executed in counterparts, and all counterparts shall be deemed to be the Certificate.

[Signature page follows.]

WITNESS our signatures and the official corporate seal of the CITY OF HUNTINGTON on this 27th day of December, 2007.

[SEAL]

Signature

Official Title

*R. LaForte*

Mayor

*Barbara Nelson*

City Clerk

12.18.07  
435500.00010





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December 27, 2007

The City of Huntington (West Virginia)  
Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt)

Ross Sinclair & Associates, LLC  
Cincinnati, Ohio

The City of Huntington  
Huntington, West Virginia

Steptoe & Johnson PLLC  
Huntington, West Virginia

Water Development Authority  
Charleston, West Virginia

Department of Environmental Protection  
Charleston, West Virginia

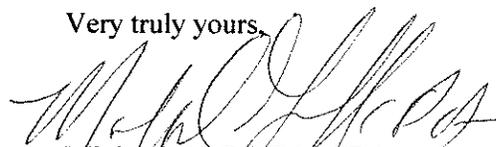
Ladies and Gentlemen:

Based upon the rates and charges set forth in the Commission Order of the Public Service Commission of West Virginia dated December 14, 2004, and current and projected operation and maintenance expenses and current and anticipated customer usage as furnished to us by the Issuer, it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the sewerage system of the Issuer (the "System"), will pay all repair, operation and maintenance expenses of the System and leave a balance each year equal to not less than the sum of (i) 120% of the maximum annual debt service in any fiscal year on the Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt) (the "Series 2007 Bonds"), and all other obligations secured by or payable from revenues of the System on a parity with the Series 2007 Bonds, including the Issuer's Sewer Revenue Bonds, Series 1997 (West Virginia SRF Program), Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), Sewer Revenue Bonds, Series 2000 A (West Virginia SRF Program), and Sewer Revenue Bonds, Series 2006 A (collectively, the "Prior Bonds"); and (ii) the amounts, if any, required to be deposited in the Series 2007 Bonds Reserve Account and the reserve accounts for the Prior Bonds in order to satisfy the respective reserve account requirements therefore within a period of not more than 12 months, assuming equal payments are made each month to each such account.

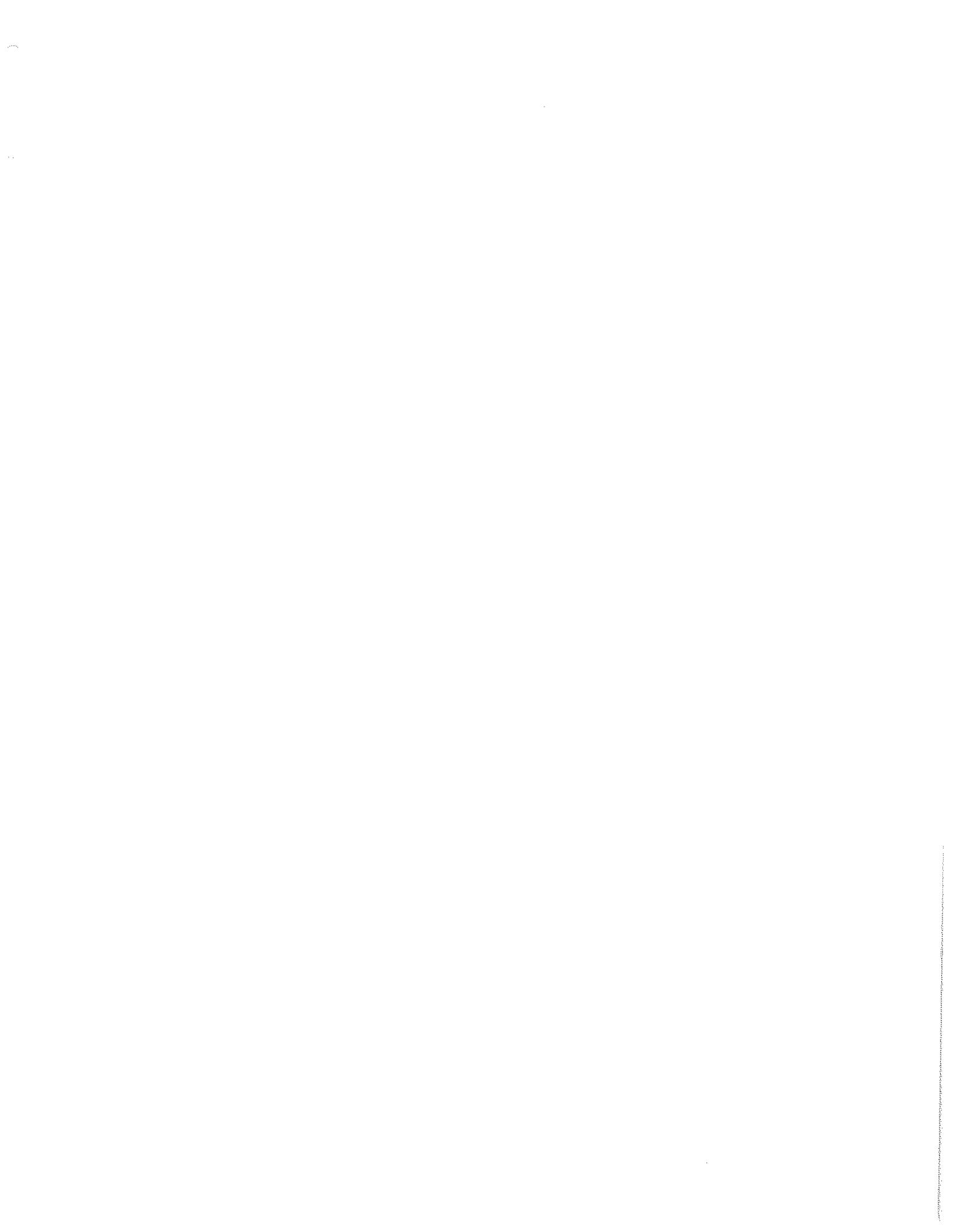
It is our further opinion that the Net Revenues actually derived from the System during the fiscal year preceding the date of the actual issuance of the Series 2007 Bonds will not be less than 120% of the maximum annual debt service on the Prior Bonds and the Series 2007 Bonds.

It is further our opinion that the amount of savings stated to be achieved by the refunding of the Series 1993 Bonds shall in fact be saved, based upon our review, comparison and analysis of the net interest cost in dollars of the Series 2007 Bonds and the net interest cost in dollars of the Series 1993 Bonds. Based upon the assumed principal amount, maturity schedule and interest rates for the Series 2007 Bonds presented to the Issuer by the Underwriter as Original Purchaser, the Series 2007 Bonds show a net present value savings to the Issuer after deducting all expenses of the refunding of the Series 1993 Bonds and the costs of issuing the Series 2007 Bonds.

Very truly yours,



Michael D. Griffith, CPA



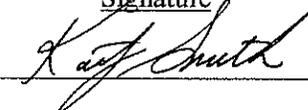
THE CITY OF HUNTINGTON  
(WEST VIRGINIA)

Sewerage System Refunding Revenue Bonds, Series 2007

REGISTRAR'S CERTIFICATE

United Bank, Inc., Charleston, West Virginia (the "Bank"), as Registrar for the above-captioned Bonds (collectively, the Bonds"), hereby certifies as follows, all capitalized terms used herein to have the same meanings set forth in the Ordinance of The City of Huntington (the "Issuer") enacted January 10, 2005, as supplemented by a Supplemental Resolution adopted December 10, 2007 (collectively the "Ordinance"):

1. The Bank is a state banking corporation duly organized, validly existing, and in good standing under the laws of the State of West Virginia, may lawfully conduct business in West Virginia, and is lawfully empowered, pursuant to such laws, to accept the duties and obligations contemplated and as provided under the Ordinance and to serve in the capacity of Registrar under the Ordinance.
2. The Bank has duly authorized, by all necessary action, the authentication of the Bonds and the execution and delivery of this Certificate and the acceptance of all duties of Registrar under the Ordinance, and any and all other documents and agreements as may be required to be executed, delivered and received by the Bank in order to carry out, give effect to, and consummate the transactions contemplated thereby.
3. The person indicated in paragraph 4 below was at the time of the authentication of the Bonds, and is now, a duly elected, qualified and acting incumbent in his or her office; and, pursuant to authorization from the Board of Directors of the Bank, attached hereto as Exhibit A, such person, in his or her official capacity, was and is authorized to authenticate the Bonds for and on behalf of the Bank.
4. Appearing opposite the name and title of the person indicated below is a true and correct specimen of his or her signature.

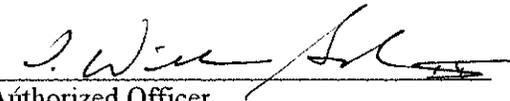
<u>Name</u>	<u>Title</u>	<u>Signature</u>
Kathy Smith	Vice President	

5. There have been filed with the Bank all of the documents listed in Section 3.12 of the Ordinance; the Bonds have been duly authenticated and delivered to the Original Purchaser, and proceeds of the Bonds have been deposited as required by the Ordinance.
6. Attached hereto as EXHIBIT B is a correct listing of the Bond numbers, CUSIP numbers, maturity dates, principal amounts, interest rates and yields of the Bonds.

[Signature page follows.]

WITNESS my signature on this 27th day of December, 2007.

UNITED BANK, INC.

By:   
Its: Authorized Officer

12.17.07  
435500.00010

**EXHIBIT A**  
**Resolution of Board of Directors**



CITY OF HUNTINGTON  
(WEST VIRGINIA)

Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt)

UNDERWRITER'S CERTIFICATE

The undersigned Brian Nurick, Senior Vice President of Ross, Sinclair & Associates, LLC (the "Underwriter"), for and on behalf of the Underwriter, as purchaser of the above-captioned Bonds (collectively, the "Bonds"), hereby certifies that:

(a) At least 10% of the Bonds have been the subject of an initial offering to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers), made pursuant to the Bond Purchase Agreement dated December 18, 2007, by and between The City of Huntington (the "Issuer") and the Underwriter, at prices no higher than, or yields no lower than, those shown on the cover of the Official Statement dated December 18, 2007, relating to the Bonds. We have made a bona fide public offering of all Bonds at the public offering price.

(b) At least 10% of each maturity of the Bonds were sold to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at initial offering prices not greater than the respective prices shown on the cover of the Official Statement. At the time we agreed to purchase the Bonds based upon our assessment of the then prevailing market conditions, we had no reason to believe any of the Bonds would be initially sold to the public (excluding such bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at prices greater than the prices or yields less than the yields, shown on the cover of the Official Statement.

(c) The level of funding of the Series 2007 Bonds Reserve Account established by the Ordinance authorizing issuance of the Series 2007 Bonds is reasonable and necessary because such an amount is required as a condition to marketing the Series 2007 Bonds at the interest rates and with the maturities established for the Series 2007 Bonds. Such amount was determined to be necessary to reduce the probability of a default on the Series 2007 Bonds due to a temporary decrease in revenues or increase in operating expenses. The amount to be maintained in the Series 2007 Bonds Reserve Account is equal to 10% of the face amount of the Series 2007 Bonds and is less than the maximum annual debt service on the Series 2007 Bonds and 125% of average annual debt service on the Series 2007 Bonds.

(d) The weighted average maturity of the Series 2007 Bonds is 9.042 years.

(e) The yield on the Series 2007 Bonds is 4.1993149%.

(f) The net interest cost on the Series 2007 Bonds is 3.9925628 %.

(g) This certificate may be relied upon by the Issuer with respect to completion of its Tax and Non-Arbitrage Certificate and IRS Form 8038-G relating to the 2007 Bonds, and by Steptoe & Johnson PLLC in rendering their tax opinion with respect to the Series 2007 Bonds.

Dated this 27th day of December, 2007.

ROSS, SINCLAIRE & ASSOCIATES, LLC

By: Brian Ferrell  
Its: Senior Vice President

12.19.07  
435500.00010

CH933707.2



PRELIMINARY OFFICIAL STATEMENT DATED DECEMBER 18, 2007

NEW ISSUE - BOOK-ENTRY ONLY  
BANK QUALIFIED

RATINGS: "AAA" (FSA INSURED)

*In the opinion of Bond Counsel, under existing laws, regulations, rulings and judicial decisions of the United States of America, as presently written and applied, interest on the Series 2007 Bonds is excludable from gross income of the holders thereof for federal income tax purposes, and interest on the Series 2007 Bonds is not a specific preference item for purposes of the federal alternative minimum tax imposed on individuals and corporations. However, interest paid to corporate holders of the Series 2007 Bonds may be indirectly subject to alternative minimum tax under certain circumstances. In addition, Bond Counsel is of the opinion that the Series 2007 Bonds are "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code. Further, in the opinion of Bond Counsel, under existing laws of the State of West Virginia, the Series 2007 Bonds, and the interest thereon, are exempt from personal and corporate income taxes imposed directly thereon by the State of West Virginia. See "TAX MATTERS" herein.*

**\$5,355,000\***

**THE CITY OF HUNTINGTON (WEST VIRGINIA)  
SEWERAGE SYSTEM REFUNDING REVENUE BONDS  
SERIES 2007**

**Dated:** Date of Delivery

**Due:** As shown on inside front cover

The Series 2007 Bonds are issued in fully registered form in the denomination of \$5,000 principal amount or any integral multiple thereof. Purchasers of the Series 2007 Bonds will not receive certificates representing their interests in the Series 2007 Bonds purchased. The Series 2007 Bonds will be registered in the name of Cede & Co., as registered owner and nominee for The Depository Trust Company, New York, New York.

Interest on the Series 2007 Bonds is payable on each May 1 and November 1, commencing May 1, 2008 (each, a "Payment Date"). Principal and interest on the Series 2007 Bonds is payable by the West Virginia Municipal Bond Commission, as paying agent (the "Paying Agent") to Cede & Co.

The Series 2007 Bonds are being issued by The City of Huntington, West Virginia (the "Issuer") to provide funds (i) to currently refund the Issuer's Sewerage System Refunding Revenue Bonds, Series 1993 (the "Series 1993 Bonds"), (ii) to fund a debt service reserve account for the Series 2007 Bonds, and (iii) to pay costs of issuance of the Series 2007 Bonds and related costs.

The Series 2007 Bonds are payable solely from and secured by the Net Revenues derived from the existing public sewerage system of the Issuer and any extensions, improvements and betterments thereto, on a parity with the Prior Bonds (as hereinafter defined), and any additional parity bonds that may hereafter be issued by the Issuer as permitted by the Ordinance (as hereinafter defined), and from funds on deposit in the sinking fund and reserve accounts established therefor under the Ordinance, all as more fully described herein.

The Series 2007 Bonds are subject to redemption prior to maturity as set forth herein. See "THE SERIES 2007 BONDS-REDEMPTION" herein.

The Series 2007 Bonds do not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, and the Issuer shall not be obligated to pay the Series 2007 Bonds or the interest thereon except from the above-referenced revenues and monies. Neither the credit nor the taxing power of the Issuer shall be deemed to be pledged to, nor shall tax ever be levied for, the payment of the principal of or interest on the Series 2007 Bonds.

The scheduled payment of principal of and interest on the Bonds when due will be guaranteed under an insurance policy to be issued concurrently with the delivery of the Bonds by FINANCIAL SECURITY ASSURANCE INC.



This cover page contains only a brief description of the Issuer, the System, the Series 2007 Bonds and the security therefor. It is not intended to be a summary of material information with respect to the Series 2007 Bonds. Investors should read the entire Official Statement, including the section titled "RISK FACTORS" to obtain information necessary to make an informed investment decision.

The Issuer has designated the Series 2007 Bonds as "qualified tax-exempt obligations" for purposes of Section 265 (b)(3)(B) of the Internal Revenue Code of 1986, as amended, which relates to the ability of certain financial institutions to deduct interest expense allocable to holding and carrying tax-exempt obligations for federal income tax purposes. Representatives of the Issuer will certify that they do not anticipate that the aggregate amount of tax-exempt obligations which will be issued by or on behalf of the Issuer in calendar year 2007 will exceed \$10 million.

The Series 2007 Bonds are offered for delivery when, as and if issued and received by the Underwriter, subject to prior sale and to withdrawal or modification of the offering, without notice, and to the unqualified approval of legality by Steptoe & Johnson PLLC, Huntington, West Virginia, Bond Counsel, and the approval of certain matters by Reed and Johnson, Counsel to the Underwriter. Certain legal matters will be passed upon for the Issuer by Scott McClure, Esquire, City Attorney. It is expected that the Series 2007 Bonds will be available for delivery in New York, New York, at The Depository Trust Company on or about December 27, 2007.

**ROSS SINCLAIRE & ASSOCIATES, LLC**

Dated: December 18, 2007

\*Preliminary, subject to change.

THIS OFFICIAL STATEMENT AND THE INFORMATION CONTAINED HEREIN ARE SUBJECT TO CORRECTION OR AMENDMENT. A BOND TO BE REGISTERED OR SOLD IN ANY JURISDICTION IN WHICH SUCH OFFER, SOLICITATION OR SALE WOULD BE UNLAWFUL WITHOUT THE NECESSARY REGISTRATION OR QUALIFICATION UNDER THE LAWS OF ANY SUCH JURISDICTION.

**MATURITY SCHEDULE\***  
**\$5,355,000\***  
**The City of Huntington (West Virginia)**  
**Sewerage System Refunding Revenue Bonds, Series 2007**

Maturity Date (November 1)	Maturity Amount	Price or Yield	Interest Rate	CUSIP**
2008	\$ 240,000			
2009	\$ 255,000			
2010	\$ 265,000			
2011	\$ 280,000			
2012	\$ 295,000			
2013	\$ 305,000			
2014	\$ 325,000			
2015	\$ 340,000			
2016	\$ 330,000			
2017	\$ 345,000			
2018	\$ 360,000			
2019	\$ 375,000			
2020	\$ 390,000			
2021	\$ 400,000			
2022	\$ 415,000			
2023	\$ 435,000			

\* Preliminary, subject to change.

# THE CITY OF HUNTINGTON, WEST VIRGINIA

## **MAYOR**

David A. Felinton

## **COUNCIL**

Council Chairman Scott Caserta

Council Members

P. D. Adkins

Frances Jackson

Garry Black

Calvin "Cal" Kent

Sandra Clements

Teresa Loudermilk

Paul Farrell

Mary Neely

James N. Insko

James Ritter

City Clerk Barbara Meadows

## **SANITARY BOARD**

David A. Felinton , Chairman

John J. Klim, Jr.

James D. Ashworth

## **BOND COUNSEL**

Steptoe & Johnson PLLC

Huntington, West Virginia

## **COUNSEL TO THE CITY OF HUNTINGTON**

Scott McClure, Esquire

Huntington, West Virginia

## **COUNSEL TO SANITARY BOARD**

Robert R. Rodecker, Esquire

Charleston, West Virginia

## **UNDERWRITER**

Ross Sinclair & Associates, LLC

Frankfort, Kentucky

## **UNDERWRITER'S COUNSEL**

Reed and Johnson

Lexington, Kentucky

## **REGISTRAR**

United Bank, Inc.

Charleston, West Virginia

The information contained in this Official Statement has been obtained from the Issuer and other sources that are believed to be reliable, but it is not guaranteed as to accuracy or completeness and is not to be construed as a representation by the Underwriter. The information and expressions of opinion contained herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder, under any circumstances, shall create any implication that there has been no change in the affairs of the System since the date hereof. This Official Statement is submitted in connection with the sale of securities referred to herein and may not be reproduced or used, in whole or in part, for any other purpose.

No dealer, broker, salesman or other person has been authorized by the Issuer or the Underwriter to give any information or to make any representation other than as contained in this Official Statement in connection with the offering described herein, and, if given or made, such other information or representation must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer of any securities, other than those described on the cover page, or an offer to sell or a solicitation of an offer to buy in any jurisdiction in which it is unlawful to make such offer, solicitation or sale.

No registration statement relating to the Series 2007 Bonds has been filed with the Securities and Exchange Commission (the "Commission") or with any state securities agency. The Series 2007 Bonds have not been approved or disapproved by the Commission or any state securities agency, nor has the Commission or any state securities agency passed upon the accuracy or adequacy of this Official Statement. Any representation to the contrary is a criminal offense.

This Official Statement, contains statements relating to future results that are "forward-looking statements" as defined in the Private Securities Litigation Reform Act of 1995. When used in this Official Statement, the words "estimated," "forecasted," "intended," "expected," "anticipated," "projected" and similar expressions identify forward-looking statements. Such statements are subject to risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward-looking statements. Any forecast is subject to such uncertainties. Inevitably, some assumptions used to develop the forecasts will not be realized and unanticipated events and circumstances may occur. Therefore, there are likely to be differences between forecasts and actual results, and variations in results, see the information under "Risk Factors."

Other than with respect to information concerning Financial Security Assurance Inc. ("Financial Security") contained under the caption "Bond Insurance" and Exhibit F specimen "Municipal Bond Insurance Policy" herein, none of the information in this Official Statement has been supplied or verified by Financial Security and Financial Security makes no representation or warranty, express or implied, as to (i) the accuracy or completeness of such information; (ii) the validity of the Bonds; or (iii) the tax exempt status of the interest on the Bonds.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVERALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SECURITIES AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZATION, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

\*\* CUSIP data on the cover page is provided by Standard & Poor's CUSIP Service Bureau, a division of the McGraw-Hill Companies, Inc. The CUSIP numbers on the cover page hereof are being provided solely for the convenience of the Owners of the Bonds only at the time of issuance of the Notes and neither the Underwriter nor the Issuer make any representation with respect to such numbers or undertake any responsibility for their accuracy now or at any time in the future. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Bonds.

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## PRELIMINARY OFFICIAL STATEMENT

\$5,355,000\*

### THE CITY OF HUNTINGTON (WEST VIRGINIA) SEWERAGE SYSTEM REFUNDING REVENUE BONDS SERIES 2007

#### INTRODUCTION

This Official Statement, including the cover page and the Appendices hereto, is provided to set forth certain information concerning the issuance by The City of Huntington, a West Virginia municipal corporation (the "Issuer"), of \$5,355,000\* in aggregate principal amount of its Sewerage System Refunding Revenue Bonds, Series 2007 (the "Series 2007 Bonds"). The Series 2007 Bonds are being issued pursuant to the Constitution and laws of the State of West Virginia (the "State"), particularly Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (collectively, the "Act") and an ordinance enacted by the Council of the Issuer on January 10, 2005 as supplemented by a supplemental parameters resolution adopted on December 10, 2007 (said ordinance, as so supplemented, the "Ordinance"). The net proceeds of the sale of the Series 2007 Bonds will be applied (i) to currently refund the Issuer's Sewerage System Refunding Revenue Bonds, Series 1993 (the "Series 1993 Bonds"), (ii) to fund a debt service reserve account for the Series 2007 Bonds, and (iii) to pay costs of issuance of the Series 2007 Bonds and related costs. See "PURPOSE AND PLAN OF FINANCING" herein.

The Series 2007 Bonds are payable solely from and secured by the Net Revenues derived from the existing public sewerage system of the Issuer and any extensions, improvements and betterments thereto, on a parity with the Prior Bonds, as herein defined, and any additional parity bonds that may hereafter be issued by the Issuer as permitted by the Ordinance (the Series 2007 Bonds, the Prior Bonds and any such additional parity bonds are collectively referred to herein as the "Bonds"), and from funds on deposit in the sinking fund and reserve accounts established therefor for the Series 2007 Bonds under the Ordinance.

The Series 2007 Bonds are special obligations of the Issuer. The Series 2007 Bonds do not constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation on indebtedness, and the Issuer shall not be obligated to pay the Series 2007 Bonds or the interest thereon except from such Net Revenues and such funds on deposit in the respective sinking fund and reserve account established therefor. Pursuant to the Ordinance and the ordinances enacted with respect to the Prior Bonds, the Issuer has covenanted and agreed to establish and collect just and equitable rates and charges for the use of the System and the services rendered thereby as will produce for each fiscal year Net Revenues, as defined in the Ordinance, equal to at least 120% of the maximum amount required in any year to pay the principal of and interest on the Series 2007 Bonds and the Prior Bonds. See "SECURITY FOR THE BONDS – Rate Covenant."

The Series 2007 Bonds will be dated, will mature, will bear interest and will be subject to redemption prior to maturity as more fully described under the heading "THE SERIES 2007 BONDS" herein. The Series 2007 Bonds will initially be maintained under a book-entry system. So long as the Series 2007 Bonds are maintained under a book-entry system, the manner of payment, the denominations, the transfer and exchange of ownership and the method of providing notice of redemption to the owners of the Series 2007 Bonds shall be determined as described under the "BOOK-ENTRY ONLY SYSTEM" herein. If the book-entry system is discontinued, principal of, interest, and premium, if any, on the Bonds will be payable by the West Virginia Municipal Bond Commission, Charleston, West Virginia, as paying agent (the "Paying Agent"), to the owners thereof at the address appearing in the books kept by United Bank, Inc., Charleston, West Virginia, as registrar (the "Registrar"). For further information describing the

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\*Preliminary, subject to change.

method of payment and other matters in the event the book-entry system is discontinued, see "THE SERIES 2007 BONDS" herein.

The Issuer may issue additional bonds on a parity with the Series 2007 Bonds and the Prior Bonds for the purpose of financing the costs of the construction of additions, betterments or improvements to the System and/or refunding all or a portion of one or more series of revenue bonds, to pay claims which may exist against the revenues or facilities of the System or all of such purposes, subject in each case to certain tests and conditions provided for in the Ordinance or the Prior Ordinances. See "SECURITY FOR THE BONDS -- Additional Parity Bonds."

Brief descriptions of the Series 2007 Bonds, the System and the Ordinance are set forth in this Official Statement, which descriptions do not purport to be comprehensive. All references herein to the Ordinance, the Act and other documents, statutes, reports or instruments are qualified in their entirety by reference to such documents. References herein to the Series 2007 Bonds are qualified in their entirety by reference to the forms thereof included in the Ordinance and the information with respect thereto included in the aforesaid documents. Copies of such documents may be obtained from the Issuer or, during the period of the offering of the Series 2007 Bonds, from the Underwriter. Capitalized terms used and not otherwise defined in this Official Statement have the respective meanings given to them in the Ordinance.

## PURPOSE AND PLAN OF FINANCING

### Series 2007 Bonds

The proceeds of the Series 2007 Bonds will be used for the following purposes:

Refunding of Issuer's Sewerage System Refunding Revenue Bonds, Series 1993. The Issuer's Sewerage System Refunding Revenue Bonds, Series 1993 (the "Series 1993 Bonds") were issued in the aggregate principal amount of \$7,100,000 to (i) provide funds, which together with other funds of the Issuer, used to pay costs necessary to advance refund all of the Issuer's Outstanding Sewerage System Refunding Revenue Bonds, Series 1987, dated February 15, 1987, originally issued in the aggregate principal amount of \$8,575,000, of which \$7,130,000 was then outstanding, (ii) to fund a reserve account for the Series 1993 Bonds, and (iii) to pay costs of issuance of the Series 1993 Bonds and other costs in connection with such refunding. The Series 1993 Bonds will be redeemed upon issuance of the Series 2007 Bonds at a price equal to the principal amount of the Series 1993 Bonds plus accrued interest thereon to the date of payment. The Issuer will sign a prepayment agreement with the West Virginia Municipal Bond Commission providing for (i) the irrevocable deposit of proceeds from the Series 2007 Bonds in an amount sufficient to refund entirely the Series 1993 Bonds, (ii) notice to holders of the Series 1993 Bonds between 30 and 60 days prior to redemption, and (iii) redemption, payment in full, and discharge of the Series 1993 Bonds.

Fund Debt Service Reserve Account. A portion of the proceeds of the Series 2007 Bonds will be used to fund a debt service reserve account for the Series 2007 Bonds.

Costs of Issuance. The balance of the proceeds of the Series 2007 Bonds will be used to pay costs associated with the issuance of the Series 2007 Bonds.

## SOURCES AND USES OF FUNDS

### SERIES 2007 A BONDS

#### Sources:

Principal Amount of the Series 2007 Bonds	\$5,355,000.00
Series 1993 Bonds Debt Service Fund	

<b>Total Sources of Funds</b>	<b>\$ _____</b>
-------------------------------	-----------------

#### Uses:

Original Issue Discount	\$ _____
Costs of Issuance <sup>(1)</sup>	_____
Deposit to Debt Service Reserve Fund	_____
Deposit to Current Refunding Fund for Series 1993 Bonds	_____
Rounding Amount	_____

<b>Total Uses of Funds</b>	<b>\$ _____</b>
----------------------------	-----------------

<sup>(1)</sup> Representing Underwriter's discount, legal and financing fees, bond insurance, printing costs and other miscellaneous expenses relating to the issuance of the Series 2007 Bonds.

## SECURITY FOR THE BONDS

The Series 2007 Bonds are special obligations of the Issuer and are payable as to principal, premium, if any, and interest solely from the sources described below. The Issuer is under no obligation to pay the Series 2007 Bonds except from said sources.

### Outstanding Prior Bonds

Upon refunding of the Series 1993 Bonds, the Issuer has outstanding the following bonds payable from the Net Revenues of the System that are on parity with the 2007 Bonds: (i) Sewer Revenue Bonds, Series 1997 (West Virginia SRF Program), dated November 25, 1997, issued in the original aggregate principal amount of \$3,039,895, of which approximately \$1,855,973 is currently outstanding, (ii) Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), dated June 22, 1999, issued in the original aggregate principal amount of \$2,083,550, of which approximately \$1,446,709 is currently outstanding, (iii) Sewer Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated October 10, 2000, issued in the original aggregate principal amount of \$1,832,399, of which approximately \$1,394,818 is currently outstanding, and (iv) Sewer Revenue Bonds, Series 2006 A, dated November 30, 2006, issued in the original aggregate principal amount of \$3,150,000, of which \$3,150,000 is currently outstanding (collectively, the "Prior Bonds").

## **Sources of Payment**

The payment of the debt service on the Series 2007 Bonds shall be secured forthwith equally and ratably by a first lien on and pledge of the Net Revenues derived from the System, on parity with the Prior Bonds and any additional parity bonds that may hereafter be issued by the Issuer as permitted by the Ordinance, and the Series 2007 Bonds are also payable from the funds on deposit in the Series 2007 Bonds Sinking Fund and the Reserve Account therein. Net Revenues derived from the System in an amount sufficient to pay the principal of, premium, if any, and interest on the Series 2007 Bonds and to make the payments into the Series 2007 Bonds Sinking Fund, to pay all operation and maintenance expenses and to pay all other payments provided for in the Ordinance, and the funds in the respective Series 2007 Bonds Sinking Fund and the Reserve Account therein, are irrevocably pledged to the payment of the principal of, premium, if any, and interest on the Series 2007 Bonds as the same become due and for other purposes provided in the Ordinance.

## **Rate Covenant**

Prior to the issuance of the Series 2007 Bonds, rates or charges for the use of the services and facilities of the System will be fixed and established, all in the manner and form required by law, and a copy of such rates and charges so fixed and established shall at all times be kept on file in the office of the Clerk of the Issuer, which copy will be open to inspection by all interested parties. The schedule or schedules of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds and accounts created under the Ordinance. Such schedule or schedules of rates and charges shall be revised from time to time, whenever necessary, so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule or schedules of rates or charges from time to time in effect shall be sufficient to produce Net Revenues equal to not less than 120% of the Maximum Annual Debt Service on the Bonds in any Fiscal Year. All such rates and charges, if not paid when due, shall constitute a lien upon the premises served by the System. For purposes of this test, the terms "Gross Revenues" and "Net Revenues" shall not include proceeds from the sale of capital assets.

## **Series 2007 Bonds Reserve Account**

\$\_\_\_\_\_ of the proceeds of the Series 2007 Bonds will be deposited in the Series 2007 Bonds Reserve Account. In the event of a transfer from the Series 2007 Bonds Reserve Account to the Series 2007 Bonds Sinking Fund, the Issuer shall restore the balance of the Series 2007 Bonds Reserve Account in an amount up to the Series 2007 Bonds Reserve Requirement, and the Issuer shall replenish the Series 2007 Bonds Account as provided in the Ordinance.

## **Application of Gross Revenues**

The entire Gross Revenues derived from the operation of the System and all parts thereof shall be deposited by the Issuer in the Revenue Fund. Surcharge Revenues, if any, are not part of the Gross Revenues of the System. The Revenue Fund 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. All Revenues at any time remaining on deposit in the Revenue Fund shall be disposed only in the following manner and order of priority:

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

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Bond Commission (i) for deposit in the Sinking Funds of the Prior Bonds, the amounts required by the Prior Ordinances to pay the interest on the Prior Bonds; and (ii) commencing 7 months prior to the first interest

payment date of the Series 2007 Bonds, for deposit in the Series 2007 Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on the Series 2007 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 2007 Bonds Sinking Fund and the next ensuing semiannual interest payment date is more or less than 7 months, then such monthly payments shall be decreased or increased proportionately to provide, 1 month prior to the next ensuing semiannual interest payment date, the required amount of interest coming due on such date; provided further that, the initial amount required to be transferred from the Revenue Fund and deposited in the Series 2007 Bonds Sinking Fund shall be reduced by the amount of accrued interest on the Series 2007 Bonds deposited therein.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Bond Commission (i) for deposit in the Sinking Funds of the Prior Bonds, the amounts required by the Prior Ordinances to pay the principal of the Prior Bonds; and (ii) commencing 13 months prior to the first principal payment date or mandatory Redemption Date of the Series 2007 Bonds, for deposit in the Series 2007 Bonds Sinking Fund and in the Series 2007 Bonds Redemption Account therein in the case of the Term Bonds which are to be redeemed, a sum equal to 1/12th of the amount of principal which will mature or be redeemed and become due on the Series 2007 Bonds on the next ensuing annual principal payment date or mandatory Redemption Date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2007 Bonds Sinking Fund and the next ensuing annual principal payment date or mandatory Redemption Date is more or less than 13 months, then such monthly payments shall be decreased or increased proportionately to provide, 1 month prior to the next ensuing annual principal payment date or mandatory Redemption Date, the required amount of principal coming due on such date.

Monies in the Series 2007 Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 2007 Bonds, whether by maturity or redemption prior to maturity and, with respect to the Series 2007 Bonds Reserve Account therein, any amounts necessary to fund such Reserve Account to maintain the Series 2007 Bonds Reserve Account Requirement. Pending such use, such monies shall be invested in accordance with the Ordinance.

The Issuer shall not be required to make any further payments into the Series 2007 Bonds Sinking Fund when the aggregate amount of funds therein, including the Series 2007 Bonds Reserve Account therein, is at least equal to the aggregate principal amount of Series 2007 Bonds then Outstanding, plus the amount of interest due or thereafter to become due on such Bonds then Outstanding.

The payments into the Series 2007 Bonds Sinking Fund shall be made on the first day of each month, except that, when the first day of any month shall be a Saturday, Sunday or legal holiday, then such payments shall be made on the next succeeding Business Day, and all such payments shall be remitted to the Bond Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of the Ordinance.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Bond Commission (i) for deposit in the Reserve Accounts of the Prior Bonds, the amount required by the Prior Ordinances; and (ii) for deposit in the Series 2007 Bonds Reserve Account, an amount sufficient to remedy any decrease in value of the Series 2007 Bonds Reserve Account below the Series 2007 Bonds Reserve Requirement or any withdrawal from the Series 2007 Bonds Reserve Account, beginning with the first full calendar month following the date on which (a) the valuation of investments in the Series 2007 Bonds Reserve Account results in a determination that the amount of monies and the value of the Qualified Investments deposited to the credit of the Series 2007 Bonds Reserve Account is less than the Series 2007 Bonds Reserve Requirement, or (b) any amount is withdrawn from the Series 2007 Bonds Reserve Account for deposit into the Series 2007 Bonds Sinking Fund. To the extent Gross Revenues and any other legally available funds are available therefor, the amount so deposited shall be used to restore the amount of monies on deposit in the Series 2007 Bonds Reserve Account to an amount equal to the Series 2007 Bonds Reserve Requirement to the full extent that such Gross Revenues are available; provided however, that if the shortfall in the Series 2007 Bonds Reserve Account is due to a decrease in value of investments therein, such shortfall shall be replenished by not less than 6 equal monthly payments, and if such shortfall is due to a

withdrawal from the Series 2007 Bonds Reserve Account, such shortfall shall be replenished by not less than 12 equal monthly payments, and provided further, that no payments shall be required to be made into the Series 2007 Bonds Reserve Account whenever and as long as the amount on deposit therein shall be equal to the Series 2007 Bonds Reserve Requirement.

Amounts in the Series 2007 Bonds Reserve Account shall be used only for the purpose of making payments of principal of and interest on the Series 2007 Bonds when due, when amounts in the Series 2007 Bonds Sinking Fund are insufficient therefor and for no other purpose.

(5) The Issuer shall next, from the monies remaining in the Revenue Fund, on the first day of each month, transfer to the Depreciation Fund a sum equal to not less than 2 1/2% of the Gross Revenues each month (as previously set forth in the Prior Ordinances and not in addition thereto), exclusive of any payments for account of any Reserve Account.

Withdrawals and disbursements may be made by the Issuer from the Depreciation Fund only for the following purposes and in the following order of priority for the Prior Bonds and the Series 2007 Bonds:

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

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

(c) For the payment of the reasonable costs of land and depreciable renewals, repairs, extensions, improvements and additions to the System.

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

(7) The Issuer may next, each month, after making the above required transfers of monies from the Revenue Fund, apply any remaining revenues ("Surplus Revenues") to payment of debt service on subordinate bonds, notes, certificates or other obligations of the System. Any Surplus Revenues then remaining in the Revenue Fund may be used for any lawful purpose of the System.

B. The Bond Commission is hereby designated as the fiscal agent for the administration of the Sinking Funds created or continued hereunder, and all amounts required for said Sinking Funds shall be remitted to the Bond Commission from said Revenue Fund and from the proceeds of the sale of the Bonds, by the Issuer at the times and as otherwise provided herein. All remittances made by the Issuer to the Bond Commission shall clearly identify the fund or account into which each amount is to be deposited. Notwithstanding the foregoing, however, the Bond Commission shall deposit all remittances in the fund or account in the priority established by the Ordinance.

C. If on any monthly payment date the Net Revenues, as applicable, 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 Ordinance Section 4.04 and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

D. Principal and interest payments, and any payments made from the Net Revenues for the purpose of funding the Prior Bonds and the Series 2007 Bonds, shall be made on a parity basis and pro-rata, with respect to the Prior Bonds, the Series 2007 Bonds and any parity Bonds hereinafter issued, in accordance with the respective principal amounts of each such series of Bonds then Outstanding, if less than the full amount required hereby.

### **Additional Net Revenue Parity Bonds**

So long as the Prior Bonds are Outstanding, the limitations and requirements on the issuance of parity obligations set forth in the Prior Ordinances shall be applicable. No additional parity Bonds payable out of the Net Revenues of the System shall be issued after the issuance of any Series 2007 Bonds pursuant to the Ordinance, except under the conditions and in the manner provided in the Ordinance.

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

No such additional parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Clerk of the Issuer a written statement by Independent Accountants, reciting the conclusion that the Net Revenues actually derived, from the System during the 12 consecutive months in the 18 months immediately preceding the date of the actual issuance of such additional parity Bonds, plus the increased annual Net Revenues expected to be received after the date of issuance of such parity Bonds shall not be less than 120% of the Maximum Annual Debt Service on the Bonds in any Fiscal Year) on the following:

- (1) The Prior Bonds then Outstanding;
- (2) The Series 2007 Bonds then Outstanding;
- (3) Any additional parity Bonds theretofore issued pursuant to the provisions contained in the Ordinance then Outstanding; and
- (4) The additional parity Bonds then proposed to be issued.

The "increased annual Net Revenues expected to be received" as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from any increase in rates enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to the date of delivery of such additional parity Bonds, and shall not exceed the amount to be stated in the aforementioned certificate of Independent Accountants, which shall be filed in the office of the Clerk of the Issuer prior to the issuance of such additional parity Bonds. For purposes of this test, the terms "Gross Revenues" and "Net Revenues" shall not include proceeds from the sale of capital assets.

The term "additional parity Bonds," as used in this section, shall be deemed to mean additional Bonds issued under the provisions and within the limitations of this section, payable from the Net Revenues of the System on a parity with the Bonds, and all the covenants and other provisions of the Ordinance (except as to details of such additional parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Series 2007 Bonds and the Holders of any additional parity Bonds theretofore or subsequently issued from time to time within the limitations of and in compliance with this section. All the Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Net Revenues of the System, and their source of and security for payment from said Net Revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in the Ordinance required for and on account of such additional parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to the Ordinance.

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

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

### **Limited Obligations**

The Series 2007 Bonds do not constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation on indebtedness. No registered owner of any Bond shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2007 Bonds or the interest thereon.

## **THE SERIES 2007 BONDS**

The Series 2007 Bonds are available in book-entry form only. See "BOOK-ENTRY ONLY SYSTEM" below. So long as Cede & Co. is the registered owner of the Series 2007 Bonds as nominee of The Depository Trust Company, New York, New York, references herein to the Bondholders or registered owners of the Series 2007 Bonds shall mean Cede & Co. and shall not mean the beneficial owners of the Series 2007 Bonds.

### **Description of the Series 2007 Bonds**

The Series 2007 Bonds are being issued in the form of term bonds, the interest on which accrues and is payable on May 1 and November 1 of each year, commencing May 1, 2008 (each a "Payment Date"). The Series 2007 Bonds are dated, bear interest and mature as set forth on the front cover of this Official Statement.

The Series 2007 Bonds are issued in fully registered form in denominations of \$5,000 principal amount and integral multiples thereof.

Interest on and principal of the Series 2007 Bonds are payable by the West Virginia Municipal Bond Commission, Charleston, West Virginia, as paying agent (the "Paying Agent") to Cede & Co. by wire transfer in immediately available funds in accordance with the terms of a Letter of Representation by and between the Issuer and DTC (the "Letter of Representation").

## Redemption

### Optional Redemption:\*

The Series 2007 Bonds are subject to redemption, at the option of the Issuer on or after November 1, 2015, in whole or in part, at any time by lot at an amount of the principal amount, plus interest, if any, accrued to the date fixed for redemption.

Unless waived by any holder of the Bonds to be redeemed, official notice of any redemption shall be given by the Registrar on behalf of the Issuer by mailing a copy of an official redemption notice by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the registered owner of the Note or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such registered owner to the Bond Registrar.

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

- (1) The redemption date,
- (2) The redemption price,
- (3) If less than all outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed,
- (4) That on the redemption date the Redemption Price and interest accrued will become due and payable upon each such Note or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date,
- (5) The place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the principal office of the Registrar, and,
- (6) Such other information, if any, as shall be required for DTC-Eligible Bonds.

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

\* Preliminary, subject to change.

### **BOOK-ENTRY ONLY SYSTEM**

The Series 2007 Bonds will be available in book-entry form only, in the authorized denominations set forth in the Ordinance. Purchasers of the Series 2007 Bonds will not receive certificates representing the interests in the Series 2007 Bonds purchased.

The following information concerning DTC and DTC's Book-Entry Only System has been obtained from DTC and contains statements that are believed to describe accurately DTC, the method of effecting book-entry transfers of securities distributed through DTC and certain related matters, but the Issuer and the Underwriter take no responsibility for the accuracy of such statements.

1. The Depository Trust Company ("DTC"), New York, NY, will act as securities depository for the Series 2007 Bonds (the "Securities"). The Securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative

of DTC. One fully-registered Security certificate will be issued for each issue of the Securities, each in the aggregate principal amount of such issue, and will be deposited with DTC.

2. DTC, the world's largest depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 2.2 million issues of U.S. and non-U.S. equity, corporate and municipal debt issues, and money market instrument from over 100 countries that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC, in turn, is owned by a number of Direct Participants of DTC and Members of the National Securities Clearing Corporation, Fixed Income Clearing Corporation, and Emerging Markets Clearing Corporation (NSCC, FICC, and EMCC, also subsidiaries of DTCC), as well as by the New York Stock Exchange, Inc., the American Stock Exchange LLC, and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has Standard & Poor's highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

3. Purchases of Securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the Securities on DTC's records. The ownership interest of each actual purchaser of each Security ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Securities, except in the event that use of the book-entry system for the Securities is discontinued.

4. To facilitate subsequent transfers, all Securities deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. or such other name as may be requested by an authorized representative of DTC. The deposit of Securities with DTC and their registration in the name of Cede & Co. or such other nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Securities; DTC's records reflect only the identity of the Direct Participants to whose accounts such Securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Securities may wish to take certain steps to augment transmission to them of notices of significant events with respect to the Securities, such as redemptions, tenders, defaults, and proposed amendments to the security documents. For example, Beneficial Owners of Securities may wish to ascertain that the nominee holding the Securities for their benefit has agreed to obtain and transmit notices to Beneficial Owners, in the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of the notices be provided directly to them.

6. Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

7. Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to the Securities unless authorized by a Direct Participant in accordance with DTC's Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and dividend payments on the Securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts, upon DTC's receipt of funds and corresponding detail information from Issuer or Agent on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC nor its nominee, Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

9. A Beneficial Owner shall give notice to elect to have its Securities purchased or tendered, through its Participant, to Agent, and shall effect delivery of such Securities by causing the Direct Participant to transfer the Participant's interest in the Securities, on DTC's records, to Agent. The requirement for physical delivery of Securities in connection with an optional tender or a mandatory purchase will be deemed satisfied when the ownership rights in the Securities are transferred by Direct Participants on DTC's records and followed by a book-entry credit of tendered Securities to Agent's DTC account.

10. DTC may discontinue providing its services as securities depository with respect to the Securities at any time by giving reasonable notice to Issuer or Agent. Under such circumstances, in the event that a successor securities depository is not obtained, Security certificates are required to be printed and delivered.

11. Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Security certificates will be printed and delivered to DTC.

12. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that Issuer believes to be reliable, but Issuer takes no responsibility for the accuracy thereof.

## **RISK FACTORS**

*The following discussion of risks is not meant to be an exhaustive list of the risks associated with the purchase of the Series 2007 Bonds, and the order in which the risks are described does not necessarily reflect the relative importance of the various risks.*

### **Limited Obligations**

The Series 2007 Bonds are limited obligations of the Issuer, payable from and secured by the Net Revenues of the System and from funds on deposit in the Sinking Fund and the reserve account established therefor. The obligation of the Issuer to pay debt service on the Series 2007 Bonds does not constitute an obligation of the

Issuer to levy or pledge any form of taxation or for which the Issuer has levied or pledged any form of taxation, and the Issuer shall not be obligated to pay the Series 2007 Bonds, or premium, if any, or the interest thereon, except from such Net Revenues and such funds on deposit in the Series 2007 Bonds Sinking Fund and reserve account for the Series 2007 Bonds.

### **Severe Financial Difficulties of the Issuer**

The Issuer has been experiencing severe financial difficulties for the past several years. These difficulties have arisen for a number of reasons. These reasons include, but are not limited to, a declining population and business base, increased operating and capital expenses and a limited ability as a West Virginia municipality to legally raise additional revenue. In addition, certain of the Issuer's retirement plans are severely underfunded. See discussion of Pension Fund Liabilities below. The Issuer's unfunded pension liabilities and other obligations are expected to place severe financial pressures on the Issuer for the foreseeable future. The Issuer has taken various actions to attempt to alleviate its financial condition. However, there is no assurance these actions will be successful. Should the Issuer be unable to alleviate its severe financial distress, then the Issuer's severe financial distress will continue. Such financial distress could negatively impact the repayment of the Series 2007 Bonds and could adversely affect their market value.

### **Fiscal Impact of Unfunded Pension Liabilities**

As of July 1, 2006, the date of the most recent actuarial valuations of the Issuer's Policemen's Pension and Relief Fund (the "Policemen's Plan") and the Issuer's Firemen's Pension and Relief Fund (the "Firemen's Plan" and together with the Policemen's Plan the "Pension Plans"), the total unfunded liability of the Pension Plans was \$125,512,233 (\$56,794,918 for the Policemen's Plan and \$68,717,315 for the Firemen's Plan).

The Issuer has elected to fund benefits under the Pension Plans using the "alternative minimum contribution methodology" as defined in West Virginia Code Section 8-22-20. The key features of the alternative minimum contribution methodology include:

1. The initial alternative contribution for plan year 1991 is the greater of 107% of the amount contributed for the plan year ending June 30, 1990, or the five-year average of contributions made since 1984.
2. The Issuer's contributions made in subsequent years cannot be less than 107% of the contribution made in the prior fiscal year.
3. The Issuer's actuary must certify in writing that each of the Pension Plans is projected to be solvent under the alternative contribution method for the next consecutive 15-year period. A plan is deemed to be solvent if projected assets are greater than zero over the 15-year projection period.

The following tables show funding progress for each of the plans and the Issuer's contributions into each of the plans for the past several years:

## I. SCHEDULES OF FUNDING PROGRESS

### Firemen's Pension and Relief Fund

<u>Actuarial Valuation Date</u>	<u>Market Value of Assets</u>	<u>Actuarial Accrued Liability (AAL)</u>	<u>Unfunded AAL (UAAL)</u>	<u>Funded Ratio</u>	<u>Covered Payroll</u>
7/1/04	424,983	65,057,295	64,632,312	1%	
7/1/05	1,064,842	67,138,938	66,074,096	2%	4,054,648
7/1/06	1,818,597	70,535,912	68,717,315	3%	4,238,353

### Police Pension & Relief Fund

7/1/04	2,360,235	55,421,562	53,061,327	4%	3,546,605
7/1/05	3,721,967	57,913,268	54,191,301	6%	4,052,062
7/1/06	5,277,416	62,072,334	56,794,918	9%	4,336,563

## II. SCHEDULES OF EMPLOYER CONTRIBUTIONS

The employer contributions as calculated in accordance with the West Virginia State Code alternative minimum annual employer contribution formula are as follows:

### Firemen's Pension and Relief

### Police Pension and Relief

<u>Fiscal Year Ending June 30</u>	<u>Annual Required Contribution</u>	<u>Percentage Contributed</u>	<u>Annual Required Contribution</u>	<u>Percentage Contributed</u>
2003	2,757,035	100%	2,705,314	100%
2004	2,950,027	100%	2,894,686	100%
2005	3,156,529	100%	3,126,261	100%
2006	3,377,486	100%	3,345,099	100%
2007	3,613,911	100%	3,579,256	100%

The Policemen's Plan experienced a total actuarial loss of \$2,702,915 and the Firemen's Plan experienced a total actuarial loss of \$2,340,917 during the plan year ending June 30, 2006. The key factors contributing to the experience loss included:

1. Asset Performance: The funds experienced returns on market value of assets lower than expected return.
2. Demographic Experience: An actuarial valuation is based on the expectation of certain events such as salary increases, retirement, disability, mortality, and termination. The key reasons causing the liability loss were loss due to:
  - A. Cost of living adjustments in 2006 greater than the assumed rate;
  - B. More active police retiring than expected;

- C. Salary growth rate in 2006 greater than the assumed rate;
- D. Fewer terminations than expected; and
- E. Refinements in the valuation methodology.

If the Issuer continues to contribute the alternative minimum amount, in the year 2021 based on an open group projection, the funded ratio of the Policemen's Plan is expected to be 86% and the funded ratio of the Firemen's Plan is expected to be 74%. In the year 2019, contributions will peak at 135% of payroll for the Policemen's Plan. In the year 2021, contributions will peak at 151% of payroll for the Firemen's Plan. After 2019 for the Policemen's Plan and after 2021 for the Firemen's Plan, the funded ratio exceeds 80% and the standard contribution is triggered. The Issuer's contributions are expected to grow rapidly, and then decline sharply once the funded ratio reaches 80%.

In addition, between now and the year standard contributions are triggered, the Issuer's required minimum contributions to the Pension Plans will continue to significantly increase each year. After such year, the ratio of required annual contributions to covered payroll will begin to decline. Unless relief is provided to the Issuer or additional funding mechanisms are approved by the State Legislature these increased contribution requirements along with other financial obligations of the Issuer will place the Issuer in chronic severe economic distress.

For the fiscal year ending June 30, 2008 projected contributions to the Policemen's Plan were 9.6% of the City's budgeted General Fund Revenues and projected contributions to the Firemen's Plan were 9.6% of the City's budgeted General Fund Revenues. The combined contributions for both plans were 19.2% of the City's budgeted General Fund Revenues. The City's Finance Department has projected that the City's General Fund Revenues will grow at an average pace of 4% per year over the next several years. Under the alternative minimum contribution methodology the City is obligated to annually increase its contributions to the plans by 7% each year. Unless the City's growth in General Fund Revenues is at least 7% each year, the portion of the City's budgeted General Fund Revenues that will be applied to contributions to the plans will continue to increase through at least 2019 for the Policemen's Plan and 2021 for the Fireman's Plan. Projecting growth in the City's General Fund Revenues over an extended period of time is highly speculative.

#### **Limitation on Remedies and Limited Recourse on Default**

The remedies available to the owners of the Series 2007 Bonds upon the occurrence of an event of default with respect to the Series 2007 Bonds are in many respects dependent upon judicial actions which are often subject to discretion and delay and could prove both expensive and time consuming to obtain.

In addition, the rights and remedies of the owners of the Series 2007 Bonds under the Ordinance and state law may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditor's rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to limitations on legal remedies against cities and sanitary boards in the State of West Virginia. The opinions delivered by Bond Counsel concurrently with the issuance of the Series 2007 Bonds will be subject to such limitations and the various legal opinions to be delivered concurrently with the issuance of the Series 2007 Bonds will be similarly qualified. See "APPENDIX D - FORM OF BOND COUNSEL OPINION."

Note that the Ordinance specifically provides that the Bondholders, in addition to all other remedies or rights available at law or in equity, shall have all rights specifically provided in Section 21 of the Act. Section 21 provides for judicial appointment of a receiver for the sewer system in order to administer the system so as to satisfy its various obligations. Note, also, that Section 21 has not been specifically construed by the West Virginia Supreme Court of Appeals.

## Secondary Market for Bonds

There can be no guarantee that there will be a secondary market for the Series 2007 Bonds or, if a secondary market exists, that any Series 2007 Bonds can be sold for any particular price. Occasionally, because of general market conditions or because of adverse history or economic prospects connected with a particular issue, secondary marketing practices in connection with a particular issue are suspended or terminated. Accordingly, prices of issues for which a market is being made will depend upon then-prevailing circumstances. Such prices could be substantially different from the original purchase price.

## Repayment of Overpayments

The Sanitary Board has a Service Agreement with West Virginia American Water Company ("WVAWC") to collect customer payments, among other things. In January 2002, an administrative change of WVAWC resulted in ongoing, regular overpayments by WVAWC to the Sanitary Board until October 2006 according to findings of the Staff of the West Virginia Public Service Commission (the "Staff"). On October 31, 2007 in *Huntington Sanitary Board v. West Virginia-American Water Company, P.S.C. Case No. 07-0753-S-C*, the Staff recommended "as resolution to this matter that the Board be ordered to repay WVAWC \$449,211.94 for overpayment of municipal excise taxes for the period of January 2002 to October 2006. This overpayment should be repaid in the amount of \$7,486.00 per month for a period of 60 months."

The Sanitary Board does not agree that the information presented establishes that there has been an overpayment, or that, if there has been an overpayment, that the amount of such overpayment is the amount reflected in the Staff recommendation. The parties expect there will be a hearing on the matter, and the Administrative Law Judge decision due date is May 28, 2008.

## THE SYSTEM

### Organization and Administration

The Sanitary Board was created by City Council pursuant to the Act and an ordinance adopted October 11, 1935, which placed the custody, administration, operation and maintenance of the System under the supervision and control of the Sanitary Board. City Council retains the power to establish and maintain rates and charges for the use of services provided by the System and to issue bonds on behalf of the City for the purpose of paying the costs of improvements and extensions to the System. The Sanitary Board is appointed by City Council and consists of the Mayor, who acts as Chairman, and two other persons, one of whom must be a registered professional engineer. The Mayor's term on the Sanitary Board coincides with his term as Mayor of the City of Huntington, and the other members are appointed for terms of three years.

The present membership of the Sanitary Board is as follows:

David A. Felinton	Mayor and Chairman
John J. Klim, Jr.	Member
James D. Ashworth	Member, Vice-Chairman and Engineer

Certain administrative staff members employed by the Sanitary Board are as follows:

J. Bruce Fox	Executive Director
Matthew Kirk	Manager of Field Operations
Michael Copley	Manager of Plant Operations
Edward Romans	Plant Superintendent
Jackie Lowery	Accountant

**Properties and Services**

The System consists of approximately 300 miles of combined and sanitary sewer lines, approximately twelve miles of force main sewer lines, thirty sewage lift stations and a 17.0MGD wastewater treatment plant. The wastewater treatment plant is located in the extreme western portion of the City on 17.47 acres of property owned by the City. The System provides sewage collection and treatment services to more than 95% of the population of the City and to the residents of four public service districts and two municipalities located outside the City. The System is a "combined system" in that both storm water run-off and sanitary sewage are handled. Treated effluent is discharged into the Ohio River west of the City.

The original wastewater treatment plant began operating in 1964 and provided primary treatment of wastewater received from the City, the Spring Valley Public Service District and the Monel Park Public Service District. In 1984, in response to orders issued by the Ohio River Valley Sanitation Commission, the United States Environmental Protection Agency and the West Virginia Department of Natural Resources, the existing treatment processes at the facilities were upgraded from primary to secondary treatment. Following the completion of this process upgrade, additional service area was added to the wastewater treatment facilities by adding to the System the Pea Ridge Public Service District, Northern Wayne Public Service District and the cities of Ceredo and Kenova, West Virginia.

Following the completion of the Sewage Sludge Disposal Facilities in 1989, the Sanitary Board initiated a \$3,000,000 capital upgrade program to repair, modify and upgrade the mechanical, electrical, instrumentation and control components throughout the collection system. To date, in addition to approximately \$445,500 in labor and materials, the Board has expended approximately \$1,000,000 on equipment and services relative to this system upgrade program from its general revenues.

On October 16, 1989, a sewage sludge disposal system was completed at the Treatment Plant which utilizes West Virginia (Bituminous) coal in the treatment process to improve the quality of wastewater returned to the environment and meet the goal of the Federal Water Pollution Control Act to make rivers, lakes and streams fishable and swimmable.

An average daily flow volume of approximately 13 million gallons per day is received at the Treatment Plant and is subject to a treatment process consisting of screening, grit collection, preairation, primary sedimentation, stabilization utilizing the activated sludge process, secondary clarification and chlorination prior to discharge into the Ohio River. The primary and secondary treatment facilities are designed for an average daily flow of 17 million gallons per day.

The treatment processes at the Treatment Plant currently produces approximately 26,000 wet tons of sewage sludge annually. The sludge dewatering and disposal facilities utilize continuous belt filter presses to convert the liquid sludges from the wastewater treatment processes into filter cake which contains approximately 24% solids and 76% water. The filter cake is then mixed with coal and fed into a fluidized bed disposal system where it is burned at about 1600 degrees Fahrenheit. This process has proven to be an extremely cost effective system for the Sanitary Board.

The heart of the disposal system is a fluidized bed reactor which contains a bed of sand. Just before start-up, the stationary bed of hot sand inside the reactor is about 3-1/2 feet deep. When the fluidizing blower is turned on, the stationary bed of sand expands approximately 30-35%, to approximately 5 feet as the hot air forces its way upward through the bed. At this time, the bed is said to be fluidized, which means that each individual grain of red hot sand is suspended in the rising stream of hot gases and a given grain of sand is free to wander throughout the bed in a random manner. Each grain is surrounded by a "cushion" of rising gas.

The bed of sand resembles a tank of boiling water in the sense that a definite bed level is maintained and there is considerable turbulence or “splashing” at the bed surface. There is another similarity between the fluidized bed and a tank of boiling water and that pertains to the density of the fluidized sand. Each cubic foot of fluidized sand has the same density as that of a cubic foot of water.

During the 2007 Fiscal Year the heat exchanger component of the disposal system was repaired at a cost of approximately \$2,100,000.

### Future Projects

Item Number	Major Equipment	A Estimated Age (YEARS)	B Useful Life (YEARS)	C Remaining Useful Life (B-A) (YEARS)	D Replacement Cost (\$)	E Annualized Cost (D/C) (\$)
1	Pump Structures& Equip*	46	60	14	\$6,000,000	\$428,571
2	Control Panels Plant	20	40	20	\$750,000	\$37,500
3	Galleries and Tunnels	46	60	14	\$500,000	\$35,714
4	Sewer Mains	46	50	4	\$12,735,876	\$6,026,788
5	Treatment Plant/Equip.	20	40	20	\$750,000	\$37,500
6	Pump Station Upgrades	36	63	27	\$35,601,054	\$4,811,254
7	Valves	1	20	19	\$575,000	\$33,798
8	Service Lines	49	50	1	\$49,500	\$49,500
9	Manholes	49	50	1	\$342,700	\$73,313
10	Lab/Monitoring Equip.	NA	12	6	\$150,000	NA
11	Tools, Shop Equip.	NA	10	NA	\$100,000	NA
12	Vactor Hoses, Misc	NA	10	NA	\$25,000	NA
13	Backhoes/Trucks/Other	9	15	6	\$1,906,320	\$811,833
					\$59,485,450	\$12,345,771

### Total Annualized Cost

Future projects include a major repair or replacement of the existing disposal system. This project is expected to be complete within approximately 5 years at a cost of \$15,000,000 to \$18,000,000. A second major project is the Hal Greer Boulevard/Route 10 Sewer Line Extension. This project is expected to be complete within the next 2 to 3 years and is currently estimated to cost approximately \$3,600,000.

The table below presents a summary of estimates by the Sanitation Board for capital improvements between FY 2007 and FY 2011.

- Years proposed FY, 2008, 2010, 2012, 2014, priority stations from left to right funding available.
- Pats Branch, 13th Street, 4th Street, 5th Avenue, control panels, pumps, valves, roofs from needs list
- Plan for construction includes a year for construction/ year for planning each site.
- Four Pole upgrade FY 2000 estimate Burgess & Niple \$1,362,300 NASA inflation calculation % 1.145 or \$1,559,834.
- Propose comparable upgrades at Pats Branch, 13th Street, 4th Street, 5th Avenue, (13th) \$ 6,000,000 recent 1/2 rehabilitation
- 13th Street control panel rehabilitation due to fire damage at site, gallery work not specified.

**Customers**

The number of sewer connections served by the System in each of the past five years is as follows:

2003.....	23,082
2004.....	22,554
2005.....	22,622
2006.....	22,521
2007.....	22,404

The customer breakout for 2007 is as follows:

Residential .....	20,458
Commercial .....	1,915
Industrial .....	31

Approximately 15.54% of the volume of wastewater treated by the System is industrial waste discharged into the System pursuant to special permits issued by the Sanitary Board. The permits are required by the Sanitary Board in order to control the discharge of certain contaminants.

The major source of industrial wastes are shown in the table below:

	Approximate Avg. Daily Volume gal./day	Type of <u>Industry</u>
Special Metals	885,404	Nickel alloys
Flint Ink	280,849	Organic dyes
Steel of West Virginia, Inc.	248,954	Manufacture steel
Leachate Disposal (Various)	207,600	Disposal
Cabell Huntington Hospital	179,147	Hospital
St. Mary's Hospital	174,758	Hospital
Veterans Administration	106,573	Hospital
CSX Corporation	57,063	Locomotive shop
ACF Industries, Inc.	11,362	Railroad cars
Tri-State Plating	1,212	Metal plating
Huntington Plating, Inc.	906	Metal plating

The Sanitary Board, by agreement, treats the wastewater emanating from the Spring Valley and Ohio River Public Service Districts. Each District pays to the Sanitary Board a sewer service charge equal to \$2.33 per 1,000 gallons, based on water usage.

The Sanitary Board by agreement treats the wastewater emanating from Northern Wayne Public Service District and the cities of Ceredo and Kenova which agreements have terms of forty years, commencing February 10, 1989, July 9, 1991 and August 7, 1991, respectively. Northern Wayne as well as Ceredo and Kenova's sewage collection system connect to the Sanitary Board facilities at the Treatment Plant and each pays the Sanitary Board \$1.886 per 1,000 gallons, based on sewage flow from flow meter reading.

Source: Sanitary Board

## Operational Arrangements with Third Parties

The Sanitary Board has engaged West Virginia American Water Company (the "Water Company") to perform customer billing, accounting and collecting services. The Water Company is a Delaware corporation which owns and operates the water works in the City. Such services are performed by the Water Company pursuant to a contract which requires weekly deposits into a Sanitary Board bank account of all monies collected on behalf of the Sanitary Board. The Sanitary Board pays the Water Company on the basis of the pro rata costs of providing such service as determined in the contract. The present amount paid under the contract is approximately \$213,000 per year.

## SUMMARY OF DELINQUENT ACCOUNTS

<b>Year Ended June 30</b>	<b>Sewer Charges Billed</b>	<b>Sewer Charges Received</b>	<b>Accounts Written Off</b>
2007	\$9,306,019	\$9,293,589	\$165,289
2006	9,162,976	8,696,074	263,031
2005	8,800,531	8,338,868	162,240
2004	6,622,788	6,663,702	124,863
2003	6,996,921	7,064,306	186,441
2002	6,833,765	6,674,002	82,221

The Water Company provides sewer delinquent notices, termination notices and other customer notices and terminates the water service of a customer for non-payment of sewer charges on behalf of the Sanitary Board.

The City has covenanted to diligently enforce and collect all fees and charges as described in "SUMMARY OF CERTAIN PROVISIONS OF THE ORDINANCE -- General Covenants -- Enforcement of Collections" herein.

### **Labor**

The Sanitary Board directly employs 66 full-time personnel, most of whom work at the Treatment Plant. Wage levels for non-supervisory employees of the Sanitary Board are determined by the Board.

### **Pensions and Retirement Plans**

All employees of the Sanitary Board are covered by the State of West Virginia Public Employee Retirement System. The Sanitary Board makes payments to the retirement system equal to 10.5% of payroll expense, which percentage is subject to change in the future. Employees contribute 4.5% of their compensation to the retirement plan.

### **Rates**

Pursuant to the Act, the governing body of a municipality, or independent board charged with such responsibility, must establish and maintain rates and charges for the use of and the service rendered by its municipal

sewage system sufficient for the payment of sums required to be paid into a sinking fund and to provide for the repair, replacement, maintenance and operation of the System.

The Act provides that rates and charges shall be established by ordinance, but only after the ordinance has been advertised and a public hearing has been held.

Rates and charges established by municipally operated utilities must be just, reasonable, applied without unjust discrimination or preference and based primarily on the costs of providing service. Such rates and charges must be filed with the PSC together with information showing the basis of such rates, but generally are not subject to regulatory approval. However, any customer of a municipally operated utility aggrieved by a rate change may present to the PSC, within 30 days of the adoption of the ordinance providing for the change, a petition signed by not less than 25 percent of the customers served by the utility. Within 100 days from the filing of any such petition a hearing examiner must conduct a public hearing and issue an order approving, disapproving or modifying the rate increase. Such order has the full force and effect of an order issued by the PSC. Also, if a municipally operated utility serves customers outside the boundaries of the municipality, the PSC is empowered to review, approve or modify such rates if, within 30 days of the adoption of the ordinance providing for such rates, an extra-territorial customer alleges that such rates are discriminatory. The PSC may determine the method by which such rates are reviewed and may grant and conduct a new hearing of the matter if the customer of the municipality requests such a hearing.

On May 24, 2004, the City of Huntington passed a sewer rate ordinance establishing new rates and charges for the System. On June 24, 2004, the PSC asserted jurisdiction over the rate ordinance, due to protests received by a customer. By Commission Order entered on January 5, 2004, in Case No. 03-1678-S-C and Case No. 04-0949-S-MA, the Commission approved the following rates and surcharges for the System:

SCHEDULE I

APPLICABILITY

Applicable within the entire territory served

AVAILABILITY OF SERVICE

Available for domestic, commercial and industrial sewer service (except unusual industrial waste)

RATES

Customer Charge			\$2.49 per month
First	2,240	gallons of water used per month	\$3.35 per 1,000 gallons
Next	12,720	gallons of water used per month	\$3.30 per 1,000 gallons
Next	134,640	gallons of water used per month	\$3.14 per 1,000 gallons
Next	7,330,000	gallons of water used per month	\$3.04 per 1,000 gallons
All Over	7,480,000	gallons of water used per month	\$1.41 per 1,000 gallons

FLAT RATE CHARGE (non metered water supply)

Equivalent of 4,500 gallons of water usage \$17.45 per month.

MINIMUM CHARGE

No bill will be rendered for less than \$2.49 per month which is the equivalent of the customer charge.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

DISCONNECT/RECONNECT/ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with the West Virginia American Water Company, a disconnection fee of \$25.00 shall be charge; or in the event the delinquent sewer bill is collected by the water company, an administrative fee of \$25.00 will be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with the West Virginia American Water Company, is reconnected a reconnection fee of \$25.00 shall be charged.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

The following charges ar to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of \$900.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

LEAK ADJUSTMENT

\$.33 per 1,000 gallons of water is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on customer's side of meter. This rate shall be applied to all such consumption above the customer's historical average usage.

INDUSTRIAL SURCHARGE RATES

Rate applicable to Biological Oxygen Demand (BOD)

Concentration in excess of 300 mg/l                      \$.12/pound

Rate applicable to Total Suspended Solids (TSS)

Concentration in excess of 350/mg/l                      \$.106/pound

## SCHEDULE II

### APPLICABILITY

Applicable in entire territory served

### AVAILABILITY OF SERVICE

Available for resale customers

### RESALE RATES

Based on flow of sewage from flow meter reading	\$1.886 per 1,000 gallons
Based on water usage	\$2.330 per 1,000 gallons

### RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

### DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

## SCHEDULE III

### APPLICABILITY

Applicable in entire territory served

### AVAILABILITY OF SERVICE

Available for wastewater and leachate haulers

### RATES

Commodity Charge - Each hauler shall pay a commodity charge of \$30.00 per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined or verified by the City.

### RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

### DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

SCHEDULE IV

MUNICIPAL EXCISE TAX SURCHARGE

The municipality listed below, having imposed public utility tax computed on the basis of two percent of revenues from sewer service sales by the sewer utility within the corporate limits of such municipalities, shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

The sewer utility is required to collect the utility tax pursuant to West Virginia Code Section 8-13-5a.

Customers receiving sewer service within the corporate limits of the specified municipality shall pay a surcharge on the following surcharge rates.

Utility Excise Tax

<u>Municipality</u>	<u>Local Tax Rate</u>	<u>Surcharge Rate</u>
Huntington	2%	2%

Notwithstanding the rates set forth above, the ordinance provides that the minimum charges for sewer service shall be \$2.49 per month.

Charges for service, if not paid when due, shall constitute a lien upon the property served. Charges not paid within 30 days of their due date, plus a 10% penalty, may be recovered by civil action and the lien may be foreclosed against the delinquent property.

The Sanitary Board estimates that a typical household uses approximately 4500 gallons of water per month resulting in a sewer bill of approximately \$17.45 per month.

**System Budget and Expenditure**

An operating budget is prepared annually by the Secretary-Treasurer and is approved by the Sanitary Board no later than one month before the new fiscal year begins. The budget is compared to actual year-to-date revenues and expenditures monthly.

The operating budget for the fiscal year ending June 30, 2008 is as follows:

	<u>Annual Budget</u>
Operating Revenues and Non-Operating Revenues	\$ 9,274,200
Operating Expenses	<u>6,445,942</u>
Total Revenue Available for Debt Service	\$ 2,828,258
Less: Surcharge Revenues*	(\$ 507,292)
Net Available for Debt Service	<u>\$2,320,966</u>
Maximum Annual Debt Service on Parity Bonds**	(\$1,261,484)
Debt Coverage Ratio (1.20 required)	<u>1.84%</u>

\* The surcharge of \$2 per customer bill was security for Series 2006 B Bonds that have been defeased. The Sanitary Board will cease collecting the surcharge in the near future.

\*\* Includes projected debt service on Series 2007 Bonds.

Purchases over \$5,000 are required by State law to be advertised for bids. The bids are reviewed and approved by the Sanitary Board. All other purchases are authorized by the division supervisors. Formal quotations are sought for purchases between \$1,000 and \$5,000 and some purchases within this cost range are advertised and bid when thought appropriate. Invoices over \$500 are presented to the Sanitary Board for approval of payment.

Source: Sanitary Board

### **Method of Accounting**

The Sanitary Board maintains its accounts on an accrual basis and in accordance with the guidelines of the PSC and generally accepted accounting principles. With respect to operating revenues and expenses, the Sanitary Board accounts are maintained in accordance with generally accepted accounting principles. The audit for the fiscal year ending June 30, 2007 has not been completed. (See "Appendix A - "Financial Statements of the City and Sanitary Board" herein.)

### **Coverage Ratios**

Under the Ordinances relating to the issuance of the Prior Bonds, the City has covenanted to collect fees and charges such that Net Revenues available for debt service are not less than 120% of the average annual debt service on all Prior Bonds and on all bonds issued on a parity with the Prior Bonds.

The following table presents the historical debt service coverage ratio for the fiscal years ended June 30, 2005, 2006, 2007 and the 2008 budget.

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HISTORICAL DEBT SERVICE COVERAGE RATIO

*Debt Service Coverage*

Description	Fiscal Year Ending June 30			Budget 2008
	2005	2006	2007	
<b>System Revenues</b>				
Operating	\$8,323,300	\$8,391,005	\$8,539,095	\$8,657,208
Surcharge	\$477,231	\$771,971	\$766,924	---
Non-Operating	\$382,695	\$166,305	\$180,582	\$109,700
<b>Total</b>	<b>\$9,183,226</b>	<b>\$9,329,281</b>	<b>\$9,486,601</b>	<b>\$8,766,908</b>
<b>System Expenses</b>				
Operating Expenses	\$6,304,469	\$6,861,362	\$6,547,557	\$6,407,372
Depreciation Expense	\$2,108,347	\$2,083,885	\$2,131,146	\$2,120,400
Interest Expense	\$513,671	\$499,951	\$542,453	\$536,200
Non-Operating Expenses	\$96,859	\$41,924	\$45,070	\$38,570
<b>Total</b>	<b>\$9,023,346</b>	<b>\$9,487,122</b>	<b>\$9,266,226</b>	<b>\$9,102,542</b>
Net Income	\$159,880	(\$157,841)	\$220,375	(\$335,634)
Less: Surcharge Revenues	(\$477,231)	(\$771,971)	(\$766,924)	---
Add back:				
Depreciation Expense	\$2,108,347	\$2,083,885	\$2,131,146	\$2,120,400
Interest Expense	\$513,671	\$499,951	\$542,453	\$536,200
<b>Net Available for Debt Service</b>	<b>\$2,304,667</b>	<b>\$1,654,024</b>	<b>\$2,127,050</b>	<b>\$2,320,966</b>
<b>Debt Service Requirement</b>				
Maximum Annual (Parity Bonds)*	\$1,261,484	\$1,261,484	\$1,261,484	\$1,297,332
<b>Coverage Ratio</b>				
Maximum Annual	1.83	1.31	1.69	1.79

*Source: Compiled by the Sanitary Board from the annual Public Service Commission reports and from the compilation on reports prepared in-house.*

\*The surcharge of \$2 per customer bill was security for Series 2006 B Bonds that have been defeased. The Sanitary Board will cease collecting the surcharge in the near future.

*Source: Compiled by the Sanitary Board from the annual Public Service Commission reports and from the compilation on reports prepared in-house.*

### Annual Debt Service Requirements\*

The following table sets forth for each fiscal year during which the Series 2007 Bonds will be outstanding the principal of and interest on the Series 2007 Bonds and the amounts payable from Gross Revenues as principal of and interest on the Prior Bonds.

FY Ending June 30	Existing Net Bond Payments**	----- Series 2007 Bonds -----			Total Payments	Net Total Payment
		Principal Portion	Interest Portion	LESS: DSR Principal		
2007	\$526,997					\$526,997
2008	\$846,523		\$80,624		\$80,624	\$927,147
2009	\$857,231	\$240,000	\$196,090		\$436,090	\$1,293,321
2010	\$851,919	\$255,000	\$187,611		\$442,611	\$1,294,531
2011	\$850,853	\$265,000	\$178,575		\$443,575	\$1,294,428
2012	\$844,020	\$280,000	\$168,968		\$448,968	\$1,292,988
2013	\$841,243	\$295,000	\$158,688		\$453,688	\$1,294,930
2014	\$837,553	\$305,000	\$147,888		\$452,888	\$1,290,440
2015	\$832,923	\$325,000	\$136,548		\$461,548	\$1,294,470
2016	\$827,348	\$340,000	\$124,493		\$464,493	\$1,291,840
2017	\$510,875	\$330,000	\$112,183		\$442,183	\$953,057
2018	\$427,900	\$345,000	\$99,609		\$444,609	\$872,509
2019	\$181,053	\$360,000	\$86,300		\$446,300	\$627,353
2020	\$100,610	\$375,000	\$72,335		\$447,335	\$547,945
2021	\$114,756	\$390,000	\$57,605		\$447,605	\$562,361
2022	(\$72,148)	\$400,000	\$42,000		\$442,000	\$369,852
2023	\$0	\$415,000	\$25,700		\$440,700	\$440,700
2024	\$0	\$435,000	\$8,700	(\$470,698)	(\$26,998)	(\$26,998)
2025	\$0					\$0
Totals:	\$9,379,656	\$5,355,000	\$1,883,914	(\$470,698)	\$6,768,216	\$16,147,872

\* Projected

\*\* Does not include Refunding Bonds

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## SUMMARY OF CERTAIN PROVISIONS OF THE ORDINANCE

The following is a summary of certain provisions of the Ordinance. The summary does not purport to be a comprehensive statement of the terms and provisions thereof, for which reference is made to the complete text of the Ordinance, copies of which may be obtained from the Issuer, or, during the period of the offering of the Series 2007 Bonds, from the Underwriter.

### Certain Definitions

All capitalized terms used in the Ordinance and not otherwise defined in the recitals hereto shall have the meanings specified below, unless the context expressly requires otherwise:

“Act” means Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended and in effect on the date of delivery of the Series 2007 Bonds.

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

“Authorized Officer” means the Mayor of the Issuer or any other officer of the Issuer specifically designated by resolution of the Council of the Issuer.

“Board” or “Sanitary Board” means the Sanitary Board of the Issuer.

“Bond Commission” means the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia which succeeds to the functions of the Bond Commission.

“Bond Counsel” shall mean any law firm having a national reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds, appointed by the Issuer or the Sanitary Board, and shall initially mean Steptoe & Johnson PLLC, Huntington, West Virginia.

“Bond Insurer” means any entity which shall insure all or any portion of the payment of principal of and interest on the Bonds.

“Bond Register” means the books of the Issuer maintained by the Registrar for the registration and transfer of Bonds.

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

“Bonds” means, collectively, the Series 2000 A Bonds, the Series 1997 Bonds, the Series 1999 Bonds, the the Series 2006 A Bonds, Series 2007 Bonds, and any additional parity Bonds hereafter issued within the terms, restrictions and conditions contained in the Ordinance.

“Business Day” means any day other than a Saturday, Sunday or a day on which national banking associations or West Virginia banking corporations are authorized by law to remain closed.

“Certificate of Authentication and Registration” means the Certificate of Authentication and Registration on the Series 2007 Bonds, respectively, in substantially the forms set forth in EXHIBIT A - FORM OF SERIES 2007 BOND attached to the Ordinance.

“City” or “Issuer” means the The City of Huntington, a municipal corporation and political subdivision of the State of West Virginia, in Cabell and Wayne Counties thereof, and, unless the context clearly indicates otherwise, includes the Governing Body and the Sanitary Board of the Issuer and any other commission, board or department established by the Issuer to operate and maintain the System.

“City Clerk” or “Clerk” means the City Clerk of the Issuer.

“Closing Date” means the date upon which there is an exchange of the Series 2007 Bonds for the proceeds representing the original purchase price thereof.

“Code” shall mean the Internal Revenue Code of 1986, as amended and supplemented from time to time, and Regulations thereunder.

“Consulting Engineers” means any qualified engineer or engineers or firm or firms of engineers that shall at any time now or hereafter be retained by the Issuer as Consulting Engineers for the System, or portion thereof.

“Costs” or similar terms, means all those costs now or hereafter permitted by the Act to be financed with bonds issued pursuant hereto, including, without limitation, the costs of refunding the Series 1993 Bonds, and accrued interest thereon; amounts which may be deposited in the respective Reserve Accounts; engineering, and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; the payment of the refunding of the Series 1993 Bonds, premiums for municipal bond insurance, if any, and reserve account insurance, letter of credit fees, fiscal agent fees and expenses, underwriter’s discount, initial fees for the services of registrars, paying agents, depositories, trustees or escrow trustees, or other costs in connection with the sale of the Series 2007 Bonds, and the payment of the refunding of the Series 1993 Bonds, and such other expenses as may be necessary or incidental to the financing herein authorized, 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 2007 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes, shall be deemed Costs.

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

“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.

“Debt Service,” with reference to a specified period, means the amount of principal, including any sinking fund payments, and interest payable with respect to the Bonds during such period.

“Depository Bank” means the bank or banks to be designated as such in the Supplemental Resolution, and any other bank or national banking association located in the State of West Virginia, eligible under the laws of the State of West Virginia to receive deposits of state and municipal funds and insured by the FDIC that may hereafter be appointed by the Issuer as Depository Bank.

“Depreciation Fund” means the Depreciation Fund established by the Prior Ordinances and continued by the Ordinance.

“DTC” means The Depository Trust Company, New York, New York or its successor.

“DTC-eligible” means, with respect to the Series 2007 Bonds, meeting the qualifications prescribed by DTC.

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

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

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

“Governing Body” means the Council of the Issuer or any other governing body of the Issuer that succeeds to the functions of the Council, as it may now or hereafter be constituted.

“Government Obligations” means certificates or interest-bearing notes or obligations of the United States, or those for which the full faith and credit of the United States are pledged for the payment of principal and interest.

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

“Independent 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 purpose except keeping the accounts of said System in the normal operations of its business and affairs.

“Maximum Annual Debt Service” means, at the time of computation, the greatest amount of Debt Service required to be paid on the Bonds for the then current or any succeeding Fiscal Year, assuming that the principal of any Term Bonds is deemed due on the earlier of their stated maturity date or the date on which they are required to be redeemed pursuant to mandatory sinking fund redemption.

“Mayor” means the current Mayor of the Issuer.

“Net Proceeds” means the face amount of the Series 2007 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Series 2007 Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from investment of proceeds of the Series 2007 Bonds without regard to whether or not such investment is made in tax-exempt obligations.

“Net Revenues” means the balance of Gross Revenues remaining after deduction of Operating Expenses, as defined in the Ordinance.

“Operating Expenses,” unless qualified, means the current expenses, paid or accrued, of repair, operation and maintenance of the System, and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses (other than those capitalized as part of the costs of any project relating to the acquisition or construction of additions, betterments or improvements for the System), supplies, labor, wages, the cost of materials and supplies used for current operations, fees and expenses of fiscal agents and of the Depository Bank, Registrar and Paying Agent or Paying Agents, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that “Operating Expenses” does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of or any decrease in the value of capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

“Ordinance” regardless of whether preceded by the article “the” or “this,” means the Ordinance, as it may hereafter from time to time be amended or supplemented, by ordinance or by resolution.

“Original Purchaser” means Ross, Sinclaire & Associates, LLC, Frankfort, Kentucky, as the purchaser of the Series 2007 Bonds directly from the Issuer, or, if the Issuer and such Original Purchaser do not agree to the purchase of the Series 2007 Bonds with interest rates and other terms allowable under the Act, such other person or persons, firm or firms, bank or banks, corporation or corporations or such other entity or entities as shall purchase the Series 2007 Bonds directly from the Issuer, as determined by a resolution supplemental hereto; provided, that the Original Purchaser and the Issuer shall agree to the purchase of the Series 2007 Bonds, as hereinafter defined, including the exact principal amount thereof and interest rate or rates thereon as fixed by said supplemental resolution to be adopted by the Council at the time of approval of such sale of said Series 2007 Bonds.

“Outstanding,” when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being issued and delivered except (a) any Bond or Prior Bond canceled by the registrar for such Bond or Prior Bond at or prior to said date; (b) any Bond or Prior Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity, shall be held in trust under the Ordinance and set aside for such payment (whether upon or prior to maturity); (c) any Bond deemed to have been paid as provided by Section 9.01; and (d) with respect to determining the number or percentage of Bondholders or Bonds for the purpose of consents, notices and the like, any Bond registered to the Issuer. Notwithstanding the foregoing, in the event that a Bond Insurer has paid principal of and/or interest on any Bond, such Bond shall be deemed to be Outstanding until such time as such Bond Insurer has been reimbursed in full.

“Paying Agent” means the Bond Commission and any other paying agent for the Bonds which may be appointed by a resolution supplemental hereto, all in accordance with Section 8.12 of the Ordinance.

“Prior Bonds” shall mean collectively, the Series 1993 Bonds, the Series 1997 Bonds, the Series 1999 Bonds, the Series 2000 A Bonds and the Series 2006 A Bonds.

“Prior Ordinances” shall mean the Ordinances enacted authorizing the issuance of the Prior Bonds.

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

“Qualified Investments” means and includes the investments set forth in the Supplemental Resolution and designated as such.

“Rebate Fund” means the Rebate Fund established by Section 4.01 of the Ordinance.

“Record Date” means the day of the month which shall be so stated in the Bonds, regardless of whether such day is a Saturday, Sunday or legal holiday.

“Redemption Account” means, collectively, the respective redemption accounts created for the Series 2007 Bonds by Section 4.02 of the Ordinance.

“Redemption Date” means the date fixed for redemption of Bonds subject to redemption in any notice of redemption published or mailed in accordance with the Ordinance.

“Redemption Price” means the price at which the Bonds may be called for redemption and includes the principal amount of the Bonds to be redeemed, plus the premium, if any, required to be paid to effect such redemption.

“Registered Owner,” “Bondholder,” “Holder of the Bonds,” “Owner of the Bonds” or any similar term means any person who shall be the registered owner of any outstanding Bond.

“Registrar” means the bank to be designated in the Supplemental Resolution as the registrar for the Series 2007 Bonds, and any successor thereto appointed in accordance with Section 8.08 of the Ordinance.

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

“Reserve Accounts” means, collectively, the respective Reserve Accounts created for the Series 2007 Bonds and the Prior Bonds.

“Reserve Account Requirement” means, collectively, the respective amount required to be on deposit in the respective Reserve Accounts for the Series 2007 Bonds and the Prior Bonds.

“Revenue Fund” means the Revenue Fund established by the Prior Ordinances and continued hereby.

“Sanitary Board” means the Sanitary Board of the Issuer.

“Series 1993 Bonds” means the Issuer’s Sewerage System Refunding Revenue Bonds, Series 1993, dated January 1, 1993, issued in the original aggregate principal amount of \$7,100,000.

“Series 1997 Bonds” means the Issuer’s Sewerage System Refunding Revenue Bonds, Series 1997 (West Virginia SRF Program), dated January 25, 1997, issued in the original aggregate principal amount of \$3,039,895.

“Series 1999 Bonds” means the Issuer’s Sewerage System Refunding Revenue Bonds, Series 1999 (West Virginia SRF Program), dated June 22, 1999, issued in the original aggregate principal amount of \$2,083,550.

“Series 2000 A Bonds” means the Issuer’s Sewerage System Refunding Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated October 24, 2000, issued in the original aggregate principal amount of \$1,867,098.

“Series 2006 A Bonds” means, the Issuer’s Sewer Revenue Bonds, Series 2006 A, dated November 30, 2006, issued in the original aggregate principal amount of \$3,150,000.

“Series 2007 Bonds” means the Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt), of the Issuer, originally authorized to be issued pursuant to the Ordinance and the Supplemental Resolution.

“Series 2007 Bonds Reserve Account” means the Series 2007 Bonds Reserve Account established in the Series 2007 Bonds Sinking Fund pursuant to Section 4.01 of the Ordinance.

“Series 2007 Bonds Reserve Account Requirement” means, as of any date of calculation, Maximum Annual Debt Service for the Series 2007 Bonds.

“Series 2007 Bonds Sinking Fund” means the Series 2007 Bonds Sinking Fund established by Section 4.02 of the Ordinance.

“Sinking Funds” means, collectively, the respective sinking funds created for the Series 2007 Bonds and the Prior Bonds.

“State” means the State of West Virginia.

“Supplemental Resolution” means any ordinances or resolutions amendatory of the Ordinance or supplemental hereto and, when preceded by the article “the,” refers specifically to the Supplemental Resolution(s) to be adopted by the Issuer following enactment of the Ordinance, setting forth the final amounts, maturities, interest rates and other terms of the Series 2007 Bonds and authorizing the sale of the Series 2007 Bonds to the Original Purchaser; provided, that any provision intended to be included in the Supplemental Resolution and not so included may be contained in any other Supplemental Resolution.

“Surplus Revenues” means the Net Revenues not required by the Ordinance to be set aside and held for the payment of or security for the Bonds or any other obligations of the Issuer, including, without limitation, the Depreciation Fund.

“System” means, collectively, the complete existing public municipal sewerage treatment and collection system of the Issuer, and shall include any additions, betterments and improvements thereto hereafter acquired or constructed for the System from any sources whatsoever, both within and without the issuer.

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

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

### **General Covenants**

Sale of the System. So long as the Prior Bonds or the Series 2007 Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of or encumber the System except as provided in the Ordinance, and the Prior Ordinances. The System may be sold, mortgaged, leased or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to defease the pledge created by the Ordinance as provided by Section 9.01. The proceeds from such sale, mortgage, lease or other disposition of the System shall be immediately remitted to the Bond Commission for deposit in the Sinking Fund, and otherwise as prescribed by Section 9.01. Any balance remaining after such defeasance shall be remitted to the Issuer by the Bond 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 is not in excess of \$50,000, the Issuer shall, in writing, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Issuer may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Revenue Fund. If the amount to be received from such sale, lease or other disposition of said property shall be in excess of \$50,000 but not in excess of \$200,000, the Issuer shall first, in writing, determine with the written approval of the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Issuer may then, if it be so advised, by resolution duly adopted, approve and concur in such finding and authorize such sale, lease or other disposition of such property in accordance with the laws of the State. The proceeds derived from any such sale, lease or other disposition of such property, in excess of \$50,000 and not in excess of \$200,000, shall be deposited by the Issuer into the Depreciation Fund. Such payments of such proceeds into the Depreciation Fund or the Depreciation Account shall reduce the amounts required to be paid into said funds by other provisions of the Ordinance.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom shall be in excess of \$200,000 and insufficient to defease the pledge created by the Ordinance, as provided by Section 9.01, without the prior approval and consent in writing of the Holders, or their duly authorized

representatives, of 60% in amount of Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. The Issuer shall not issue any other obligations whatsoever, except additional parity Bonds provided for in Section 6.11 of the Ordinance, payable from the Net Revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from the Net Revenues with the Bonds; and all obligations hereafter issued by the Issuer payable from the revenues of the System, except such additional Bonds, shall contain an express statement that such obligations are junior and subordinate as to lien on and source of and security for payment from such revenues and in all other respects to the Bonds.

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

Additional Parity Bonds Payable Out of the Net Revenues of the System. So long as the Prior Bonds are Outstanding, the limitations and requirements on the issuance of parity obligations set forth in the Prior Ordinances shall be applicable. No additional parity Bonds, as in this section defined, payable out of the Net Revenues of the System shall be issued after the issuance of the Series 2007 Bonds pursuant to the Ordinance, except under the conditions and in the manner herein provided.

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

No such additional parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Clerk of the Issuer a written statement by Independent Accountants, reciting the conclusion that the Net Revenues actually derived, from the System during the 12 consecutive months in the 18 months immediately preceding the date of the actual issuance of such additional parity Bonds, plus the increased annual Net Revenues expected to be received after the date of issuance of such parity Bonds shall not be less than 120% of the Maximum Annual Debt Service on the Bonds in any Fiscal Year), on the following:

- (1) The Prior Bonds then Outstanding;
- (2) The Series 2007 Bonds then Outstanding;
- (3) Any additional parity Bonds theretofore issued pursuant to the provisions contained in the Ordinance then Outstanding; and
- (4) The additional parity Bonds then proposed to be issued.

The "increased annual Net Revenues expected to be received" as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from any increase in rates enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to the date of delivery of such additional parity Bonds, and shall not exceed the amount to be stated in the aforementioned certificate of Independent Accountants, which shall be filed in the office of the Clerk of the Issuer prior to the issuance of such additional parity Bonds. For purposes of this test, the terms "Gross Revenues" and "Net Revenues" shall not include proceeds from the sale of capital assets.

The term "additional parity Bonds," as used in this section, shall be deemed to mean additional Bonds issued under the provisions and within the limitations of this section, payable from the Net Revenues of the System on a parity with the Series 2007 Bonds, and all the covenants and other provisions of the Ordinance (except as to details of such additional parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Series 2007nd the Holders of any additional parity Bonds theretofore or subsequently issued from time to time within the limitations of and in compliance with this section. All the Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Net Revenues of the System, and their source of and security for payment from said Net Revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in the Ordinance required for and on account of such additional parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to the Ordinance.

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

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

Insurance and Bonds. The Issuer hereby covenants and agrees, that so long as the Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance and bonds and worker's compensation coverage with a reputable insurance carrier or carriers or bonding company or companies covering the following risks and in the following amounts:

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

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

C. WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT OR COMPLETION BONDS, such bonds to be in the amounts of not less than 100% of the amount of any construction contract and to be required of each contractor dealing directly with the Issuer and such payment bonds will be filed with the Clerk of the County Commission of the County in which such work is to be performed prior to commencement of construction of any additions, extensions or improvements for the System in compliance with West Virginia Code, Section 38-2-39.

D. FLOOD INSURANCE, to extent available at reasonable cost to the Issuer.

E. BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

F. FIDELITY BONDS will be provided as to every officer and employee of the Issuer or the Council 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.

No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by its System; and, in the event the Issuer or any department, agency, instrumentality, officer or employee thereof shall avail himself of the facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the Issuer shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. The revenues so received shall be deemed to be revenues derived from the operation of the System and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Enforcement of Collections. The Issuer diligently will 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 and to the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, all delinquent rates, rentals and other charges, if not paid, 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 and facilities of the System to all delinquent users of services and facilities of the System and will not restore such services of the System until all billing for charges for the services and facilities of the System, plus reasonable interest penalty charges for the restoration of service, has been fully paid.

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 or body, or agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Books and Records. The 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 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, to the extent allowable under and in accordance with the rules and regulations of the Public Service Commission of West Virginia and the Act. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books and along with other bookkeeping records as prescribed by the Issuer. The Issuer shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Issuer shall be reported to such agent of the Issuer as it shall direct.

The Issuer shall file with the Original Purchaser and any Bond Insurer, and shall mail to any Bondholder requesting the same, an annual report within 120 days following the end of each Fiscal Year containing a balance

sheet, statement of revenues, expenses, and changes in retained earnings, and statement of cash flows, as prescribed by generally accepted accounting principles.

The Issuer shall also file with the Original Purchaser and any Bond Insurer, and mail to any Bondholder requesting the same, a monthly unaudited report within 30 days following the end of each month containing the following:

- (A) A statement of Gross Revenues, Operating Expenses, Surcharges and Net Revenues derived from the System.
- (B) A statement of account balances in the Sinking Fund accounts provided for in the Ordinance and status of said funds.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Accountants, shall mail upon request, and make available generally, the report of said Independent Accountants, or a summary thereof, to any Holder or Holders of Bonds issued pursuant to the Ordinance and shall file said report with the Original Purchaser.

Operating Budget. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, or at such earlier date required by its charter or the charter of the Issuer, prepare and adopt by resolution a detailed budget of the estimated expenditures for operation and maintenance of the System during the succeeding Fiscal Year. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of such a registered professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Original Purchaser and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Original Purchaser and to any Bondholder or anyone acting for and in behalf of such Bondholder who requests the same.

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

A. **PRIVATE BUSINESS USE LIMITATION.** The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Series 2007 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 such Bonds during the term thereof is, under the terms of such 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) 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 Series 2007 Bonds during the term is, under the terms of such Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Series 2007 used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the System, or if the Series 2007 Bonds are for the purpose of financing more than one project, a portion of the System, and shall not exceed the proceeds used for the governmental use of that portion of the System to which such Private Business Use is related.

B. **PRIVATE LOAN LIMITATION.** The Issuer shall assure that not in excess of the lesser of 5% of the Net Proceeds of the Series 2007 Bonds or \$5,000,000 are used, directly or indirectly, to make or finance a loan to persons other than state or local government units.

C. **FEDERAL GUARANTEE PROHIBITION.** The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 2007 Bonds to be directly or indirectly “federally guaranteed” within the meaning of Section 149(b) of the Code and Regulations promulgated thereunder.

D. **INFORMATION RETURN.** The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 2007 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 all actions that may be required of it so that the interest on the Series 2007 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.

### **Defaults and Remedies**

Events of Default With Respect to the Series 2007 Bonds. Each of the following events shall constitute an “Event of Default” with respect to the Series 2007 Bonds:

- (A) If default by the Issuer occurs in the due and punctual payment of the principal of or interest on any Bond;
- (B) If default occurs in the Issuer’s observance of any of the covenants, agreements or conditions on its part in the Ordinance or any Supplemental Resolution or in the Bonds contained, and such default shall have continued for a period of 30 days after written notice specifying such default and requiring the same to be remedied shall have been given to the Issuer by any Bondholder or any Insurer;
- (C) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America; or
- (D) If the Issuer defaults on the Prior Bonds or the Prior Ordinances.

Enforcement With Respect to the Series 2007 Bonds. For purposes of this Section, any reference to Bondholder shall only include the Bondholders of the Prior Bonds and the Series 2007 Bonds. Upon the happening and continuance of an Event of Default as more fully defined and described in Section 7.01 of the Ordinance, any Bondholder or any Insurer may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his rights and, in particular:

- (A) Bring suit for any unpaid principal or interest then due;
- (B) By mandamus or other appropriate proceeding enforce all rights of the Bondholders, including the right to require the Issuer to perform its duties under the Act and this Ordinance;
- (C) Bring suit upon the Bonds;
- (D) By action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Bondholders; and
- (E) By action or bill in equity enjoin any acts in violation of the Ordinance or the rights of the Bondholders.

No remedy by the terms of this Ordinance conferred upon or reserved to the Bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Bondholders hereunder or now or hereafter existing at law or by statute.

No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or Event of Default hereunder by the Bondholders shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereto.

Appointment of Receiver. If there be any Event of Default existing and continuing, any Bondholder or any Insurer shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the principal of and interest on the Bonds, the deposits into the funds and accounts hereby established as herein provided and the payment of Operating Expenses of the System and to apply such rates, rentals, fees, charges or other Revenues in conformity with the provisions of this Ordinance and the Act.

The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate, maintain, manage and control such facilities, and each and every part thereof, and in the name of the 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 issued pursuant to this Ordinance and interest thereon and under any covenants of this Ordinance for reserve, sinking or other funds and accounts and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the Revenues of the System shall have been paid and made good, and all defaults under the provisions of this Ordinance shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Bondholder shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

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

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

Notwithstanding any other provision of this Ordinance, in determining whether the rights of the Bondholders will be adversely affected by any action taken pursuant to the terms and provisions of this Ordinance, any trustee or Bondholder's committee shall consider the effect on the Bondholders as if no Municipal Bond Insurance Policy were then in effect.

Restoration of Issuer and Bondholder. In case any Bondholder shall have proceeded to enforce any right under the Ordinance by the appointment of a receiver, by entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Issuer and such Bondholder shall be restored to their former positions and rights hereunder, and all rights and remedies of such Bondholder shall continue as if no such proceedings had been taken.

## **BOND INSURANCE**

### **Bond Insurance Policy**

Concurrently with the issuance of the Series 2007 Bonds, Financial Security Assurance Inc. ("Financial Security") will issue its Municipal Bond Insurance Policy for the Series 2007 Bonds (the "Policy"). The Policy guarantees the scheduled payment of principal of and interest on the Series 2007 Bonds when due as set forth in the form of the Policy included as an exhibit to this Official Statement.

The Policy is not covered by any insurance security or guaranty fund established under New York, California, Connecticut or Florida insurance law.

### **Financial Security Assurance Inc.**

Financial Security is a New York domiciled financial guaranty insurance company and a wholly owned subsidiary of Financial Security Assurance Holdings Ltd. ("Holdings"). Holdings is an indirect subsidiary of Dexia, S.A., a publicly held Belgian corporation, and of Dexia Credit Local, a direct wholly-owned subsidiary of Dexia, S.A. Dexia, S.A., through its bank subsidiaries, is primarily engaged in the business of public finance, banking and asset management in France, Belgium and other European countries. No shareholder of Holdings or Financial Security is liable for the obligations of Financial Security.

At June 30, 2007, Financial Security's combined policyholders' surplus and contingency reserves were approximately \$2,642,612,000 and its total net unearned premium reserve was approximately \$2,116,401,000 in accordance with statutory accounting principles. At June 30, 2007, Financial Security's consolidated shareholder's equity was approximately \$3,072,828,000 and its total net unearned premium reserve was approximately \$1,660,356,000 in accordance with generally accepted accounting principles.

The consolidated financial statements of Financial Security included in, or as exhibits to, the annual and quarterly reports filed after December 31, 2005 by Holdings with the Securities and Exchange Commission are hereby incorporated by reference into this Official Statement. All financial statements of Financial Security included in, or as exhibits to, documents filed by Holdings pursuant to Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 after the date of this Official Statement and before the termination of the offering of the Series 2007 Bonds shall be deemed incorporated by reference into this Official Statement. Copies of materials incorporated by reference will be provided upon request to Financial Security Assurance Inc.: 31 West 52nd Street, New York, New York 10019, Attention: Communications Department (telephone (212) 826-0100).

The Policy does not protect investors against changes in market value of the Series 2007 Bonds, which market value may be impaired as a result of changes in prevailing interest rates, changes in applicable ratings or other causes. Financial Security makes no representation regarding the Series 2007 Bonds or the advisability of investing in the Series 2007 Bonds. Financial Security makes no representation regarding the Official Statement, nor has it participated in the preparation thereof, except that Financial Security has provided to the Issuer the information presented under this caption for inclusion in the Official Statement.

## RATINGS

Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, has assigned ratings of "Aaa" upon the delivery of the Policy by FSA at closing with respect to the Series 2007 Bonds. Any desired explanation of the significance of such ratings should be obtained from the rating agency furnishing the same. Certain information and materials not included in this Preliminary Official Statement were furnished to the rating agency. Generally rating agencies base their ratings on the information and materials so furnished and on investigations, studies and assumptions by the rating agencies. There can be no assurance that a particular rating will be maintained for any given period of time or that it will not be lowered or withdrawn entirely if, in the judgment of the rating agency originally establishing the rating, circumstances so warrant. The Underwriter has undertaken no responsibility to bring to the attention of the Bondholders any proposed revision or withdrawal of the ratings of the Bonds or to oppose any such proposed revision or withdrawal. Any such change in or withdrawal of a rating could have an adverse effect on the market price of the Series 2007 Bonds.

## TAX MATTERS

Step toe & Johnson PLLC, Bond Counsel, is of the opinion that under existing laws, regulations, rulings and judicial decisions of the United States of America, as presently written and applied, interest on the Series 2007 Bonds is excludable from gross income of the holders thereof for federal income tax purposes, and interest on the Series 2007 Bonds is not a specific preference item for purposes of the federal alternative minimum tax imposed on individuals and corporations. However, interest paid to corporate holders of the Series 2007 Bonds may be indirectly subject to alternative minimum tax under certain circumstances. Further, in the opinion of Bond Counsel, under existing laws of the State of West Virginia, the Series 2007 Bonds, and the interest thereon, are exempt from personal and corporate income taxes imposed directly thereon by the State of West Virginia.

Prospective purchasers of the Series 2007 Bonds should be aware that ownership of the Series 2007 Bonds may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, certain S corporations with "excess net passive income," foreign corporations subject to the branch profits tax, life insurance companies and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry or have paid or incurred certain expenses allocable to the Series 2007 Bonds. Bond Counsel does not express any opinion regarding such collateral tax consequences. Prospective purchasers of the Series 2007 Bonds should consult their tax advisors regarding collateral federal tax consequences.

The Code and the regulations promulgated thereunder contain a number of requirements that must be satisfied subsequent to the issuance of the Series 2007 Bonds in order for interest on the Series 2007 Bonds to be and remain excludable from gross income for purposes of income taxation. Examples include: the requirement that the Issuer rebate certain excess earnings on proceeds and amounts treated as proceeds of the Series 2007 Bonds to the United States Treasury; restrictions on investment of such proceeds and other amounts; and restrictions on the ownership and use of facilities financed with proceeds of the Series 2007 Bonds. The foregoing is not intended to be an exhaustive listing of the post-issuance tax compliance requirements of the Code, but is illustrative of the requirements that must be satisfied by the Issuer subsequent to the issuance of the Series 2007 Bonds to maintain the exclusion of interest on the Series 2007 Bonds from income for federal income tax purposes. Failure to comply with such requirements may cause interest on the Series 2007 Bonds to be included in gross income retroactively to the date of issuance of the Series 2007 Bonds. The Issuer has covenanted in the Ordinance to comply with these requirements. The opinion of Bond Counsel delivered on the date of issuance of the Series 2007 Bonds is conditioned on compliance by the Issuer with such requirements, and Bond Counsel has not been retained to monitor compliance with requirements such as described above subsequent to the issuance of the Series 2007 Bonds.

Currently, litigation in various jurisdictions has called into question the permissibility under the U.S. Constitution of disparate state tax treatment of interest on bonds issued by a state and its political subdivisions and on

obligations issued by other states and their political subdivision. West Virginia statutes currently result in such disparate treatment. On November 5, 2007 the U.S. Supreme Court heard oral arguments regarding a Kentucky state court decision on the issue of whether the U.S. Constitution precludes states from giving more favorable tax treatment to state and local government bonds issued within that state than the tax treatment given bonds issued outside that state. The outcome of this or any similar case cannot be predicted, but the ultimate result could be a change in the treatment for state tax purposes of obligations such as the Series 2007 Bonds, including whether interest on the Series 2007 Bonds is exempt from West Virginia income taxation. Prospective purchasers of the Series 2007 Bonds should consult their own tax advisers regarding the foregoing matter.

### **QUALIFIED TAX-EXEMPT OBLIGATIONS**

The Issuer has designated the Series 2007 Bonds as "qualified tax-exempt obligations" for purposes of Section 265 (b)(3)(B) of the Internal Revenue Code of 1986, as amended, which relates to the ability of certain financial institutions to deduct interest expense allocable to holding and carrying tax-exempt obligations for federal income tax purposes. Representatives of the Issuer will certify that they do not anticipate that the aggregate amount of tax-exempt obligations which will be issued by or on behalf of the Issuer in calendar year 2007 will exceed \$10 million.

### **NO LITIGATION**

There is no litigation or other proceeding pending or, to the knowledge of the Issuer, threatened to restrain or enjoin the issuance, sale, or delivery of the Series 2007 Bonds, or in any way contesting the validity or enforceability of the Series 2007 Bonds, or the proceedings pursuant to which the Series 2007 Bonds are issued.

### **UNDERWRITING**

The Series 2007 Bonds are being purchased by the Underwriter named on the cover of this Official Statement. The Bond Purchase Agreement provides that the Underwriter will purchase all the Series 2007 Bonds, if any are purchased, at a purchase price equal to the initial public offering prices set forth on the cover page hereof less an Underwriter's discount of \$\_\_\_\_\_, less original issue discount of \$\_\_\_\_\_, plus accrued interest. The obligation to make such purchase is subject to the terms and conditions set forth in the Bond Purchase Agreement, including the approval of certain legal matters by counsel. The Underwriter may change the initial public offering prices from time to time. The Underwriter may offer and sell Series 2007 Bonds to certain dealers (including dealers depositing Series 2007 Bonds into investment trusts) and certain dealer banks acting as agents at prices lower than the public offering prices stated on the cover page hereof.

### **APPROVAL OF LEGALITY**

Legal matters incident to the authorization, issuance and sale of the Bonds are subject to the unqualified approving opinion of Steptoe & Johnson PLLC, Bond Counsel, whose opinion will be delivered concurrently with the delivery, upon original issuance, of the Bonds. Certain legal matters will be passed upon for the Issuer by Scott McClure, Esquire, City Attorney. Reed and Johnson will pass upon certain matters as counsel for the Underwriter.

## CONTINUING DISCLOSURE

The Issuer has agreed for the benefit of the holders of the Bonds to provide each Nationally Recognized Municipal Securities Information Repository (the "NRMSIRs") and, if established the State Information Depository, on an annual basis on or before 12 months after the end of each fiscal year certain financial and operating data and in a timely manner, notices of certain material events, in order to assist the Underwriter in complying with Rule 15c2-12 promulgated by the Securities Exchange Commission. The Issuer has previously entered into a similar Continuing Disclosure Agreement with respect to the Series 2003 Notes. However, in the fall of 2007, the Issuer determined that it had failed to provide financial and operating data concerning the Issuer on an annual basis to the NRMSIRs as required by the Continuing Disclosure Agreement entered into in connection with the Series 2003 Notes. The Issuer has since filed such annual financial information with the NRMSIRs. In conjunction with the issuance of the Bonds, the Issuer has hired United Bank, Inc. to provide dissemination services in conjunction with its continuing disclosure obligations for the Bonds and expects to comply with the continuing disclosure requirements as set forth in the Continuing Disclosure Agreement related to the Bonds. A summary of the Continuing Disclosure Agreement is attached hereto as Appendix E.

## MISCELLANEOUS

The foregoing summaries of the Bonds and the Ordinance, and references to the Act, do not purport to be comprehensive and are qualified in their entirety by the exact provisions thereof. Copies of the Ordinance (including the form of the Bonds) and the Act may be obtained from the Issuer or, during the period of offering of the Bonds, from the Underwriter. All estimates and assumptions herein have been made upon the best information available and are believed to be reliable, but no representation whatsoever is made that such estimates or assumptions are correct or will be realized. Statements involving matters of opinion, whether or not so expressly stated, are set forth as opinions and are not presentations of fact.

This Official Statement has been duly approved and its distribution authorized by the Issuer and the Sanitary Board.

[Signature page follows.]

**THE CITY OF HUNTINGTON, WEST VIRGINIA**

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

**HUNTINGTON SANITARY BOARD**

By: \_\_\_\_\_  
Executive Director

**APPENDIX A**

**UNAUDITED FINANCIAL STATEMENTS OF THE SANITARY BOARD**

(The following financial statements are unaudited and are for the fiscal year ended  
June 30, 2007.)

**APPENDIX B**

**GENERAL INFORMATION REGARDING THE CITY**

The City is located in Cabell and Wayne Counties, on the south bank of the Ohio River in the western portion of the State of West Virginia. It is the core of a tri-state metropolitation area of approximately 312,529 population.

**Government**

The City was first organized as the Town of Huntington in 1871 and presently operates under the strong mayor form of government pursuant to a charter adopted as of June 4, 1985. The City is governed by an eleven-member City Council elected for a four-year term by the voters of the City. The Mayor and the members of City Council and their current terms are as follows:

		Term
Mayor	David A. Felinton	January 1, 2005 to December 31, 2008
Council Chairman	Scott Caserta	January 1, 2005 to December 31, 2008
Council Members	P. D. Adkins	January 1, 2005 to December 31, 2008
	Garry Black	January 1, 2005 to December 31, 2008
	Mary Neely	January 1, 2005 to December 31, 2008
	Paul Farrell	January 1, 2005 to December 31, 2008
	Frances Jackson	January 1, 2005 to December 31, 2008
	Sandra Clements	October 1, 2007 to December 31, 2008
	James Insco	January 1, 2005 to December 31, 2008
	Calvin "Cal" Kent	January 1, 2005 to December 31, 2008
	Teresa Loudermilk	January 1, 2005 to December 31, 2008
	James Ritter	January 1, 2005 to December 31, 2008

The Mayor is the chief administrator of the City, exercising general supervision over and coordinating all activities of the City. David A. Felinton was elected Mayor. The duly appointed Clerk of the City is Barbara Meadows.

**Population**

Population data for the City are as follows:

2000 .....	51,475
2001 .....	50,774
2002 .....	50,322
2003 .....	50,076
2004 .....	49,716
2005 .....	49,253
2006 .....	49,007

Per median family income levels in the City are approximately \$23,234 and per capital income is \$16,717. The median age of the City's population is approximately 38.0.

*Source: U. S. Census 2000*

## Economic Activity

The economy of the City is diversified, with manufacturing, the provision of personal and business services and mercantile activities accounting for a large percentage of all employment.

The September, 2007 unemployment rate for Cabell County was 4.8% and for the State it was 4.7%. Unemployment rates in the City and the State and nationwide the past five years were as follows\*:

Year	Huntington	West Virginia	United States
2005	5.4	5.0	5.1
2004	5.6	5.3	5.5
2003	6.1	6.1	6.0
2002	6.0	6.1	5.8
2001	5.8	4.8	4.7

\*Source: West Virginia Bureau of Employment Programs, Labor and Economic Research.

Marshall University, with a student enrollment of approximately 16,500 is located in the City.

Source: Office of Institutional Research, Marshall University

Transportation activities have an important impact on the City's economy. Barge loadings of sulphur, oil and cement make the City a major inland port. The Chessie System and the Norfolk and Western Railway, both major rail coal carriers, meet in the area. Interstate Highway 64 passes through the area.

Major employers in the City are as follows:

Employer		Approximate Employment
St. Mary's Medical Center	Healthcare	2,000
Marshall University	Higher Education	2,000
Cabell Huntington Hospital	Healthcare	1,500
CSX Huntington, Division	Railroad	1,100
GC Serives	Teleservice	1,040
Special Metals	Alloy Metal Manufacturer	970
VA Medical Center	Healthcare	720
Alcon Manufacturing, Ltd	Surgical Lens Manufacturer	585
Steel of West Virginia	Steel Manufacturer	543
Army Corps of Engineers	Federal Government	450

Source: Huntington Area Development Council

## **APPENDIX C**

### **AUDITED FINANCIAL INFORMATION OF THE CITY OF HUNTINGTON**

The following audited Financial Statements are for the fiscal year ended June 30, 2006. For more current information regarding the Issuer, see "APPENDIX B GENERAL INFORMATION REGARDING THE ISSUER."

## APPENDIX D

### FORM OF OPINION OF BOND COUNSEL

The City of Huntington  
(West Virginia)  
Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt)

The City of Huntington  
Huntington, West Virginia

Ross, Sinclair & Associates, LLC  
Frankfort, Kentucky

Ladies and Gentlemen:

We have examined a record of proceedings relating to the issuance by The City of Huntington (West Virginia) (the "Issuer") of its \$\_\_\_\_\_ aggregate principal amount Sewerage System Refunding Revenue Bonds, Series 2007 (the "Series 2007 Bonds").

The Series 2007 Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act") and a Bond Ordinance duly enacted by the Issuer on January 10, 2005, as supplemented by a Supplemental Parameters Resolution duly adopted by the Issuer on December 10, 2007 (said Ordinance, as so supplemented, herein called the "Ordinance") and are subject to all the terms and conditions of the Ordinance.

The Series 2007 Bonds are issued in fully registered form, are dated December 27, 2007, upon original issuance, mature on November 1 in years and amounts and bear interest payable each May 1 and November 1, commencing May 1, 2008, and are subject to optional and mandatory sinking fund redemption prior to maturity on the dates, in the amounts and at the redemption prices, all as set forth in the Ordinance.

The Ordinance provides that the issue is for the purposes of currently refunding the Issuer's Sewerage System Refunding Revenue Bonds, Series 1993, funding a debt service reserve account for the Series 2007 Bonds, and paying costs of issuance of the Series 2007 Bonds and related costs.

Upon refunding of the Series 1993 Bonds, the Issuer has outstanding the following bonds payable from the Net Revenues of the System that are on parity with the 2007 Bonds: (i) Sewer System Refunding Revenue Bonds, Series 1997 (West Virginia SRF Program), dated November 25, 1997, issued in the original aggregate principal amount of \$3,039,895, (ii) Sewer System Refunding Revenue Bonds, Series 1999 (West Virginia SRF Program), dated June 22, 1999, issued in the original aggregate principal amount of \$2,083,550, (iii) Sewer System Refunding Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated October 10, 2000, issued in the original aggregate principal amount of \$1,832,399, and (iv) Sewer Revenue Bonds, Series 2006 A, dated November 30, 2006, issued in the original aggregate principal amount of \$3,150,000 (collectively, the "Prior Bonds").

The Series 2007 Bonds have been sold to Ross, Sinclair & Associates, LLC (the "Purchaser"), pursuant to a Bond Purchase Agreement dated December \_\_, 2007, and accepted by the Issuer (the "Bond Purchase Agreement").

As to questions of fact material to our opinion, we have relied upon representations and certifications of the Issuer and others, contained in the Ordinance and in the certified proceedings and other certifications of certain officials furnished to us without undertaking to verify the same by independent investigation.

Based upon the foregoing, and assuming compliance with the covenants, representations and certifications of the Issuer and others, pertaining to tax matters set forth in the Ordinance and with certain certificates delivered in connection with the issuance of the Series 2007 Bonds, we are of the opinion, under existing law, that:

1. The Issuer is a duly created and validly existing municipal corporation under and pursuant to the laws of the State of West Virginia, with full power and authority to enact the Ordinance, enter into the Bond Purchase Agreement, perform its obligations under the terms and provisions thereof and to issue and sell the Series 2007 Bonds, all under the provisions of the Act and other applicable provisions of law.
2. The Issuer, through its governing body, has legally and effectively enacted the Ordinance, has authorized, executed and delivered the Bond Purchase Agreement and has issued and delivered the Series 2007 Bonds to the Purchaser pursuant to the Bond Purchase Agreement. The Ordinance is in full force and effect as of the date hereof.
3. Assuming due authorization, execution and delivery by the other parties thereto, the Bond Purchase Agreement constitutes a valid, legal, binding and enforceable instrument of the Issuer in accordance with its terms; and the Series 2007 Bonds, subject to the terms thereof, constitute valid and legally enforceable limited obligations of the Issuer, payable from the Net Revenues and issued on a parity with respect to liens, pledge and source of and security for payment with the Prior Bonds, to be issued concurrently with the Series 2007 Bonds, and enforceable in accordance with their terms and the terms of the Ordinance, and are entitled to the benefits of the Ordinance and the Act.
4. Under existing laws, regulations, published rulings and judicial decisions of the United States of America, as presently written and applied, the interest on the Series 2007 Bonds (including original issue discount properly allocable to owners of the Series 2007 Bonds) is excludable from gross income of the owners thereof for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed upon individuals and corporations. It should be noted, however, that for the purpose of computing the alternative minimum tax on corporations (as defined for federal income tax purposes), such interest is taken into account in determining adjusted current earnings. Ownership of tax-exempt obligations, including the Series 2007 Bonds, may result in collateral federal income tax consequences to certain taxpayers, including without limitation, financial institutions, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry such obligations. We offer no opinion as to such collateral tax consequences. Prospective purchasers of the Series 2007 Bonds should consult their own tax advisors as to such consequences. The opinions set forth above are subject to the condition that the Issuer comply, on a continuing basis, with all requirements of the Internal Revenue Code of 1986, as amended, and regulations thereunder (the "Code") that must be satisfied subsequent to issuance of the Series 2007 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 Series 2007 Bonds set forth in the Ordinance and the certificate relating to arbitrage. Failure to comply with such Code provisions or such certifications, covenants and representations could cause the interest on the Series 2007 Bonds to be includable in gross income retroactive to the date of issuance of the Series 2007 Bonds. We express no opinion regarding other federal tax consequences arising with respect to the Series 2007 Bonds.
5. Under the Act, the Series 2007 Bonds and the interest thereon, are exempt from personal and corporate income taxes imposed directly thereon by the State of West Virginia.

6. The Issuer has designated the Series 2007 Bonds as “qualified tax-exempt obligations” for purposes of Section 265 (b)(3)(B) of the Internal Revenue Code of 1986, as amended, which relates to the ability of certain financial institutions to deduct interest expense allocable to holding and carrying tax-exempt obligations for federal income tax purposes. Representatives of the Issuer have certified that they do not anticipate that the aggregate amount of tax-exempt obligations which will be issued by or on behalf of the Issuer in calendar year 2007 will exceed \$10 million. Therefore, the Series 2007 Bonds are “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Code.

7. The Series 2007 Bonds are exempted securities within the meaning of Section 3(a)(2) of the Securities Act of 1933, as amended, and the West Virginia Uniform Securities Act, as amended, and it is not necessary, in connection with the public offering and sale of the Series 2007 Bonds, to register any securities under said Securities Acts.

It is to be understood that the rights of the holders of the Series 2007 Bonds and the enforceability of liens, pledges, rights or remedies with respect to the Series 2007 Bonds, the Ordinance and the Bond Purchase Agreement are subject to any applicable bankruptcy, reorganization, insolvency, moratorium or other similar laws heretofore or hereafter enacted affecting creditors’ rights or remedies generally, and that their enforcement may also be subject to the application of public policy, general principles of equity and the exercise of judicial discretion in appropriate cases.

We have examined the executed and authenticated Bond No. R-1 of said issue, and in our opinion, said Bond is in proper form and has been duly executed and authenticated.

Very truly yours,

STEPTOE & JOHNSON, PLLC

## APPENDIX E

### FORM OF CONTINUING DISCLOSURE AGREEMENT

#### CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the "Agreement") is by and among The City of Huntington, a political subdivision of the State of West Virginia (the "Issuer"), and United Bank, Inc., Charleston, West Virginia (the "Dissemination Agent"), in connection with the issuance of its \$5,355,000 Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt) (the "Bonds"). The Bonds are being issued pursuant to the Issuer's Bond Ordinance enacted on January 10, 2005, as supplemented by the Supplemental Parameters Resolution adopted on December 10, 2007 (collectively, the "Resolution"). The Issuer and Dissemination Agent covenant and agree as follows:

SECTION 1. Purpose of Agreement. The Agreement is being executed and delivered by the Issuer and Dissemination Agent for the benefit of the holders and Beneficial Owners of the Bonds and in order to assist the Underwriters in complying with SEC Rule 15c2-12(b)(5).

Any filing under this Agreement may be made solely by transmitting such filing to the Municipal Advisory Council of Texas (the "Central Post Office" or "MAC") as provided at <http://www.disclosureusa.org> unless the United States Securities and Exchange Commission has withdrawn the interpretive advice in its letter to the MAC dated September 7, 2004.

SECTION 2. Definitions. In addition to the definitions set forth in the Resolution and the Bond Purchase Agreement dated December \_\_, 2007, which apply to any capitalized term used in the Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Annual Financial Information" means the financial information (which shall be based on financial statements prepared in accordance with generally accepted accounting principles ("GAAP")) and operating data with respect to the Issuer, provided at least annually, of the type included in those sections of the final Official Statement with respect to the Bonds attached thereto as Appendix C, which Annual Financial Information shall include Audited Financial Statements if available on the Report Date, and, if not then available, unaudited financial statements.

"Audited Financial Statements" means the Issuer's annual financial statements, prepared in accordance with GAAP, which financial statements shall have been audited by a firm of independent certified public accountants.

"Beneficial Owner" shall mean any person who has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries).

"Central Post Office" means the Texas Municipal Advisory Council ("MAC") (<http://www.disclosureusa.org>) or any successor or alternative entity approved by the United States Securities and Exchange Commission.

"Dissemination Agent" shall initially mean United Bank, Inc. or any successor Dissemination Agent designated in writing by the Issuer and which has filed with the Issuer a written acceptance of such designation.

"Listed Events" shall mean any of the events listed in Section 5(a) of the Agreement.

“National Repository” shall mean any Nationally Recognized Municipal Securities Information Repository for purposes of the Rule. The National Repositories currently approved by the Securities and Exchange Commission are set forth in Exhibit B.

“Participating Underwriter” shall mean the original underwriter of the Bonds who is required to comply with the Rule in connection with offering of the Bonds.

“Repository” shall mean each National Repository and the State Repository.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“State” shall mean the State of West Virginia.

“State Repository” shall mean any public or private repository or entity designated by the State as the state repository for the purpose of the Rule and recognized as such by the Securities and Exchange Commission. As of the date of the Agreement, there is no State Repository.

### SECTION 3. Provision of Annual Reports.

(a) The Issuer shall, or shall cause the Dissemination Agent to, not later than 365 days after the end of the Issuer’s fiscal year (presently June 30), commencing with the report for the Fiscal Year ending June 30, 2008, provide to each Repository Annual Financial Information and Audited Financial Statements, which are consistent with the requirements of Section 4 of this Agreement. The Annual Financial Information and Audited Financial Statements may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of the Agreement. The Issuer shall provide the Dissemination Agent with a copy of each report filed under this Agreement. If the Issuer’s fiscal year changes, the Issuer shall give notice of such change in the same manner as for a Listed Event under Section 5(a).

(b) Not later than fifteen (15) Business Days prior to said date, the Issuer shall provide the Annual Financial Information and Audited Financial Statements to the Dissemination Agent. If by such date the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent shall contact the Issuer to determine if the Issuer is in compliance with the first sentence of this subsection (b). If the Dissemination Agent is unable to provide to the Central Post Office for delivery to the Repositories its Annual Financial Information and Audited Financial Statements by the date required in subsection (a), the Dissemination Agent shall send a notice to the Central Post Office for delivery to each Repository or the Municipal Securities Rulemaking Board and the State Repository, if any, in substantially the form attached as Exhibit A.

(c) The Dissemination Agent shall:

(i) determine each year prior to the date for providing the Annual Financial Information and Audited Financial Statements the name and address of the Central Post Office for delivery to each National Repository and the State Repository, if any; and

(ii) file a report with the Issuer certifying that the Annual Financial Information and Audited Financial Statements have been provided pursuant to this Agreement, stating the date it was provided and listing the Central Post Office and all the Repositories to which it was provided.

SECTION 4. Content of Annual Financial Information. Within 365 days of the Issuer’s 2008 fiscal year-end, and each subsequent fiscal year, the Dissemination Agent shall submit to the Central Post Office for delivery to each nationally

recognized municipal securities information repository (“National Repository”) and to any West Virginia State information repository (“State Repository”), information and data of the Issuer for the prior fiscal year, including the audited financial statements, prepared in accordance with generally accepted auditing principles in effect from time to time.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the Issuer or related public entities, which have been submitted to each of the Repositories or the Securities and Exchange Commission. If the document included by reference is a final official statement it must be available from the Municipal Securities Rulemaking Board. The Issuer shall clearly identify each such other document so included by reference.

#### SECTION 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, the Issuer shall give, or cause to be given, notice of the occurrence of any of the following events, if applicable, with respect to the Bonds, if material:

1. principal and interest payment delinquencies;
2. non-payment related defaults;
3. unscheduled draws on debt service reserves reflecting financial difficulties;
4. unscheduled thaws on credit enhancements reflecting financial difficulties;
5. substitution of credit or liquidity providers, or their failure to perform;
6. adverse tax opinions or events affecting the tax-exempt status of the security;
7. modifications to rights of security holders;
8. bond calls;
9. defeasances;
10. release, substitution, or sale of property securing repayment of the securities except as provided by the General Resolution;
11. rating changes.

(b) The Dissemination Agent shall, within one (1) Business Day of obtaining actual knowledge of the occurrence of any of the Listed Events contact the Disclosure Representative, inform such person of the event, and request that the Issuer promptly notify the Dissemination Agent in writing whether or not to report the event pursuant to subsection (f).

(c) Whenever the Issuer obtains knowledge of the occurrence of a Listed Event, because of a notice from the Dissemination Agent pursuant to subsection (b) or otherwise, the Issuer shall as soon as possible determine if such event would be material under applicable federal securities laws.

(d) If the Issuer determines that knowledge of the occurrence of any of the Listed Events would be material under applicable federal securities laws, the Issuer shall promptly file with the Dissemination Agent a notice of such occurrence to be provided to the Central Post Office and the Municipal Securities Rulemaking Board for delivery to the National Repository and the State Repository. Notwithstanding the foregoing, notice of Listed Events described in subsections (a) (4)

and (5) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to Holders of affected Bonds pursuant to the Resolution.

(e) If in response to a request under subsection (b), the Issuer determines that the Listed Event would not be material under applicable federal securities laws, the Issuer shall so notify the Dissemination Agent in writing and instruct the Dissemination Agent not to report the occurrence pursuant to subsection (f).

(f) If the Dissemination Agent has been instructed by the Issuer to report the occurrence of a Listed Event, the Dissemination Agent shall file a notice of such occurrence with the Municipal Securities Rulemaking Board and each Repository with a copy to the Issuer. Notwithstanding the foregoing, notice of the occurrence of a Listed Event described in subsections (a)(8) and (9) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to the Holders of affected Bonds pursuant to the Resolution.

SECTION 6. Termination of Reporting Obligation. The Issuer's obligations under the Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the Issuer shall give notice of such termination in the same manner as for any of the Listed Events under Section 5(a).

SECTION 7. Dissemination Agent. United Bank, Inc., Charleston, West Virginia, is hereby appointed as Dissemination Agent. The Issuer may, from time to time, appoint or engage an alternate or successor Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Issuer pursuant to this Disclosure Agreement.

SECTION 8. Amendment, Waiver. Notwithstanding any other provision of the Agreement, the Issuer may amend the Agreement, and any provision of the Agreement may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the Bonds, or the type of business conducted;

(b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances, and

(c) The amendment or waiver either (i) is approved by the Holders of the Bonds in the same manner as provided in the Resolution for amendments to the Resolution with the consent of Holders, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Holders or Beneficial Owners of the Bonds.

In the event of any amendment or waiver of a provision of the Agreement, the Issuer shall describe such amendment in the next Annual Financial Information and Audited Financial Statements, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Issuer. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for any of the Listed Events under Section 5(a), and (ii) the Annual Financial Information and Audited Financial Statements for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

SECTION 9. Additional Information. Nothing in the Agreement shall be deemed to prevent the Issuer from disseminating any other information, using the means of dissemination set forth in the Agreement or any other means of communication, or including any other information in any Annual Financial Information and Audited Financial Statements or notice of occurrence of any of the Listed Events, in addition to that which is required by the Agreement. If the Issuer chooses to include any information in any Annual Financial Information and Audited Financial Statements or notice of occurrence of any of the Listed Events in addition to that which is specifically required by the Agreement, the Issuer shall have no obligation under the Agreement to update such information or include it in any future Annual Financial Information and Audited Financial Statements or notice of occurrence of any of the Listed Events.

SECTION 10. Default. In the event of a failure of the Issuer or Dissemination Agent to comply with any provision of the Agreement (and, at the request of the Original Purchaser), the Dissemination Agent may or any Holder or Beneficial Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Issuer or Dissemination Agent to comply with its obligations under the Agreement. A default under the Agreement shall not be deemed an Event of Default under the Resolution, and the sole remedy under the Agreement in the event of any failure of the Issuer or Dissemination Agent to comply with the Agreement shall be an action to compel performance.

SECTION 11. Duties, Immunities and Liabilities of Dissemination. The Dissemination Agent shall have only such duties as are specifically set forth in the Agreement, and the Issuer agrees to the extent allowed by State law to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's gross negligence or willful misconduct. The obligations of the Issuer under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

SECTION 12. Notices. Any notices or communications to or among any of the parties to this Disclosure Agreement may be given as follows:

To the Issuer:

The City of Huntington  
800 Fifth Avenue  
Huntington, WV 25701

To the Dissemination Agent:

United Bank, Inc.  
500 Virginia Street, East  
Charleston, WV 25301

Any person may, by written notice to the other persons listed above, designate a different address or telephone number(s) to which subsequent notices or communications should be sent.

SECTION 13. Beneficiaries. The Agreement shall inure solely to the benefit of the Issuer, the Dissemination Agent, the Participating Underwriter and Holders and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

SECTION 14. Counterparts. This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 15. Fees. The Issuer agrees to pay all fees and expenses of the Dissemination Agent including, without limitation, all reasonable expenses, charges, costs, attorney's fees and other disbursements in the administration and performance of the Dissemination Agent's duties.

SECTION 16. Right to Resign. The Dissemination Agent may resign at any time by providing thirty (30) days' written notice to the Issuer.

SECTION 17. Right to Counsel. The Dissemination Agent shall have the right to consult with counsel in carrying out its duties under this Disclosure Agreement and to rely upon an opinion of counsel.

[Remainder of Page Intentionally Left Blank]

Dated: December \_\_, 2007

THE CITY OF HUNTINGTON

By: \_\_\_\_\_  
Its: Mayor

UNITED BANK, INC.,  
as Dissemination Agent

By: \_\_\_\_\_  
Its: Vice President

EXHIBIT A

FORM OF  
NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: The City of Huntington

Name of Issue: \$5,355,000 Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt)

Date of Issuance: December 6, 2007

Notice is hereby given that the Issuer has not provided an Annual Report with respect to the above-named Bonds as required by its covenant made in connection with the above-referenced bond issue. The Issuer anticipates that the Annual Report will be filed by \_\_\_\_\_.

Dated this \_\_\_\_\_.

THE CITY OF HUNTINGTON

By: \_\_\_\_\_  
Its: Mayor

## EXHIBIT B

Central Post Office  
Disclosure USA  
P.O. Box 684667  
600 W. 8th Street  
Austin, Texas 78701  
Website: <http://www.disclosureusa.org>

Nationally Recognized Municipal Securities Information Repositories (NRMSIRs)  
approved by the Securities and Exchange Commission as of November 8, 2007

Bloomberg Municipal Repository  
100 Business Park Drive  
Skillman, NJ 08558  
Phone: (609) 279-3225  
Fax: (609) 279-5962  
<http://www.bloomberg.com/markets/rates/municontacts.html>  
Email: [Munis@Bloomberg.com](mailto:Munis@Bloomberg.com)

DPC Data Inc.  
One Executive Drive  
Fort Lee, NJ 07024  
Phone: (201) 346-0701  
Fax: (201) 947-0107  
<http://www.MuniFILINGS.com>  
Email: [nrmsir@dpcdata.com](mailto:nrmsir@dpcdata.com)

Interactive Data Pricing and Reference Data, Inc.  
Attn: NRMSIR  
100 William Street, 15th Floor  
New York, NY 10038  
Phone: 212-771-6999; 800-689-8466  
Fax: 212-771-7390  
<http://www.interactivedata-prd.com>  
Email: [NRMSIR@interactivedata.com](mailto:NRMSIR@interactivedata.com)

Standard & Poor's Securities Evaluations, Inc.  
55 Water Street  
45th Floor  
New York, NY 10041  
Phone: (212) 438-4595  
Fax: (212) 438-3975  
<http://www.disclosuredirectory.standardandpoors.com/>  
Email: [nrmsir\\_repository@sandp.com](mailto:nrmsir_repository@sandp.com)

**APPENDIX F**

**FORM OF MUNICIPAL BOND INSURANCE POLICY**



# OFFICIAL STATEMENT DATED DECEMBER 19, 2007

**NEW ISSUE - BOOK-ENTRY ONLY  
BANK QUALIFIED**

**RATINGS: "AAA" (FSA INSURED)**

*In the opinion of Bond Counsel, under existing laws, regulations, rulings and judicial decisions of the United States of America, as presently written and applied, interest on the Series 2007 Bonds (including any original issue discount properly allocable to the owner thereof) is excludable from gross income of the holders thereof for federal income tax purposes, and interest on the Series 2007 Bonds is not a specific preference item for purposes of the federal alternative minimum tax imposed on individuals and corporations. However, interest paid to corporate holders of the Series 2007 Bonds may be indirectly subject to alternative minimum tax under certain circumstances. In addition, Bond Counsel is of the opinion that the Series 2007 Bonds are "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code. Further, in the opinion of Bond Counsel, under existing laws of the State of West Virginia, the Series 2007 Bonds, and the interest thereon, are exempt from personal and corporate income taxes imposed directly thereon by the State of West Virginia. See "TAX MATTERS" herein.*

**\$5,500,000**

## **THE CITY OF HUNTINGTON (WEST VIRGINIA) SEWERAGE SYSTEM REFUNDING REVENUE BONDS SERIES 2007**

**Dated:** Date of Delivery

**Due:** As shown on inside front cover

The Series 2007 Bonds are issued in fully registered form in the denomination of \$5,000 principal amount or any integral multiple thereof. Purchasers of the Series 2007 Bonds will not receive certificates representing their interests in the Series 2007 Bonds purchased. The Series 2007 Bonds will be registered in the name of Cede & Co., as registered owner and nominee for The Depository Trust Company, New York, New York.

Interest on the Series 2007 Bonds is payable on each May 1 and November 1, commencing May 1, 2008 (each, a "Payment Date"). Principal and interest on the Series 2007 Bonds is payable by the West Virginia Municipal Bond Commission, as paying agent (the "Paying Agent") to Cede & Co.

The Series 2007 Bonds are being issued by The City of Huntington, West Virginia (the "Issuer") to provide funds (i) to currently refund the Issuer's Sewerage System Refunding Revenue Bonds, Series 1993 (the "Series 1993 Bonds"), (ii) to fund a debt service reserve account for the Series 2007 Bonds, and (iii) to pay costs of issuance of the Series 2007 Bonds and related costs.

The Series 2007 Bonds are payable solely from and secured by the Net Revenues derived from the existing public sewerage system of the Issuer and any extensions, improvements and betterments thereto, on a parity with the Prior Bonds (as hereinafter defined), and any additional parity bonds that may hereafter be issued by the Issuer as permitted by the Ordinance (as hereinafter defined), and from funds on deposit in the sinking fund and reserve accounts established therefor under the Ordinance, all as more fully described herein.

The Series 2007 Bonds are subject to redemption prior to maturity as set forth herein. See "THE SERIES 2007 BONDS-REDEMPTION" herein.

The Series 2007 Bonds do not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, and the Issuer shall not be obligated to pay the Series 2007 Bonds or the interest thereon except from the above-referenced revenues and monies. Neither the credit nor the taxing power of the Issuer shall be deemed to be pledged to, nor shall tax ever be levied for, the payment of the principal of or interest on the Series 2007 Bonds.

The scheduled payment of principal of and interest on the Bonds when due will be guaranteed under an insurance policy to be issued concurrently with the delivery of the Bonds by FINANCIAL SECURITY ASSURANCE INC.



This cover page contains only a brief description of the Issuer, the System, the Series 2007 Bonds and the security therefor. It is not intended to be a summary of material information with respect to the Series 2007 Bonds. Investors should read the entire Official Statement, including the section titled "RISK FACTORS" to obtain information necessary to make an informed investment decision.

The Issuer has designated the Series 2007 Bonds as "qualified tax-exempt obligations" for purposes of Section 265 (b)(3)(B) of the Internal Revenue Code of 1986, as amended, which relates to the ability of certain financial institutions to deduct interest expense allocable to holding and carrying tax-exempt obligations for federal income tax purposes. Representatives of the Issuer will certify that they do not anticipate that the aggregate amount of tax-exempt obligations which will be issued by or on behalf of the Issuer in calendar year 2007 will exceed \$10 million.

The Series 2007 Bonds are offered for delivery when, as and if issued and received by the Underwriter, subject to prior sale and to withdrawal or modification of the offering, without notice, and to the unqualified approval of legality by Steptoe & Johnson PLLC, Huntington, West Virginia, Bond Counsel, and the approval of certain matters by Reed and Johnson, Counsel to the Underwriter. Certain legal matters will be passed upon for the Issuer by Scott McClure, Esquire, City Attorney. It is expected that the Series 2007 Bonds will be available for delivery in New York, New York, at The Depository Trust Company on or about December 27, 2007.

**ROSS SINCLAIRE & ASSOCIATES, LLC**

Dated: December 19, 2007

**MATURITY SCHEDULE**  
**\$5,500,000**  
**The City of Huntington (West Virginia)**  
**Sewerage System Refunding Revenue Bonds, Series 2007**

<u>Bond No.</u>	<u>Maturity Date</u> (November 1)	<u>Maturity Amount</u> (thousands)	<u>Coupon Rate</u>	<u>Yield</u>	<u>CUSIP**</u>
R-1	2008	\$ 250	3.5%	3.20%	446834 EN9
R-2	2009	265	3.5%	3.22%	446834 EP4
R-3	2010	275	3.5%	3.25%	446834 EQ2
R-4	2011	290	3.5%	3.30%	446834 ER0
R-5	2012	305	3.5%	3.35%	446834 ES8
R-6	2013	320	3.5%	3.40%	446834 ET6
R-7	2014	335	3.5%	3.50%	446834 EU3
R-8	2015	350	3.5%	3.60%	446834 EV1
R-9	2016	365	3.6%	3.65%	446834 EW9
R-10	2017	360	3.7%	3.75%	446834 EX7
R-11	2019	740	4.0%	3.87%	446834 EY5
R-12	2020	395	4.0%	3.95%	446834 EZ2
R-13	2021	400	4.0%	4.00%	446834 FA6
R-14	2023	850	4.0%	4.10%	446834 FB4

**THE CITY OF HUNTINGTON, WEST VIRGINIA**

**MAYOR**

David A. Felinton

**COUNCIL**

Council Chairman Scott Caserta

Council Members

P. D. Adkins

Frances Jackson

Garry Black

Calvin "Cal" Kent

Sandra Clements

Teresa Loudermilk

Paul Farrell

Mary Neely

James N. Insko

James Ritter

City Clerk Barbara Meadows

**SANITARY BOARD**

David A. Felinton , Chairman

John J. Klim, Jr.

James D. Ashworth, Vice-Chairman

**BOND COUNSEL**

Steptoe & Johnson PLLC

Huntington, West Virginia

**COUNSEL TO THE CITY OF HUNTINGTON**

Scott McClure, Esquire

Huntington, West Virginia

**COUNSEL TO SANITARY BOARD**

Robert R. Rodecker, Esquire

Charleston, West Virginia

**UNDERWRITER**

Ross Sinclair & Associates, LLC

Frankfort, Kentucky

**UNDERWRITER'S COUNSEL**

Reed and Johnson

Lexington, Kentucky

**REGISTRAR**

United Bank, Inc.

Charleston, West Virginia

The information contained in this Official Statement has been obtained from the Issuer and other sources that are believed to be reliable, but it is not guaranteed as to accuracy or completeness and is not to be construed as a representation by the Underwriter. The information and expressions of opinion contained herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder, under any circumstances, shall create any implication that there has been no change in the affairs of the System since the date hereof. This Official Statement is submitted in connection with the sale of securities referred to herein and may not be reproduced or used, in whole or in part, for any other purpose.

No dealer, broker, salesman or other person has been authorized by the Issuer or the Underwriter to give any information or to make any representation other than as contained in this Official Statement in connection with the offering described herein, and, if given or made, such other information or representation must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer of any securities, other than those described on the cover page, or an offer to sell or a solicitation of an offer to buy in any jurisdiction in which it is unlawful to make such offer, solicitation or sale.

No registration statement relating to the Series 2007 Bonds has been filed with the Securities and Exchange Commission (the "Commission") or with any state securities agency. The Series 2007 Bonds have not been approved or disapproved by the Commission or any state securities agency, nor has the Commission or any state securities agency passed upon the accuracy or adequacy of this Official Statement. Any representation to the contrary is a criminal offense.

This Official Statement, contains statements relating to future results that are "forward-looking statements" as defined in the Private Securities Litigation Reform Act of 1995. When used in this Official Statement, the words "estimated," "forecasted," "intended," "expected," "anticipated," "projected" and similar expressions identify forward-looking statements. Such statements are subject to risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward-looking statements. Any forecast is subject to such uncertainties. Inevitably, some assumptions used to develop the forecasts will not be realized and unanticipated events and circumstances may occur. Therefore, there are likely to be differences between forecasts and actual results, and variations in results, see the information under "Risk Factors."

Other than with respect to information concerning Financial Security Assurance Inc. ("Financial Security") contained under the caption "Bond Insurance" and Exhibit F specimen "Municipal Bond Insurance Policy" herein, none of the information in this Official Statement has been supplied or verified by Financial Security and Financial Security makes no representation or warranty, express or implied, as to (i) the accuracy or completeness of such information; (ii) the validity of the Bonds; or (iii) the tax exempt status of the interest on the Bonds.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVERALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SECURITIES AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZATION, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

\*\* CUSIP data on the cover page is provided by Standard & Poor's CUSIP Service Bureau, a division of the McGraw-Hill Companies, Inc. The CUSIP numbers on the cover page hereof are being provided solely for the convenience of the Owners of the Bonds only at the time of issuance of the Notes and neither the Underwriter nor the Issuer make any representation with respect to such numbers or undertake any responsibility for their accuracy now or at any time in the future. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Bonds.

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Appendix D - Form of Opinion of Bond Counsel

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## OFFICIAL STATEMENT

**\$5,500,000**  
**THE CITY OF HUNTINGTON (WEST VIRGINIA)**  
**SEWERAGE SYSTEM REFUNDING REVENUE BONDS**  
**SERIES 2007**

### INTRODUCTION

This Official Statement, including the cover page and the Appendices hereto, is provided to set forth certain information concerning the issuance by The City of Huntington, a West Virginia municipal corporation (the "Issuer"), of \$5,500,000\* in aggregate principal amount of its Sewerage System Refunding Revenue Bonds, Series 2007 (the "Series 2007 Bonds"). The Series 2007 Bonds are being issued pursuant to the Constitution and laws of the State of West Virginia (the "State"), particularly Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (collectively, the "Act") and an ordinance enacted by the Council of the Issuer on January 10, 2005 as supplemented by a supplemental parameters resolution adopted on December 10, 2007 (said ordinance, as so supplemented, the "Ordinance"). The net proceeds of the sale of the Series 2007 Bonds will be applied (i) to currently refund the Issuer's Sewerage System Refunding Revenue Bonds, Series 1993 (the "Series 1993 Bonds"), (ii) to fund a debt service reserve account for the Series 2007 Bonds, and (iii) to pay costs of issuance of the Series 2007 Bonds and related costs. See "PURPOSE AND PLAN OF FINANCING" herein.

The Series 2007 Bonds are payable solely from and secured by the Net Revenues derived from the existing public sewerage system of the Issuer and any extensions, improvements and betterments thereto, on a parity with the Prior Bonds, as herein defined, and any additional parity bonds that may hereafter be issued by the Issuer as permitted by the Ordinance (the Series 2007 Bonds, the Prior Bonds and any such additional parity bonds are collectively referred to herein as the "Bonds"), and from funds on deposit in the sinking fund and reserve accounts established therefor for the Series 2007 Bonds under the Ordinance.

The Series 2007 Bonds are special obligations of the Issuer. The Series 2007 Bonds do not constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation on indebtedness, and the Issuer shall not be obligated to pay the Series 2007 Bonds or the interest thereon except from such Net Revenues and such funds on deposit in the respective sinking fund and reserve account established therefor. Pursuant to the Ordinance and the ordinances enacted with respect to the Prior Bonds, the Issuer has covenanted and agreed to establish and collect just and equitable rates and charges for the use of the System and the services rendered thereby as will produce for each fiscal year Net Revenues, as defined in the Ordinance, equal to at least 120% of the maximum amount required in any year to pay the principal of and interest on the Series 2007 Bonds and the Prior Bonds. See "SECURITY FOR THE BONDS -- Rate Covenant."

The Series 2007 Bonds will be dated, will mature, will bear interest and will be subject to redemption prior to maturity as more fully described under the heading "THE SERIES 2007 BONDS" herein. The Series 2007 Bonds will initially be maintained under a book-entry system. So long as the Series 2007 Bonds are maintained under a book-entry system, the manner of payment, the denominations, the transfer and exchange of ownership and the method of providing notice of redemption to the owners of the Series 2007 Bonds shall be determined as described under the "BOOK-ENTRY ONLY SYSTEM" herein. If the book-entry system is discontinued, principal of, interest, and premium, if any, on the Bonds will be payable by the West Virginia Municipal Bond Commission, Charleston, West Virginia, as paying agent (the "Paying Agent"), to the owners thereof at the address appearing in the books kept by United Bank, Inc., Charleston, West Virginia, as registrar (the "Registrar"). For further information describing the method of payment and other matters in the event the book-entry system is discontinued, see "THE SERIES 2007 BONDS" herein.

The Issuer may issue additional bonds on a parity with the Series 2007 Bonds and the Prior Bonds for the

purpose of financing the costs of the construction of additions, betterments or improvements to the System and/or refunding all or a portion of one or more series of revenue bonds, to pay claims which may exist against the revenues or facilities of the System or all of such purposes, subject in each case to certain tests and conditions provided for in the Ordinance or the Prior Ordinances. See "SECURITY FOR THE BONDS -- Additional Parity Bonds."

Brief descriptions of the Series 2007 Bonds, the System and the Ordinance are set forth in this Official Statement, which descriptions do not purport to be comprehensive. All references herein to the Ordinance, the Act and other documents, statutes, reports or instruments are qualified in their entirety by reference to such documents. References herein to the Series 2007 Bonds are qualified in their entirety by reference to the forms thereof included in the Ordinance and the information with respect thereto included in the aforesaid documents. Copies of such documents may be obtained from the Issuer or, during the period of the offering of the Series 2007 Bonds, from the Underwriter. Capitalized terms used and not otherwise defined in this Official Statement have the respective meanings given to them in the Ordinance.

## PURPOSE AND PLAN OF FINANCING

### Series 2007 Bonds

The proceeds of the Series 2007 Bonds will be used for the following purposes:

Refunding of Issuer's Sewerage System Refunding Revenue Bonds, Series 1993. The Issuer's Sewerage System Refunding Revenue Bonds, Series 1993 (the "Series 1993 Bonds") were issued in the aggregate principal amount of \$7,100,000 to (i) provide funds, which together with other funds of the Issuer, used to pay costs necessary to advance refund all of the Issuer's Outstanding Sewerage System Refunding Revenue Bonds, Series 1987, dated February 15, 1987, originally issued in the aggregate principal amount of \$8,575,000, of which \$7,130,000 was then outstanding, (ii) to fund a reserve account for the Series 1993 Bonds, and (iii) to pay costs of issuance of the Series 1993 Bonds and other costs in connection with such refunding. The Series 1993 Bonds will be redeemed upon issuance of the Series 2007 Bonds at a price equal to the principal amount of the Series 1993 Bonds plus accrued interest thereon to the date of payment. The Issuer will sign a prepayment agreement with the West Virginia Municipal Bond Commission providing for (i) the irrevocable deposit of proceeds from the Series 2007 Bonds in an amount sufficient to refund entirely the Series 1993 Bonds, (ii) notice to holders of the Series 1993 Bonds between 30 and 60 days prior to redemption, and (iii) redemption, payment in full, and discharge of the Series 1993 Bonds.

Fund Debt Service Reserve Account. A portion of the proceeds of the Series 2007 Bonds will be used to fund a debt service reserve account for the Series 2007 Bonds.

Costs of Issuance. The balance of the proceeds of the Series 2007 Bonds will be used to pay costs associated with the issuance of the Series 2007 Bonds.

## SOURCES AND USES OF FUNDS

### SERIES 2007 A BONDS

#### Sources:

Principal Amount of the Series 2007 Bonds	\$ 5,500,000.00
Reoffering Premium	2,113.85
Series 1993 Bonds Debt Service Fund	55,477.06
Series 1993 Bonds Debt Service Reserve Fund	628,100.00

**Total Sources of Funds** **\$ 6,185,690.91**

#### Uses:

Costs of Issuance <sup>(1)</sup>	\$ 295,040.34
Deposit to Debt Service Reserve Fund	486,860.00
Deposit to Current Refunding Fund for Series 1993 Bonds	5,348,102.08
Deposit to Sinking Fund	55,477.06
Rounding Amount	211.43

**Total Uses of Funds** **\$ 6,185,690.91**

<sup>(1)</sup> Representing Underwriter's discount, legal and financing fees, bond insurance, printing costs and other miscellaneous expenses relating to the issuance of the Series 2007 Bonds.

## SECURITY FOR THE BONDS

The Series 2007 Bonds are special obligations of the Issuer and are payable as to principal, premium, if any, and interest solely from the sources described below. The Issuer is under no obligation to pay the Series 2007 Bonds except from said sources.

### Outstanding Prior Bonds

Upon refunding of the Series 1993 Bonds, the Issuer has outstanding the following bonds payable from the Net Revenues of the System that are on parity with the 2007 Bonds: (i) Sewer Revenue Bonds, Series 1997 (West Virginia SRF Program), dated November 25, 1997, issued in the original aggregate principal amount of \$3,039,895, of which approximately \$1,855,973 is currently outstanding, (ii) Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), dated June 22, 1999, issued in the original aggregate principal amount of \$2,083,550, of which approximately \$1,446,709 is currently outstanding, (iii) Sewer Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated October 10, 2000, issued in the original aggregate principal amount of \$1,832,399, of which approximately \$1,394,818 is currently outstanding, and (iv) Sewer Revenue Bonds, Series 2006 A, dated November 30, 2006, issued in the original aggregate principal amount of \$3,150,000, of which \$3,150,000 is currently outstanding (collectively, the "Prior Bonds").

## **Sources of Payment**

The payment of the debt service on the Series 2007 Bonds shall be secured forthwith equally and ratably by a first lien on and pledge of the Net Revenues derived from the System, on parity with the Prior Bonds and any additional parity bonds that may hereafter be issued by the Issuer as permitted by the Ordinance, and the Series 2007 Bonds are also payable from the funds on deposit in the Series 2007 Bonds Sinking Fund and the Reserve Account therein. Net Revenues derived from the System in an amount sufficient to pay the principal of, premium, if any, and interest on the Series 2007 Bonds and to make the payments into the Series 2007 Bonds Sinking Fund, to pay all operation and maintenance expenses and to pay all other payments provided for in the Ordinance, and the funds in the respective Series 2007 Bonds Sinking Fund and the Reserve Account therein, are irrevocably pledged to the payment of the principal of, premium, if any, and interest on the Series 2007 Bonds as the same become due and for other purposes provided in the Ordinance.

## **Rate Covenant**

Prior to the issuance of the Series 2007 Bonds, rates or charges for the use of the services and facilities of the System will be fixed and established, all in the manner and form required by law, and a copy of such rates and charges so fixed and established shall at all times be kept on file in the office of the Clerk of the Issuer, which copy will be open to inspection by all interested parties. The schedule or schedules of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds and accounts created under the Ordinance. Such schedule or schedules of rates and charges shall be revised from time to time, whenever necessary, so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule or schedules of rates or charges from time to time in effect shall be sufficient to produce Net Revenues equal to not less than 120% of the Maximum Annual Debt Service on the Bonds in any Fiscal Year. All such rates and charges, if not paid when due, shall constitute a lien upon the premises served by the System. For purposes of this test, the terms "Gross Revenues" and "Net Revenues" shall not include proceeds from the sale of capital assets.

## **Series 2007 Bonds Reserve Account**

\$ 486,860.00 of the proceeds of the Series 2007 Bonds will be deposited in the Series 2007 Bonds Reserve Account. In the event of a transfer from the Series 2007 Bonds Reserve Account to the Series 2007 Bonds Sinking Fund, the Issuer shall restore the balance of the Series 2007 Bonds Reserve Account in an amount up to the Series 2007 Bonds Reserve Requirement, and the Issuer shall replenish the Series 2007 Bonds Account as provided in the Ordinance.

## **Application of Gross Revenues**

The entire Gross Revenues derived from the operation of the System and all parts thereof shall be deposited by the Issuer in the Revenue Fund. Surcharge Revenues, if any, are not part of the Gross Revenues of the System. The Revenue Fund 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. All Revenues at any time remaining on deposit in the Revenue Fund shall be disposed only in the following manner and order of priority:

- (1) The Issuer shall first, each month, pay from the Revenue Fund the current Operating Expenses of the System.
- (2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Bond Commission (i) for deposit in the Sinking Funds of the Prior Bonds, the amounts required by the Prior Ordinances to pay the interest on the Prior Bonds; and (ii) commencing 7 months prior to the first interest

payment date of the Series 2007 Bonds, for deposit in the Series 2007 Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on the Series 2007 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 2007 Bonds Sinking Fund and the next ensuing semiannual interest payment date is more or less than 7 months, then such monthly payments shall be decreased or increased proportionately to provide, 1 month prior to the next ensuing semiannual interest payment date, the required amount of interest coming due on such date; provided further that, the initial amount required to be transferred from the Revenue Fund and deposited in the Series 2007 Bonds Sinking Fund shall be reduced by the amount of accrued interest on the Series 2007 Bonds deposited therein.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Bond Commission (i) for deposit in the Sinking Funds of the Prior Bonds, the amounts required by the Prior Ordinances to pay the principal of the Prior Bonds; and (ii) commencing 13 months prior to the first principal payment date or mandatory Redemption Date of the Series 2007 Bonds, for deposit in the Series 2007 Bonds Sinking Fund and in the Series 2007 Bonds Redemption Account therein in the case of the Term Bonds which are to be redeemed, a sum equal to 1/12th of the amount of principal which will mature or be redeemed and become due on the Series 2007 Bonds on the next ensuing annual principal payment date or mandatory Redemption Date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2007 Bonds Sinking Fund and the next ensuing annual principal payment date or mandatory Redemption Date is more or less than 13 months, then such monthly payments shall be decreased or increased proportionately to provide, 1 month prior to the next ensuing annual principal payment date or mandatory Redemption Date, the required amount of principal coming due on such date.

Monies in the Series 2007 Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 2007 Bonds, whether by maturity or redemption prior to maturity and, with respect to the Series 2007 Bonds Reserve Account therein, any amounts necessary to fund such Reserve Account to maintain the Series 2007 Bonds Reserve Account Requirement. Pending such use, such monies shall be invested in accordance with the Ordinance.

The Issuer shall not be required to make any further payments into the Series 2007 Bonds Sinking Fund when the aggregate amount of funds therein, including the Series 2007 Bonds Reserve Account therein, is at least equal to the aggregate principal amount of Series 2007 Bonds then Outstanding, plus the amount of interest due or thereafter to become due on such Bonds then Outstanding.

The payments into the Series 2007 Bonds Sinking Fund shall be made on the first day of each month, except that, when the first day of any month shall be a Saturday, Sunday or legal holiday, then such payments shall be made on the next succeeding Business Day, and all such payments shall be remitted to the Bond Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of the Ordinance.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Bond Commission (i) for deposit in the Reserve Accounts of the Prior Bonds, the amount required by the Prior Ordinances; and (ii) for deposit in the Series 2007 Bonds Reserve Account, an amount sufficient to remedy any decrease in value of the Series 2007 Bonds Reserve Account below the Series 2007 Bonds Reserve Requirement or any withdrawal from the Series 2007 Bonds Reserve Account, beginning with the first full calendar month following the date on which (a) the valuation of investments in the Series 2007 Bonds Reserve Account results in a determination that the amount of monies and the value of the Qualified Investments deposited to the credit of the Series 2007 Bonds Reserve Account is less than the Series 2007 Bonds Reserve Requirement, or (b) any amount is withdrawn from the Series 2007 Bonds Reserve Account for deposit into the Series 2007 Bonds Sinking Fund. To the extent Gross Revenues and any other legally available funds are available therefor, the amount so deposited shall be used to restore the amount of monies on deposit in the Series 2007 Bonds Reserve Account to an amount equal to the Series 2007 Bonds Reserve Requirement to the full extent that such Gross Revenues are available; provided however, that if the shortfall in the Series 2007 Bonds Reserve Account is due to a decrease in value of investments therein, such shortfall shall be replenished by not less than 6 equal monthly payments, and if such shortfall is due to a

withdrawal from the Series 2007 Bonds Reserve Account, such shortfall shall be replenished by not less than 12 equal monthly payments, and provided further, that no payments shall be required to be made into the Series 2007 Bonds Reserve Account whenever and as long as the amount on deposit therein shall be equal to the Series 2007 Bonds Reserve Requirement.

Amounts in the Series 2007 Bonds Reserve Account shall be used only for the purpose of making payments of principal of and interest on the Series 2007 Bonds when due, when amounts in the Series 2007 Bonds Sinking Fund are insufficient therefor and for no other purpose.

(5) The Issuer shall next, from the monies remaining in the Revenue Fund, on the first day of each month, transfer to the Depreciation Fund a sum equal to not less than 2 1/2% of the Gross Revenues each month (as previously set forth in the Prior Ordinances and not in addition thereto), exclusive of any payments for account of any Reserve Account.

Withdrawals and disbursements may be made by the Issuer from the Depreciation Fund only for the following purposes and in the following order of priority for the Prior Bonds and the Series 2007 Bonds:

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

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

(c) For the payment of the reasonable costs of land and depreciable renewals, repairs, extensions, improvements and additions to the System.

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

(7) The Issuer may next, each month, after making the above required transfers of monies from the Revenue Fund, apply any remaining revenues ("Surplus Revenues") to payment of debt service on subordinate bonds, notes, certificates or other obligations of the System. Any Surplus Revenues then remaining in the Revenue Fund may be used for any lawful purpose of the System.

B. The Bond Commission is hereby designated as the fiscal agent for the administration of the Sinking Funds created or continued hereunder, and all amounts required for said Sinking Funds shall be remitted to the Bond Commission from said Revenue Fund and from the proceeds of the sale of the Bonds, by the Issuer at the times and as otherwise provided herein. All remittances made by the Issuer to the Bond Commission shall clearly identify the fund or account into which each amount is to be deposited. Notwithstanding the foregoing, however, the Bond Commission shall deposit all remittances in the fund or account in the priority established by the Ordinance.

C. If on any monthly payment date the Net Revenues, as applicable, 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 Ordinance Section 4.04 and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

D. Principal and interest payments, and any payments made from the Net Revenues for the purpose of funding the Prior Bonds and the Series 2007 Bonds, shall be made on a parity basis and pro-rata, with respect to the Prior Bonds, the Series 2007 Bonds and any parity Bonds hereinafter issued, in accordance with the respective principal amounts of each such series of Bonds then Outstanding, if less than the full amount required hereby.

#### **Additional Net Revenue Parity Bonds**

So long as the Prior Bonds are Outstanding, the limitations and requirements on the issuance of parity obligations set forth in the Prior Ordinances shall be applicable. No additional parity Bonds payable out of the Net Revenues of the System shall be issued after the issuance of any Series 2007 Bonds pursuant to the Ordinance, except under the conditions and in the manner provided in the Ordinance.

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

No such additional parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Clerk of the Issuer a written statement by Independent Accountants, reciting the conclusion that the Net Revenues actually derived, from the System during the 12 consecutive months in the 18 months immediately preceding the date of the actual issuance of such additional parity Bonds, plus the increased annual Net Revenues expected to be received after the date of issuance of such parity Bonds shall not be less than 120% of the Maximum Annual Debt Service on the following:

- (1) The Prior Bonds then Outstanding;
- (2) The Series 2007 Bonds then Outstanding;
- (3) Any additional parity Bonds theretofore issued pursuant to the provisions contained in the Ordinance then Outstanding; and
- (4) The additional parity Bonds then proposed to be issued.

The "increased annual Net Revenues expected to be received" as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from any increase in rates enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to the date of delivery of such additional parity Bonds, and shall not exceed the amount to be stated in the aforementioned certificate of Independent Accountants, which shall be filed in the office of the Clerk of the Issuer prior to the issuance of such additional parity Bonds. For purposes of this test, the terms "Gross Revenues" and "Net Revenues" shall not include proceeds from the sale of capital assets.

The term "additional parity Bonds," as used in this section, shall be deemed to mean additional Bonds issued under the provisions and within the limitations of this section, payable from the Net Revenues of the System on a parity with the Bonds, and all the covenants and other provisions of the Ordinance (except as to details of such additional parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Series 2007 Bonds and the Holders of any additional parity Bonds theretofore or subsequently issued from time to time within the limitations of and in compliance with this section. All the Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Net Revenues of the System, and their source of and security for payment from said Net Revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in the Ordinance required for and on account of such additional parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to the Ordinance.

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

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

### **Limited Obligations**

The Series 2007 Bonds do not constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation on indebtedness. No registered owner of any Bond shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2007 Bonds or the interest thereon.

## **THE SERIES 2007 BONDS**

The Series 2007 Bonds are available in book-entry form only. See "BOOK-ENTRY ONLY SYSTEM" below. So long as Cede & Co. is the registered owner of the Series 2007 Bonds as nominee of The Depository Trust Company, New York, New York, references herein to the Bondholders or registered owners of the Series 2007 Bonds shall mean Cede & Co. and shall not mean the beneficial owners of the Series 2007 Bonds.

### **Description of the Series 2007 Bonds**

The Series 2007 Bonds are being issued in the form of term bonds, the interest on which accrues and is payable on May 1 and November 1 of each year, commencing May 1, 2008 (each a "Payment Date"). The Series 2007 Bonds are dated, bear interest and mature as set forth on the front cover of this Official Statement.

The Series 2007 Bonds are issued in fully registered form in denominations of \$5,000 principal amount and integral multiples thereof.

Interest on and principal of the Series 2007 Bonds are payable by the West Virginia Municipal Bond Commission, Charleston, West Virginia, as paying agent (the "Paying Agent") to Cede & Co. by wire transfer in immediately available funds in accordance with the terms of a Letter of Representation by and between the Issuer and DTC (the "Letter of Representation").

## Redemption

### Optional Redemption:

The Series 2007 Bonds are subject to redemption, at the option of the Issuer on or after November 1, 2015, in whole or in part, at any time by lot at an amount of the principal amount, plus interest, if any, accrued to the date fixed for redemption.

Unless waived by any holder of the Bonds to be redeemed, official notice of any redemption shall be given by the Registrar on behalf of the Issuer by mailing a copy of an official redemption notice by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the registered owner of the Note or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such registered owner to the Bond Registrar.

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

- (1) The redemption date,
- (2) The redemption price,
- (3) If less than all outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed,
- (4) That on the redemption date the Redemption Price and interest accrued will become due and payable upon each such Note or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date,
- (5) The place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the principal office of the Registrar, and,
- (6) Such other information, if any, as shall be required for DTC-Eligible Bonds.

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

### Mandatory Redemption:

The Term Bonds due November 1, 2019 are subject to mandatory sinking fund redemption prior to maturity at a redemption price of 100% of the principal amount to be redeemed, plus accrued interest to the redemption date, on November 1, 2018 in the principal amount of \$360,000. The remaining \$380,000 principal amount of Term Bonds due November 1, 2019 are scheduled to be paid at maturity.

The Term Bonds due November 1, 2023 are subject to mandatory sinking fund redemption prior to maturity at a redemption price of 100% of the principal amount to be redeemed, plus accrued interest to the redemption date, on November 1, 2022 in the principal amount of \$415,000. The remaining \$435,000 principal amount of Term Bonds due November 1, 2023 are scheduled to be paid at maturity.

Unless waived by any Holder of the Bonds to be redeemed, official notice of any redemption shall be given by the Registrar on behalf of the Issuer by mailing a copy of an official redemption notice by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the applicable Bond Insurer, if any, the Original Purchaser, and the registered owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such registered owner to the Bond

Registrar.

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

- (1) The Redemption Date,
- (2) The Redemption Price,
- (3) If less than all outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed,
- (4) That on the Redemption Date the Redemption Price and interest accrued will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date,
- (5) The place where such Bonds are to be surrendered for payment of the Redemption Price, which place of payment shall be the principal office of the Registrar, and
- (6) Such other information, if any, as shall be required for DTC-eligible Bonds.

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

Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the Issuer shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Registrar at the Redemption Price. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the registered owner a new Bond or Bonds of the same maturity in the amount of the unpaid principal. All Bonds which have been redeemed shall be canceled and destroyed by the Bond Registrar and shall not be reissued.

Failure to receive such notice or any defect therein or in the mailing thereof shall not affect the validity of proceedings for the redemption of Bonds, and failure to mail such notice shall not affect the validity of proceedings for the redemption of any portion of Bonds for which there was no such failure.

### **BOOK-ENTRY ONLY SYSTEM**

The Series 2007 Bonds will be available in book-entry form only, in the authorized denominations set forth in the Ordinance. Purchasers of the Series 2007 Bonds will not receive certificates representing the interests in the Series 2007 Bonds purchased.

The following information concerning DTC and DTC's Book-Entry Only System has been obtained from DTC and contains statements that are believed to describe accurately DTC, the method of effecting book-entry transfers of securities distributed through DTC and certain related matters, but the Issuer and the Underwriter take no responsibility for the accuracy of such statements.

1. The Depository Trust Company ("DTC"), New York, NY, will act as securities depository for the Series 2007 Bonds (the "Securities"). The Securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Security certificate will be issued for each issue of the Securities, each in the aggregate principal amount of such issue, and will be deposited with DTC.

2. DTC, the world's largest depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the

Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 2.2 million issues of U.S. and non-U.S. equity, corporate and municipal debt issues, and money market instrument from over 100 countries that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC, in turn, is owned by a number of Direct Participants of DTC and Members of the National Securities Clearing Corporation, Fixed Income Clearing Corporation, and Emerging Markets Clearing Corporation (NSCC, FICC, and EMCC, also subsidiaries of DTCC), as well as by the New York Stock Exchange, Inc., the American Stock Exchange LLC, and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has Standard & Poor's highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

3. Purchases of Securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the Securities on DTC's records. The ownership interest of each actual purchaser of each Security ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Securities, except in the event that use of the book-entry system for the Securities is discontinued.

4. To facilitate subsequent transfers, all Securities deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. or such other name as may be requested by an authorized representative of DTC. The deposit of Securities with DTC and their registration in the name of Cede & Co. or such other nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Securities; DTC's records reflect only the identity of the Direct Participants to whose accounts such Securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Securities may wish to take certain steps to augment transmission to them of notices of significant events with respect to the Securities, such as redemptions, tenders, defaults, and proposed amendments to the security documents. For example, Beneficial Owners of Securities may wish to ascertain that the nominee holding the Securities for their benefit has agreed to obtain and transmit notices to Beneficial Owners, in the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of the notices be provided directly to them.

6. Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

7. Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to the Securities unless authorized by a Direct Participant in accordance with DTC's Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and dividend payments on the Securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts, upon DTC's receipt of funds and corresponding detail information from Issuer or Agent on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC nor its nominee, Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

9. A Beneficial Owner shall give notice to elect to have its Securities purchased or tendered, through its Participant, to Agent, and shall effect delivery of such Securities by causing the Direct Participant to transfer the Participant's interest in the Securities, on DTC's records, to Agent. The requirement for physical delivery of Securities in connection with an optional tender or a mandatory purchase will be deemed satisfied when the ownership rights in the Securities are transferred by Direct Participants on DTC's records and followed by a book-entry credit of tendered Securities to Agent's DTC account.

10. DTC may discontinue providing its services as securities depository with respect to the Securities at any time by giving reasonable notice to Issuer or Agent. Under such circumstances, in the event that a successor securities depository is not obtained, Security certificates are required to be printed and delivered.

11. Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Security certificates will be printed and delivered to DTC.

12. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that Issuer believes to be reliable, but Issuer takes no responsibility for the accuracy thereof.

## **RISK FACTORS**

*The following discussion of risks is not meant to be an exhaustive list of the risks associated with the purchase of the Series 2007 Bonds, and the order in which the risks are described does not necessarily reflect the relative importance of the various risks.*

### **Limited Obligations**

The Series 2007 Bonds are limited obligations of the Issuer, payable from and secured by the Net Revenues of the System and from funds on deposit in the Sinking Fund and the reserve account established therefor. The obligation of the Issuer to pay debt service on the Series 2007 Bonds does not constitute an obligation of the Issuer to levy or pledge any form of taxation or for which the Issuer has levied or pledged any form of taxation, and the Issuer shall not be obligated to pay the Series 2007 Bonds, or premium, if any, or the interest thereon, except from such Net Revenues and such funds on deposit in the Series 2007 Bonds Sinking Fund and reserve account for the Series 2007 Bonds.

## **Severe Financial Difficulties of the Issuer**

The Issuer has been experiencing severe financial difficulties for the past several years. These difficulties have arisen for a number of reasons. These reasons include, but are not limited to, a declining population and business base, increased operating and capital expenses and a limited ability as a West Virginia municipality to legally raise additional revenue. In addition, certain of the Issuer's retirement plans are severely underfunded. See discussion of Pension Fund Liabilities below. The Issuer's unfunded pension liabilities and other obligations are expected to place severe financial pressures on the Issuer for the foreseeable future. The Issuer has taken various actions to attempt to alleviate its financial condition. However, there is no assurance these actions will be successful. Should the Issuer be unable to alleviate its severe financial distress, then the Issuer's severe financial distress will continue. Such financial distress could negatively impact the repayment of the Series 2007 Bonds and could adversely affect their market value.

## **Fiscal Impact of Unfunded Pension Liabilities**

As of July 1, 2006, the date of the most recent actuarial valuations of the Issuer's Policemen's Pension and Relief Fund (the "Policemen's Plan") and the Issuer's Firemen's Pension and Relief Fund (the "Firemen's Plan" and together with the Policemen's Plan the "Pension Plans"), the total unfunded liability of the Pension Plans was \$125,512,233 (\$56,794,918 for the Policemen's Plan and \$68,717,315 for the Firemen's Plan).

The Issuer has elected to fund benefits under the Pension Plans using the "alternative minimum contribution methodology" as defined in West Virginia Code Section 8-22-20. The key features of the alternative minimum contribution methodology include:

1. The initial alternative contribution for plan year 1991 is the greater of 107% of the amount contributed for the plan year ending June 30, 1990, or the five-year average of contributions made since 1984.
2. The Issuer's contributions made in subsequent years cannot be less than 107% of the contribution made in the prior fiscal year.
3. The Issuer's actuary must certify in writing that each of the Pension Plans is projected to be solvent under the alternative contribution method for the next consecutive 15-year period. A plan is deemed to be solvent if projected assets are greater than zero over the 15-year projection period.

The following tables show funding progress for each of the plans and the Issuer's contributions into each of the plans for the past several years:

I. SCHEDULES OF FUNDING PROGRESS

Firemen's Pension and Relief Fund

<u>Actuarial Valuation Date</u>	<u>Market Value of Assets</u>	<u>Actuarial Accrued Liability (AAL)</u>	<u>Unfunded AAL (UAAL)</u>	<u>Funded Ratio</u>	<u>Covered Payroll</u>
7/1/04	424,983	65,057,295	64,632,312	1%	
7/1/05	1,064,842	67,138,938	66,074,096	2%	4,054,648
7/1/06	1,818,597	70,535,912	68,717,315	3%	4,238,353

Police Pension & Relief Fund

7/1/04	2,360,235	55,421,562	53,061,327	4%	3,546,605
7/1/05	3,721,967	57,913,268	54,191,301	6%	4,052,062
7/1/06	5,277,416	62,072,334	56,794,918	9%	4,336,563

II. SCHEDULES OF EMPLOYER CONTRIBUTIONS

The employer contributions as calculated in accordance with the West Virginia State Code alternative minimum annual employer contribution formula are as follows:

Firemen's Pension and Relief

Police Pension and Relief

<u>Fiscal Year Ending June 30</u>	<u>Annual Required Contribution</u>	<u>Percentage Contributed</u>	<u>Annual Required Contribution</u>	<u>Percentage Contributed</u>
2003	2,757,035	100%	2,705,314	100%
2004	2,950,027	100%	2,894,686	100%
2005	3,156,529	100%	3,126,261	100%
2006	3,377,486	100%	3,345,099	100%
2007	3,613,911	100%	3,579,256	100%

The Policemen's Plan experienced a total actuarial loss of \$2,702,915 and the Firemen's Plan experienced a total actuarial loss of \$2,340,917 during the plan year ending June 30, 2006. The key factors contributing to the experience loss included:

1. Asset Performance: The funds experienced returns on market value of assets lower than expected return.
2. Demographic Experience: An actuarial valuation is based on the expectation of certain events such as salary increases, retirement, disability, mortality, and termination. The key reasons causing the liability loss were loss due to:
  - A. Cost of living adjustments in 2006 greater than the assumed rate;
  - B. More active police retiring than expected;

- C. Salary growth rate in 2006 greater than the assumed rate;
- D. Fewer terminations than expected; and
- E. Refinements in the valuation methodology.

If the Issuer continues to contribute the alternative minimum amount, in the year 2021 based on an open group projection, the funded ratio of the Policemen's Plan is expected to be 86% and the funded ratio of the Firemen's Plan is expected to be 74%. In the year 2019, contributions will peak at 135% of payroll for the Policemen's Plan. In the year 2021, contributions will peak at 151% of payroll for the Firemen's Plan. After 2019 for the Policemen's Plan and after 2021 for the Firemen's Plan, the funded ratio exceeds 80% and the standard contribution is triggered. The Issuer's contributions are expected to grow rapidly, and then decline sharply once the funded ratio reaches 80%.

In addition, between now and the year standard contributions are triggered, the Issuer's required minimum contributions to the Pension Plans will continue to significantly increase each year. After such year, the ratio of required annual contributions to covered payroll will begin to decline. Unless relief is provided to the Issuer or additional funding mechanisms are approved by the State Legislature these increased contribution requirements along with other financial obligations of the Issuer will place the Issuer in chronic severe economic distress.

For the fiscal year ending June 30, 2008 projected contributions to the Policemen's Plan were 9.6% of the City's budgeted General Fund Revenues and projected contributions to the Firemen's Plan were 9.6% of the City's budgeted General Fund Revenues. The combined contributions for both plans were 19.2% of the City's budgeted General Fund Revenues. The City's Finance Department has projected that the City's General Fund Revenues will grow at an average pace of 4% per year over the next several years. Under the alternative minimum contribution methodology the City is obligated to annually increase its contributions to the plans by 7% each year. Unless the City's growth in General Fund Revenues is at least 7% each year, the portion of the City's budgeted General Fund Revenues that will be applied to contributions to the plans will continue to increase through at least 2019 for the Policeman's Plan and 2021 for the Fireman's Plan. Projecting growth in the City's General Fund Revenues over an extended period of time is highly speculative.

### **Limitation on Remedies and Limited Recourse on Default**

The remedies available to the owners of the Series 2007 Bonds upon the occurrence of an event of default with respect to the Series 2007 Bonds are in many respects dependent upon judicial actions which are often subject to discretion and delay and could prove both expensive and time consuming to obtain.

In addition, the rights and remedies of the owners of the Series 2007 Bonds under the Ordinance and state law may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditor's rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to limitations on legal remedies against cities and sanitary boards in the State of West Virginia. The opinions delivered by Bond Counsel concurrently with the issuance of the Series 2007 Bonds will be subject to such limitations and the various legal opinions to be delivered concurrently with the issuance of the Series 2007 Bonds will be similarly qualified. See "APPENDIX D - FORM OF BOND COUNSEL OPINION."

Note that the Ordinance specifically provides that the Bondholders, in addition to all other remedies or rights available at law or in equity, shall have all rights specifically provided in Section 21 of the Act. Section 21 provides for judicial appointment of a receiver for the sewer system in order to administer the system so as to satisfy its various obligations. Note, also, that Section 21 has not been specifically construed by the West Virginia Supreme Court of Appeals.

### **Secondary Market for Bonds**

There can be no guarantee that there will be a secondary market for the Series 2007 Bonds or, if a

secondary market exists, that any Series 2007 Bonds can be sold for any particular price. Occasionally, because of general market conditions or because of adverse history or economic prospects connected with a particular issue, secondary marketing practices in connection with a particular issue are suspended or terminated. Accordingly, prices of issues for which a market is being made will depend upon then-prevailing circumstances. Such prices could be substantially different from the original purchase price.

### **Repayment of Overpayments**

The Sanitary Board has a Service Agreement with West Virginia American Water Company (“WVAWC”) to collect customer payments, among other things. In January 2002, an administrative change of WVAWC resulted in ongoing, regular overpayments by WVAWC to the Sanitary Board until October 2006 according to findings of the Staff of the West Virginia Public Service Commission (the “Staff”). On October 31, 2007 in *Huntington Sanitary Board v. West Virginia-American Water Company, P.S.C. Case No. 07-0753-S-C*, the Staff recommended “as resolution to this matter that the Board be ordered to repay WVAWC \$449,211.94 for overpayment of municipal excise taxes for the period of January 2002 to October 2006. This overpayment should be repaid in the amount of \$7,486.00 per month for a period of 60 months.”

The Sanitary Board does not agree that the information presented establishes that there has been an overpayment, or that, if there has been an overpayment, that the amount of such overpayment is the amount reflected in the Staff recommendation. The parties expect there will be a hearing on the matter, and the Administrative Law Judge decision due date is May 28, 2008.

## **THE SYSTEM**

### **Organization and Administration**

The Sanitary Board was created by City Council pursuant to the Act and an ordinance adopted October 11, 1935, which placed the custody, administration, operation and maintenance of the System under the supervision and control of the Sanitary Board. City Council retains the power to establish and maintain rates and charges for the use of services provided by the System and to issue bonds on behalf of the City for the purpose of paying the costs of improvements and extensions to the System. The Sanitary Board is appointed by City Council and consists of the Mayor, who acts as Chairman, and two other persons, one of whom must be a registered professional engineer. The Mayor’s term on the Sanitary Board coincides with his term as Mayor of the City of Huntington, and the other members are appointed for terms of three years.

The present membership of the Sanitary Board is as follows:

David A. Felinton	Mayor and Chairman
John J. Klim, Jr.	Member
James D. Ashworth	Member, Vice-Chairman and Engineer

Certain administrative staff members employed by the Sanitary Board are as follows:

J. Bruce Fox	Executive Director
Matthew Kirk	Manager of Field Operations
Michael Copley	Manager of Plant Operations
Edward Romans	Plant Superintendent
Jackie Lowery	Accountant
Loretta Covington	Manager of Administration

### **Properties and Services**

The System consists of approximately 300 miles of combined and sanitary sewer lines, approximately twelve miles of force main sewer lines, thirty sewage lift stations and a 17.0MGD wastewater treatment plant. The wastewater treatment plant is located in the extreme western portion of the City on 17.47 acres of property owned by the City. The System provides sewage collection and treatment services to more than 95% of the population of the City and to the residents of four public service districts and two municipalities located outside the City. The System is a "combined system" in that both storm water run-off and sanitary sewage are handled. Treated effluent is discharged into the Ohio River west of the City.

The original wastewater treatment plant began operating in 1964 and provided primary treatment of wastewater received from the City, the Spring Valley Public Service District and the Monel Park Public Service District. In 1984, in response to orders issued by the Ohio River Valley Sanitation Commission, the United States Environmental Protection Agency and the West Virginia Department of Natural Resources, the existing treatment processes at the facilities were upgraded from primary to secondary treatment. Following the completion of this process upgrade, additional service area was added to the wastewater treatment facilities by adding to the System the Pea Ridge Public Service District, Northern Wayne Public Service District and the cities of Ceredo and Kenova, West Virginia.

Following the completion of the Sewage Sludge Disposal Facilities in 1989, the Sanitary Board initiated a \$3,000,000 capital upgrade program to repair, modify and upgrade the mechanical, electrical, instrumentation and control components throughout the collection system. To date, in addition to approximately \$445,500 in labor and materials, the Board has expended approximately \$1,000,000 on equipment and services relative to this system upgrade program from its general revenues.

On October 16, 1989, a sewage sludge disposal system was completed at the Treatment Plant which utilizes West Virginia (Bituminous) coal in the treatment process to improve the quality of wastewater returned to the environment and meet the goal of the Federal Water Pollution Control Act to make rivers, lakes and streams fishable and swimmable.

An average daily flow volume of approximately 13 million gallons per day is received at the Treatment Plant and is subject to a treatment process consisting of screening, grit collection, preairation, primary sedimentation, stabilization utilizing the activated sludge process, secondary clarification and chlorination prior to discharge into the Ohio River. The primary and secondary treatment facilities are designed for an average daily flow of 17 million gallons per day.

The treatment processes at the Treatment Plant currently produces approximately 26,000 wet tons of sewage sludge annually. The sludge dewatering and disposal facilities utilize continuous belt filter presses to convert the liquid sludges from the wastewater treatment processes into filter cake which contains approximately 24% solids and 76% water. The filter cake is then mixed with coal and fed into a fluidized bed disposal system where it is burned at about 1600 degrees Fahrenheit. This process has proven to be an extremely cost effective system for the Sanitary Board.

The heart of the disposal system is a fluidized bed reactor which contains a bed of sand. Just before start-up, the stationary bed of hot sand inside the reactor is about 3-1/2 feet deep. When the fluidizing blower is turned on, the stationary bed of sand expands approximately 30-35%, to approximately 5 feet as the hot air forces its way upward through the bed. At this time, the bed is said to be fluidized, which means that each individual grain of red hot sand is suspended in the rising stream of hot gases and a given grain of sand is free to wander throughout the bed in a random manner. Each grain is surrounded by a "cushion" of rising gas.

The bed of sand resembles a tank of boiling water in the sense that a definite bed level is maintained and there is considerable turbulence or "splashing" at the bed surface. There is another similarity between the fluidized bed and a tank of boiling water and that pertains to the density of the fluidized sand. Each cubic foot of fluidized sand has the same density as that of a cubic foot of water.

During the 2007 Fiscal Year the heat exchanger component of the disposal system was repaired at a cost of approximately \$2,100,000.

### Future Projects

Future projects include a major repair or replacement of the existing disposal system. This project is expected to be complete within approximately 5 years at a cost of \$15,000,000 to \$18,000,000. A second major project is the Hal Greer Boulevard/Route 10 Sewer Line Extension. This project is expected to be complete within the next 2 to 3 years and is currently estimated to cost approximately \$3,600,000.

Item Number	Major Equipment	A Estimated Age (YEARS)	B Useful Life (YEARS)	C Remaining Useful Life (B-A) (YEARS)	D Replacement Cost (\$)	E Annualized Cost (D/C) (\$)
1	Pump Structures& Equip*	46	60	14	\$6,000,000	\$428,571
2	Control Panels Plant	20	40	20	\$750,000	\$37,500
3	Galleries and Tunnels	46	60	14	\$500,000	\$35,714
4	Sewer Mains	46	50	4	\$12,735,876	\$6,026,788
5	Treatment Plant/Equip.	20	40	20	\$750,000	\$37,500
6	Pump Station Upgrades	36	63	27	\$35,601,054	\$4,811,254
7	Valves	1	20	19	\$575,000	\$33,798
8	Service Lines	49	50	1	\$49,500	\$49,500
9	Manholes	49	50	1	\$342,700	\$73,313
10	Lab/Monitoring Equip.	NA	12	6	\$150,000	NA
11	Tools, Shop Equip.	NA	10	NA	\$100,000	NA
12	Vactor Hoses, Misc	NA	10	NA	\$25,000	NA
13	Backhoes/Trucks/Other	9	15	6	\$1,906,320	\$811,833
					\$59,485,450	\$12,345,771

### Total Annualized Cost

The table below presents a summary of estimates by the Sanitation Board for capital improvements between FY 2007 and FY 2011.

- Years proposed FY, 2008, 2010, 2012, 2014, priority stations from left to right funding available.
- Pats Branch, 13th Street, 4th Street, 5th Avenue, control panels, pumps, valves, roofs from needs list
- Plan for construction includes a year for construction/ year for planning each site.
- Four Pole upgrade FY 2000 estimate Burgess & Niple \$1,362,300 NASA inflation calculation % 1.145 or \$1,559,834.
- Propose comparable upgrades at Pats Branch, 13th Street, 4th Street, 5th Avenue, (13th) \$ 6,000,000 recent 1/2 rehabilitation
- 13th Street control panel rehabilitation due to fire damage at site, gallery work not specified.

**Customers**

The number of sewer connections served by the System in each of the past five years is as follows:

2003.....	23,082
2004.....	22,554
2005.....	22,622
2006.....	22,521
2007.....	22,404

The customer breakout for 2007 is as follows:

Residential .....	20,458
Commercial .....	1,915
Industrial .....	31

Approximately 15.54% of the volume of wastewater treated by the System is industrial waste discharged into the System pursuant to special permits issued by the Sanitary Board. The permits are required by the Sanitary Board in order to control the discharge of certain contaminants.

The major source of industrial wastes are shown in the table below:

	Approximate Avg. Daily Volume <u>gal./day</u>	Type of <u>Industry</u>
Special Metals	885,404	Nickel alloys
Flint Ink	280,849	Organic dyes
Steel of West Virginia, Inc.	248,954	Manufacture steel
Leachate Disposal (Various)	207,600	Disposal
Cabell Huntington Hospital	179,147	Hospital
St. Mary's Hospital	174,758	Hospital
Veterans Administration	106,573	Hospital
CSX Corporation	57,063	Locomotive shop
ACF Industries, Inc.	11,362	Railroad cars
Tri-State Plating	1,212	Metal plating
Huntington Plating, Inc.	906	Metal plating

The Sanitary Board, by agreement, treats the wastewater emanating from the Spring Valley and Ohio River Public Service Districts. Each District pays to the Sanitary Board a sewer service charge equal to \$2.33 per 1,000 gallons, based on water usage.

The Sanitary Board by agreement treats the wastewater emanating from Northern Wayne Public Service District and the cities of Ceredo and Kenova which agreements have terms of forty years, commencing February 10, 1989, July 9, 1991 and August 7, 1991, respectively. Northern Wayne as well as Ceredo and Kenova's sewage collection system connect to the Sanitary Board facilities at the Treatment Plant and each pays the Sanitary Board \$1.886 per 1,000 gallons, based on sewage flow from flow meter reading.

Source: Sanitary Board

## Operational Arrangements with Third Parties

The Sanitary Board has engaged West Virginia American Water Company (the "Water Company") to perform customer billing, accounting and collecting services. The Water Company is a Delaware corporation which owns and operates the water works in the City. Such services are performed by the Water Company pursuant to a contract which requires weekly deposits into a Sanitary Board bank account of all monies collected on behalf of the Sanitary Board. The Sanitary Board pays the Water Company on the basis of the pro rata costs of providing such service as determined in the contract. The present amount paid under the contract is approximately \$213,000 per year.

## SUMMARY OF DELINQUENT ACCOUNTS

<b>Year Ended June 30</b>	<b>Sewer Charges Billed</b>	<b>Sewer Charges Received</b>	<b>Accounts Written Off</b>
2007	\$9,306,019	\$9,293,589	\$165,289
2006	9,162,976	8,696,074	263,031
2005	8,800,531	8,338,868	162,240
2004	6,622,788	6,663,702	124,863
2003	6,996,921	7,064,306	186,441
2002	6,833,765	6,674,002	82,221

The Water Company provides sewer delinquent notices, termination notices and other customer notices and terminates the water service of a customer for non-payment of sewer charges on behalf of the Sanitary Board.

The City has covenanted to diligently enforce and collect all fees and charges as described in "SUMMARY OF CERTAIN PROVISIONS OF THE ORDINANCE -- General Covenants -- Enforcement of Collections" herein.

## Labor

The Sanitary Board directly employs 66 full-time personnel, most of whom work at the Treatment Plant. Wage levels for non-supervisory employees of the Sanitary Board are determined by the Board.

## Pensions and Retirement Plans

All employees of the Sanitary Board are covered by the State of West Virginia Public Employee Retirement System. The Sanitary Board makes payments to the retirement system equal to 10.5% of payroll expense, which percentage is subject to change in the future. Employees contribute 4.5% of their compensation to the retirement plan.

## Rates

Pursuant to the Act, the governing body of a municipality, or independent board charged with such responsibility, must establish and maintain rates and charges for the use of and the service rendered by its municipal

sewage system sufficient for the payment of sums required to be paid into a sinking fund and to provide for the repair, replacement, maintenance and operation of the System.

The Act provides that rates and charges shall be established by ordinance, but only after the ordinance has been advertised and a public hearing has been held.

Rates and charges established by municipally operated utilities must be just, reasonable, applied without unjust discrimination or preference and based primarily on the costs of providing service. Such rates and charges must be filed with the PSC together with information showing the basis of such rates, but generally are not subject to regulatory approval. However, any customer of a municipally operated utility aggrieved by a rate change may present to the PSC, within 30 days of the adoption of the ordinance providing for the change, a petition signed by not less than 25 percent of the customers served by the utility. Within 100 days from the filing of any such petition a hearing examiner must conduct a public hearing and issue an order approving, disapproving or modifying the rate increase. Such order has the full force and effect of an order issued by the PSC. Also, if a municipally operated utility serves customers outside the boundaries of the municipality, the PSC is empowered to review, approve or modify such rates if, within 30 days of the adoption of the ordinance providing for such rates, an extra-territorial customer alleges that such rates are discriminatory. The PSC may determine the method by which such rates are reviewed and may grant and conduct a new hearing of the matter if the customer of the municipality requests such a hearing.

On May 24, 2004, the City of Huntington passed a sewer rate ordinance establishing new rates and charges for the System. On June 24, 2004, the PSC asserted jurisdiction over the rate ordinance, due to protests received by a customer. By Commission Order entered on January 5, 2004, in Case No. 03-1678-S-C and Case No. 04-0949-S-MA, the Commission approved the following rates and surcharges for the System:

#### SCHEDULE I

##### APPLICABILITY

Applicable within the entire territory served

##### AVAILABILITY OF SERVICE

Available for domestic, commercial and industrial sewer service (except unusual industrial waste)

##### RATES

Customer Charge			\$2.49 per month
First	2,240	gallons of water used per month	\$3.35 per 1,000 gallons
Next	12,720	gallons of water used per month	\$3.30 per 1,000 gallons
Next	134,640	gallons of water used per month	\$3.14 per 1,000 gallons
Next	7,330,000	gallons of water used per month	\$3.04 per 1,000 gallons
All Over	7,480,000	gallons of water used per month	\$1.41 per 1,000 gallons

##### FLAT RATE CHARGE (non metered water supply)

Equivalent of 4,500 gallons of water usage \$17.45 per month.

##### MINIMUM CHARGE

No bill will be rendered for less than \$2.49 per month which is the equivalent of the customer charge.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

DISCONNECT/RECONNECT/ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with the West Virginia American Water Company, a disconnection fee of \$25.00 shall be charge; or in the event the delinquent sewer bill is collected by the water company, an administrative fee of \$25.00 will be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with the West Virginia American Water Company, is reconnected a reconnection fee of \$25.00 shall be charged.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

The following charges ar to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of \$900.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

LEAK ADJUSTMENT

\$.33 per 1,000 gallons of water is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on customer's side of meter. This rate shall be applied to all such consumption above the customer's historical average usage.

INDUSTRIAL SURCHARGE RATES

Rate applicable to Biological Oxygen Demand (BOD)

Concentration in excess of 300 mg/1                      \$.12/pound

Rate applicable to Total Suspended Solids (TSS)

Concentration in excess of 350/mg/1                      \$.106/pound

## SCHEDULE II

### APPLICABILITY

Applicable in entire territory served

### AVAILABILITY OF SERVICE

Available for resale customers

### RESALE RATES

Based on flow of sewage from flow meter reading	\$1.886 per 1,000 gallons
Based on water usage	\$2.330 per 1,000 gallons

### RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

### DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

## SCHEDULE III

### APPLICABILITY

Applicable in entire territory served

### AVAILABILITY OF SERVICE

Available for wastewater and leachate haulers

### RATES

Commodity Charge - Each hauler shall pay a commodity charge of \$30.00 per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined or verified by the City.

### RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

### DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

## SCHEDULE IV

### MUNICIPAL EXCISE TAX SURCHARGE

The municipality listed below, having imposed public utility tax computed on the basis of two percent of revenues from sewer service sales by the sewer utility within the corporate limits of such municipalities, shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

The sewer utility is required to collect the utility tax pursuant to West Virginia Code Section 8-13-5a.

Customers receiving sewer service within the corporate limits of the specified municipality shall pay a surcharge on the following surcharge rates.

#### Utility Excise Tax

<u>Municipality</u>	<u>Local Tax Rate</u>	<u>Surcharge Rate</u>
Huntington	2%	2%

Notwithstanding the rates set forth above, the ordinance provides that the minimum charges for sewer service shall be \$2.49 per month.

Charges for service, if not paid when due, shall constitute a lien upon the property served. Charges not paid within 30 days of their due date, plus a 10% penalty, may be recovered by civil action and the lien may be foreclosed against the delinquent property.

The Sanitary Board estimates that a typical household uses approximately 4500 gallons of water per month resulting in a sewer bill of approximately \$17.45 per month.

### **System Budget and Expenditure**

An operating budget is prepared annually by the Secretary-Treasurer and is approved by the Sanitary Board no later than one month before the new fiscal year begins. The budget is compared to actual year-to-date revenues and expenditures monthly.

The operating budget for the fiscal year ending June 30, 2008 is as follows:

	<u>Annual Budget</u>
Operating Revenues and Non-Operating Revenues	\$ 9,274,200
Operating Expenses	<u>6,445,942</u>
Total Revenue Available for Debt Service	\$ 2,828,258
Less: Surcharge Revenues*	(\$ 507,292)
Net Available for Debt Service	<u>\$2,320,966</u>
Maximum Annual Debt Service on Parity Bonds**	(\$1,261,484)
Debt Coverage Ratio (1.20 required)	<u>1.84%</u>

\* The surcharge of \$2 per customer bill was security for Series 2006 B Bonds that have been defeased. The Sanitary Board will cease collecting the surcharge in the near future.

\*\* Includes projected debt service on Series 2007 Bonds.

Purchases over \$5,000 are required by State law to be advertised for bids. The bids are reviewed and approved by the Sanitary Board. All other purchases are authorized by the division supervisors. Formal quotations are sought for purchases between \$1,000 and \$5,000 and some purchases within this cost range are advertised and bid when thought appropriate. Invoices over \$500 are presented to the Sanitary Board for approval of payment.

Source: Sanitary Board

### **Method of Accounting**

The Sanitary Board maintains its accounts on an accrual basis and in accordance with the guidelines of the PSC and generally accepted accounting principles. With respect to operating revenues and expenses, the Sanitary Board accounts are maintained in accordance with generally accepted accounting principles. The audit for the fiscal year ending June 30, 2007 has not been completed. (See "Appendix A - "Financial Statements of the City and Sanitary Board" herein.)

### **Coverage Ratios**

Under the Ordinances relating to the issuance of the Prior Bonds, the City has covenanted to collect fees and charges such that Net Revenues available for debt service are not less than 120% of the average annual debt service on all Prior Bonds and on all bonds issued on a parity with the Prior Bonds.

The following table presents the historical debt service coverage ratio for the fiscal years ended June 30, 2005, 2006, 2007 and the 2008 budget.

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HISTORICAL DEBT SERVICE COVERAGE RATIO

*Debt Service Coverage*

Description	Fiscal Year Ending June 30			Budget 2008
	2005	2006	2007	
<b>System Revenues</b>				
Operating	\$8,323,300	\$8,391,005	\$8,539,095	\$8,657,208
Surcharge	\$477,231	\$771,971	\$766,924	---
Non-Operating	\$382,695	\$166,305	\$180,582	\$109,700
<b>Total</b>	<b>\$9,183,226</b>	<b>\$9,329,281</b>	<b>\$9,486,601</b>	<b>\$8,766,908</b>
<b>System Expenses</b>				
Operating Expenses	\$6,304,469	\$6,861,362	\$6,547,557	\$6,407,372
Depreciation Expense	\$2,108,347	\$2,083,885	\$2,131,146	\$2,120,400
Interest Expense	\$513,671	\$499,951	\$542,453	\$536,200
Non-Operating Expenses	\$96,859	\$41,924	\$45,070	\$38,570
<b>Total</b>	<b>\$9,023,346</b>	<b>\$9,487,122</b>	<b>\$9,266,226</b>	<b>\$9,102,542</b>
Net Income	\$159,880	(\$157,841)	\$220,375	(\$335,634)
Less: Surcharge Revenues	(\$477,231)	(\$771,971)	(\$766,924)	---
Add back:				
Depreciation Expense	\$2,108,347	\$2,083,885	\$2,131,146	\$2,120,400
Interest Expense	\$513,671	\$499,951	\$542,453	\$536,200
<b>Net Available for Debt Service</b>	<b>\$2,304,667</b>	<b>\$1,654,024</b>	<b>\$2,127,050</b>	<b>\$2,320,966</b>
<b>Debt Service Requirement</b>				
Maximum Annual (Parity Bonds)*	\$1,261,484	\$1,261,484	\$1,261,484	\$1,297,332
<b>Coverage Ratio</b>				
Maximum Annual	1.83	1.31	1.69	1.79

*Source: Compiled by the Sanitary Board from the annual Public Service Commission reports and from the compilation on reports prepared in-house.*

\*The surcharge of \$2 per customer bill was security for Series 2006 B Bonds that have been defeased. The Sanitary Board will cease collecting the surcharge in the near future.

*Source: Compiled by the Sanitary Board from the annual Public Service Commission reports and from the compilation on reports prepared in-house.*

## Annual Debt Service Requirements

The following table sets forth for each fiscal year during which the Series 2007 Bonds will be outstanding the principal of and interest on the Series 2007 Bonds and the amounts payable from Net Revenues as principal of and interest on the Prior Bonds.

FY Ending June 30	Existing Net Bond Payments*	----- Series 2007 Bonds -----				Net Total Payment
		Principal Portion	Interest Portion	LESS: DSR Principal	Total Payments	
2008	\$1,104,051		\$80,624		\$80,624	\$927,147
2009	\$857,231	\$240,000	\$196,090		\$436,090	\$1,293,321
2010	\$851,919	\$255,000	\$187,611		\$442,611	\$1,294,531
2011	\$850,853	\$265,000	\$178,575		\$443,575	\$1,294,428
2012	\$844,020	\$280,000	\$168,968		\$448,968	\$1,292,988
2013	\$841,243	\$295,000	\$158,688		\$453,688	\$1,294,930
2014	\$837,553	\$305,000	\$147,888		\$452,888	\$1,290,440
2015	\$832,923	\$325,000	\$136,548		\$461,548	\$1,294,470
2016	\$827,348	\$340,000	\$124,493		\$464,493	\$1,291,840
2017	\$510,875	\$330,000	\$112,183		\$442,183	\$953,057
2018	\$427,900	\$345,000	\$99,609		\$444,609	\$872,509
2019	\$181,053	\$360,000	\$86,300		\$446,300	\$627,353
2020	\$100,610	\$375,000	\$72,335		\$447,335	\$547,945
2021	\$114,756	\$390,000	\$57,605		\$447,605	\$562,361
2022	(\$72,148)	\$400,000	\$42,000		\$442,000	\$369,852
2023	\$0	\$415,000	\$25,700		\$440,700	\$440,700
2024	\$0	\$435,000	\$8,700	(\$470,698)	(\$26,998)	(\$26,998)
2025	\$0					\$0
Totals:	\$9,379,656	\$5,500,000	\$1,883,914	(\$470,698)	\$6,768,216	\$16,147,872

\* Does not include Refunding Bonds

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## SUMMARY OF CERTAIN PROVISIONS OF THE ORDINANCE

The following is a summary of certain provisions of the Ordinance. The summary does not purport to be a comprehensive statement of the terms and provisions thereof, for which reference is made to the complete text of the Ordinance, copies of which may be obtained from the Issuer, or, during the period of the offering of the Series 2007 Bonds, from the Underwriter.

### Certain Definitions

All capitalized terms used in the Ordinance and not otherwise defined in the recitals hereto shall have the meanings specified below, unless the context expressly requires otherwise:

“Act” means Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended and in effect on the date of delivery of the Series 2007 Bonds.

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

“Authorized Officer” means the Mayor of the Issuer or any other officer of the Issuer specifically designated by resolution of the Council of the Issuer.

“Board” or “Sanitary Board” means the Sanitary Board of the Issuer.

“Bond Commission” means the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia which succeeds to the functions of the Bond Commission.

“Bond Counsel” shall mean any law firm having a national reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds, appointed by the Issuer or the Sanitary Board, and shall initially mean Steptoe & Johnson PLLC, Huntington, West Virginia.

“Bond Insurer” means any entity which shall insure all or any portion of the payment of principal of and interest on the Bonds.

“Bond Register” means the books of the Issuer maintained by the Registrar for the registration and transfer of Bonds.

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

“Bonds” means, collectively, the Series 2000 A Bonds, the Series 1997 Bonds, the Series 1999 Bonds, the the Series 2006 A Bonds, Series 2007 Bonds, and any additional parity Bonds hereafter issued within the terms, restrictions and conditions contained in the Ordinance.

“Business Day” means any day other than a Saturday, Sunday or a day on which national banking associations or West Virginia banking corporations are authorized by law to remain closed.

“Certificate of Authentication and Registration” means the Certificate of Authentication and Registration on

the Series 2007 Bonds, respectively, in substantially the forms set forth in EXHIBIT A - FORM OF SERIES 2007 BOND attached to the Ordinance.

“City” or “Issuer” means the The City of Huntington, a municipal corporation and political subdivision of the State of West Virginia, in Cabell and Wayne Counties thereof, and, unless the context clearly indicates otherwise, includes the Governing Body and the Sanitary Board of the Issuer and any other commission, board or department established by the Issuer to operate and maintain the System.

“City Clerk” or “Clerk” means the City Clerk of the Issuer.

“Closing Date” means the date upon which there is an exchange of the Series 2007 Bonds for the proceeds representing the original purchase price thereof.

“Code” shall mean the Internal Revenue Code of 1986, as amended and supplemented from time to time, and Regulations thereunder.

“Consulting Engineers” means any qualified engineer or engineers or firm or firms of engineers that shall at any time now or hereafter be retained by the Issuer as Consulting Engineers for the System, or portion thereof.

“Costs” or similar terms, means all those costs now or hereafter permitted by the Act to be financed with bonds issued pursuant hereto, including, without limitation, the costs of refunding the Series 1993 Bonds, and accrued interest thereon; amounts which may be deposited in the respective Reserve Accounts; engineering, and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; the payment of the refunding of the Series 1993 Bonds, premiums for municipal bond insurance, if any, and reserve account insurance, letter of credit fees, fiscal agent fees and expenses, underwriter’s discount, initial fees for the services of registrars, paying agents, depositories, trustees or escrow trustees, or other costs in connection with the sale of the Series 2007 Bonds, and the payment of the refunding of the Series 1993 Bonds, and such other expenses as may be necessary or incidental to the financing herein authorized, 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 2007 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes, shall be deemed Costs.

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

“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.

“Debt Service,” with reference to a specified period, means the amount of principal, including any sinking fund payments, and interest payable with respect to the Bonds during such period.

“Depository Bank” means the bank or banks to be designated as such in the Supplemental Resolution, and any other bank or national banking association located in the State of West Virginia, eligible under the laws of the State of West Virginia to receive deposits of state and municipal funds and insured by the FDIC that may hereafter be appointed by the Issuer as Depository Bank.

“Depreciation Fund” means the Depreciation Fund established by the Prior Ordinances and continued by the Ordinance.

“DTC” means The Depository Trust Company, New York, New York or its successor.

“DTC-eligible” means, with respect to the Series 2007 Bonds, meeting the qualifications prescribed by DTC.

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

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

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

“Governing Body” means the Council of the Issuer or any other governing body of the Issuer that succeeds to the functions of the Council, as it may now or hereafter be constituted.

“Government Obligations” means certificates or interest-bearing notes or obligations of the United States, or those for which the full faith and credit of the United States are pledged for the payment of principal and interest.

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

“Independent 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 purpose except keeping the accounts of said System in the normal operations of its business and affairs.

“Maximum Annual Debt Service” means, at the time of computation, the greatest amount of Debt Service required to be paid on the Bonds for the then current or any succeeding Fiscal Year, assuming that the principal of any Term Bonds is deemed due on the earlier of their stated maturity date or the date on which they are required to be redeemed pursuant to mandatory sinking fund redemption.

“Mayor” means the current Mayor of the Issuer.

“Net Proceeds” means the face amount of the Series 2007 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Series 2007 Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from investment of proceeds of the Series 2007 Bonds without regard to whether or not such investment is made in tax-exempt obligations.

“Net Revenues” means the balance of Gross Revenues remaining after deduction of Operating Expenses, as defined in the Ordinance.

“Operating Expenses,” unless qualified, means the current expenses, paid or accrued, of repair, operation and maintenance of the System, and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses (other than those capitalized as part of the costs of any project relating to the acquisition or construction of additions, betterments or improvements for the System), supplies, labor, wages, the cost of materials and supplies used for current operations, fees and expenses of fiscal agents and of the Depository Bank, Registrar and Paying Agent or Paying Agents, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that “Operating Expenses” does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of or any decrease in the value of capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

“Ordinance” regardless of whether preceded by the article “the” or “this,” means the Ordinance, as it may

hereafter from time to time be amended or supplemented, by ordinance or by resolution.

“Original Purchaser” means Ross, Sinclair & Associates, LLC, Frankfort, Kentucky, as the purchaser of the Series 2007 Bonds directly from the Issuer, or, if the Issuer and such Original Purchaser do not agree to the purchase of the Series 2007 Bonds with interest rates and other terms allowable under the Act, such other person or persons, firm or firms, bank or banks, corporation or corporations or such other entity or entities as shall purchase the Series 2007 Bonds directly from the Issuer, as determined by a resolution supplemental hereto; provided, that the Original Purchaser and the Issuer shall agree to the purchase of the Series 2007 Bonds, as hereinafter defined, including the exact principal amount thereof and interest rate or rates thereon as fixed by said supplemental resolution to be adopted by the Council at the time of approval of such sale of said Series 2007 Bonds.

“Outstanding,” when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being issued and delivered except (a) any Bond or Prior Bond canceled by the registrar for such Bond or Prior Bond at or prior to said date; (b) any Bond or Prior Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity, shall be held in trust under the Ordinance and set aside for such payment (whether upon or prior to maturity); (c) any Bond deemed to have been paid as provided by Section 9.01; and (d) with respect to determining the number or percentage of Bondholders or Bonds for the purpose of consents, notices and the like, any Bond registered to the Issuer. Notwithstanding the foregoing, in the event that a Bond Insurer has paid principal of and/or interest on any Bond, such Bond shall be deemed to be Outstanding until such time as such Bond Insurer has been reimbursed in full.

“Paying Agent” means the Bond Commission and any other paying agent for the Bonds which may be appointed by a resolution supplemental hereto, all in accordance with Section 8.12 of the Ordinance.

“Prior Bonds” shall mean collectively, the Series 1993 Bonds, the Series 1997 Bonds, the Series 1999 Bonds, the Series 2000 A Bonds and the Series 2006 A Bonds.

“Prior Ordinances” shall mean the Ordinances enacted authorizing the issuance of the Prior Bonds.

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

“Qualified Investments” means and includes the investments set forth in the Supplemental Resolution and designated as such.

“Rebate Fund” means the Rebate Fund established by Section 4.01 of the Ordinance.

“Record Date” means the day of the month which shall be so stated in the Bonds, regardless of whether such day is a Saturday, Sunday or legal holiday.

“Redemption Account” means, collectively, the respective redemption accounts created for the Series 2007 Bonds by Section 4.02 of the Ordinance.

“Redemption Date” means the date fixed for redemption of Bonds subject to redemption in any notice of redemption published or mailed in accordance with the Ordinance.

“Redemption Price” means the price at which the Bonds may be called for redemption and includes the principal amount of the Bonds to be redeemed, plus the premium, if any, required to be paid to effect such redemption.

“Registered Owner,” “Bondholder,” “Holder of the Bonds,” “Owner of the Bonds” or any similar term means

any person who shall be the registered owner of any outstanding Bond.

“Registrar” means the bank to be designated in the Supplemental Resolution as the registrar for the Series 2007 Bonds, and any successor thereto appointed in accordance with Section 8.08 of the Ordinance.

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

“Reserve Accounts” means, collectively, the respective Reserve Accounts created for the Series 2007 Bonds and the Prior Bonds.

“Reserve Account Requirement” means, collectively, the respective amount required to be on deposit in the respective Reserve Accounts for the Series 2007 Bonds and the Prior Bonds.

“Revenue Fund” means the Revenue Fund established by the Prior Ordinances and continued hereby.

“Sanitary Board” means the Sanitary Board of the Issuer.

“Series 1993 Bonds” means the Issuer’s Sewerage System Refunding Revenue Bonds, Series 1993, dated January 1, 1993, issued in the original aggregate principal amount of \$7,100,000.

“Series 1997 Bonds” means the Issuer’s Sewerage System Refunding Revenue Bonds, Series 1997 (West Virginia SRF Program), dated January 25, 1997, issued in the original aggregate principal amount of \$3,039,895.

“Series 1999 Bonds” means the Issuer’s Sewerage System Refunding Revenue Bonds, Series 1999 (West Virginia SRF Program), dated June 22, 1999, issued in the original aggregate principal amount of \$2,083,550.

“Series 2000 A Bonds” means the Issuer’s Sewerage System Refunding Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated October 24, 2000, issued in the original aggregate principal amount of \$1,867,098.

“Series 2006 A Bonds” means, the Issuer’s Sewer Revenue Bonds, Series 2006 A, dated November 30, 2006, issued in the original aggregate principal amount of \$3,150,000.

“Series 2007 Bonds” means the Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt), of the Issuer, originally authorized to be issued pursuant to the Ordinance and the Supplemental Resolution.

“Series 2007 Bonds Reserve Account” means the Series 2007 Bonds Reserve Account established in the Series 2007 Bonds Sinking Fund pursuant to Section 4.01 of the Ordinance.

“Series 2007 Bonds Reserve Account Requirement” means, as of any date of calculation, Maximum Annual Debt Service for the Series 2007 Bonds.

“Series 2007 Bonds Sinking Fund” means the Series 2007 Bonds Sinking Fund established by Section 4.02 of the Ordinance.

“Sinking Funds” means, collectively, the respective sinking funds created for the Series 2007 Bonds and the Prior Bonds.

“State” means the State of West Virginia.

“Supplemental Resolution” means any ordinances or resolutions amendatory of the Ordinance or

supplemental hereto and, when preceded by the article "the," refers specifically to the Supplemental Resolution(s) to be adopted by the Issuer following enactment of the Ordinance, setting forth the final amounts, maturities, interest rates and other terms of the Series 2007 Bonds and authorizing the sale of the Series 2007 Bonds to the Original Purchaser; provided, that any provision intended to be included in the Supplemental Resolution and not so included may be contained in any other Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Ordinance to be set aside and held for the payment of or security for the Bonds or any other obligations of the Issuer, including, without limitation, the Depreciation Fund.

"System" means, collectively, the complete existing public municipal sewerage treatment and collection system of the Issuer, and shall include any additions, betterments and improvements thereto hereafter acquired or constructed for the System from any sources whatsoever, both within and without the issuer.

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

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

### **General Covenants**

Sale of the System. So long as the Prior Bonds or the Series 2007 Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of or encumber the System except as provided in the Ordinance, and the Prior Ordinances. The System may be sold, mortgaged, leased or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to defease the pledge created by the Ordinance as provided by Section 9.01. The proceeds from such sale, mortgage, lease or other disposition of the System shall be immediately remitted to the Bond Commission for deposit in the Sinking Fund, and otherwise as prescribed by Section 9.01. Any balance remaining after such defeasance shall be remitted to the Issuer by the Bond 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 is not in excess of \$50,000, the Issuer shall, in writing, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Issuer may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Revenue Fund. If the amount to be received from such sale, lease or other disposition of said property shall be in excess of \$50,000 but not in excess of \$200,000, the Issuer shall first, in writing, determine with the written approval of the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Issuer may then, if it be so advised, by resolution duly adopted, approve and concur in such finding and authorize such sale, lease or other disposition of such property in accordance with the laws of the State. The proceeds derived from any such sale, lease or other disposition of such property, in excess of \$50,000 and not in excess of \$200,000, shall be deposited by the Issuer into the Depreciation Fund. Such payments of such proceeds into the Depreciation Fund or the Depreciation Account shall reduce the amounts required to be paid into said funds by other provisions of the Ordinance.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom shall be in excess of \$200,000 and insufficient to defease the pledge created by the Ordinance, as provided by Section 9.01, without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of 60% in amount of Bonds then Outstanding. The Issuer shall prepare the form of such approval and

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

Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. The Issuer shall not issue any other obligations whatsoever, except additional parity Bonds provided for in Section 6.11 of the Ordinance, payable from the Net Revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from the Net Revenues with the Bonds; and all obligations hereafter issued by the Issuer payable from the revenues of the System, except such additional Bonds, shall contain an express statement that such obligations are junior and subordinate as to lien on and source of and security for payment from such revenues and in all other respects to the Bonds.

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

Additional Parity Bonds Payable Out of the Net Revenues of the System. So long as the Prior Bonds are Outstanding, the limitations and requirements on the issuance of parity obligations set forth in the Prior Ordinances shall be applicable. No additional parity Bonds, as in this section defined, payable out of the Net Revenues of the System shall be issued after the issuance of the Series 2007 Bonds pursuant to the Ordinance, except under the conditions and in the manner herein provided.

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

No such additional parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Clerk of the Issuer a written statement by Independent Accountants, reciting the conclusion that the Net Revenues actually derived, from the System during the 12 consecutive months in the 18 months immediately preceding the date of the actual issuance of such additional parity Bonds, plus the increased annual Net Revenues expected to be received after the date of issuance of such parity Bonds shall not be less than 120% of the Maximum Annual Debt Service on the following:

- (1) The Prior Bonds then Outstanding;
- (2) The Series 2007 Bonds then Outstanding;
- (3) Any additional parity Bonds theretofore issued pursuant to the provisions contained in the Ordinance then Outstanding; and
- (4) The additional parity Bonds then proposed to be issued.

The "increased annual Net Revenues expected to be received" as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from any increase in rates enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to the date of delivery of such additional parity Bonds, and shall not exceed the amount to be stated in the aforementioned certificate of Independent Accountants, which shall be filed in the office of the Clerk of the Issuer prior to the issuance of such additional parity Bonds. For purposes of this test, the terms "Gross Revenues" and "Net Revenues" shall not include proceeds from the sale of capital assets.

The term "additional parity Bonds," as used in this section, shall be deemed to mean additional Bonds issued under the provisions and within the limitations of this section, payable from the Net Revenues of the System on a parity with the Series 2007 Bonds, and all the covenants and other provisions of the Ordinance (except as to details of such additional parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Series 2007nd the Holders of any additional parity Bonds theretofore or subsequently issued from time to time within the limitations of and in compliance with this section. All the Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Net Revenues of the System, and their source of and security for payment from said Net Revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in the Ordinance required for and on account of such additional parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to the Ordinance.

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

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

Insurance and Bonds. The Issuer hereby covenants and agrees, that so long as the Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance and bonds and worker's compensation coverage with a reputable insurance carrier or carriers or bonding company or companies covering the following risks and in the following amounts:

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

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

C. WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT OR COMPLETION BONDS, such bonds to be in the amounts of not less than 100% of the amount of any construction contract and to be required of each contractor dealing directly with the Issuer and such payment bonds will be filed with the Clerk of the County Commission of the County in which such work is to be performed prior to commencement of construction of any additions, extensions or improvements for the System in compliance with West Virginia Code, Section 38-2-39.

D. FLOOD INSURANCE, to extent available at reasonable cost to the Issuer.

E. BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

F. FIDELITY BONDS will be provided as to every officer and employee of the Issuer or the Council 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.

No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by its System; and, in the event the Issuer or any department, agency, instrumentality, officer or employee thereof shall avail himself of the facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the Issuer shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. The revenues so received shall be deemed to be revenues derived from the operation of the System and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Enforcement of Collections. The Issuer diligently will 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 and to the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, all delinquent rates, rentals and other charges, if not paid, 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 and facilities of the System to all delinquent users of services and facilities of the System and will not restore such services of the System until all billing for charges for the services and facilities of the System, plus reasonable interest penalty charges for the restoration of service, has been fully paid.

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 or body, or agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Books and Records. The 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 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, to the extent allowable under and in accordance with the rules and regulations of the Public Service Commission of West Virginia and the Act. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books and along with other bookkeeping records as prescribed by the Issuer. The Issuer shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Issuer shall be reported to such agent of the Issuer as it shall direct.

The Issuer shall file with the Original Purchaser and any Bond Insurer, and shall mail to any Bondholder requesting the same, an annual report within 120 days following the end of each Fiscal Year containing a balance

sheet, statement of revenues, expenses, and changes in retained earnings, and statement of cash flows, as prescribed by generally accepted accounting principles.

The Issuer shall also file with the Original Purchaser and any Bond Insurer, and mail to any Bondholder requesting the same, a monthly unaudited report within 30 days following the end of each month containing the following:

- (A) A statement of Gross Revenues, Operating Expenses, Surcharges and Net Revenues derived from the System.
- (B) A statement of account balances in the Sinking Fund accounts provided for in the Ordinance and status of said funds.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Accountants, shall mail upon request, and make available generally, the report of said Independent Accountants, or a summary thereof, to any Holder or Holders of Bonds issued pursuant to the Ordinance and shall file said report with the Original Purchaser.

Operating Budget. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, or at such earlier date required by its charter or the charter of the Issuer, prepare and adopt by resolution a detailed budget of the estimated expenditures for operation and maintenance of the System during the succeeding Fiscal Year. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of such a registered professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Original Purchaser and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Original Purchaser and to any Bondholder or anyone acting for and in behalf of such Bondholder who requests the same.

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

A. **PRIVATE BUSINESS USE LIMITATION.** The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Series 2007 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 such Bonds during the term thereof is, under the terms of such 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) 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 Series 2007 Bonds during the term is, under the terms of such Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Series 2007 used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the System, or if the Series 2007 Bonds are for the purpose of financing more than one project, a portion of the System, and shall not exceed the proceeds used for the governmental use of that portion of the System to which such Private Business Use is related.

B. **PRIVATE LOAN LIMITATION.** The Issuer shall assure that not in excess of the lesser of 5% of the Net Proceeds of the Series 2007 Bonds or \$5,000,000 are used, directly or indirectly, to make or finance a loan to persons other than state or local government units.

C. **FEDERAL GUARANTEE PROHIBITION.** The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 2007 Bonds to be directly or indirectly “federally guaranteed” within the meaning of Section 149(b) of the Code and Regulations promulgated thereunder.

D. **INFORMATION RETURN.** The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 2007 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 all actions that may be required of it so that the interest on the Series 2007 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.

### **Defaults and Remedies**

Events of Default With Respect to the Series 2007 Bonds. Each of the following events shall constitute an “Event of Default” with respect to the Series 2007 Bonds:

- (A) If default by the Issuer occurs in the due and punctual payment of the principal of or interest on any Bond;
- (B) If default occurs in the Issuer’s observance of any of the covenants, agreements or conditions on its part in the Ordinance or any Supplemental Resolution or in the Bonds contained, and such default shall have continued for a period of 30 days after written notice specifying such default and requiring the same to be remedied shall have been given to the Issuer by any Bondholder or any Insurer;
- (C) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America; or
- (D) If the Issuer defaults on the Prior Bonds or the Prior Ordinances.

Enforcement With Respect to the Series 2007 Bonds. For purposes of this Section, any reference to Bondholder shall only include the Bondholders of the Prior Bonds and the Series 2007 Bonds. Upon the happening and continuance of an Event of Default as more fully defined and described in Section 7.01 of the Ordinance, any Bondholder or any Insurer may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his rights and, in particular:

- (A) Bring suit for any unpaid principal or interest then due;
- (B) By mandamus or other appropriate proceeding enforce all rights of the Bondholders, including the right to require the Issuer to perform its duties under the Act and this Ordinance;
- (C) Bring suit upon the Bonds;
- (D) By action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Bondholders; and
- (E) By action or bill in equity enjoin any acts in violation of the Ordinance or the rights of the Bondholders.

No remedy by the terms of this Ordinance conferred upon or reserved to the Bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Bondholders hereunder or now or hereafter existing at law or by statute.

No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or Event of Default hereunder by the Bondholders shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereto.

Appointment of Receiver. If there be any Event of Default existing and continuing, any Bondholder or any Insurer shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the principal of and interest on the Bonds, the deposits into the funds and accounts hereby established as herein provided and the payment of Operating Expenses of the System and to apply such rates, rentals, fees, charges or other Revenues in conformity with the provisions of this Ordinance and the Act.

The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate, maintain, manage and control such facilities, and each and every part thereof, and in the name of the 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 issued pursuant to this Ordinance and interest thereon and under any covenants of this Ordinance for reserve, sinking or other funds and accounts and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the Revenues of the System shall have been paid and made good, and all defaults under the provisions of this Ordinance shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Bondholder shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

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

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

Notwithstanding any other provision of this Ordinance, in determining whether the rights of the Bondholders will be adversely affected by any action taken pursuant to the terms and provisions of this Ordinance, any trustee or Bondholder's committee shall consider the effect on the Bondholders as if no Municipal Bond Insurance Policy were then in effect.

Restoration of Issuer and Bondholder. In case any Bondholder shall have proceeded to enforce any right

under the Ordinance by the appointment of a receiver, by entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Issuer and such Bondholder shall be restored to their former positions and rights hereunder, and all rights and remedies of such Bondholder shall continue as if no such proceedings had been taken.

## **BOND INSURANCE**

### **Bond Insurance Policy**

Concurrently with the issuance of the Series 2007 Bonds, Financial Security Assurance Inc. ("Financial Security") will issue its Municipal Bond Insurance Policy for the Series 2007 Bonds (the "Policy"). The Policy guarantees the scheduled payment of principal of and interest on the Series 2007 Bonds when due as set forth in the form of the Policy included as an exhibit to this Official Statement.

The Policy is not covered by any insurance security or guaranty fund established under New York, California, Connecticut or Florida insurance law.

### **Financial Security Assurance Inc.**

Financial Security is a New York domiciled financial guaranty insurance company and a wholly owned subsidiary of Financial Security Assurance Holdings Ltd. ("Holdings"). Holdings is an indirect subsidiary of Dexia, S.A., a publicly held Belgian corporation, and of Dexia Credit Local, a direct wholly-owned subsidiary of Dexia, S.A. Dexia, S.A., through its bank subsidiaries, is primarily engaged in the business of public finance, banking and asset management in France, Belgium and other European countries. No shareholder of Holdings or Financial Security is liable for the obligations of Financial Security.

At September 30, 2007, Financial Security's combined policyholders' surplus and contingency reserves were approximately \$2,691,965,000 and its total net unearned premium reserve was approximately \$2,201,808,000 in accordance with statutory accounting principles. At September 30, 2007, Financial Security's consolidated shareholder's equity was approximately \$2,975,654,000 and its total net unearned premium reserve was approximately \$1,721,678,000 in accordance with generally accepted accounting principles.

The consolidated financial statements of Financial Security included in, or as exhibits to, the annual and quarterly reports filed after December 31, 2005 by Holdings with the Securities and Exchange Commission are hereby incorporated by reference into this Official Statement. All financial statements of Financial Security included in, or as exhibits to, documents filed by Holdings pursuant to Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 after the date of this Official Statement and before the termination of the offering of the Series 2007 Bonds shall be deemed incorporated by reference into this Official Statement. Copies of materials incorporated by reference will be provided upon request to Financial Security Assurance Inc.: 31 West 52nd Street, New York, New York 10019, Attention: Communications Department (telephone (212) 826-0100).

The Policy does not protect investors against changes in market value of the Series 2007 Bonds, which market value may be impaired as a result of changes in prevailing interest rates, changes in applicable ratings or other causes. Financial Security makes no representation regarding the Series 2007 Bonds or the advisability of investing in the Series 2007 Bonds. Financial Security makes no representation regarding the Official Statement, nor has it participated in the preparation thereof, except that Financial Security has provided to the Issuer the information presented under this caption for inclusion in the Official Statement.

## RATINGS

Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, has assigned ratings of "Aaa" upon the delivery of the Policy by FSA at closing with respect to the Series 2007 Bonds. Any desired explanation of the significance of such ratings should be obtained from the rating agency furnishing the same. Certain information and materials not included in this Official Statement were furnished to the rating agency. Generally rating agencies base their ratings on the information and materials so furnished and on investigations, studies and assumptions by the rating agencies. There can be no assurance that a particular rating will be maintained for any given period of time or that it will not be lowered or withdrawn entirely if, in the judgment of the rating agency originally establishing the rating, circumstances so warrant. The Underwriter has undertaken no responsibility to bring to the attention of the Bondholders any proposed revision or withdrawal of the ratings of the Bonds or to oppose any such proposed revision or withdrawal. Any such change in or withdrawal of a rating could have an adverse effect on the market price of the Series 2007 Bonds.

## TAX MATTERS

Steptoe & Johnson PLLC, Bond Counsel, is of the opinion that under existing laws, regulations, rulings and judicial decisions of the United States of America, as presently written and applied, interest on the Series 2007 Bonds (including any original issue discount properly allocable to the owner thereof) is excludable from gross income of the holders thereof for federal income tax purposes, and interest on the Series 2007 Bonds is not a specific preference item for purposes of the federal alternative minimum tax imposed on individuals and corporations. However, interest paid to corporate holders of the Series 2007 Bonds may be indirectly subject to alternative minimum tax under certain circumstances. Further, in the opinion of Bond Counsel, under existing laws of the State of West Virginia, the Series 2007 Bonds, and the interest thereon, are exempt from personal and corporate income taxes imposed directly thereon by the State of West Virginia.

Prospective purchasers of the Series 2007 Bonds should be aware that ownership of the Series 2007 Bonds may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, certain S corporations with "excess net passive income," foreign corporations subject to the branch profits tax, life insurance companies and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry or have paid or incurred certain expenses allocable to the Series 2007 Bonds. Bond Counsel does not express any opinion regarding such collateral tax consequences. Prospective purchasers of the Series 2007 Bonds should consult their tax advisors regarding collateral federal tax consequences.

The Code and the regulations promulgated thereunder contain a number of requirements that must be satisfied subsequent to the issuance of the Series 2007 Bonds in order for interest on the Series 2007 Bonds to be and remain excludable from gross income for purposes of income taxation. Examples include: the requirement that the Issuer rebate certain excess earnings on proceeds and amounts treated as proceeds of the Series 2007 Bonds to the United States Treasury; restrictions on investment of such proceeds and other amounts; and restrictions on the ownership and use of facilities financed with proceeds of the Series 2007 Bonds. The foregoing is not intended to be an exhaustive listing of the post-issuance tax compliance requirements of the Code, but is illustrative of the requirements that must be satisfied by the Issuer subsequent to the issuance of the Series 2007 Bonds to maintain the exclusion of interest on the Series 2007 Bonds from income for federal income tax purposes. Failure to comply with such requirements may cause interest on the Series 2007 Bonds to be included in gross income retroactively to the date of issuance of the Series 2007 Bonds. The Issuer has covenanted in the Ordinance to comply with these requirements. The opinion of Bond Counsel delivered on the date of issuance of the Series 2007 Bonds is conditioned on compliance by the Issuer with such requirements, and Bond Counsel has not been retained to monitor compliance with requirements such as described above subsequent to the issuance of the Series 2007 Bonds.

In the opinion of Bond Counsel, under existing law, the original issue discount in the selling price of each

Bond maturing on November 1 in the years 2015, 2016, 2017 and 2023, to the extent properly allocable to each owner of such Bond, is excludable from gross income for federal income tax purposes with respect to such owner. The original issue discount is the excess of the stated redemption price of maturity of such Bond over its initial offering price to the public, excluding underwriters and other intermediaries, at which price a substantial amount of the Bonds of such maturity were sold.

Under Section 1288 of the Internal Revenue Code of 1986, as amended, original issue discount on tax-exempt bonds accrues on a compound basis. The amount of the original issue discount that accrues to an owner of a Bond during any accrual period generally equals (i) the issue price of such Bond plus the amount of original issue discount accrued in all prior accrual periods, multiplied by (ii) the yield to maturity of such Bond (determined on the basis of compounding at the close of each accrual period properly adjusted for the length of the accrual period), minus (iii) any interest payable on such Bond during such accrual period. The amount of original issue discount so accrued in a particular accrual period will be considered to be received ratably on each day of the accrual period will be excludable from gross income for federal income tax purposes, and will increase the owner's tax basis in such Bond. Purchasers of any Bond at an original issue discount should consult their tax advisers regarding the determination and treatment of original issue discount for federal income tax purposes, and with respect to state and local tax consequences of owning such Bonds.

An amount equal to the excess of the purchase price of a Bond over its stated redemption price at maturity constitutes premium on such Bond. Bonds maturing on November 1 in the years 2008, 2009, 2010, 2011, 2012, 2013, 2019 and 2020 are offered initially with such premium. A purchaser of a Bond must amortize any premium over such Bond's term using constant yield principles, based on the Bond's yield to maturity. As premium is amortized, the purchaser's basis in such Bond and the amount of tax-exempt interest received will be reduced by the amount of amortizable premium properly allocable to such purchaser. This will result in an increase in the gain (or decrease in the loss) to be recognized for federal income tax purposes on sale or disposition of such Bond prior to its maturity. Even though the purchaser's basis is reduced, no federal income tax deduction is allowed. Purchasers of any Bond at a premium, whether at the time of initial issuance or subsequent thereto, should consult their tax advisers with respect to the determination and treatment of premium for federal income tax purposes, and with respect to state and local tax consequences of owning such Bonds.

Currently, litigation in various jurisdictions has called into question the permissibility under the U.S. Constitution of disparate state tax treatment of interest on bonds issued by a state and its political subdivisions and on obligations issued by other states and their political subdivision. West Virginia statutes currently result in such disparate treatment. On November 5, 2007 the U.S. Supreme Court heard oral arguments regarding a Kentucky state court decision on the issue of whether the U.S. Constitution precludes states from giving more favorable tax treatment to state and local government bonds issued within that state than the tax treatment given bonds issued outside that state. The outcome of this or any similar case cannot be predicted, but the ultimate result could be a change in the treatment for state tax purposes of obligations such as the Series 2007 Bonds, including whether interest on the Series 2007 Bonds is exempt from West Virginia income taxation. Prospective purchasers of the Series 2007 Bonds should consult their own tax advisers regarding the foregoing matter.

### **QUALIFIED TAX-EXEMPT OBLIGATIONS**

The Issuer has designated the Series 2007 Bonds as "qualified tax-exempt obligations" for purposes of Section 265 (b)(3)(B) of the Internal Revenue Code of 1986, as amended, which relates to the ability of certain financial institutions to deduct interest expense allocable to holding and carrying tax-exempt obligations for federal income tax purposes. Representatives of the Issuer will certify that they do not anticipate that the aggregate amount of tax-exempt obligations which will be issued by or on behalf of the Issuer in calendar year 2007 will exceed \$10 million.

## **NO LITIGATION**

There is no litigation or other proceeding pending or, to the knowledge of the Issuer, threatened to restrain or enjoin the issuance, sale, or delivery of the Series 2007 Bonds, or in any way contesting the validity or enforceability of the Series 2007 Bonds, or the proceedings pursuant to which the Series 2007 Bonds are issued.

## **UNDERWRITING**

The Series 2007 Bonds are being purchased by the Underwriter named on the cover of this Official Statement. The Bond Purchase Agreement provides that the Underwriter will purchase all the Series 2007 Bonds, if any are purchased, at a purchase price equal to the initial public offering prices set forth on the cover page hereof less an Underwriter's discount of \$78,500.00, plus original issue premium of \$2,113.85, plus accrued interest. The obligation to make such purchase is subject to the terms and conditions set forth in the Bond Purchase Agreement, including the approval of certain legal matters by counsel. The Underwriter may change the initial public offering prices from time to time. The Underwriter may offer and sell Series 2007 Bonds to certain dealers (including dealers depositing Series 2007 Bonds into investment trusts) and certain dealer banks acting as agents at prices lower than the public offering prices stated on the cover page hereof.

## **APPROVAL OF LEGALITY**

Legal matters incident to the authorization, issuance and sale of the Bonds are subject to the unqualified approving opinion of Steptoe & Johnson PLLC, Bond Counsel, whose opinion will be delivered concurrently with the delivery, upon original issuance, of the Bonds. Certain legal matters will be passed upon for the Issuer by Scott McClure, Esquire, City Attorney. Reed and Johnson will pass upon certain matters as counsel for the Underwriter.

## **CONTINUING DISCLOSURE**

The Issuer has agreed for the benefit of the holders of the Bonds to provide each Nationally Recognized Municipal Securities Information Repository (the "NRMSIRs") and, if established the State Information Depository, on an annual basis on or before 12 months after the end of each fiscal year certain financial and operating data and in a timely manner, notices of certain material events, in order to assist the Underwriter in complying with Rule 15c2-12 promulgated by the Securities Exchange Commission. The Issuer has previously entered into a similar Continuing Disclosure Agreement with respect to the Series 2003 Notes. However, in the fall of 2007, the Issuer determined that it had failed to provide financial and operating data concerning the Issuer on an annual basis to the NRMSIRs as required by the Continuing Disclosure Agreement entered into in connection with the Series 2003 Notes. The Issuer has since filed such annual financial information with the NRMSIRs. In conjunction with the issuance of the Bonds, the Issuer has hired United Bank, Inc. to provide dissemination services in conjunction with its continuing disclosure obligations for the Bonds and expects to comply with the continuing disclosure requirements as set forth in the Continuing Disclosure Agreement related to the Bonds. A summary of the Continuing Disclosure Agreement is attached hereto as Appendix E.

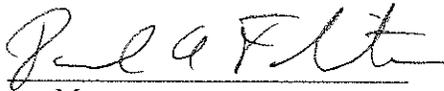
## **MISCELLANEOUS**

The foregoing summaries of the Bonds and the Ordinance, and references to the Act, do not purport to be comprehensive and are qualified in their entirety by the exact provisions thereof. Copies of the Ordinance (including the form of the Bonds) and the Act may be obtained from the Issuer or, during the period of offering of the Bonds, from the Underwriter. All estimates and assumptions herein have been made upon the best information available and are believed to be reliable, but no representation whatsoever is made that such estimates or assumptions are correct or will be realized. Statements involving matters of opinion, whether or not so expressly stated, are set forth as opinions and are not presentations of fact.

This Official Statement has been duly approved and its distribution authorized by the Issuer and the Sanitary Board.

[Signature page follows.]

**THE CITY OF HUNTINGTON, WEST VIRGINIA**

By:   
Mayor

**HUNTINGTON SANITARY BOARD**

By: \_\_\_\_\_  
Executive Director

**THE CITY OF HUNTINGTON, WEST VIRGINIA**

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

**HUNTINGTON SANITARY BOARD**

By:  \_\_\_\_\_  
Executive Director

**APPENDIX A**

**UNAUDITED FINANCIAL STATEMENTS OF THE SANITARY BOARD**

(The following financial statements are unaudited and are for the fiscal year ended  
June 30, 2007.)

## APPENDIX B

### GENERAL INFORMATION REGARDING THE CITY

The City is located in Cabell and Wayne Counties, on the south bank of the Ohio River in the western portion of the State of West Virginia. It is the core of a tri-state metropolitation area of approximately 312,529 population.

#### Government

The City was first organized as the Town of Huntington in 1871 and presently operates under the strong mayor form of government pursuant to a charter adopted as of June 4, 1985. The City is governed by an eleven-member City Council elected for a four-year term by the voters of the City. The Mayor and the members of City Council and their current terms are as follows:

		Term
Mayor	David A. Felinton	January 1, 2005 to December 31, 2008
Council Chairman	Scott Caserta	January 1, 2005 to December 31, 2008
Council Members	P. D. Adkins	January 1, 2005 to December 31, 2008
	Garry Black	January 1, 2005 to December 31, 2008
	Mary Neely	January 1, 2005 to December 31, 2008
	Paul Farrell	January 1, 2005 to December 31, 2008
	Frances Jackson	January 1, 2005 to December 31, 2008
	Sandra Clements	October 1, 2007 to December 31, 2008
	James Insko	January 1, 2005 to December 31, 2008
	Calvin "Cal" Kent	January 1, 2005 to December 31, 2008
	Teresa Loudermilk	January 1, 2005 to December 31, 2008
	James Ritter	January 1, 2005 to December 31, 2008

The Mayor is the chief administrator of the City, exercising general supervision over and coordinating all activities of the City. David A. Felinton was elected Mayor. The duly appointed Clerk of the City is Barbara Meadows.

#### Population

Population data for the City are as follows:

2000 .....	51,475
2001 .....	50,774
2002 .....	50,322
2003 .....	50,076
2004 .....	49,716
2005 .....	49,253
2006 .....	49,007

Per median family income levels in the City are approximately \$23,234 and per capital income is \$16,717. The median age of the City's population is approximately 38.0.

Source: U. S. Census 2000

## Economic Activity

The economy of the City is diversified, with manufacturing, the provision of personal and business services and mercantile activities accounting for a large percentage of all employment.

The September, 2007 unemployment rate for Cabell County was 4.8% and for the State it was 4.7%. Unemployment rates in the City and the State and nationwide the past five years were as follows\*:

Year	Huntington	West Virginia	United States
2005	5.4	5.0	5.1
2004	5.6	5.3	5.5
2003	6.1	6.1	6.0
2002	6.0	6.1	5.8
2001	5.8	4.8	4.7

\*Source: West Virginia Bureau of Employment Programs, Labor and Economic Research.

Marshall University, with a student enrollment of approximately 16,500 is located in the City.

Source: Office of Institutional Research, Marshall University

Transportation activities have an important impact on the City's economy. Barge loadings of sulphur, oil and cement make the City a major inland port. The Chessie System and the Norfolk and Western Railway, both major rail coal carriers, meet in the area. Interstate Highway 64 passes through the area.

Major employers in the City are as follows:

Employer		Approximate Employment
St. Mary's Medical Center	Healthcare	2,000
Marshall University	Higher Education	2,000
Cabell Huntington Hospital	Healthcare	1,500
CSX Huntington, Division	Railroad	1,100
GC Serives	Teleservice	1,040
Special Metals	Alloy Metal Manufacturer	970
VA Medical Center	Healthcare	720
Alcon Manufacturing, Ltd	Surgical Lens Manufacturer	585
Steel of West Virginia	Steel Manufacturer	543
Army Corps of Engineers	Federal Government	450

Source: Huntington Area Development Council

## **APPENDIX C**

### **AUDITED FINANCIAL INFORMATION OF THE CITY OF HUNTINGTON**

The following audited Financial Statements are for the fiscal year ended June 30, 2006. For more current information regarding the Issuer, see "APPENDIX B GENERAL INFORMATION REGARDING THE ISSUER."

## APPENDIX D

### FORM OF OPINION OF BOND COUNSEL

The City of Huntington  
(West Virginia)  
Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt)

The City of Huntington  
Huntington, West Virginia

Ross, Sinclair & Associates, LLC  
Frankfort, Kentucky

Ladies and Gentlemen:

We have examined a record of proceedings relating to the issuance by The City of Huntington (West Virginia) (the "Issuer") of its \$5,500,000 aggregate principal amount Sewerage System Refunding Revenue Bonds, Series 2007 (the "Series 2007 Bonds").

The Series 2007 Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act") and a Bond Ordinance duly enacted by the Issuer on January 10, 2005, as supplemented by a Supplemental Parameters Resolution duly adopted by the Issuer on December 10, 2007 (said Ordinance, as so supplemented, herein called the "Ordinance") and are subject to all the terms and conditions of the Ordinance.

The Series 2007 Bonds are issued in fully registered form, are dated December 27, 2007, upon original issuance, mature on November 1 in years and amounts and bear interest payable each May 1 and November 1, commencing May 1, 2008, and are subject to optional and mandatory sinking fund redemption prior to maturity on the dates, in the amounts and at the redemption prices, all as set forth in the Ordinance.

The Ordinance provides that the issue is for the purposes of currently refunding the Issuer's Sewerage System Refunding Revenue Bonds, Series 1993, funding a debt service reserve account for the Series 2007 Bonds, and paying costs of issuance of the Series 2007 Bonds and related costs.

Upon refunding of the Series 1993 Bonds, the Issuer has outstanding the following bonds payable from the Net Revenues of the System that are on parity with the 2007 Bonds: (i) Sewer Revenue Bonds, Series 1997 (West Virginia SRF Program), dated November 25, 1997, issued in the original aggregate principal amount of \$3,039,895, (ii) Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), dated June 22, 1999, issued in the original aggregate principal amount of \$2,083,550, (iii) Sewer Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated October 10, 2000, issued in the original aggregate principal amount of \$1,832,399, and (iv) Sewer Revenue Bonds, Series 2006 A, dated November 30, 2006, issued in the original aggregate principal amount of \$3,150,000 (collectively, the "Prior Bonds").

The Series 2007 Bonds have been sold to Ross, Sinclair & Associates, LLC (the "Purchaser"), pursuant to

a Bond Purchase Agreement dated December 19, 2007, and accepted by the Issuer (the "Bond Purchase Agreement").

As to questions of fact material to our opinion, we have relied upon representations and certifications of the Issuer and others, contained in the Ordinance and in the certified proceedings and other certifications of certain officials furnished to us without undertaking to verify the same by independent investigation.

Based upon the foregoing, and assuming compliance with the covenants, representations and certifications of the Issuer and others, pertaining to tax matters set forth in the Ordinance and with certain certificates delivered in connection with the issuance of the Series 2007 Bonds, we are of the opinion, under existing law, that:

1. The Issuer is a duly created and validly existing municipal corporation under and pursuant to the laws of the State of West Virginia, with full power and authority to enact the Ordinance, enter into the Bond Purchase Agreement, perform its obligations under the terms and provisions thereof and to issue and sell the Series 2007 Bonds, all under the provisions of the Act and other applicable provisions of law.
2. The Issuer, through its governing body, has legally and effectively enacted the Ordinance, has authorized, executed and delivered the Bond Purchase Agreement and has issued and delivered the Series 2007 Bonds to the Purchaser pursuant to the Bond Purchase Agreement. The Ordinance is in full force and effect as of the date hereof.
3. Assuming due authorization, execution and delivery by the other parties thereto, the Bond Purchase Agreement constitutes a valid, legal, binding and enforceable instrument of the Issuer in accordance with its terms; and the Series 2007 Bonds, subject to the terms thereof, constitute valid and legally enforceable limited obligations of the Issuer, payable from the Net Revenues and issued on a parity with respect to liens, pledge and source of and security for payment with the Prior Bonds, to be issued concurrently with the Series 2007 Bonds, and enforceable in accordance with their terms and the terms of the Ordinance, and are entitled to the benefits of the Ordinance and the Act.
4. Under existing laws, regulations, published rulings and judicial decisions of the United States of America, as presently written and applied, the interest on the Series 2007 Bonds (including original issue discount properly allocable to owners of the Series 2007 Bonds) is excludable from gross income of the owners thereof for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed upon individuals and corporations. It should be noted, however, that for the purpose of computing the alternative minimum tax on corporations (as defined for federal income tax purposes), such interest is taken into account in determining adjusted current earnings. Ownership of tax-exempt obligations, including the Series 2007 Bonds, may result in collateral federal income tax consequences to certain taxpayers, including without limitation, financial institutions, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry such obligations. We offer no opinion as to such collateral tax consequences. Prospective purchasers of the Series 2007 Bonds should consult their own tax advisors as to such consequences. The opinions set forth above are subject to the condition that the Issuer comply, on a continuing basis, with all requirements of the Internal Revenue Code of 1986, as amended, and regulations thereunder (the "Code") that must be satisfied subsequent to issuance of the Series 2007 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 Series 2007 Bonds set forth in the Ordinance and the certificate relating to arbitrage. Failure to comply with such Code provisions or such certifications, covenants and representations could cause the interest on the Series 2007 Bonds to be includable in gross income retroactive to the date of issuance of the Series 2007 Bonds. We express no opinion regarding other federal tax consequences arising with respect to the Series 2007 Bonds.
5. Under the Act, the Series 2007 Bonds and the interest thereon, are exempt from personal and corporate income taxes imposed directly thereon by the State of West Virginia.
6. The Issuer has designated the Series 2007 Bonds as "qualified tax-exempt obligations" for purposes of Section 265

(b)(3)(B) of the Internal Revenue Code of 1986, as amended, which relates to the ability of certain financial institutions to deduct interest expense allocable to holding and carrying tax-exempt obligations for federal income tax purposes. Representatives of the Issuer have certified that they do not anticipate that the aggregate amount of tax-exempt obligations which will be issued by or on behalf of the Issuer in calendar year 2007 will exceed \$10 million. Therefore, the Series 2007 Bonds are “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Code.

7. The Series 2007 Bonds are exempted securities within the meaning of Section 3(a)(2) of the Securities Act of 1933, as amended, and the West Virginia Uniform Securities Act, as amended, and it is not necessary, in connection with the public offering and sale of the Series 2007 Bonds, to register any securities under said Securities Acts.

It is to be understood that the rights of the holders of the Series 2007 Bonds and the enforceability of liens, pledges, rights or remedies with respect to the Series 2007 Bonds, the Ordinance and the Bond Purchase Agreement are subject to any applicable bankruptcy, reorganization, insolvency, moratorium or other similar laws heretofore or hereafter enacted affecting creditors’ rights or remedies generally, and that their enforcement may also be subject to the application of public policy, general principles of equity and the exercise of judicial discretion in appropriate cases.

We have examined the executed and authenticated Bond No. R-1 of said issue, and in our opinion, said Bond is in proper form and has been duly executed and authenticated.

Very truly yours,

STEPTOE & JOHNSON, PLLC

## APPENDIX E

### FORM OF CONTINUING DISCLOSURE AGREEMENT

#### CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the "Agreement") is by and among The City of Huntington, a political subdivision of the State of West Virginia (the "Issuer"), and United Bank, Inc., Charleston, West Virginia (the "Dissemination Agent"), in connection with the issuance of its \$5,500,000 Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt) (the "Bonds"). The Bonds are being issued pursuant to the Issuer's Bond Ordinance enacted on January 10, 2005, as supplemented by the Supplemental Parameters Resolution adopted on December 10, 2007 (collectively, the "Resolution"). The Issuer and Dissemination Agent covenant and agree as follows:

SECTION 1. Purpose of Agreement. The Agreement is being executed and delivered by the Issuer and Dissemination Agent for the benefit of the holders and Beneficial Owners of the Bonds and in order to assist the Underwriters in complying with SEC Rule 15c2-12(b)(5).

Any filing under this Agreement may be made solely by transmitting such filing to the Municipal Advisory Council of Texas (the "Central Post Office" or "MAC") as provided at <http://www.disclosureusa.org> unless the United States Securities and Exchange Commission has withdrawn the interpretive advice in its letter to the MAC dated September 7, 2004.

SECTION 2. Definitions. In addition to the definitions set forth in the Resolution and the Bond Purchase Agreement dated December 19, 2007, which apply to any capitalized term used in the Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Annual Financial Information" means the financial information (which shall be based on financial statements prepared in accordance with generally accepted accounting principles ("GAAP")) and operating data with respect to the Issuer, provided at least annually, of the type included in those sections of the final Official Statement with respect to the Bonds attached thereto as Appendix C, which Annual Financial Information shall include Audited Financial Statements if available on the Report Date, and, if not then available, unaudited financial statements.

"Audited Financial Statements" means the Issuer's annual financial statements, prepared in accordance with GAAP, which financial statements shall have been audited by a firm of independent certified public accountants.

"Beneficial Owner" shall mean any person who has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries).

"Central Post Office" means the Texas Municipal Advisory Council ("MAC") (<http://www.disclosureusa.org>) or any successor or alternative entity approved by the United States Securities and Exchange Commission.

"Dissemination Agent" shall initially mean United Bank, Inc. or any successor Dissemination Agent designated in writing by the Issuer and which has filed with the Issuer a written acceptance of such designation.

"Listed Events" shall mean any of the events listed in Section 5(a) of the Agreement.

"National Repository" shall mean any Nationally Recognized Municipal Securities Information Repository for purposes of the Rule. The National Repositories currently approved by the Securities and Exchange Commission are set forth in Exhibit

B.

“Participating Underwriter” shall mean the original underwriter of the Bonds who is required to comply with the Rule in connection with offering of the Bonds.

“Repository” shall mean each National Repository and the State Repository.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“State” shall mean the State of West Virginia.

“State Repository” shall mean any public or private repository or entity designated by the State as the state repository for the purpose of the Rule and recognized as such by the Securities and Exchange Commission. As of the date of the Agreement, there is no State Repository.

### SECTION 3. Provision of Annual Reports.

(a) The Issuer shall, or shall cause the Dissemination Agent to, not later than 365 days after the end of the Issuer’s fiscal year (presently June 30), commencing with the report for the Fiscal Year ending June 30, 2008, provide to each Repository Annual Financial Information and Audited Financial Statements, which are consistent with the requirements of Section 4 of this Agreement. The Annual Financial Information and Audited Financial Statements may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of the Agreement. The Issuer shall provide the Dissemination Agent with a copy of each report filed under this Agreement. If the Issuer’s fiscal year changes, the Issuer shall give notice of such change in the same manner as for a Listed Event under Section 5(a).

(b) Not later than fifteen (15) Business Days prior to said date, the Issuer shall provide the Annual Financial Information and Audited Financial Statements to the Dissemination Agent. If by such date the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent shall contact the Issuer to determine if the Issuer is in compliance with the first sentence of this subsection (b). If the Dissemination Agent is unable to provide to the Central Post Office for delivery to the Repositories its Annual Financial Information and Audited Financial Statements by the date required in subsection (a), the Dissemination Agent shall send a notice to the Central Post Office for delivery to each Repository or the Municipal Securities Rulemaking Board and the State Repository, if any, in substantially the form attached as Exhibit A.

(c) The Dissemination Agent shall:

(i) determine each year prior to the date for providing the Annual Financial Information and Audited Financial Statements the name and address of the Central Post Office for delivery to each National Repository and the State Repository, if any; and

(ii) file a report with the Issuer certifying that the Annual Financial Information and Audited Financial Statements have been provided pursuant to this Agreement, stating the date it was provided and listing the Central Post Office and all the Repositories to which it was provided.

SECTION 4. Content of Annual Financial Information. Within 365 days of the Issuer’s 2008 fiscal year-end, and each subsequent fiscal year, the Dissemination Agent shall submit to the Central Post Office for delivery to each nationally recognized municipal securities information repository (“National Repository”) and to any West Virginia State information repository (“State Repository”), information and data of the Issuer for the prior fiscal year, including the audited financial

statements, prepared in accordance with generally accepted auditing principles in effect from time to time.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the Issuer or related public entities, which have been submitted to each of the Repositories or the Securities and Exchange Commission. If the document included by reference is a final official statement it must be available from the Municipal Securities Rulemaking Board. The Issuer shall clearly identify each such other document so included by reference.

#### SECTION 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, the Issuer shall give, or cause to be given, notice of the occurrence of any of the following events, if applicable, with respect to the Bonds, if material:

1. principal and interest payment delinquencies;
2. non-payment related defaults;
3. unscheduled draws on debt service reserves reflecting financial difficulties;
4. unscheduled draws on credit enhancements reflecting financial difficulties;
5. substitution of credit or liquidity providers, or their failure to perform;
6. adverse tax opinions or events affecting the tax-exempt status of the security;
7. modifications to rights of security holders;
8. bond calls;
9. defeasances;
10. release, substitution, or sale of property securing repayment of the securities except as provided by the General Resolution;
11. rating changes.

(b) The Dissemination Agent shall, within one (1) Business Day of obtaining actual knowledge of the occurrence of any of the Listed Events contact the Disclosure Representative, inform such person of the event, and request that the Issuer promptly notify the Dissemination Agent in writing whether or not to report the event pursuant to subsection (f).

(c) Whenever the Issuer obtains knowledge of the occurrence of a Listed Event, because of a notice from the Dissemination Agent pursuant to subsection (b) or otherwise, the Issuer shall as soon as possible determine if such event would be material under applicable federal securities laws.

(d) If the Issuer determines that knowledge of the occurrence of any of the Listed Events would be material under applicable federal securities laws, the Issuer shall promptly file with the Dissemination Agent a notice of such occurrence to be provided to the Central Post Office and the Municipal Securities Rulemaking Board for delivery to the National Repository and the State Repository. Notwithstanding the foregoing, notice of Listed Events described in subsections (a) (4) and (5) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to Holders of affected Bonds pursuant to the Resolution.

(e) If in response to a request under subsection (b), the Issuer determines that the Listed Event would not be material under applicable federal securities laws, the Issuer shall so notify the Dissemination Agent in writing and instruct the Dissemination Agent not to report the occurrence pursuant to subsection (f).

(f) If the Dissemination Agent has been instructed by the Issuer to report the occurrence of a Listed Event, the Dissemination Agent shall file a notice of such occurrence with the Municipal Securities Rulemaking Board and each Repository with a copy to the Issuer. Notwithstanding the foregoing, notice of the occurrence of a Listed Event described in subsections (a)(8) and (9) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to the Holders of affected Bonds pursuant to the Resolution.

SECTION 6. Termination of Reporting Obligation. The Issuer's obligations under the Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the Issuer shall give notice of such termination in the same manner as for any of the Listed Events under Section 5(a).

SECTION 7. Dissemination Agent. United Bank, Inc., Charleston, West Virginia, is hereby appointed as Dissemination Agent. The Issuer may, from time to time, appoint or engage an alternate or successor Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Issuer pursuant to this Disclosure Agreement.

SECTION 8. Amendment, Waiver. Notwithstanding any other provision of the Agreement, the Issuer may amend the Agreement, and any provision of the Agreement may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the Bonds, or the type of business conducted;

(b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances, and

(c) The amendment or waiver either (i) is approved by the Holders of the Bonds in the same manner as provided in the Resolution for amendments to the Resolution with the consent of Holders, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Holders or Beneficial Owners of the Bonds.

In the event of any amendment or waiver of a provision of the Agreement, the Issuer shall describe such amendment in the next Annual Financial Information and Audited Financial Statements, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Issuer. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for any of the Listed Events under Section 5(a), and (ii) the Annual Financial Information and Audited Financial Statements for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

SECTION 9. Additional Information. Nothing in the Agreement shall be deemed to prevent the Issuer from disseminating any other information, using the means of dissemination set forth in the Agreement or any other means of communication, or including any other information in any Annual Financial Information and Audited Financial Statements or notice of occurrence of any of the Listed Events, in addition to that which is required by the Agreement. If the Issuer chooses to

include any information in any Annual Financial Information and Audited Financial Statements or notice of occurrence of any of the Listed Events in addition to that which is specifically required by the Agreement, the Issuer shall have no obligation under the Agreement to update such information or include it in any future Annual Financial Information and Audited Financial Statements or notice of occurrence of any of the Listed Events.

SECTION 10. Default. In the event of a failure of the Issuer or Dissemination Agent to comply with any provision of the Agreement (and, at the request of the Original Purchaser), the Dissemination Agent may or any Holder or Beneficial Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Issuer or Dissemination Agent to comply with its obligations under the Agreement. A default under the Agreement shall not be deemed an Event of Default under the Resolution, and the sole remedy under the Agreement in the event of any failure of the Issuer or Dissemination Agent to comply with the Agreement shall be an action to compel performance.

SECTION 11. Duties, Immunities and Liabilities of Dissemination. The Dissemination Agent shall have only such duties as are specifically set forth in the Agreement, and the Issuer agrees to the extent allowed by State law to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's gross negligence or willful misconduct. The obligations of the Issuer under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

SECTION 12. Notices. Any notices or communications to or among any of the parties to this Disclosure Agreement may be given as follows:

To the Issuer:

The City of Huntington  
800 Fifth Avenue  
Huntington, WV 25701

To the Dissemination Agent:

United Bank, Inc.  
500 Virginia Street, East  
Charleston, WV 25301

Any person may, by written notice to the other persons listed above, designate a different address or telephone number(s) to which subsequent notices or communications should be sent.

SECTION 13. Beneficiaries. The Agreement shall inure solely to the benefit of the Issuer, the Dissemination Agent, the Participating Underwriter and Holders and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

SECTION 14. Counterparts. This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 15. Fees. The Issuer agrees to pay all fees and expenses of the Dissemination Agent including, without limitation, all reasonable expenses, charges, costs, attorney's fees and other disbursements in the administration and performance of the Dissemination Agent's duties.

SECTION 16. Right to Resign. The Dissemination Agent may resign at any time by providing thirty (30) days' written notice to the Issuer.

SECTION 17. Right to Counsel. The Dissemination Agent shall have the right to consult with counsel in carrying out its duties under this Disclosure Agreement and to rely upon an opinion of counsel.

[Remainder of Page Intentionally Left Blank]

Dated: December 27, 2007

THE CITY OF HUNTINGTON

By: \_\_\_\_\_  
Its: Mayor

UNITED BANK, INC.,  
as Dissemination Agent

By: \_\_\_\_\_  
Its: Vice President

EXHIBIT A

FORM OF  
NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: The City of Huntington

Name of Issue: \$5,500,000 Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt)

Date of Issuance: December 6, 2007

Notice is hereby given that the Issuer has not provided an Annual Report with respect to the above-named Bonds as required by its covenant made in connection with the above-referenced bond issue. The Issuer anticipates that the Annual Report will be filed by \_\_\_\_\_.

Dated this \_\_\_\_\_.

THE CITY OF HUNTINGTON

By: \_\_\_\_\_  
Its: Mayor

## EXHIBIT B

Central Post Office  
Disclosure USA  
P.O. Box 684667  
600 W. 8th Street  
Austin, Texas 78701  
Website: <http://www.disclosureusa.org>

Nationally Recognized Municipal Securities Information Repositories (NRMSIRs)  
approved by the Securities and Exchange Commission as of November 8, 2007

Bloomberg Municipal Repository  
100 Business Park Drive  
Skillman, NJ 08558  
Phone: (609) 279-3225  
Fax: (609) 279-5962  
<http://www.bloomberg.com/markets/rates/municontacts.html>  
Email: [Munis@Bloomberg.com](mailto:Munis@Bloomberg.com)

DPC Data Inc.  
One Executive Drive  
Fort Lee, NJ 07024  
Phone: (201) 346-0701  
Fax: (201) 947-0107  
<http://www.MuniFILINGS.com>  
Email: [nrmsir@dpcdata.com](mailto:nrmsir@dpcdata.com)

Interactive Data Pricing and Reference Data, Inc.  
Attn: NRMSIR  
100 William Street, 15th Floor  
New York, NY 10038  
Phone: 212-771-6999; 800-689-8466  
Fax: 212-771-7390  
<http://www.interactivedata-prd.com>  
Email: [NRMSIR@interactivedata.com](mailto:NRMSIR@interactivedata.com)

Standard & Poor's Securities Evaluations, Inc.  
55 Water Street  
45th Floor  
New York, NY 10041  
Phone: (212) 438-4595  
Fax: (212) 438-3975  
<http://www.disclosuredirectory.standardandpoors.com/>  
Email: [nrmsir\\_repository@sandp.com](mailto:nrmsir_repository@sandp.com)

**APPENDIX F**  
**FORM OF MUNICIPAL BOND INSURANCE POLICY**



**\$5,500,000**  
**THE CITY OF HUNTINGTON**  
**SEWERAGE SYSTEM REFUNDING REVENUE BONDS**  
**SERIES 2007 (TAX-EXEMPT)**

**BOND PURCHASE AGREEMENT**

December 19, 2007

The City of Huntington, West Virginia  
Huntington, West Virginia

Ladies and Gentlemen:

Ross, Sinclaire & Associates, LLC (the "Underwriter") offers to enter into this Bond Purchase Agreement (the "Purchase Agreement") with The City of Huntington, West Virginia (the "City"). This offer is made subject to acceptance and execution of this Purchase Agreement by the City, prior to 11:59 p.m., local prevailing time on the date hereof, or until withdrawn by the Underwriter upon written notice to the City as permitted herein, whichever shall occur earlier. Upon such acceptance and approval, as evidenced by the signature of the Mayor of the city in the space provided below, this Purchase Agreement shall be in full force and effect in accordance with its terms and shall be binding upon the City and the Underwriter.

All capitalized terms used in this Purchase Agreement and not otherwise defined herein shall have the meanings set forth in the hereinafter described Ordinance.

**Purpose and Plan of Financing**

**Series 2007 Bonds**

1. The proceeds of the Series 2007 Bonds are being issued by the City to provide funds for the following purposes:

(a) To provide funds (i) to currently refund the Issuer's Sewerage System Refunding Revenue Bonds, Series 1993 (the "Series 1993 Bonds"), (ii) to fund a debt service reserve account for the Series 2007 Bonds, and (iii) to pay costs of issuance of the Series 2007 Bonds and related costs.

(b) Costs of Issuance. The balance of the proceeds of the Series 2007 Bonds will be used to pay costs associated with the issuance of the Series 2007 Bonds.

The Series 2007 Bonds shall be as described in, and shall be issued and secured under and pursuant to the provisions of the Ordinance adopted by the City Council on January 10, 2005, as supplemented by a supplemental parameters resolution adopted by the City Council on December 10, 2007 (collectively, the "Ordinance"). The Ordinance shall be substantially in the form previously submitted to the Underwriter with such changes and amendments as the City's and Underwriter's counsel shall approve.

Upon the terms and conditions and upon the basis of the representations and warranties set forth in this Purchase Agreement, the Underwriter agrees to purchase from the City, and the City agrees to sell to the Underwriter, the Series 2007 Bonds at an aggregate purchase price of \$5,423,613.85. This purchase price reflects an Underwriter's Discount of \$78,500.00, plus Reoffering Premium of \$2,113.85. The Series 2007 Bonds shall mature on the dates and in the amounts set forth in Exhibit "A" hereto, and shall bear interest, payable semi-annually on May 1 and November 1, commencing May 1, 2008. The Series 2007 Bonds are subject to redemption prior to maturity as follows:

#### **Optional Redemption**

The Series 2007 Bonds are subject to redemption, at the option of the Issuer on or after November 1, 2015, in whole or in part, at any time by lot at an amount of the principal amount, plus interest, if any, accrued to the date fixed for redemption.

#### **Mandatory Redemption**

The Term Bonds due November 1, 2019 are subject to mandatory sinking fund redemption prior to maturity at a redemption price of 100% of the principal amount to be redeemed, plus accrued interest to the redemption date, on November 1, 2018 in the principal amount of \$360,000. The remaining \$380,000 principal amount of Term Bonds due November 1, 2019 are scheduled to be paid at maturity.

The Term Bonds due November 1, 2023 are subject to mandatory sinking fund redemption prior to maturity at a redemption price of 100% of the principal amount to be redeemed, plus accrued interest to the redemption date, on November 1, 2022 in the principal amount of \$415,000. The remaining \$435,000 principal amount of Term Bonds due November 1, 2023 are scheduled to be paid at maturity.

The Underwriter agrees to make a bona fide public offering of the Series 2007 Bonds at the initial offering prices as set forth in the Official Statement (as hereinafter described) and in Exhibit "A", which may be changed from time to time by the Underwriter.

2. Concurrently with the acceptance of the Purchase Agreement by the City, the City shall deliver or cause to be delivered to the Underwriter, five (5) copies of the Official Statement

(the "OS") relating to the Series 2007 Bonds, substantially in the form of the Preliminary Official Statement, dated December 18, 2007, signed on behalf of the City by its Mayor as requested below.

3. The OS has been approved for distribution by the Ordinance. The City authorized the use of copies of the OS and the Ordinance in connection with the offering and sale of the Series 2007 Bonds

On December 19, 2007, the City delivered to the Underwriter the Preliminary Official Statement which is hereby deemed "final" within the meaning of clause (b)(1) of Rule 15c2-12 ("Rule 15c2-12") under the Securities and Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) and Rule G-32 and all other rules of the Municipal Securities Rulemaking Board.

As soon as practicable following receipt thereof, the Underwriter shall deliver the OS, and any supplement or amendment thereto, to a nationally recognized municipal securities information repository.

4. At 10:00 a.m., prevailing time, on December 27, 2007, or such other date as shall be agreed upon by the parties to this Purchase Agreement (the "Closing"), the City will deliver or cause to be delivered to the Underwriter, Series 2007 Bonds in the form of one certificate for each maturity fully registered in the name of CEDE & CO., as registered owner and nominee of The Depository Trust Company, New York, New York ("DTC"), duly executed by the City and authenticated by the Registrar; at such other place as we mutually agree upon, will deliver to the Underwriter the other documents required in this Purchase Agreement and by the Ordinance. Upon such delivery of the Series 2007 Bonds, the Underwriter will accept such delivery and pay the purchase price therefore, plus any accrued interest thereon, in immediately available funds to the order of the Depository Bank, for the account of the City. Such delivery shall be made at DTC (or at the offices of the Registrar, if "DTC Fast" delivery is used), with the payment and other requisite actions to be taken at the place designated by the parties to this Purchase Agreement. The Series 2007 Bonds shall be made available to the Underwriter and DTC forty-eight (48) hours before the Closing, provided that if DTC Fast delivery is used then the Series 2007 Bonds shall be made available to the Registrar by 4:00 p.m. on December 19, 2007, for the purpose of inspection and packaging. The City also agrees that it shall deliver to The Depository Trust Company the letter of representations, in the form required by The Depository Trust Company (the "DTC Letter of Representations") and the timely payment letter at the times required by The Depository Trust Company.

5. The City represents and warrants to the Underwriter and agrees that:

a) The City is a municipal corporation and political subdivision of the State of West Virginia in Cabell County of said State. The Series 2007 Bonds are being issued pursuant to the Constitution and laws of the State of West Virginia (the "State"), specifically Chapter 16, Article 13 of the Code of West Virginia, as amended (the "Act");

b) The City shall have complied and will comply at the Closing in all respects with all applicable statutes and laws, including the Act;

c) The City has full legal right, power and authority to issue Bonds for purposes provided in the Ordinance and to enter into this Purchase Agreement, to adopt the Ordinance and to issue, sell and deliver the Series 2007 Bonds to the Underwriter as provided herein and to carry out and consummate all other transactions contemplated by each of the aforesaid documents;

d) The information contained in the Preliminary Official Statement and in the OS is and, as of the Closing Date, will be true and does not contain and will not contain any untrue statement of a material fact and does not omit and will not omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading;

e) At the time of the City's acceptance hereof and (unless an event occurs of the nature described in subparagraph (h)), at all times during the period from the date of this Purchase Agreement to and including the date which is twenty-five (25) days following the End of the Underwriting Period for the Series 2007 Bonds (as determined in accordance with subparagraph (i) hereof), the OS does not and will not contain any statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

f) If the OS is supplemental or amended pursuant to subparagraph (h) at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such subparagraph) at all times during the period from the date of this Purchase Agreement to and including the date which is twenty-five (25) days following the End of the Underwriting Period for the Series 2007 Bonds (as determined in accordance with subparagraph (i) hereof), the OS as so supplemented or amended, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

g) If during the period from the date of this Purchase Agreement to and including the date which is twenty-five (25) days following the End of the Underwriting Period for the Series 2007 Bonds (as determined in accordance with subparagraph (i) hereof) any event shall occur which might or would cause the OS, as then supplemented or amended, to contain any untrue statement of a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the City shall notify the Underwriter of any such event of which it has knowledge and, if in the opinion of the Underwriter such event requires the preparation and publication of a supplement or amendment to the OS, the City will prepare and furnish to the Underwriter (i) a reasonable number of copies of the supplement or amendment to the OS in form and substance approved by the City and acceptable to the Underwriter, and (ii) if such notification shall be subsequent to the Closing, such legal opinion, certification, instruments and other documents as the Underwriter may reasonably deem necessary to evidence the truth and accuracy of such supplement or amendment to the OS;

h) Prior to the City's acceptance hereof, the City delivered to the Underwriter copies of the Preliminary Official Statement which the City deemed final (for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934) as of the date thereof; provided, however that in making the representation and warranty contained in this paragraph (h) the City shall not be deemed to have made any additional representation or warranty as to the Preliminary Official Statement other than the representation and warranty contained in subparagraph (d);

i) For the purposes of this Purchase Agreement, the End of the Underwriting Period for the Series 2007 Bonds shall mean the earlier of (a) the day of the Closing unless the City has been notified in writing by the Underwriter, on or prior to the date of the Closing, that the "end of the underwriting period" for the Series 2007 Bonds for all purposes of Rule 15c2-12 of the Securities and Exchange Commission promulgated under the Securities Exchange Act of 1934 (the "Rule") will not occur on the day of the Closing, or (b) the date on which notice is given to the City by the Underwriter in accordance with the following sentence. In the event that the Underwriter has given notice to the City pursuant to clause (a) above that the "end of the underwriting period" for the Series 2007 Bonds will not occur on the day of the closing, the Underwriter agrees to notify the City in writing as soon as practicable following the "end of the underwriting period" for the Series 2007 Bonds for all purposes of the Rule;

j) The Purchaser is required to enter into a written continuing disclosure undertaking with the Issuer. Accordingly, a Continuing Disclosure Agreement will be entered into between the Issuer and the Purchaser;

k) You have duly authorized all necessary action to be taken by you for (1) the issuance and sale of the Series 2007 Bonds upon the terms set forth herein, in the Ordinance and in the OS; (2) the execution and delivery of the Ordinance; (3) the approval of the OS and the execution of the OS by your Mayor; (4) the execution, delivery, receipt and due performance of this Purchase Agreement, the Series 2007 Bonds, the Ordinance and any and all such other agreements and documents as may be required to be executed, delivered and received by you in order to carry out, give effect to and consummate the transactions contemplated hereby and by the OS; and (5) the carrying out, giving effect to and consummation of the transactions contemplated hereby and by the Ordinance and the OS;

l) When delivered to and paid for by the Underwriter in accordance with the terms of this Purchase Agreement, the Series 2007 Bonds will have been duly authorized, executed, authenticated, issued and delivered and will constitute valid and binding obligations of the City payable solely from Net Revenues derived from existing sewage system of the Issuer on a parity with the Prior Bonds and any additional parity bonds that may be issued by the Issuer as permitted by the Ordinance. Neither the credit nor the taxing power, if any, 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 the interest on the Series 2007 Bonds;

m) Except as disclosed in the OS, there is no action, suit, proceeding, inquiry, or investigation at law or in equity or before or by any court, public board, or body pending or, to the City's knowledge, threatened against or affecting the City (or to the City's knowledge any basis therefore), wherein an unfavorable decision, ruling, or finding would adversely affect the

transactions contemplated hereby or by the OS or the validity of the Series 2007 Bonds, the Ordinance, this Purchase Agreement, or any agreement or instrument to which the City is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby or by the OS;

n) The execution and delivery of the OS, this Bond Purchase Agreement, the Series 2007 Bonds, the Ordinance, and the other agreements contemplated hereby and by the OS, and compliance with the provisions thereof, will not conflict with or constitute on the City's part a breach of or a default under any existing law, court or administrative regulation, decree or order or any agreement, indenture, mortgage, lease or other instrument to which the City is subject or by which the City is or may be bound, and to the City's knowledge all consents, approvals, authorizations and orders of governmental or regulatory authorities which are required for the consummation of the transactions contemplated thereby have been obtained;

o) The City has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that the City is a bond issuer whose arbitrage certifications may not be relied upon;

p) All financial statements of the City included as a part of the OS (the "Financial Statements"), fairly present the City's financial condition as of the respective dates and the results of its operations for the respective periods therein set forth and have been prepared when so indicated in accordance with generally accepted accounting principles consistently applied and since the respective most recent dates as of which information is given in the OS, there has not been any material change in the long-term debt or capitalization of the City or any material adverse change in the general affairs, management, financial position, or results of operations of the City and no material transactions or obligations other than in the ordinary course of business have been entered into with respect to the System, as defined in the OS, by the City, except as reflected in or contemplated by the OS; and

Any certificate signed by any of the authorized officers of the City and delivered to the Underwriter shall be deemed a representation and warranty by the City to the Underwriter as to the statements made therein. It is understood that the representations, warranties and covenants by the City contained in this Section 5 and elsewhere in this Purchase Agreement shall not create any general obligation or liability of the City, and that any obligation or liability of the City hereunder or under the Ordinance will be payable solely out of (i) the Net Revenues derived from existing sewage system of the Issuer as to the Series 2007 Bonds. No member, official or employee of the City shall be personally liable therefore.

6. The Underwriter has entered into this Purchase Agreement in reliance upon the representations and agreements of the City made herein. The Underwriter's obligations under this Purchase Agreement are and shall be subject to the following further conditions:

a) At or prior to the time of Closing, the Ordinance, as approved by the Underwriter or its counsel, shall have been approved by the appropriate parties, shall have been duly executed, acknowledged, sealed and delivered, shall be in full force and effect and shall not

have been amended, modified or supplemented, except as therein permitted or as may have been agreed to in writing by the Underwriter;

b) The Underwriter shall have the right to cancel its obligations hereunder to purchase the Series 2007 Bonds (such cancellation shall not constitute a default hereunder) by notifying the City in writing of its election to do so between the date hereof and the Closing Date, if at any time hereafter and prior to the Closing Date;

(i) Any legislation, rule or regulation shall be introduced in, or enacted by, the United States House of Representatives or the United States Senate or any committee thereof, or a decision by a court established under Article III of the Constitution of the United States of America, or the Tax Court of the United States, shall be rendered, or a ruling, regulation or order of the Treasury Department of the United States or the Internal Revenue Service shall be made or proposed, which, in the Underwriter's reasonable opinion, materially adversely affects the market price of the Series 2007 Bonds;

(ii) Any legislation, ordinance, rule or regulation shall be introduced in or enacted by any governmental body, department or agency of the State of West Virginia or political subdivision thereof, or a decision by any court of competent jurisdiction within the State of West Virginia shall have been rendered which, in the Underwriter's reasonable opinion, materially adversely affects the market price of the Series 2007 Bonds;

(iii) A stop order, ruling or regulation by, or on behalf of, the Securities and Exchange Commission or any other government agency having jurisdiction of the subject matter shall be issued or made to the effect that the issuance, offering for sale of obligations of the general character of the Series 2007 Bonds, or the issuance, offering or sale of the Series 2007 Bonds, including all the underlying obligations, as contemplated hereby or by the OS, is in violation of any provisions of the Securities Act of 1933, as amended and as then in effect, or the registration provisions of the Securities and Exchange Act of 1934, as amended and as then in effect, or the qualification provisions of the Trust Indenture Act of 1939, as amended and as then in effect;

(iv) Any event shall have occurred or information become known which, in the Underwriter's reasonable opinion, makes untrue in any material respect any statement or information contained in the OS or the Underwriter shall have determined that the OS contains an untrue statement of a material fact or omits a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading;

(v) A general banking moratorium shall have been established by Federal or West Virginia State authorities;

(vi) In the reasonable opinion of the Underwriter, the market price of the Series 2007 Bonds, or the market price generally of obligations of the general character of the Series 2007 Bonds, has been adversely affected because (1) additional material restrictions not in force as of the date hereof shall have been imposed upon trading in securities generally by

any governmental authority or by any national securities exchange, (2) the New York Stock Exchange, other national securities exchange or any governmental authority shall have imposed as to the Series 2007 Bonds or similar obligations any material restrictions not now in force, or increased materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of the Underwriter, or (3) war or any outbreak of hostilities or other national or international calamity or crisis shall have occurred or any armed conflict shall have occurred or escalated to such a magnitude as in the reasonable opinion of the Underwriter to have a materially adverse effect on the ability of the Underwriter to market the Series 2007 Bonds;

(vii) An event described in paragraph 5(g) hereof shall have occurred which in the opinion of the Underwriter requires the preparation and publication of a supplemental or amendment to the OS, regardless of whether or not such a supplement or amendment to the OS has been prepared and/or circulated, unless the Underwriter shall have otherwise agreed that this Purchase Agreement shall not be terminated as a result of such event; or

(viii) There shall have been any materially adverse change in the affairs of the City.

c) At or prior to the Closing, the Underwriter and the City shall receive the following documents, in each case in form and substance satisfactory to us and our counsel:

(i) The unqualified approving opinions, dated as of the Closing Date, of Steptoe & Johnson, PLLC, Bond Counsel, in the form attached as Appendix D to the OS accompanied by the opinion of Steptoe & Johnson, PLLC, as Disclosure Counsel, substantially in the form attached hereto as Exhibit "B";

(ii) The opinion of Scott McClure, Counsel for the City, dated the date of Closing and addressed to the Underwriter in the form attached hereto as Exhibit "C";

(iii) The opinion of Reed & Johnson, Lexington, Kentucky, counsel for the Underwriter, dated as of the Closing Date, substantially in the form attached hereto as Exhibit "D";

(iv) A certificate, satisfactory to the Underwriter, of the Mayor of the City dated as of the Closing, to the effect that: (i) the City has duly performed all of its obligations to be performed at or prior to the Closing and that each of its representations and warranties contained herein are true as of Closing, (ii) the City has authorized, by all necessary action, the execution, delivery, receipt and due performance of the Series 2007 Bonds, the Ordinance and any and all such other agreements and documents as may be required to be executed, delivered and received by the City in order to carry out, give effect to and consummate the transactions contemplated hereby and by the OS, (iii) to the City's knowledge no litigation is pending, or to the City's knowledge threatened, to restrain or enjoin the issuance or sale of the Series 2007 Bonds or in any way affecting any authority for or the validity of the Series 2007 Bonds, the Ordinance or the City's existence or powers or the City's right to use the proceeds of the Series

2007 Bonds to finance the Project, and (iv) the execution, delivery, receipt and due performance of the Series 2007 Bonds, the Ordinance and the other agreements contemplated hereby and by the OS under the circumstances contemplated thereby and the City's compliance with the provisions thereof will not conflict with or constitute on the City's part a breach of or a default under any existing law, court or administrative regulation, decree or order or any agreement, indenture, mortgage, lease or other instrument to which the City is subject or by which the City is or may be bound;

(v) Copies of the Ordinance and this Purchase Agreement executed by the parties thereto;

(vi) A Certificate of the Bond Registrar to the effect that all conditions precedent contained in the Ordinance for the issuance of the Series 2007 Bonds have been met, and are entitled to the benefit and security of the Ordinance;

(vii) The Ordinance, certified by an authorized official of the City under the seal of the City, as having been duly adopted by the City and as being in full force and effect, with only such amendments, modifications or supplements as may have been agreed to by the Underwriter;

(viii) Evidence to the effect that the requirements of the Code have been satisfied by the filing of Internal Revenue Service Form 8038-G with respect to the Series 2007 Bonds; and

(ix) Such additional opinions, certificates, proceedings, instruments and other documents as the Underwriter, Bond Counsel or Underwriter's Counsel may reasonably request including the opinion of Bond Counsel with respect to the original issue discount, if any.

If the City shall be unable to satisfy or cause to be satisfied the conditions to the Underwriter's obligations in this Purchase Agreement or if the Underwriter's obligations shall be terminated for any reason permitted by this Purchase Agreement, this Purchase Agreement shall terminate and neither the Underwriter nor the City shall have any further obligations, claims or rights hereunder. However, the Underwriter may in its discretion waive in writing one or more conditions imposed by this Purchase Agreement for the protection of the Underwriter and proceed with the Closing.

7. The Underwriter shall be under no obligation to pay, and, if the Series 2007 Bonds are issued, the City shall pay or cause to be paid from the proceeds of the Series 2007 Bonds, any fees and expenses incident to the performance of the City's obligations hereunder including (i) all expenses in connection with the printing and distribution of the OS and any amendment or supplement to either; (ii) all expenses in connection with the preparation, printing, issuance and delivery of the Series 2007 Bonds; (iii) the fees and disbursements of Steptoe & Johnson, PLLC, Bond Counsel; (iv) the fees and disbursements, if any, of Scott McClure, Counsel for the City; (v) all advertising expenses in connection with the offering of the Series 2007 Bonds; (vi) fees and expenses of the Bond Registrar; and (vii) all other expenses and costs

(including the fees and expenses of the City) for the authorization, issuance, sale and distribution of the Series 2007 Bonds.

8. The Underwriter shall pay from the underwriting spread all other expenses incurred by them in connection with the offering and distribution of the Series 2007 Bonds, including all fees of Disclosure Counsel, Underwriter's Counsel, out-of-pocket expenses, travel and other expenses.

9. For so long as the Underwriter, or dealers or banks, if any, participating in the distribution of the Series 2007 Bonds, are offering Series 2007 Bonds which constitute the whole or a part of their unsold participations, the City will: (a) not adopt any amendment or supplement to the OS to which, after having been furnished with a copy, the Underwriter shall object in writing or which shall be disapproved by Counsel for the Underwriter, unless, in the opinion of Counsel to the City, such amendment or supplement is required to make the OS not misleading, and (b) if any event relating to or affecting the City shall occur as a result of which it is necessary, in the opinion of Bond Counsel or Counsel for the Underwriter, to amend or supplement the OS in order to make the OS not misleading in the light of the circumstances existing at the time it is delivered to a purchaser, forthwith prepare and furnish to the Underwriter a reasonable number of copies of an amendment or a supplement to the OS (in form and substance satisfactory to the Counsel for the Underwriter) which will amend or supplement the OS so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements there, in the light of the circumstances existing at the time the OS is delivered to a purchaser, not misleading. The expense of preparing such amendment or supplement shall be borne by the City. For the purposes of this paragraph, the City will furnish such information with respect to itself as the Underwriter from time to time may request.

10. Neither the members nor officers of the City nor their employees shall be personally liable for breach of any representation, agreement or warranty made by the City within this Purchase Agreement.

11. Any notice or other communication to be given under this Purchase Agreement may be given by delivering the same in writing as follows:

To the City:                   The City of Huntington  
  City Hall, P.O. Box 1659  
  Huntington, WV 25717  
  Attn: Chairman, Sanitary Board

To the Underwriter:       Ross, Sinclair & Associates, LLC  
  400 Democrat Drive  
  Frankfort, Kentucky 40601  
  Attn: Brian Nurick

12. This Purchase Agreement is made solely for the benefit of the City and the Underwriter (including the successors or assigns of the Underwriter) and no other person, partnership, association or Corporation shall acquire or have any right hereunder or by virtue hereof. All agreements of the City in this Purchase Agreement shall remain operative and in full force and effect regardless of any investigation made by or on behalf of the Underwriter and shall survive the delivery of and payment for the Series 2007 Bonds.

13. This Purchase Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one instrument.

14. If any section, paragraph or clause of this Lease shall be held invalid by any court of competent jurisdiction, the invalidity of said section, paragraph or clause shall not affect any of the remaining provisions hereof.

15. The approval of the Underwriter when required hereunder or the determination of its satisfaction with any document referred to herein shall be in writing signed by the Representative and delivered to the City. This Purchase Agreement shall become legally effective upon its acceptance by the City, as evidenced by the signature of the Mayor of the City in the space provided hereinafter therefore.

16. This Bond Purchase Agreement may be signed in one or more counterparts, which together shall constitute one Bond Purchase Agreement.

*[Signatures appear on following page(s)]*

ROSS, SINCLAIRE & ASSOCIATES, LLC

By: Brian Nimick

Title: Senior Vice President

ACCEPTED AND APPROVED:

THE CITY OF HUNTINGTON, WEST VIRGINIA

\_\_\_\_\_  
Mayor

**ROSS, SINCLAIRE & ASSOCIATES, LLC**

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

Title: \_\_\_\_\_

**ACCEPTED AND APPROVED:**

**THE CITY OF HUNTINGTON, WEST VIRGINIA**

A handwritten signature in cursive script, appearing to read "Paul A. F. White", is written over a horizontal line.

Mayor

p:\bonds\huntington wv sewer bonds 2007\bond purchase agreement.doc

**EXHIBIT "A"**

**SERIES 2007 BOND TERMS**

<u>Bond No.</u>	<u>Maturity Date</u> (November 1)	<u>Principal</u> <u>Amount</u> (thousands)	<u>Coupon</u> <u>Rate</u>	<u>Yield</u>
R-1	2008	\$ 250	3.5%	3.20%
R-2	2009	265	3.5%	3.22%
R-3	2010	275	3.5%	3.25%
R-4	2011	290	3.5%	3.30%
R-5	2012	305	3.5%	3.35%
R-6	2013	320	3.5%	3.40%
R-7	2014	335	3.5%	3.50%
R-8	2015	350	3.5%	3.60%
R-9	2016	365	3.6%	3.65%
R-10	2017	360	3.7%	3.75%
R-11	2019	740	4.0%	3.87%
R-12	2020	395	4.0%	3.95%
R-13	2021	400	4.0%	4.00%
R-14	2023	850	4.0%	4.10%

**EXHIBIT "B"**

**[DISCLOSURE OPINION OF STEPTOE & JOHNSON, PLLC]**

**EXHIBIT "C"**

**[OPINION OF SCOTT McCLURE]**

**EXHIBIT "D"**

**[LETTERHEAD OF REED & JOHNSON]**

December 27, 2007

Ross, Sinclair & Associates, LLC  
400 Democrat Drive  
Frankfort, Kentucky 40601

**Re: \$5,500,000 The City of Huntington, West Virginia Sewerage System  
Refunding Revenue Bonds, Series 2007 (Tax-Exempt)**

Ladies and Gentlemen:

We have served as counsel to you (the "Underwriter") in connection with the issuance and sale by The City of Huntington, West Virginia (the "City") of its Bonds, Series 2007 (Tax-Exempt) in the aggregate principal amount of \$5,500,000 (the "Series 2007 Bonds"). In connection with rendering this opinion, we have examined the Official Statement, dated December 18, 2007 (the "OS"), the Bond Purchase Agreement, dated December 27, 2007 (the "Purchase Agreement"), and Rule 15c2-12 of the Securities and Exchange Commission promulgated under the Securities Exchange Act of 1934, as amended (the "Rule"). Capitalized terms used but not defined herein shall have the meanings set forth in the Purchase Agreement.

We are not passing upon, and do not assume any responsibility for, the accuracy, completeness, or fairness of any of the statements in the OS, and make no representation that we have independently verified the accuracy, completeness or fairness of any such statements. However, to assist you in your investigation concerning the OS, we have reviewed certain documents to include Bond Ordinance, Approving Opinion of Steptoe & Johnson, PLLC, Bond Counsel, Supplemental Opinion of Steptoe & Johnson, PLLC, Bond Counsel, Opinion of Scott McClure, Counsel to the City, General Certificate of Issuer, Rule 15c2-012 Certificate, Registrar's Certificate, Underwriter's Certificate, and the Purchase Agreement, and have participated in conferences and/or conversations with Bond Counsel in which the contents of the OS were discussed, including correspondence to and from Bond Counsel. During the course of our work on this matter, nothing has come to our attention that would lead us to believe that the OS (excluding therefrom the financial and statistical data included in the OS, including Appendix A, Appendix B, and Appendix C thereto, as to which we express no opinion) contains any untrue statement of a material fact or omits to state a material fact necessary in order to make

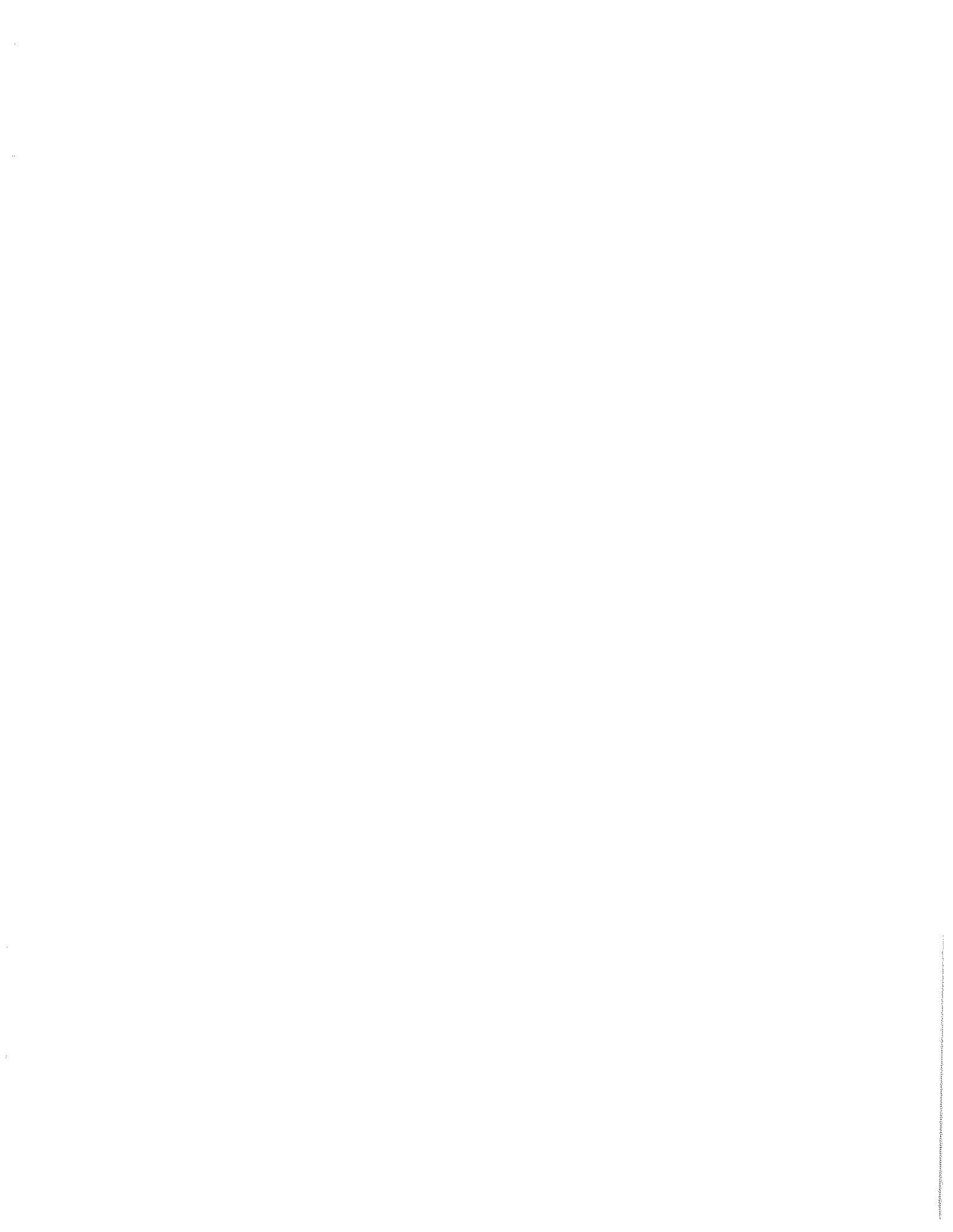
the statements made therein, in light of circumstances under which they were made, not misleading.

This opinion is solely for the benefit of, and may be relied upon only by, the Underwriter, and it is not to be used, circulated, quoted or otherwise referred to for any other purpose, except that a copy hereof may be included in the transcript of closing documents pertaining to the delivery of the Series 2007 Bonds.

Sincerely,

REED & JOHNSON

By: \_\_\_\_\_  
Gillard B. Johnson, III



## CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the "Agreement") is by and among The City of Huntington, a political subdivision of the State of West Virginia (the "Issuer"), and United Bank, Inc., Charleston, West Virginia (the "Dissemination Agent"), in connection with the issuance of its \$5,500,000 Sewerage System Refunding Revenue Bonds, Series 2007 (the "Bonds"). The Bonds are being issued pursuant to the Issuer's Bond Ordinance enacted on January 10, 2005, as supplemented by the Supplemental Parameters Resolution adopted on December 10, 2007 (collectively, the "Resolution"). The Issuer and Dissemination Agent covenant and agree as follows:

**SECTION 1. Purpose of Agreement.** The Agreement is being executed and delivered by the Issuer and Dissemination Agent for the benefit of the holders and Beneficial Owners of the Bonds and in order to assist the Underwriters in complying with SEC Rule 15c2-12(b)(5).

Any filing under this Agreement may be made solely by transmitting such filing to the Municipal Advisory Council of Texas (the "Central Post Office" or "MAC") as provided at <http://www.disclosureusa.org> unless the United States Securities and Exchange Commission has withdrawn the interpretive advice in its letter to the MAC dated September 7, 2004.

**SECTION 2. Definitions.** In addition to the definitions set forth in the Resolution and the Bond Purchase Agreement dated December 18, 2007, which apply to any capitalized term used in the Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Annual Financial Information" means the financial information (which shall be based on financial statements prepared in accordance with generally accepted accounting principles ("GAAP")) and operating data with respect to the Issuer, provided at least annually, of the type included in those sections of the final Official Statement with respect to the Bonds attached thereto as Appendix C, which Annual Financial Information shall include Audited Financial Statements if available on the Report Date, and, if not then available, unaudited financial statements.

"Audited Financial Statements" means the Issuer's annual financial statements, prepared in accordance with GAAP, which financial statements shall have been audited by a firm of independent certified public accountants.

"Beneficial Owner" shall mean any person who has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries).

"Central Post Office" means the Texas Municipal Advisory Council ("MAC") (<http://www.disclosureusa.org>) or any successor or alternative entity approved by the United States Securities and Exchange Commission.

“Dissemination Agent” shall initially mean United Bank, Inc. or any successor Dissemination Agent designated in writing by the Issuer and which has filed with the Issuer a written acceptance of such designation.

“Listed Events” shall mean any of the events listed in Section 5(a) of the Agreement.

“National Repository” shall mean any Nationally Recognized Municipal Securities Information Repository for purposes of the Rule. The National Repositories currently approved by the Securities and Exchange Commission are set forth in Exhibit B.

“Participating Underwriter” shall mean the original underwriter of the Bonds who is required to comply with the Rule in connection with offering of the Bonds.

“Repository” shall mean each National Repository and the State Repository.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“State” shall mean the State of West Virginia.

“State Repository” shall mean any public or private repository or entity designated by the State as the state repository for the purpose of the Rule and recognized as such by the Securities and Exchange Commission. As of the date of the Agreement, there is no State Repository.

### **SECTION 3. Provision of Annual Reports.**

- (a) The Issuer shall, or shall cause the Dissemination Agent to, not later than 365 days after the end of the Issuer’s fiscal year (presently June 30), commencing with the report for the Fiscal Year ending June 30, 2008, provide to each Repository Annual Financial Information and Audited Financial Statements, which are consistent with the requirements of Section 4 of this Agreement. The Annual Financial Information and Audited Financial Statements may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of the Agreement. The Issuer shall provide the Dissemination Agent with a copy of each report filed under this Agreement. If the Issuer’s fiscal year changes, the Issuer shall give notice of such change in the same manner as for a Listed Event under Section 5(a).
- (b) Not later than fifteen (15) Business Days prior to said date, the Issuer shall provide the Annual Financial Information and Audited Financial Statements to the Dissemination Agent. If by such date the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent shall contact the Issuer to determine if the Issuer is in compliance with the first sentence of this subsection (b).

If the Dissemination Agent is unable to provide to the Central Post Office for delivery to the Repositories its Annual Financial Information and Audited Financial Statements by the date required in subsection (a), the Dissemination Agent shall send a notice to the Central Post Office for delivery to each Repository or the Municipal Securities Rulemaking Board and the State Repository, if any, in substantially the form attached as Exhibit A.

- (c) The Dissemination Agent shall:
- (i) determine each year prior to the date for providing the Annual Financial Information and Audited Financial Statements the name and address of the Central Post Office for delivery to each National Repository and the State Repository, if any; and
  - (ii) file a report with the Issuer certifying that the Annual Financial Information and Audited Financial Statements have been provided pursuant to this Agreement, stating the date it was provided and listing the Central Post Office and all the Repositories to which it was provided.

**SECTION 4. Content of Annual Financial Information.** Within 365 days of the Issuer's 2008 fiscal year-end, and each subsequent fiscal year, the Dissemination Agent shall submit to the Central Post Office for delivery to each nationally recognized municipal securities information repository ("National Repository") and to any West Virginia State information repository ("State Repository"), information and data of the Issuer for the prior fiscal year, including the audited financial statements, prepared in accordance with generally accepted auditing principles in effect from time to time.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the Issuer or related public entities, which have been submitted to each of the Repositories or the Securities and Exchange Commission. If the document included by reference is a final official statement it must be available from the Municipal Securities Rulemaking Board. The Issuer shall clearly identify each such other document so included by reference.

**SECTION 5. Reporting of Significant Events.**

- (a) Pursuant to the provisions of this Section 5, the Issuer shall give, or cause to be given, notice of the occurrence of any of the following events, if applicable, with respect to the Bonds, if material:
- 1. principal and interest payment delinquencies;
  - 2. non-payment related defaults;
  - 3. unscheduled draws on debt service reserves reflecting financial difficulties;

4. unscheduled thaws on credit enhancements reflecting financial difficulties;
  5. substitution of credit or liquidity providers, or their failure to perform;
  6. adverse tax opinions or events affecting the tax-exempt status of the security;
  7. modifications to rights of security holders;
  8. bond calls;
  9. defeasances;
  10. release, substitution, or sale of property securing repayment of the securities except as provided by the General Resolution;
  11. rating changes.
- (b) The Dissemination Agent shall, within one (1) Business Day of obtaining actual knowledge of the occurrence of any of the Listed Events contact the Disclosure Representative, inform such person of the event, and request that the Issuer promptly notify the Dissemination Agent in writing whether or not to report the event pursuant to subsection (f).
- (c) Whenever the Issuer obtains knowledge of the occurrence of a Listed Event, because of a notice from the Dissemination Agent pursuant to subsection (b) or otherwise, the Issuer shall as soon as possible determine if such event would be material under applicable federal securities laws.
- (d) If the Issuer determines that knowledge of the occurrence of any of the Listed Events would be material under applicable federal securities laws, the Issuer shall promptly file with the Dissemination Agent a notice of such occurrence to be provided to the Central Post Office and the Municipal Securities Rulemaking Board for delivery to the National Repository and the State Repository. Notwithstanding the foregoing, notice of Listed Events described in subsections (a) (4) and (5) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to Holders of affected Bonds pursuant to the Resolution.
- (e) If in response to a request under subsection (b), the Issuer determines that the Listed Event would not be material under applicable federal securities laws, the Issuer shall so notify the Dissemination Agent in writing and instruct the Dissemination Agent not to report the occurrence pursuant to subsection (f).
- (f) If the Dissemination Agent has been instructed by the Issuer to report the occurrence of a Listed Event, the Dissemination Agent shall file a notice of such occurrence with the Municipal Securities Rulemaking Board and each Repository with a copy to the Issuer. Notwithstanding the foregoing, notice of the occurrence of a Listed Event described in

subsections (a)(8) and (9) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to the Holders of affected Bonds pursuant to the Resolution.

**SECTION 6. Termination of Reporting Obligation.** The Issuer's obligations under the Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the Issuer shall give notice of such termination in the same manner as for any of the Listed Events under Section 5(a).

**SECTION 7. Dissemination Agent.** United Bank, Inc., Charleston, West Virginia, is hereby appointed as Dissemination Agent. The Issuer may, from time to time, appoint or engage an alternate or successor Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Issuer pursuant to this Disclosure Agreement.

**SECTION 8. Amendment, Waiver.** Notwithstanding any other provision of the Agreement, the Issuer may amend the Agreement, and any provision of the Agreement may be waived, provided that the following conditions are satisfied:

- (a) If the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the Bonds, or the type of business conducted;
- (b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances, and
- (c) The amendment or waiver either (i) is approved by the Holders of the Bonds in the same manner as provided in the Resolution for amendments to the Resolution with the consent of Holders, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Holders or Beneficial Owners of the Bonds.

In the event of any amendment or waiver of a provision of the Agreement, the Issuer shall describe such amendment in the next Annual Financial Information and Audited Financial Statements, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Issuer. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for

any of the Listed Events under Section 5(a), and (ii) the Annual Financial Information and Audited Financial Statements for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

**SECTION 9. Additional Information.** Nothing in the Agreement shall be deemed to prevent the Issuer from disseminating any other information, using the means of dissemination set forth in the Agreement or any other means of communication, or including any other information in any Annual Financial Information and Audited Financial Statements or notice of occurrence of any of the Listed Events, in addition to that which is required by the Agreement. If the Issuer chooses to include any information in any Annual Financial Information and Audited Financial Statements or notice of occurrence of any of the Listed Events in addition to that which is specifically required by the Agreement, the Issuer shall have no obligation under the Agreement to update such information or include it in any future Annual Financial Information and Audited Financial Statements or notice of occurrence of any of the Listed Events.

**SECTION 10. Default.** In the event of a failure of the Issuer or Dissemination Agent to comply with any provision of the Agreement (and, at the request of the Original Purchaser), the Dissemination Agent may or any Holder or Beneficial Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Issuer or Dissemination Agent to comply with its obligations under the Agreement. A default under the Agreement shall not be deemed an Event of Default under the Resolution, and the sole remedy under the Agreement in the event of any failure of the Issuer or Dissemination Agent to comply with the Agreement shall be an action to compel performance.

**SECTION 11. Duties, Immunities and Liabilities of Dissemination.** The Dissemination Agent shall have only such duties as are specifically set forth in the Agreement, and the Issuer agrees to the extent allowed by State law to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's gross negligence or willful misconduct. The obligations of the Issuer under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

**SECTION 12. Notices.** Any notices or communications to or among any of the parties to this Disclosure Agreement may be given as follows:

To the Issuer:

The City of Huntington  
800 Fifth Avenue  
Huntington, WV 25701

To the Dissemination Agent:

United Bank, Inc.  
500 Virginia Street, East  
Charleston, WV 25301

Any person may, by written notice to the other persons listed above, designate a different address or telephone number(s) to which subsequent notices or communications should be sent.

**SECTION 13. Beneficiaries.** The Agreement shall inure solely to the benefit of the Issuer, the Dissemination Agent, the Participating Underwriter and Holders and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

**SECTION 14. Counterparts.** This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 15. Fees.** The Issuer agrees to pay all fees and expenses of the Dissemination Agent including, without limitation, all reasonable expenses, charges, costs, attorney's fees and other disbursements in the administration and performance of the Dissemination Agent's duties.

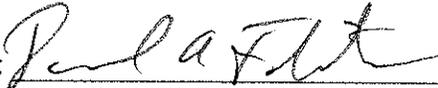
**SECTION 16. Right to Resign.** The Dissemination Agent may resign at any time by providing thirty (30) days' written notice to the Issuer.

**SECTION 17. Right to Counsel.** The Dissemination Agent shall have the right to consult with counsel in carrying out its duties under this Disclosure Agreement and to rely upon an opinion of counsel.

[Remainder of Page Intentionally Left Blank]

Dated: December 17, 2007

THE CITY OF HUNTINGTON

By:   
Its: Mayor

UNITED BANK, INC.,  
as Dissemination Agent

By:   
Its: Vice President

12.17.07  
435500.00010

**EXHIBIT A**  
**FORM OF**  
**NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer:       The City of Huntington  
Name of Issue:       \$5,500,000 Sewerage System Refunding Revenue Bonds, Series 2007  
Date of Issuance:    December 27, 2007

Notice is hereby given that the Issuer has not provided an Annual Report with respect to the above-named Bonds as required by its covenant made in connection with the above-referenced bond issue. The Issuer anticipates that the Annual Report will be filed by

\_\_\_\_\_.

Dated this \_\_\_\_\_.

THE CITY OF HUNTINGTON

By: \_\_\_\_\_  
    Its: Mayor

## EXHIBIT B

Central Post Office  
Disclosure USA  
P.O. Box 684667  
600 W. 8th Street  
Austin, Texas 78701  
Website: <http://www.disclosureusa.org>

Nationally Recognized Municipal Securities Information Repositories (NRMSIRs)  
approved by the Securities and Exchange Commission as of November 8, 2007

Bloomberg Municipal Repository  
100 Business Park Drive  
Skillman, NJ 08558  
Phone: (609) 279-3225  
Fax: (609) 279-5962  
<http://www.bloomberg.com/markets/rates/municontacts.html>  
Email: [Munis@Bloomberg.com](mailto:Munis@Bloomberg.com)

DPC Data Inc.  
One Executive Drive  
Fort Lee, NJ 07024  
Phone: (201) 346-0701  
Fax: (201) 947-0107  
<http://www.MuniFILINGS.com>  
Email: [nrmsir@dpcdata.com](mailto:nrmsir@dpcdata.com)

Interactive Data Pricing and Reference Data, Inc.  
Attn: NRMSIR  
100 William Street, 15th Floor  
New York, NY 10038  
Phone: 212-771-6999; 800-689-8466  
Fax: 212-771-7390  
<http://www.interactivedata-prd.com>  
Email: [NRMSIR@interactivedata.com](mailto:NRMSIR@interactivedata.com)

Standard & Poor's Securities Evaluations, Inc.  
55 Water Street  
45th Floor  
New York, NY 10041  
Phone: (212) 438-4595  
Fax: (212) 438-3975  
<http://www.disclosuredirectory.standardandpoors.com/>  
Email: [nrmsir\\_repository@sandp.com](mailto:nrmsir_repository@sandp.com)



THE CITY OF HUNTINGTON  
(WEST VIRGINIA)

Sewerage System Refunding Revenue Bonds, Series 2007

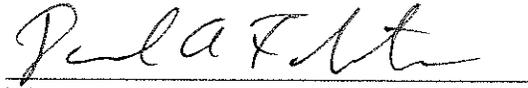
**RULE 15c2-12 CERTIFICATE**

The undersigned hereby certifies and represents to Ross, Sinclair & Associates, LLC (the "Original Purchaser") that he is the duly appointed and acting Mayor of The City of Huntington (the "Issuer") authorized to execute and deliver this Certificate and further certifies on behalf of the Issuer to the Original Purchaser as follows:

- (1) This Certificate is delivered to enable the Original Purchaser to comply with Rule 15c2-12, as amended, under the Securities Exchange Act of 1934, as amended (the "Rule"), in connection with the offering and sale of The City of Huntington Sewerage System Refunding Revenue Bonds, Series 2007 (the "Bonds").
- (2) In connection with the offering and sale of the Bonds, there has been prepared a Preliminary Official Statement, dated the date hereof, setting forth information concerning the Bonds and the Issuer (the "Preliminary Official Statement").
- (3) As used herein, "Permitted Omissions" shall mean the offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings and other terms depending on such matters, all with respect to the Bonds and any underlying obligations.
- (4) The information with respect to the Issuer included in the Preliminary Official Statement is deemed final within the meaning of the Rule as of this date, except for Permitted Omissions, and the information therein is accurate and complete in all material respects except for Permitted Omissions.
- (5) If, at any time prior to the execution of the final Bond Purchase Agreement, any event occurs as a result of which the Preliminary Official Statement might include an 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, the Issuer shall promptly notify the Original Purchaser thereof.
- (6) The section of the Preliminary Official Statement entitled Continuing Disclosure describes the agreement the Issuer expects to make for the benefit of the Bondholders in the Ordinance, as defined by the Preliminary Official Statement, by which the Issuer will undertake to provide ongoing disclosure in accordance with Section (b)(5)(I) of the Rule.

[Signature page follows.]

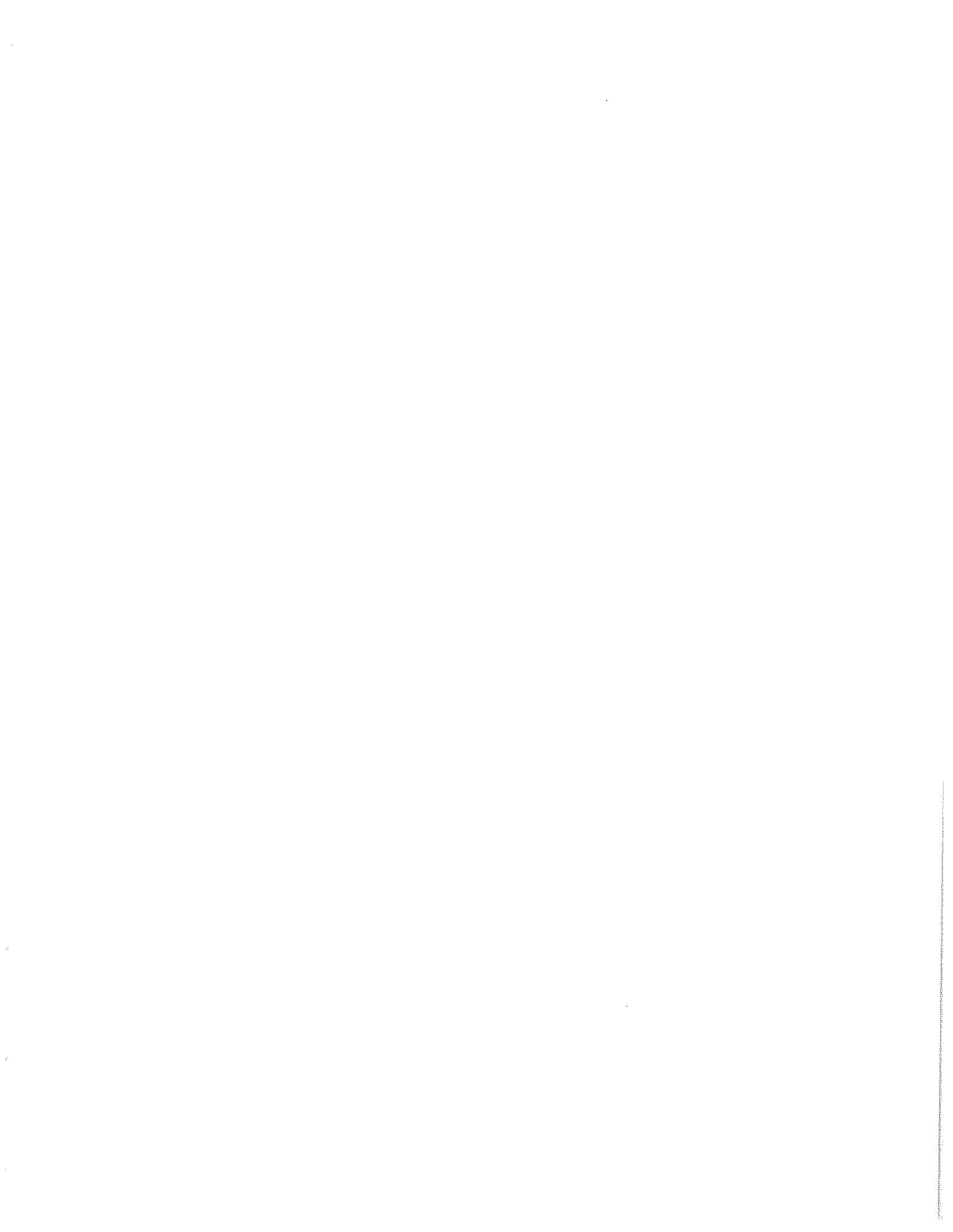
IN WITNESS WHEREOF, I have hereunto set my hand as of the 27th day of November 2007 to this Rule 15c2-12 Certificate.



Mayor

12.17.07  
435500.00010

CH929438.1



# The Depository Trust Company

A subsidiary of The Depository Trust & Clearing Corporation

## BLANKET ISSUER LETTER OF REPRESENTATIONS

[To be Completed by Issuer]

CITY OF HUNTINGTON

[Name of Issuer]

December 19, 2003

[Date]

[For Municipal Issues:

Underwriting Department—Eligibility; 50th Floor]

[For Corporate Issues:

General Counsel's Office; 49th Floor]

**The Depository Trust Company**

55 Water Street

New York, NY 10041-0099

Ladies and Gentlemen:

This letter sets forth our understanding with respect to all issues (the "Securities") that Issuer shall request be made eligible for deposit by The Depository Trust Company ("DTC").

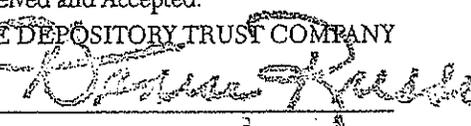
To induce DTC to accept the Securities as eligible for deposit at DTC, and to act in accordance with DTC's Rules with respect to the Securities, Issuer represents to DTC that Issuer will comply with the requirements stated in DTC's Operational Arrangements, as they may be amended from time to time.

Note:

Schedule A contains statements that DTC believes accurately describe DTC, the method of effecting book-entry transfers of securities distributed through DTC, and certain related matters.

Received and Accepted:

THE DEPOSITORY TRUST COMPANY

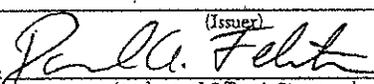
By: 



The Depository Trust &  
Clearing Corporation

Very truly yours,

City of Huntington

By:  (Issuer)  
(Authorized Officer's Signature)

David Felinton

(Print Name)

800 5th Avenue

(Street Address)

Huntington, WV (Cabell) 25701

(City) (State) (Country) (Zip Code)

(304 ) 696.5540 - 304.696.4493 (fax)

(Phone Number)

(E-mail Address)

(To Blanket Issuer Letter of Representations)

**SAMPLE OFFERING DOCUMENT LANGUAGE  
DESCRIBING BOOK-ENTRY-ONLY ISSUANCE**

(Prepared by DTC—bracketed material may be applicable only to certain issues)

1. The Depository Trust Company (“DTC”), New York, NY, will act as securities depository for the securities (the “Securities”). The Securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Security certificate will be issued for [each issue of] the Securities, [each] in the aggregate principal amount of such issue, and will be deposited with DTC. [If, however, the aggregate principal amount of [any] issue exceeds \$500 million, one certificate will be issued with respect to each \$500 million of principal amount, and an additional certificate will be issued with respect to any remaining principal amount of such issue.]

2. DTC, the world’s largest depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 2 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments from over 85 countries that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC, in turn, is owned by a number of Direct Participants of DTC and Members of the National Securities Clearing Corporation, Government Securities Clearing Corporation, MBS Clearing Corporation, and Emerging Markets Clearing Corporation, (NSCC, GSCC, MBSCC, and EMCC, also subsidiaries of DTCC), as well as by the New York Stock Exchange, Inc., the American Stock Exchange LLC, and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has Standard & Poor’s highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

3. Purchases of Securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the Securities on DTC’s records. The ownership interest of each actual purchaser of each Security (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Securities, except in the event that use of the book-entry system for the Securities is discontinued.

4. To facilitate subsequent transfers, all Securities deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Securities with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Securities; DTC’s records reflect only the identity

of the Direct Participants to whose accounts such Securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. [Beneficial Owners of Securities may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Securities, such as redemptions, tenders, defaults, and proposed amendments to the Security documents. For example, Beneficial Owners of Securities may wish to ascertain that the nominee holding the Securities for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.]

[6. Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.]

7. Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Securities unless authorized by a Direct Participant in accordance with DTC's Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and dividend payments on the Securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from Issuer or Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC [nor its nominee], Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

[9. A Beneficial Owner shall give notice to elect to have its Securities purchased or tendered, through its Participant, to [Tender/Remarketing] Agent, and shall effect delivery of such Securities by causing the Direct Participant to transfer the Participant's interest in the Securities, on DTC's records, to [Tender/Remarketing] Agent. The requirement for physical delivery of Securities in connection with an optional tender or a mandatory purchase will be deemed satisfied when the ownership rights in the Securities are transferred by Direct Participants on DTC's records and followed by a book-entry credit of tendered Securities to [Tender/Remarketing] Agent's DTC account.]

10. DTC may discontinue providing its services as depository with respect to the Securities at any time by giving reasonable notice to Issuer or Agent. Under such circumstances, in the event that a successor depository is not obtained, Security certificates are required to be printed and delivered.

11. Issuer may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Security certificates will be printed and delivered.

12. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that Issuer believes to be reliable, but Issuer takes no responsibility for the accuracy thereof.

# State of West Virginia



## Certificate

*I, Betty Ireland, Secretary of State of the  
State of West Virginia, hereby certify that*

THIS IS A TRUE COPY OF CHAPTER 16, ARTICLE 13 OF THE WEST  
VIRGINIA CODE, AND CHAPTER 16, ARTICLE 13 OF THE 2007  
SUPPLEMENT TO THE WEST VIRGINIA CODE, AS INDICATED BY THE  
RECORDS OF THIS OFFICE.



*Given under my hand and the  
Great Seal of the State of  
West Virginia on*

November 9, 2007

*Betty Ireland*

*Secretary of State*



## ARTICLE 13

### SEWAGE WORKS OF MUNICIPAL CORPORATIONS AND SANITARY DISTRICTS

- Section**
- 16-13-1. Acquisition, operation, etc., of works; acquisition of property; issuance of bonds.
- 16-13-2. Sanitary board to supervise and control construction, etc., of works; appointment of board; definitions.
- 16-13-3. Powers of sanitary board; contracts; employees; compensation thereof; extensions and improvements; replacement of damaged public works.
- 16-13-4. Payment of preliminary expenses of surveys, etc.
- 16-13-5. Ordinance necessary before acquisition or construction of works.
- 16-13-6. Publication and hearing upon ordinance.
- 16-13-7. Acquisition by condemnation or purchase.
- 16-13-8. Cost of works.
- 16-13-9. Contracts and obligations incurred to be paid for solely by revenue bonds.
- 16-13-10. Interest on and redemption of bonds; form; statement on face of bond; negotiability; exemption from taxation; registration; execution; sale; disposition of surplus proceeds; additional and temporary bonds.
- 16-13-11. Additional bonds to extend or improve works.
- 16-13-12. Additional bonds for extension, etc., of works to have equal priority with original bonds.
- 16-13-13. Application of revenue from bonds; lien.
- 16-13-14. Securing bonds by trust indenture.
- 16-13-15. Sinking fund; transfer of balance of net revenues.
- 16-13-16. Rates for service; change or readjustment; hearing; lien and recovery; discontinuance of services.
- 16-13-17. Government units subject to established rates.
- 16-13-18. Supervision of works by sanitary board; organization of board; qualifications, terms and compensation of members.
- 16-13-18a. Publication of financial statement.
- 16-13-19. Contract with other municipalities for service of works; powers of lessee as to rates; intercepting sewers.
- 16-13-20. Discharge of lien on property acquired.
- 16-13-21. Action on certificates or attached coupons; receivers.
- 16-13-22. Powers conferred in addition to existing powers; jurisdiction outside corporate limits.
- 16-13-22a. Grants, loans and advances.
- 16-13-22b. Contracts for abatement of pollution.
- 16-13-22c. Refunding bonds.
- 16-13-22d. Subordination of bonds.
- 16-13-22e. Operating contract.
- 16-13-22f. Exemption of bonds from taxation.
- 16-13-22g. Covenants with bondholders.
- 16-13-23. Article deemed full authority for construction, etc., of works and issue of bonds; alternative method; powers of state department of health unaffected.
- 16-13-23a. Additional powers of municipality upon receipt of order to cease pollution.
- 16-13-24. Article to be construed liberally.

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

(a) Any municipal corporation and/or sanitary district in the state of West Virginia is hereby authorized and empowered to own, acquire, construct, equip, operate and maintain within and/or without the corporate limits of such municipal corporation:

(1) A sewage collection system and/or a sewage treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other appurtenances necessary or useful and convenient for the collection and/or treatment, purification and disposal, in a sanitary manner, of the liquid and solid waste, sewage, night soil and industrial waste of such municipal corporation and/or sanitary district, including acquisition of the municipal sewerage system resulting from the severance of a combined system pursuant to section one-b, article twenty, chapter eight of this code; and

(2) A stormwater collection system and control system, including all lines, pumping stations and all other facilities and appurtenances necessary or useful and convenient for the collection and control of stormwater, and an associated stormwater management program.

(b) Any municipal corporation and/or sanitary district in the state of West Virginia is hereby authorized and empowered to acquire by gift, grant, purchase, condemnation, or otherwise, all necessary lands, rights-of-way and property therefor, within and/or without the corporate limits of such municipal corporation and/or sanitary district, and to issue revenue bonds to pay the cost of such works and property.

(c) Any municipality may serve and supply the facilities of such sewerage system and a stormwater system and associated stormwater management program within the corporate limits of the municipality and within the area extending twenty miles beyond the corporate limits of such municipality: provided, however, That the municipality may not serve or supply the facilities of such sewerage system or stormwater system within the corporate limits of any other municipality without the consent of the governing body thereof: provided, That for stormwater systems, within the twenty miles beyond the municipality's corporate limits the only areas the municipality may serve and supply shall be those areas from which stormwater affects or drains into the municipality.

(d) No obligations shall be incurred by any municipality and/or sanitary district in construction or acquisition except such as is payable solely from the funds provided under the authority of this article.

(e) No municipal corporation or sanitary district may acquire, construct, establish, extend, repair or equip or thereafter repair, maintain and operate a combined waterworks, sewerage or stormwater system, which includes highways, road and drainage easements, and/or stormwater facilities constructed,

owned and/or operated by the West Virginia Division of Highways without the express agreement of the commissioner of highways.

Acts 1933, Ex. Sess., c. 25, § 1; Acts 1955, c. 132; Acts 1986, c. 118; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

**Library References**

**Key Numbers**

Municipal Corporations ⇨ 270, 708, 711, 950.  
Westlaw Key Number Searches: 268k270;  
268k708; 268k711; 268k950.

**Encyclopedias**

C.J.S. Municipal Corporations §§ 1535 to 1536, 1708 to 1709.

**Notes of Decisions**

- Construction and application** 1
- Jurisdiction** 7
- Police power** 3
- Power to incur indebtedness and expenditures** 6
- Public improvements** 5
- Regulation of public utilities** 2
- Revenue bonds for construction** 4

**1. Construction and application**

Statutes dealing with municipally owned and operated sewer systems should be read and construed together. Code, 8-4-20, 16-13-1, 16-13-2, 16-13-16, 24-1-1 et seq., 24-2-1 et seq., 24-3-1 et seq. *Delardas v. Morgantown Water Commission*, 1964, 137 S.E.2d 426, 148 W.Va. 776. Statutes ⇨ 223.2(21)

Statutes relating to supervision and regulation of public utilities by Public Service Commission and statute dealing with municipally owned sewer systems relate to the same subject and should be read and construed together. Code, 16-13-1 et seq., 24-1-1 et seq. State ex rel. *City of Wheeling v. Renick*, 1960, 116 S.E.2d 763, 145 W.Va. 640. Statutes ⇨ 223.2(27)

**2. Regulation of public utilities**

Under West Virginia Act authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay cost thereof, money used in preliminary engineering work prior to actual beginning of construction of sewage disposal system is not required to be handled by sanitary board, but board is merely required to supervise and control the construction and maintenance of the project. Code W.Va. 16-13-16, 16-13-18, 16-13-32. *U.S. v. City of Charleston*, 1957, 149 F.Supp. 866. Health And Environment ⇨ 6

Under statute declaring that words 'public utility' shall include any person or persons, or association of persons including municipalities, engaged in any business which is a public service, sewer system owned and operated by city was a 'public utility' and Public Service Com-

mission was vested with jurisdiction to supervise or regulate municipal sewer system and to hear proceeding seeking extension of sewer services, and power of Commission to supervise and regulate sewer system was not withdrawn or impaired by statutes authorizing municipal corporation to own, construct and maintain sewer system under control of a Sanitary Board and authorizing Board to operate and control such systems and to order and complete any extensions that Board might deem expedient. Code, 16-13-1 et seq., 16-13-2, 16-13-3, 16-13-5, 16-13-16, 16-13-18, 16-13-23, 24-1-1, 24-2-1, 24-3-1. State ex rel. *City of Wheeling v. Renick*, 1960, 116 S.E.2d 763, 145 W.Va. 640. Public Utilities ⇨ 113

Public Service Commission has statutory power and authority to control facilities, charges and services of all public utilities, and to hear complaints of persons entitled to services which such utilities afford, subject only to limitation that the requirements shall not be contrary to law and that they be just and fair, just and reasonable, and just and proper. Code, 16-13-1 et seq., 24-1-1 et seq. State ex rel. *City of Wheeling v. Renick*, 1960, 116 S.E.2d 763, 145 W.Va. 640. Public Utilities ⇨ 114

**3. Police power**

Statute delegating to municipal corporation power by ordinance to create sanitary boards and authorizing such sanitary boards to enter into contracts for construction of sewerage systems is a valid exercise of police power of state. Code, 16-13-1 et seq. *West Virginia Water Service Co. v. Cunningham*, 1957, 98 S.E.2d 891, 143 W.Va. 1. Constitutional Law ⇨ 63(2)

Legislature may delegate police power to cities or counties, as it sees fit. *Brewer v. City of Point Pleasant*, 1934, 172 S.E. 717, 114 W.Va. 572. Constitutional Law ⇨ 63(2)

**4. Revenue bonds for construction**

Plan of preparation expense in construction of municipal sewage treatment and disposal system constituted one of first items of expense incurred and constituted a liability, according to agreements between municipality and Federal

Works Agency which advanced money to meet such expense, from moment construction began, and, therefore, repayment of such advancements from proceeds of future revenue bond issues could not be held unlawful on ground that such payment would impair bondholders' security. Code W.Va. 16-13-16, 16-13-18, 16-13-22, 16-13-32; War Mobilization and Reconversion Act of 1944, § 101 et seq., 58 Stat. 785. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇨ 950(15)

In action to cancel certain sewer revenue bonds issued by West Virginia City and to enjoin collection of sewerage service charges assessed for the purpose of liquidating such bonds, District Court was bound by decisions of Supreme Court of Appeals of West Virginia upholding the constitutionality of statute permitting municipalities to issue bonds for self-liquidating municipal projects. Laws W.Va.1933, 1st Ex.Sess., c. 25, as amended by Laws W.Va. 1933, 2nd Ex.Sess., c. 48. *Stevenson v. City of Bluefield*, 1941, 39 F.Supp. 462. Federal Courts ⇨ 433

City located on or near state boundary and confronted with necessity of purchasing property and erecting sewage disposal plant in adjoining state held authorized under statute to issue revenue bonds payable solely from revenues of such plant. Acts 1933, 1st Ex.Sess., c. 25, as amended by Acts 1933, 2d Ex.Sess., c. 48. *Bernard v. City of Bluefield*, 1936, 186 S.E. 298, 117 W.Va. 556. Municipal Corporations ⇨ 919

#### 5. Public improvements

Under contract between municipal sanitary board and contractor requiring contractor to bear cost and expense of damage to surface, overhead or subsurface structures in construc-

tion of sanitary sewer system, contractor was liable to water company for expense of removal of all water and other pipes under streets which interfered with construction of sewer system. Code, 16-13-1 et seq., 16-13-17, 16-13-24. *West Virginia Water Service Co. v. Cunningham*, 1957, 98 S.E.2d 891, 143 W.Va. 1. Municipal Corporations ⇨ 400

#### 6. Power to incur indebtedness and expenditures

Obligations incurred by city under authority of West Virginia statute authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay the cost thereof are not "debts" within provision of West Virginia Constitution containing limitations on power of a municipality to incur debts. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇨ 864(3)

#### 7. Jurisdiction

Taxpayers of a city seeking to enjoin collection by city of sewerage service charges assessed for purpose of liquidating bonds issued for construction of sewerage system could not invoke jurisdiction of federal court on ground that by reason of prior decisions of state court upholding validity of statute, under which bonds were issued and rates assessed, plaintiffs did not have a plain, speedy and efficient remedy in state court within meaning of Judicial Code. Laws W.Va.1933, 1st Ex.Sess., c. 25, as amended by Laws W.Va.1933, 2nd Ex.Sess., c. 48; Jud.Code, § 24(1), 28 U.S.C.A. § 1312. *Stevenson v. City of Bluefield*, 1941, 39 F.Supp. 462. Federal Courts ⇨ 7

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

(a) The construction, acquisition, improvement, equipment, custody, operation and maintenance of any works for the collection, treatment or disposal of sewage and, in addition, for the collection and control of stormwater and the collection of revenues therefrom for the service rendered thereby, shall be under the supervision and control of a sanitary board appointed by the governing body as set forth in section eighteen of this article.

(b) As used in this article, the following terms shall have the following meanings unless the text clearly indicates otherwise.

(1) "Board" means the sanitary board as set up in section eighteen of this article.

(2) "Governing body" means the mayor and council or other legally constituted governing body of any municipality.

(3) "Municipality" means any municipal corporation, incorporated city, town, village or sanitary district in the state of West Virginia.

(4) "Sewage works" means a works for the collection and/or treatment, purification and disposal of sewage, in its entirety or any integral part thereof.

(5) "Stormwater system" or "stormwater works" means a stormwater system in its entirety or any integral part thereof used to collect and dispose of stormwater and an associated stormwater management program. It includes all facilities, structures and natural water courses used for collecting and conducting stormwater to, through and from drainage areas to the points of final outlet, including, but not limited to, any and all of the following: Inlets, conduits, corals, outlets, channels, ponds, drainage easements, water quality facilities, catch basins, ditches, streams, gulches, flumes, culverts, syphons, retention or detention basins, dams, floodwalls, levies, pipes, flood control systems and pumping stations, and associated stormwater management program. The term "stormwater system" and " stormwater works" shall not include highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways.

(6) "Stormwater management program" means those activities associated with the management, operation, maintenance and control of stormwater and stormwater works, including, but not limited to, public education, stormwater and surface runoff water quality improvement, mapping, planning, flood control, inspection, enforcement and any other activities required by state and federal law: Provided, That, as used in this article, "stormwater management program" shall not include those activities associated with the management, operation, maintenance and control of highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways without the express agreement of the commissioner of highways.

(7) "Works" means sewage works and stormwater works either separately or collectively.

Acts 1933, Ex. Sess., c. 25, § 2; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

**Library References**

**Key Numbers**

Health and Environment ☞3.  
 Municipal Corporations ☞711.  
 Westlaw Key Number Searches: 199k3;  
 268k711.

**Encyclopedias**

C.J.S. Health and Environment §§ 9 to 10.

**Notes of Decisions**

**Construction and application** 1  
**Construction of sewer systems** 3  
**Public utilities** 2

16-13-2, 16-13-16, 24-1-1 et seq., 24-2-1 et seq.,  
 24-3-1 et seq. Delardas v. Morgantown Water  
 Commission, 1964, 137 S.E.2d 426, 148 W.Va.  
 776. Statutes ☞ 223.2(21)

**1. Construction and application**

Statutes dealing with municipally owned and operated sewer systems should be read and construed together. Code, 8-4-20, 16-13-1,

**2. Public utilities**

All contracts made by a utility relating to the public service must be deemed to be entered

into in contemplation of the exercise by the state of its regulatory power whenever the public interest may make it necessary. Berkeley County Public Service Sewer Dist. v. West Virginia Public Service Com'n, 1998, 512 S.E.2d 201, 204 W.Va. 279. Public Utilities ⇌ 115

Under statute declaring that words 'public utility' shall include any person or persons, or association of persons including municipalities, engaged in any business which is a public service, sewer system owned and operated by city was a 'public utility' and Public Service Commission was vested with jurisdiction to supervise or regulate municipal sewer system and to hear proceeding seeking extension of sewer services, and power of Commission to supervise and regulate sewer system was not withdrawn or impaired by statutes authorizing municipal corporation to own, construct and maintain sewer system under control of a Sanitary Board and authorizing Board to operate and control such systems and to order and complete any extensions that Board might deem expedient. Code, 16-13-1 et seq., 16-13-2, 16-13-3, 16-13-5, 16-13-16, 16-13-18, 16-13-23, 24-1-1, 24-2-1, 24-3-1. State ex rel. City of

Wheeling v. Renick, 1960, 116 S.E.2d 763, 145 W.Va. 640. Public Utilities ⇌ 113

**3. Construction of sewer systems**

Obligations incurred by city under authority of West Virginia statute authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay the cost thereof are not "debts" within provision of West Virginia Constitution containing limitations on power of a municipality to incur debts. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇌ 864(3)

If sewer project is undertaken by municipality, whatever loans may have been made on faith of the revenue bonds as authorized under West Virginia law would or should be included in cost of the works and repaid out of proceeds of the bonds. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇌ 950(15)

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

The board shall have power to take all steps and proceedings and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers under this article: Provided, That any contract relating to the financing of the acquisition or construction of any works, or any trust indenture as provided for, shall be approved by the governing body of the municipality before the same shall be effective.

The board may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, all of whom shall do the work as the board shall direct. All compensation and all expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under the authority of this article, and the board shall not exercise or carry out any authority or power herein given it so as to bind said board of said municipality beyond the extent to which money shall have been or may be provided under the authority of this article.

No contract or agreement with any contractor or contractors for labor and/or material, exceeding in amount the sum of ten thousand dollars, shall be made without advertising for bids, which bids shall be publicly opened and award made to the best bidder, with power in the board to reject any or all bids.

After the construction, installation, and completion of the works, or the acquisition thereof, the board shall operate, manage and control the same and

may order and complete any extensions, betterments and improvements of and to the works that the board may consider expedient, if funds therefor be available or are made available as provided in this article, and shall establish rules and regulations for the use and operation of the works, and of other sewers, stormwater conduits, and drains connected therewith so far as they may affect the operation of such works, and do all things necessary or expedient for the successful operation thereof, including, but not limited to, those activities necessary to comply with all federal and state requirements, including stormwater and surface runoff water quality improvement activities.

The sanitary board may declare an emergency situation in the event of collector line breaks or vital treatment plant equipment failure and shall be exempted from competitive bidding requirements and enter into direct purchase agreements or contracts for the expenses. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition, as nearly as practicable, if requested so to do by proper authority, out of the funds provided by this article.

Acts 1933, Ex. Sess., c. 25, § 3; Acts 1989, c. 133; Acts 2001, c. 143, eff. 90 days after April 11, 2001; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

#### Historical and Statutory Notes

Acts 2001, c. 143, also amended this section to read:

"The board shall have power to take all steps and proceedings and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers under this article: Provided, That any contract relating to the financing of the acquisition or construction of any such works, or any trust indenture as hereinafter provided for, shall be approved by the governing body of such municipality before the same shall be effective. The board may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and such other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, all of whom shall do such work as the board shall direct. All such compensation and all expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under the authority of this article, and the board shall not exercise or carry out any authority or power herein given it so as to bind said board of said municipality beyond the extent to which money shall have been or may be provided under the authority of this article. No contract or agreement with any contractor or contractors for labor and/or material, exceeding in amount the

sum of ten thousand dollars, shall be made without advertising for bids, which bids shall be publicly opened and award made to the best bidder, with power in the board to reject any or all bids. After the construction, installation, and completion of the works, or the acquisition thereof, the board shall operate, manage and control the same and may order and complete any extensions, betterments and improvements of and to the works that the board may deem expedient, if funds therefor be available or are made available as provided in this article, and shall establish rules and regulations for the use and operation of the works, and of other sewers and drains connected therewith so far as they may affect the operation of such works, and do all things necessary or expedient for the successful operation thereof. The sanitary board may declare an emergency situation in the event of collector line breaks or vital treatment plant equipment failure and shall be exempted from competitive bidding requirements and enter into direct purchase agreements or contracts for such expenses. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition, as nearly as practicable, if requested so to do by proper authority, out of the funds provided by this article."

## Library References

## Key Numbers

Health and Environment ☞6.  
 Municipal Corporations ☞711.  
 Westlaw Key Number Searches: 199k6;  
 268k711.

## Encyclopedias

C.J.S. Health and Environment § 13.

## Notes of Decisions

**Independent contractor** 3  
**Police power of local authorities** 1  
**Validity of municipal contracts** 2

city by statute. Code, 16-13-1 et seq. West Virginia Water Service Co. v. Cunningham, 1957, 98 S.E.2d 891, 143 W.Va. 1. Health And Environment ☞ 3

## 1. Police power of local authorities

Under the police power of the State, the Legislature has the power to provide for the protection of the safety, health, morals and general welfare of the public, and may delegate such powers to municipalities created by it. West Virginia Water Service Co. v. Cunningham, 1957, 98 S.E.2d 891, 143 W.Va. 1. Constitutional Law ☞ 63(2)

Under statute delegating to municipal corporations power by ordinance to create sanitary boards and authorizing such boards to enter into contracts for construction of sewerage systems, ordinance creating sanitary board and authorizing such board to enter into contract for construction of sewerage system was valid exercise of police power of state delegated to

## 2. Validity of municipal contracts

Contract between municipal sanitary board and contractor providing for construction of sanitary sewerage system in furtherance of exercise of police power of state and provisions of city ordinance was valid. West Virginia Water Service Co. v. Cunningham, 1957, 98 S.E.2d 891, 143 W.Va. 1. Municipal Corporations ☞ 339(1)

## 3. Independent contractor

Where city had no right of control over contractor and sanitary board in construction of sanitary sewer system, contractor was "independent contractor". West Virginia Water Service Co. v. Cunningham, 1957, 98 S.E.2d 891, 143 W.Va. 1. Municipal Corporations ☞ 400

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

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

bonds hereinafter provided for, and before any other disbursements are made therefrom, and the amount so advanced to pay such preliminary expenses, shall be a first charge against the proceeds resulting from the sale of such revenue bonds until the same has been repaid as herein provided.

Acts 1933, Ex. Sess., c. 25, § 4.

**Library References**

**Key Numbers**

Municipal Corporations ⇨864(3).  
Westlaw Key Number Search: 268k864(3).

**Encyclopedias**

C.J.S. Municipal Corporations § 1589.

**Notes of Decisions**

**Construction planning expenses 2**  
**Power to incur indebtedness and expenditures 1**

**1. Power to incur indebtedness and expenditures**

West Virginia municipalities are authorized to incur obligations for purpose of defraying preliminary expenses of sewer projects, provided repayment of such obligations is to be made solely from proceeds of revenue bonds, not from tax levies. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇨ 864(3)

**2. Construction planning expenses**

Plan of preparation expense in construction of municipal sewage treatment and disposal system constituted one of first items of expense incurred and constituted a liability, according to agreements between municipality and Federal Works Agency which advanced money to meet such expense, from moment construction began, and, therefore, repayment of such advancements from proceeds of future revenue bond issues could not be held unlawful on ground that such payment would impair bondholders' security. Code W.Va. 16-13-16, 16-13-18, 16-13-22, 16-13-32; War Mobilization and Reconversion Act of 1944, § 101 et seq., 58 Stat. 785. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇨ 950(15)

Under West Virginia Act authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay cost thereof, money used in

preliminary engineering work prior to actual beginning of construction of sewage disposal system is not required to be handled by sanitary board, but board is merely required to supervise and control the construction and maintenance of the project. Code W.Va. 16-13-16, 16-13-18, 16-13-32. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Health And Environment ⇨ 6

United States, which was entitled to reimbursement for advances made to West Virginia city by Federal Works Agency for purpose of plan preparation for construction of proposed sewage treatment and disposal system, would not be entitled to general judgment against city but would be entitled to an order requiring repayment from existing or future revenue bond proceeds and to four percent interest. War Mobilization and Reconversion Act of 1944, § 101 et seq., 58 Stat. 785; Code W.Va. 38-4-5, 38-4-6, 53-1-1. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇨ 1037

In agreement between West Virginia city and Federal Works Administrator for advances to be used for purpose of plan preparation for construction of proposed sewage treatment and disposal system, parties would be presumed to know extent of city's authority to make a binding contract in such respect, and, therefore, limitation imposed by West Virginia law on city would be read into the agreement. War Mobilization and Reconversion Act of 1944, §§ 101 et seq., 501, 58 Stat. 785, 791; Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. W.Va. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇨ 250

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

Before any municipality shall construct or acquire any works under this article, the governing body shall upon petition of the board, enact an ordinance or ordinances which shall: (a) Set forth a brief and general description of the

works and, if the same are to be constructed, a reference to the preliminary report which shall heretofore have been prepared and filed by an engineer chosen by the board as aforesaid; (b) set forth the cost thereof estimated by the engineer chosen as aforesaid; (c) order the construction or acquisition of such works; (d) direct that revenue bonds of the municipality shall be issued pursuant to this article in such an amount as may be found necessary to pay the cost of the works; and (e) contain such other provisions as may be necessary in the premises.

Acts 1933, Ex. Sess., c. 25, § 5.

**Library References**

**Key Numbers**

Municipal Corporations ⇨270.  
Westlaw Key Number Search: 268k270.

**Notes of Decisions**

**Power to incur indebtedness and expenditures**  
1

**1. Power to incur indebtedness and expenditures**

West Virginia municipalities are authorized to incur obligations for purpose of defraying preliminary expenses of sewer projects, provided repayment of such obligations is to be made solely from proceeds of revenue bonds, not from tax levies. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇨ 864(3)

United States, which was entitled to reimbursement for advances made to West Virginia city by Federal Works Agency for purpose of plan preparation for construction of proposed

sewage treatment and disposal system, would not be entitled to general judgment against city but would be entitled to an order requiring repayment from existing or future revenue bond proceeds and to four percent interest. War Mobilization and Reconversion Act of 1944, § 101 et seq., 58 Stat. 785; Code W.Va. 38-4-5, 38-4-6, 53-1-1. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇨ 1037

If sewer project is undertaken by municipality, whatever loans may have been made on faith of the revenue bonds as authorized under West Virginia law would or should be included in cost of the works and repaid out of proceeds of the bonds. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇨ 950(15)

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

After such ordinance shall have been adopted, an abstract of the ordinance, determined by the governing body to contain sufficient information as to give notice of the contents of such ordinance, together with the following described notice, shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this Code, and the publication area for such publication shall be the municipality. The notice shall state that said ordinance has been adopted, and that the municipality contemplates the issuance of the bonds described in the ordinance, and that any person interested may appear before the governing body upon a certain date, which shall not be less than ten days subsequent to the first date of publication of such abstract and notice which shall not be prior to the last date of publication of such abstract and notice, and present protests. At such hearing all objections and suggestions shall be heard and the governing body shall take such action as it shall deem proper in the premises: Provided, however, That if at such a

hearing written protest is filed by thirty percent or more of the owners of real estate situate in said municipality, then the governing body of said municipality shall not take further action unless four fifths of the qualified members of the said governing body assent thereto.

Acts 1933, Ex. Sess., c. 25, § 6; Acts 1967, c. 105; Acts 1981, 1st Ex. Sess., c. 2.

#### Library References

#### Key Numbers

Municipal Corporations ⇨270.

Westlaw Key Number Search: 268k270.

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

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

Acts 1933, Ex. Sess., c. 25, § 7.

## Library References

## Key Numbers

Municipal Corporations Ⓒ270.  
Westlaw Key Number Search: 268k270.

## § 16-13-8. Cost of works

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

Acts 1933, Ex. Sess., c. 25, § 8.

## Library References

## Key Numbers

Municipal Corporations Ⓒ864(3).  
Westlaw Key Number Search: 268k864(3).

## Encyclopedias

C.J.S. Municipal Corporations § 1589.

## Notes of Decisions

## Monetary advances 2

## Preliminary expenditures 1

## 1. Preliminary expenditures

Under West Virginia Act authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay cost thereof, money used in preliminary engineering work prior to actual beginning of construction of sewage disposal system is not required to be handled by sanitary board, but board is merely required to supervise and control the construction and maintenance of the project. Code W.Va. 16-13-16, 16-13-18, 16-13-32. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Health And Environment Ⓒ6

## 2. Monetary advances

United States, which was entitled to reimbursement for advances made to West Virginia city by Federal Works Agency for purpose of plan preparation for construction of proposed sewage treatment and disposal system, would not be entitled to general judgment against city

but would be entitled to an order requiring repayment from existing or future revenue bond proceeds and to four percent interest. War Mobilization and Reconversion Act of 1944, § 101 et seq., 58 Stat. 785; Code W.Va. 38-4-5, 38-4-6, 53-1-1. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations Ⓒ1037

Plan of preparation expense in construction of municipal sewage treatment and disposal system constituted one of first items of expense incurred and constituted a liability, according to agreements between municipality and Federal Works Agency which advanced money to meet such expense, from moment construction began, and, therefore, repayment of such advances from proceeds of future revenue bond issues could not be held unlawful on ground that such payment would impair bondholders' security. Code W.Va. 16-13-16, 16-13-18, 16-13-22, 16-13-32; War Mobilization and Reconversion Act of 1944, § 101 et seq., 58 Stat. 785. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations Ⓒ950(15)

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

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

Acts 1933, Ex. Sess., c. 25, § 9; Acts 1949, c. 93; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

**Library References**

**Key Numbers**

Municipal Corporations Ⓒ864(3), 911, 950(15).  
Westlaw Key Number Searches: 268k864(3); 268k911; 268k950(15).

**Encyclopedias**

C.J.S. Municipal Corporations §§ 1589, 1649, 1708 to 1709.

**Notes of Decisions**

- Power of municipal corporations to contract 2**
- Power to incur indebtedness and expenditures 3**
- Preliminary expenditures 4**
- Preliminary proceedings and ordinances 5**
- Validity 1**

agreed to under the contracts, where city offered to buy the revenue bonds issued by the town. Code, 16-13-9, 16-13-19, 16-13-23a. City of Morgantown v. Town of Star City, 1973, 195 S.E.2d 166, 156 W.Va. 529. Municipal Corporations Ⓒ 277

**1. Validity**

Statute authorizing municipalities to construct and finance self-liquidating sewer systems held constitutional (Acts 1933 [1st Ex.Sess.] c. 25). Brewer v. City of Point Pleasant, 1934, 172 S.E. 717, 114 W.Va. 572. Municipal Corporations Ⓒ 266

**2. Power of municipal corporations to contract**

Under provisions of statute relating to contract with other municipalities for service of sewage works, city which ordered construction of sewage disposal plant was authorized to contract with town to provide that town would have the right to use part of the capacity of the plant in return for contributing to its cost and town was authorized to enter into such contracts with city for the use of the plant, and fact that town was unable to sell revenue bonds because it was not allowed to have part ownership in the plant or in the interceptor sewers did not mean that town was not liable for payments

**3. Power to incur indebtedness and expenditures**

Obligations incurred by city under authority of West Virginia statute authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay the cost thereof are not "debts" within provision of West Virginia Constitution containing limitations on power of a municipality to incur debts. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations Ⓒ 864(3)

West Virginia municipalities are authorized to incur obligations for purpose of defraying preliminary expenses of sewer projects, provided repayment of such obligations is to be made solely from proceeds of revenue bonds, not from tax levies. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v.

## MUNICIPAL & SANITARY DISTRICT SEWAGE WORKS § 16-13-10

City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇨ 864(3)

If sewer project is undertaken by municipality, whatever loans may have been made on faith of the revenue bonds as authorized under West Virginia law would or should be included in cost of the works and repaid out of proceeds of the bonds. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇨ 950(15)

Where statute authorizing municipalities to issue bonds for self-liquidating municipal project, provided that bonds should not be corporate indebtedness, bonds held not to create "debts" within constitutional inhibition (Acts 1933 [1st Ex.Sess.] c. 25, §§ 9, 10, 16, 21). Brewer v. City of Point Pleasant, 1934, 172 S.E. 717, 114 W.Va. 572. Municipal Corporations ⇨ 907

Provisions of statute relating to issuance of municipal bonds constitute integral parts of bonds regardless of whether included therein (Acts 1933 [1st Ex.Sess.] c. 25, §§ 9, 10, 16, 21). Brewer v. City of Point Pleasant, 1934, 172 S.E. 717, 114 W.Va. 572. Municipal Corporations ⇨ 923

Statute permitting municipalities to issue bonds for self-liquidating municipal projects held legitimate delegation of legislative power.

Acts 1933, 1st Ex.Sess., c. 25. Brewer v. City of Point Pleasant, 1934, 172 S.E. 717, 114 W.Va. 572. Constitutional Law ⇨ 63(2)

### 4. Preliminary expenditures

Under West Virginia Act authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay cost thereof, money used in preliminary engineering work prior to actual beginning of construction of sewage disposal system is not required to be handled by sanitary board, but board is merely required to supervise and control the construction and maintenance of the project. Code W.Va. 16-13-16, 16-13-18, 16-13-32. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Health And Environment ⇨ 6

### 5. Preliminary proceedings and ordinances

Provision of sewer ordinance declaring that statutory mortgage lien should exist in favor of bondholders violated statute permitting municipalities to construct self-liquidating sewer systems, but declaration could be regarded as surplusage and did not affect validity of remainder of ordinance (Acts 1933 [1st Ex.Sess.] c. 25). Brewer v. City of Point Pleasant, 1934, 172 S.E. 717, 114 W.Va. 572. Municipal Corporations ⇨ 303(4)

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

Such revenue bonds shall bear interest at not more than twelve percent per annum, payable at such times, and shall mature at such time or times as may be determined by ordinance. Such bonds may be made redeemable before maturity at the option of the municipality, to be exercised by said board, at not more than the par value thereof and a premium of five percent, under such terms and conditions as may be fixed by the ordinance authorizing the issuance of the bonds. The principal and interest of the bonds may be made payable in any lawful medium. Said ordinance shall determine the form of the bonds, either coupon or registered, shall set forth any registration and conversion privileges, and shall fix the denomination or denominations of such bonds and the place or places of payment of the principal and interest thereof, which may be at any bank or trust company within or without the State. The bonds shall contain a statement on their face that the municipality shall not be obligated to pay the same or the interest thereon except from the special fund provided from the net revenues of the works. All such bonds shall be, and shall have and are hereby declared to have all the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State. Said bonds shall be exempt from all taxation, state, county and municipal. Such bonds shall be executed by the proper legally constituted authorities of the municipality, and

be sealed with the corporate seal of the municipality, and in case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers, before delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. Such bonds shall be sold at a price not lower than a price, which when computed upon standard tables of bond values, will show a net return of not more than thirteen percent per annum to the purchaser upon the amount paid therefor, and the proceeds derived therefrom shall be used exclusively for the purposes for which said bonds are issued and same may be sold at one time or in parcels as funds are needed. Any surplus of bond proceeds over and above the cost of the works shall be paid into the sinking fund hereinafter provided. If the proceeds of the bonds, by error of calculation or otherwise, shall be less than the cost of the works, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in said ordinance authorizing the issuance of the bonds first issued or in the trust indenture hereinafter authorized, shall be deemed to be of the same issue and shall be entitled to payment without preference or priority of the bonds first issued. Prior to the preparation of the definitive bonds, temporary bonds may under like restrictions be issued with or without coupons, exchangeable for definitive bonds upon the issuance of the latter.

Acts 1933, Ex. Sess., c. 25, § 10; Acts 1970, c. 11; Acts 1980, c. 33; Acts 1981, 1st Ex. Sess., c. 2.

**Library References**

**Key Numbers**

Municipal Corporations Ⓒ911, 950(15).  
Westlaw Key Number Searches: 268k911;  
268k950(15).

**Encyclopedias**

C.J.S. Municipal Corporations §§ 1649, 1708  
to 1709.

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

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

Acts 1933, Ex. Sess., c. 25, § 11.

**Library References**

**Key Numbers**

Municipal Corporations Ⓒ911, 950(15).  
Westlaw Key Number Searches: 268k911;  
268k950(15).

**Encyclopedias**

C.J.S. Municipal Corporations §§ 1649, 1708  
to 1709.

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

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

Acts 1933, Ex. Sess., c. 25, § 12.

Library References

Key Numbers

Municipal Corporations ☞911, 950(15).  
Westlaw Key Number Searches: 268k911;  
268k950(15).

Encyclopedias

C.J.S. Municipal Corporations §§ 1649, 1708  
to 1709.

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

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

Acts 1933, Ex. Sess., c. 25, § 13.

Library References

Key Numbers

Municipal Corporations ☞911, 950(15).  
Westlaw Key Number Searches: 268k911;  
268k950(15).

Encyclopedias

C.J.S. Municipal Corporations §§ 1649, 1708  
to 1709.

Notes of Decisions

Preliminary expenditures 1  
Repayment of loans 2

of the project. Code W.Va. 16-13-16, 16-13-18, 16-13-32. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Health And Environment ☞ 6

1. Preliminary expenditures

Under West Virginia Act authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay cost thereof, money used in preliminary engineering work prior to actual beginning of construction of sewage disposal system is not required to be handled by sanitary board, but board is merely required to supervise and control the construction and maintenance

2. Repayment of loans

If sewer project is undertaken by municipality, whatever loans may have been made on faith of the revenue bonds as authorized under West Virginia law would or should be included in cost of the works and repaid out of proceeds of the bonds. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v.

Note 2

City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇨ 950(15)

United States, which was entitled to reimbursement for advances made to West Virginia city by Federal Works Agency for purpose of plan preparation for construction of proposed sewage treatment and disposal system, would

not be entitled to general judgment against city but would be entitled to an order requiring repayment from existing or future revenue bond proceeds and to four percent interest. War Mobilization and Reconversion Act of 1944, § 101 et seq., 58 Stat. 785; Code W.Va. 38-4-5, 38-4-6, 53-1-1. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇨ 1037

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

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

Acts 1933, Ex. Sess., c. 25, § 14.

Library References

Key Numbers

Municipal Corporations ⇨911, 950(15).  
Westlaw Key Number Searches: 268k911;  
268k950(15).

Encyclopedias

C.J.S. Municipal Corporations §§ 1649, 1708  
to 1709.

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

At or before the issuance of any such bonds the governing body shall by said ordinance create a sinking fund, to be remitted to and administered by the West Virginia municipal bond commission, for the payment of the bonds and the

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

Acts 1933, Ex. Sess., c. 25, § 15; Acts 1933, 2nd Ex. Sess., c. 48; Acts 1986, c. 118.

#### Library References

##### Key Numbers

Municipal Corporations 69-951.  
Westlaw Key Number Search: 268k951.

##### Encyclopedias

C.J.S. Municipal Corporations §§ 1704 to  
1705.

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

The governing body shall have power, and it shall be its duty, by ordinance, to establish and maintain just and equitable rates, fees or charges for the use of and the service rendered by:

(a) Sewerage works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the sewerage system of the municipality, or that in any way uses or is served by such works; and

(b) Stormwater works, to be paid by the owner of each and every lot, parcel of real estate, or building that in any way uses or is served by such stormwater works or whose property is improved or protected by the stormwater works or any user of such stormwater works.

The governing body may change and readjust such rates, fees or charges from time to time. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways.

Such rates, fees or charges shall be sufficient in each year for the payment of the proper and reasonable expense of operation, repair, replacements and maintenance of the works and for the payment of the sums herein required to be paid into the sinking fund. Revenues collected pursuant to this section shall be considered the revenues of the works.

No such rates, fees or charges shall be established until after a public hearing, at which all the users of the works and owners of property served or to be served thereby and others interested shall have an opportunity to be heard concerning the proposed rates, fees or charges.

After introduction of the ordinance fixing such rates, fees or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates, fees or charges, shall be given by publication as a Class II-O legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the municipality. The first publication shall be made at least ten days before the date fixed in such notice for the hearing.

After such hearing, which may be adjourned from time to time, the ordinance establishing rates, fees or charges, either as originally introduced or as modified and amended, shall be passed and put into effect. A copy of the schedule of such rates, fees and charges so established shall be kept on file in the office of the board having charge of the operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates, fees or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter

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Note 1

served which fall within the same class, without the necessity of any hearing or notice.

Any change or readjustment of such rates, fees or charges may be made in the same manner as such rates, fees or charges were originally established as hereinbefore provided: Provided, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. The aggregate of the rates, fees or charges shall always be sufficient for such expense of operation, repair and maintenance and for such sinking fund payments.

All rates, fees or charges, if not paid when due, shall constitute a lien upon the premises served by such works. If any service rate, fees or charge so established is not paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the board in a civil action in the name of the municipality, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto: Provided, That where both water and sewer services are furnished by any municipality to any premises the schedule of charges may be billed as a single amount or individually itemized and billed for the aggregate thereof.

Whenever any rates, rentals, fees or charges for services or facilities furnished shall remain unpaid for a period of thirty 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 rates, fees and charges are fully paid.

The board collecting such rates, fees or charges shall be obligated under reasonable rules and regulations, to shut off and discontinue both water and sewer services to all delinquent users of either water facilities, or sewer facilities, or both, and shall not restore either water facilities or sewer facilities, to any delinquent user of either until all delinquent rates, fees or charges for both water facilities, and sewer facilities, including reasonable interest and penalty charges, have been paid in full.

Acts 1933, Ex. Sess., c. 25, § 16; Acts 1933, 2nd Ex. Sess., c. 48; Acts 1959, c. 125; Acts 1967, c. 105; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

## Library References

### Key Numbers

Municipal Corporations 712(7)-712(8).  
Westlaw Key Number Searches: 268k712(7)  
to 268k712(8).

### Encyclopedias

C.J.S. Municipal Corporations § 1538.

## Notes of Decisions

Construction and application 1  
Public utilities 3  
Rates and charges for service 2  
Summary judgment 5

### Water service termination 4

#### 1. Construction and application

Statutes dealing with municipally owned and operated sewer systems should be read and construed together. Code, 8-4-20, 16-13-1,

Note 1

16-13-2, 16-13-16, 24-1-1 et seq., 24-2-1 et seq., 24-3-1 et seq. *Delardas v. Morgantown Water Commission*, 1964, 137 S.E.2d 426, 148 W.Va. 776. Statutes ⇨ 223.2(21)

**2. Rates and charges for service**

If rates and charges set forth in ordinance and established by public service commission by its order should be considered improper for any valid reason, they may be challenged by any user of sewer services by complaint in proper proceeding before public service commission. Code, 8-4-20, 16-13-1, 16-13-2, 16-13-16, 24-1-1 et seq. *Delardas v. Morgantown Water Commission*, 1964, 137 S.E.2d 426, 148 W.Va. 776. Municipal Corporations ⇨ 712(8)

Where charges for use of sewer by sanitary board of city of Beckley were assessed to property owners according to quantity of water supplied subject to deduction of amount of water retained on premises to be determined by a meter installed by consumers and allowing deduction of costs thereof from amounts due on bills, such charges were not discriminatory, notwithstanding some users were financially unable to install meters. Code 16-13-30. *Houchins v. City of Beckley*, 1944, 32 S.E.2d 286, 127 W.Va. 306. Municipal Corporations ⇨ 712(7)

Party aggrieved by rates established for use of sewer could not resort to courts for relief, where he failed to exercise statutory remedy of appearing before governing body of municipality at public hearing (Acts 1933 [1st Ex.Sess.] c. 25). *Brewer v. City of Point Pleasant*, 1934, 172 S.E. 717, 114 W.Va. 572. Municipal Corporations ⇨ 712(8)

**3. Public utilities**

Under statute declaring that words 'public utility' shall include any person or persons, or association of persons including municipalities, engaged in any business which is a public service, sewer system owned and operated by city was a 'public utility' and Public Service Commission was vested with jurisdiction to supervise or regulate municipal sewer system and to hear proceeding seeking extension of sewer services, and power of Commission to supervise and regulate sewer system was not withdrawn or impaired by statutes authorizing municipal corporation to own, construct and maintain

sewer system under control of a Sanitary Board and authorizing Board to operate and control such systems and to order and complete any extensions that Board might deem expedient. Code, 16-13-1 et seq., 16-13-2, 16-13-3, 16-13-5, 16-13-16, 16-13-18, 16-13-23, 24-1-1, 24-2-1, 24-3-1. State ex rel. *City of Wheeling v. Renick*, 1960, 116 S.E.2d 763, 145 W.Va. 640. Public Utilities ⇨ 113

**4. Water service termination**

Any impairment of sewer revenue bonds issued by cities providing for imposition of liens against property for unpaid sewer charges, by statutory amendment precluding cities from attaching lien to landlord's property for tenant's failure to pay sewer charges, was not "substantial impairment" and, thus, amendment did not violate constitutional prohibition against impairment of contracts, where bond contracts acknowledged that parties' rights were subject to legislative regulation, contracts were merely modified, abridged right was not central to parties' undertaking, and prior legislation provided utilities with far more effective remedy of water service termination for unpaid sewer charges. U.S.C.A. Const. Art. 1, § 10, cl. 1; W.Va.Code, §§ 8-18-23, 16-13-16. *City of Charleston v. Public Service Com'n of West Virginia*, 1995, 57 F.3d 385, certiorari denied 116 S.Ct. 474, 516 U.S. 974, 133 L.Ed.2d 404. Constitutional Law ⇨ 121(2)

**5. Summary judgment**

Allegation, in city's notice of motion for judgment, that claim was for services of city sewage system and penalty for nonpayment to sanitary board for a specified period of time and that defendant was owner of property served and a specified sum was due by reason of a specified ordinance, when read in connection with verified itemized statement accompanying notice, was insufficient to state a claim based upon contract in absence of showing of relationship of sanitary board to sewage system, method of service and right of sanitary board to charge for service, and demurrer to notice was properly sustained. Code 1937, 16-13-15 et seq. *City of Beckley v. Craighead*, 1943, 24 S.E.2d 908, 125 W.Va. 484. Judgment ⇨ 184

**§ 16-13-17. Government units subject to established rates**

The municipality and any county government, state government and federal government served by the services of the works shall be subject to the same fees, charges and rates established as provided in this article, or to fees, charges and rates established in harmony therewith, for service rendered the municipality, county, state or federal government and shall pay such rates, fees or charges when due from corporate funds and the same shall be considered to be

## MUNICIPAL & SANITARY DISTRICT SEWAGE WORKS § 16-13-18

a part of the revenues of the works as herein defined, and be applied as herein provided for the application of the revenues. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways.

Acts 1933, Ex. Sess., c. 25, § 17; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

### Library References

#### Key Numbers

Municipal Corporations ⇨ 712(7)-712(8).  
Westlaw Key Number Searches: 268k712(7)  
to 268k712(8).

#### Encyclopedias

C.J.S. Municipal Corporations § 1538.

### Notes of Decisions

#### In general 1

##### 1. In general

Under contract between municipal sanitary board and contractor requiring contractor to bear cost and expense of damage to surface, overhead or subsurface structures in construc-

tion of sanitary sewer system, contractor was liable to water company for expense of removal of all water and other pipes under streets which interfered with construction of sewer system. Code, 16-13-1 et seq., 16-13-17, 16-13-24. West Virginia Water Service Co. v. Cunningham, 1957, 98 S.E.2d 891, 143 W.Va. 1. Municipal Corporations ⇨ 400

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

The governing body shall provide by ordinance the organization of the board, and that the custody, administration, operation and maintenance of such works shall be under the supervision and control of a sanitary board, created as herein provided.

Such sanitary board shall be composed of either the mayor of the municipality, or the city manager thereof, if said municipality shall have a city manager form of government, and two persons appointed by the governing body: Provided, That, in the event of an acquisition or merger of an existing works, the governing body may increase the membership to a maximum of four members in addition to the mayor or city manager of the municipality served by the board.

During the construction period, one of the members must be a registered professional engineer. The engineer member of the board need not be a resident of said municipality. After the construction of the plant has been completed, the engineer member may be succeeded by a person not an engineer. No officer or employee of the municipality, whether holding a paid or unpaid office, shall be eligible to appointment on said sanitary board until at least one year after the expiration of the term of his or her public office. The appointees shall originally be appointed for terms of two and three years respectively, and upon the expiration of each term and each succeeding term, an appointment of a successor shall be made in like manner for a term of three years. Vacancies shall be filled for an unexpired term in the same manner as the original appointment. Each member shall give such bond, if any, as may be required by ordinance. The mayor or city manager shall act as chairman of the

sanitary board, which shall elect a vice chairman from its members and shall designate a secretary and treasurer (but the secretary and the treasurer may be one and the same), who need not be a member or members of the sanitary board. The vice chairman, secretary and treasurer shall hold office as such at the will of the sanitary board.

The members of the sanitary board shall receive compensation for their services, either as a salary or as payments for meetings attended, as the governing body may determine, and shall be entitled to payment for their reasonable expenses incurred in the performance of their duties. The governing body shall fix the reasonable compensation of the secretary and treasurer in its discretion, and shall fix the amounts of bond to be given by the treasurer. All compensation, together with the expenses in this section referred to, shall be paid solely from funds provided under the authority of this article. The sanitary board shall have power to establish bylaws, rules and regulations for its own government.

Acts 1933, Ex. Sess., c. 25, § 18; Acts 1939, c. 96; Acts 1953, c. 146; Acts 1957, c. 137; Acts 1992, c. 95; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

#### Library References

##### Key Numbers

Health and Environment ⇨ 3, 5 to 6.  
Municipal Corporations ⇨ 711.  
Westlaw Key Number Searches: 199k3;  
199k5 to 199k6; 268k711.

##### Encyclopedias

C.J.S. Health and Environment §§ 9 to 10, 12 to 13.

#### Notes of Decisions

##### Powers and duties of sanitary boards 1 Public utilities 2

##### 1. Powers and duties of sanitary boards

Under West Virginia Act authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay cost thereof, money used in preliminary engineering work prior to actual beginning of construction of sewage disposal system is not required to be handled by sanitary board, but board is merely required to supervise and control the construction and maintenance of the project. Code W.Va. 16-13-16, 16-13-18, 16-13-32. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Health And Environment ⇨ 6

City which created sanitary board for purpose of erecting sewage disposal plant held authorized to incorporate such sanitary board as a nonstock corporation for purpose of being domesticated in Virginia as a sewage purification company under Virginia law, where no other way was pointed out by which city or sanitary board could under law of Virginia acquire property in that state and carry out contemplated plan of erecting sewage disposal plant. Acts

1933, 1st Ex.Sess., c. 25, as amended by Acts 1933, 2d Ex.Sess., c. 48. Bernard v. City of Bluefield, 1936, 186 S.E. 298, 117 W.Va. 556. Municipal Corporations ⇨ 277

##### 2. Public utilities

Under statute declaring that words 'public utility' shall include any person or persons, or association of persons including municipalities, engaged in any business which is a public service, sewer system owned and operated by city was a 'public utility' and Public Service Commission was vested with jurisdiction to supervise or regulate municipal sewer system and to hear proceeding seeking extension of sewer services, and power of Commission to supervise and regulate sewer system was not withdrawn or impaired by statutes authorizing municipal corporation to own, construct and maintain sewer system under control of a Sanitary Board and authorizing Board to operate and control such systems and to order and complete any extensions that Board might deem expedient. Code, 16-13-1 et seq., 16-13-2, 16-13-3, 16-13-5, 16-13-16, 16-13-18, 16-13-23, 24-1-1, 24-2-1, 24-3-1. State ex rel. City of Wheeling v. Renick, 1960, 116 S.E.2d 763, 145 W.Va. 640. Public Utilities ⇨ 113

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

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

Acts 1957, c. 138; Acts 1967, c. 105.

*Acts 1976, c. 33, provided that all references to "justice of the peace" in the code of West Virginia mean "magistrate." See § 50-1-17.*

Library References

Key Numbers

Health and Environment ⇨6.  
 Municipal Corporations ⇨711.  
 Westlaw Key Number Searches: 199k6;  
 268k711.

Encyclopedias

C.J.S. Health and Environment § 13.

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

Any municipality operating a sewage collecting system and/or a sewage disposal plant or plants or stormwater works as defined in this article, or which as herein provided has ordered the construction or acquisition of such works (in this section called the owner), is hereby authorized to contract with one or more other municipal corporations or political subdivisions within the state (in this section called the lessee), and such lessees are hereby authorized to enter into contracts with the owners, for the service of such works to such lessees and their inhabitants, but only to the extent of the capacity of the works without

impairing the usefulness thereof to the owners, upon such terms and conditions as may be fixed by the boards and approved by ordinances of the respective contracting parties: Provided, That no contract shall be made for a period of more than forty years or in violation of the provisions of said ordinance authorizing bonds hereunder or in violation of the provisions of said trust indenture.

The lessee shall by ordinance have power to establish, change and adjust rates, fees and charges for the service rendered therein by the works against the owners of the premises served, in the manner hereinbefore provided for establishing, changing and adjusting rates, fees and charges for the service rendered in the municipality where the works are owned and operated, and such rates, fees or charges shall be collectible and shall be a lien as herein provided for rates, fees and charges made by the owner.

The necessary intercepting sewers and appurtenant works for connecting the works of the owner with the sewerage system of the lessee shall be constructed by the owner and/or the lessee upon such terms and conditions as may be set forth in said contract, and the cost or that part of the cost thereof which is to be borne by the owner may be paid as a part of the cost of the works from the proceeds of bonds issued under this article unless otherwise provided by said ordinance or trust indenture prior to the issuance of the bonds. The income received by the owner under any contract shall, if so provided in said ordinance or trust indenture, be considered to be a part of the revenues of the works as in this article defined and be applied as herein provided for the application of the revenues.

Acts 1933, Ex. Sess., c. 25, § 19; Acts 1981, 1st Ex. Sess., c. 2; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

**Library References**

**Key Numbers**

Municipal Corporations Ⓒ277.  
Westlaw Key Number Search: 268k277.

**Notes of Decisions**

**In general 1**

**1. In general**

Under provisions of statute relating to contract with other municipalities for service of sewage works, city which ordered construction of sewage disposal plant was authorized to contract with town to provide that town would have the right to use part of the capacity of the plant in return for contributing to its cost and town was authorized to enter into such con-

tracts with city for the use of the plant, and fact that town was unable to sell revenue bonds because it was not allowed to have part ownership in the plant or in the interceptor sewers did not mean that town was not liable for payments agreed to under the contracts, where city offered to buy the revenue bonds issued by the town. Code, 16-13-9, 16-13-19, 16-13-23a. City of Morgantown v. Town of Star City, 1973, 195 S.E.2d 166, 156 W.Va. 529. Municipal Corporations Ⓒ277

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

No property shall be acquired under this article upon which any lien or other encumbrance exists, unless at the time such property is acquired a sufficient

**MUNICIPAL & SANITARY DISTRICT SEWAGE WORKS § 16-13-22**

sum of money be deposited in trust to pay and redeem such lien or encumbrance in full.

Acts 1933, Ex. Sess., c. 25, § 20.

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

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

Acts 1933, Ex. Sess., c. 25, § 21.

**Library References**

**Key Numbers**

Municipal Corporations ¶937, 955.

Westlaw Key Number Searches: 268k937;  
268k955.

**Encyclopedias**

C.J.S. Municipal Corporations §§ 1707, 1711.

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

The authority herein given shall be in addition to and not in derogation of any power existing in any municipality under any statutory or charter provisions which it may now have or hereafter adopt. For all purposes of this article, all municipal corporations shall have jurisdiction for twenty miles outside the corporate limits thereof: Provided, That for stormwater systems, within the twenty miles beyond the municipality's corporate limits the only areas the municipality may serve and supply shall be those areas from which stormwater affects or drains into the municipality.

The jurisdiction and authority provided by this section does not extend to highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways.

Acts 1933, Ex. Sess., c. 25, § 22; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

Library References

Key Numbers

Municipal Corporations ⇨711.  
Westlaw Key Number Search: 268k711.

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

Any municipality is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of acquisition or construction of said sewage works and the construction of betterments and improvements thereto, and for the other purposes herein authorized, from any authorized agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of bonds authorized to be issued under the provisions of this article, the revenues of the said sewage works or grants to the municipality from any agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any agency of the state, the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument.

In no event shall any such loan or temporary advance be a general obligation of the municipality and such loans or temporary advances, including the interest thereon, shall be paid solely from the sources specified in this section.

Acts 1949, c. 93; Acts 1961, c. 107; Acts 1980, c. 59; Acts 1981, 1st Ex. Sess., c. 2; Acts 1986, c. 118.

Library References

Key Numbers

Municipal Corporations ⇨864(3).  
Westlaw Key Number Search: 268k864(3).

Encyclopedias

C.J.S. Municipal Corporations § 1589.

Notes of Decisions

Power to incur indebtedness and expenditures 1

Repayment of loans and advances 2

1. Power to incur indebtedness and expenditures

Obligations incurred by city under authority of West Virginia statute authorizing municipali-

ties to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay the cost thereof are not "debts" within provision of West Virginia Constitution containing limitations on power of a municipality to incur debts. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8.

## MUNICIPAL & SANITARY DISTRICT SEWAGE WORKS § 16-13-22c

U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇌ 864(3)

### 2. Repayment of loans and advances

United States, which was entitled to reimbursement for advances made to West Virginia city by Federal Works Agency for purpose of plan preparation for construction of proposed sewage treatment and disposal system, would not be entitled to general judgment against city but would be entitled to an order requiring repayment from existing or future revenue bond proceeds and to four percent interest. War Mobilization and Reconversion Act of 1944, § 101 et seq., 58 Stat. 785; Code W.Va. 38-4-5, 38-4-6, 53-1-1. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇌ 1037

If sewer project is undertaken by municipality, whatever loans may have been made on faith of the revenue bonds as authorized under West Virginia law would or should be included in

cost of the works and repaid out of proceeds of the bonds. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇌ 950(15)

Under agreement between West Virginia city and Federal Works Administrator, in accordance with the War Mobilization and Reconversion Act of 1944, West Virginia city incurred obligation to repay advances made for purpose of plan preparation for construction of proposed sewage treatment and disposal system if and when construction of the sewage treatment plant should be started and would not be obligated to repay the advances if the construction were not undertaken. War Mobilization and Reconversion Act of 1944, §§ 101 et seq., 501, 58 Stat. 785, 791. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. United States ⇌ 82(1)

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

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

Acts 1949, c. 93.

#### Library References

##### Key Numbers

Municipal Corporations ⇌ 328.  
Westlaw Key Number Search: 268k328.

##### Encyclopedias

C.J.S. Municipal Corporations §§ 1027 to 1029.

### § 16-13-22c. Refunding bonds

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

Acts 1949, c. 93.

## Library References

## Key Numbers

Municipal Corporations Ⓒ913.  
Westlaw Key Number Search: 268k913.

## Encyclopedias

C.J.S. Municipal Corporations §§ 1651, 1653.

## § 16-13-22d. Subordination of bonds

Notwithstanding any other provisions to the contrary in this article, any municipality authorizing the issuance of bonds under this article in an effort to aid in the abatement or reduction of the pollution of any waters or streams may provide in the ordinance authorizing the issuance of the bonds and in any trust indenture pertaining thereto that such bonds, or any additional bonds that may thereafter be issued to extend or improve the works, shall, to the extent and in the manner prescribed, be subordinated and be junior in standing, with respect to the payment of principal and interest and the security thereof, to such other bonds as are designated in the ordinance.

Acts 1949, c. 93.

## Library References

## Key Numbers

Municipal Corporations Ⓒ950(15).  
Westlaw Key Number Search: 268k950(15).

## Encyclopedias

C.J.S. Municipal Corporations §§ 1708 to 1709.

## § 16-13-22e. Operating contract

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

Acts 1955, c. 132.

## Library References

## Key Numbers

Municipal Corporations Ⓒ328.  
Westlaw Key Number Search: 268k328.

## Encyclopedias

C.J.S. Municipal Corporations §§ 1027 to 1029.

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

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

Acts 1955, c. 132; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

Library References

Key Numbers

Municipal Corporations ☞950(15).  
Taxation ☞218.

Westlaw Key Number  
268k950(15); 371k218.

Searches:

Encyclopedias

C.J.S. Municipal Corporations §§ 1708 to  
1709.

C.J.S. Taxation § 260.

§ 16-13-22g. Covenants with bondholders

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

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

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

(c) The fixing, establishing and collecting of such fees, rentals or other charges for the use of the services and facilities of such sewerage system or stormwater system, including the parts thereof heretofore or hereafter constructed or acquired and the revision of same from time to time, as will always provide revenues at least sufficient to provide for all expenses of operation, maintenance and repair of such sewerage system or stormwater system, the payment of the principal of and interest on all bonds or other obligations payable from the revenues of such sewerage system or stormwater system, and all reserve and other funds required by the terms of the ordinance authorizing the issuance of such bonds;

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

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

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

and terms upon which defaults may be declared cured and the acceleration of the maturity of such bonds rescinded and repealed;

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

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

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

(j) Such other additional covenants as shall be considered necessary or desirable for the security of the holders of bonds issued hereunder, notwithstanding that other covenants are not expressly enumerated hereunder, it being the intention hereof to grant to the municipalities the power to make any and all covenants or agreements necessary in order to secure greater marketability for bonds issued hereunder as fully and to the same extent as such covenants or agreements could be made by a private corporation rendering similar services and facilities and to grant such municipalities full and complete power to enter into any contracts, covenants or agreements with holder of bonds issued hereunder not inconsistent with the constitution of the state of West Virginia. Acts 1955, c. 132; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

#### Library References

##### Key Numbers

Municipal Corporations Ⓔ922.

Westlaw Key Number Search: 268k922.

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

This article, shall, without reference to any other statute, be deemed full authority for the construction, acquisition, improvement, equipment, maintenance, operation and repair of the works herein provided for and for the issuance and sale of the bonds by this article authorized, and shall be construed as an additional and alternative method therefor and for the financing thereof, and no petition or election or other or further proceeding in respect to the construction or acquisition of the works or to the issuance or sale of bonds under this article and no publication of any resolution, ordinance, notice or proceeding relating to such construction or acquisition or to the issuance or sale of such bonds shall be required except such as are prescribed by this article, any provisions of other statutes of the State to the contrary notwith-

## MUNICIPAL & SANITARY DISTRICT SEWAGE WORKS § 16-13-23a

standing: Provided, however, That all functions, powers and duties of the state department of health shall remain unaffected by this article.

Acts 1933, Ex. Sess., c. 25, § 23.

### Library References

#### Key Numbers

Municipal Corporations Ⓒ270, 711, 911.

Westlaw Key Number Searches: 268k270;  
268k711; 268k911.

#### Encyclopedias

C.J.S. Municipal Corporations § 1649.

### Notes of Decisions

#### Public utilities 1

##### 1. Public utilities

Under statute declaring that words 'public utility' shall include any person or persons, or association of persons including municipalities, engaged in any business which is a public service, sewer system owned and operated by city was a 'public utility' and Public Service Commission was vested with jurisdiction to supervise or regulate municipal sewer system and to hear proceeding seeking extension of sewer ser-

vices, and power of Commission to supervise and regulate sewer system was not withdrawn or impaired by statutes authorizing municipal corporation to own, construct and maintain sewer system under control of a Sanitary Board and authorizing Board to operate and control such systems and to order and complete any extensions that Board might deem expedient. Code, 16-13-1 et seq., 16-13-2, 16-13-3, 16-13-5, 16-13-16, 16-13-18, 16-13-23, 24-1-1, 24-2-1, 24-3-1. State ex rel. City of Wheeling v. Renick, 1960, 116 S.E.2d 763, 145 W.Va. 640. Public Utilities Ⓒ 113

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

Notwithstanding any other provision contained in this article, and in addition thereto, the governing body of any municipal corporation which has received or which hereafter receives an order issued by the director of the division of environmental protection or the environmental quality board requiring such municipal corporation to cease the pollution of any stream or waters, is hereby authorized and empowered to fix, establish and maintain, by ordinance, just and equitable rates, fees or charges for the use of the services and facilities of the existing sewer system and/or stormwater system of such municipal corporation, and/or for the use of the services and facilities to be rendered upon completion of any works and system necessary by virtue of said order, to be paid by the owner, tenant or occupant of each and every lot or parcel of real estate or building that is connected with and uses any part of such sewer system or stormwater system, or that in any way uses or is served thereby, and may change and readjust such rates, fees or charges from time to time.

Such rates, fees or charges shall be sufficient for the payment of all the proper and reasonable costs and expenses of the acquisition and construction of plants, machinery and works for the collection and/or treatment, purification and disposal of sewage or stormwater, and the repair, alteration and extension of existing sewer facilities or stormwater facilities, as may be necessary to comply with such order of the director of the division of environmental protection or the environmental quality board, and for the operation, maintenance and repair of the entire works and system.

The governing body shall create, by ordinance, a sinking fund to accumulate and hold any part or all of the proceeds derived from rates or charges until completion of the construction, to be remitted to and administered by the municipal bond commission by expending and paying the costs and expenses of construction and operation in the manner as provided by said ordinance.

After the completion of the construction such rates, fees or charges shall be sufficient in each year for the payment of the proper and reasonable costs and expenses of operation, maintenance, repair, replacement and extension from time to time, of the entire sewer and works or entire stormwater works.

No such rates, fees or charges shall be established until after a public hearing, at which all the potential users of the works and owners of property served or to be served thereby and others shall have had an opportunity to be heard concerning the proposed rates or charges.

After introduction of the ordinance fixing rates, fees or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of rates, fees or charges, shall be given by publication of notice as a Class II-O legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication is the municipality. The first publication shall be made at least ten days before the date fixed therein for the hearing.

After such hearing, which may be adjourned from time to time, the ordinance establishing the rates, fees or charges, either as originally introduced or as modified and amended, may be passed and put into effect. A copy of the schedule of the rates, fees and charges so established shall be kept on file in the office of the sanitary board having charge of the construction and operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates, fees or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice.

Any change or readjustment of rates, fees or charges may be made in the same manner as rates, fees or charges were originally established as hereinbefore provided: Provided, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice is required.

If any rate, fees or charge so established is not paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the sanitary board of such municipal corporation in a civil action in the name of the municipality.

Any municipal corporation exercising the powers given herein has authority to construct, acquire, improve, equip, operate, repair and maintain any plants, machinery, or works necessary to comply with the order of the director of the division of environmental protection or the environmental quality board, and the authority provided herein to establish, maintain and collect rates, fees or charges is an additional and alternative method of financing such works and matters, and is independent of any other provision of this article insofar as the

# MUNICIPAL & SANITARY DISTRICT SEWAGE WORKS § 16-13-24

Note 1

article provides for or requires the issuance of revenue bonds or the imposition of rates, fees and charges in connection with the bonds: Provided, That except for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works in compliance with an order of the director of the division of environmental protection or the environmental quality board, and the rights, powers, and duties of the municipal corporation and the respective officers and departments thereof, including the sanitary board, are governed by the provisions of this article: Provided, however, That the jurisdiction and authority provided by this section does not extend to highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways and no rates, fees or charges for stormwater services or costs of compliance may be assessed against highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways.

Acts 1955, c. 135; Acts 1967, c. 105; Acts 1994, c. 61; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

## Library References

### Key Numbers

Municipal Corporations Ⓒ712(7)-712(8).  
Westlaw Key Number Searches: 268k712(7)  
to 268k712(8).

### Encyclopedias

C.J.S. Municipal Corporations § 1538.

## Notes of Decisions

### In general 1

#### 1. In general

Under provisions of statute relating to contract with other municipalities for service of sewage works, city which ordered construction of sewage disposal plant was authorized to contract with town to provide that town would have the right to use part of the capacity of the plant in return for contributing to its cost and town was authorized to enter into such con-

tracts with city for the use of the plant, and fact that town was unable to sell revenue bonds because it was not allowed to have part ownership in the plant or in the interceptor sewers did not mean that town was not liable for payments agreed to under the contracts, where city offered to buy the revenue bonds issued by the town. Code, 16-13-9, 16-13-19, 16-13-23a. City of Morgantown v. Town of Star City, 1973, 195 S.E.2d 166, 156 W.Va. 529. Municipal Corporations Ⓒ 277

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

This article being necessary for the public health, safety and welfare, it shall be liberally construed to effectuate the purpose thereof.

Acts 1933, Ex. Sess., c. 25, § 24.

## Notes of Decisions

### In general 1

#### 1. In general

Under contract between municipal sanitary board and contractor requiring contractor to bear cost and expense of damage to surface, overhead or subsurface structures in construc-

tion of sanitary sewer system, contractor was liable to water company for expense of removal of all water and other pipes under streets which interfered with construction of sewer system. Code, 16-13-1 et seq., 16-13-17, 16-13-24. West Virginia Water Service Co. v. Cunningham, 1957, 98 S.E.2d 891, 143 W.Va. 1. Municipal Corporations Ⓒ 400

*West's*  
Annotated Code  
of West Virginia



*Using the Classification and  
Numbering System of the  
1931 Code of West Virginia,  
as Amended*

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Chapter 16

2007  
Cumulative Annual Pocket Part

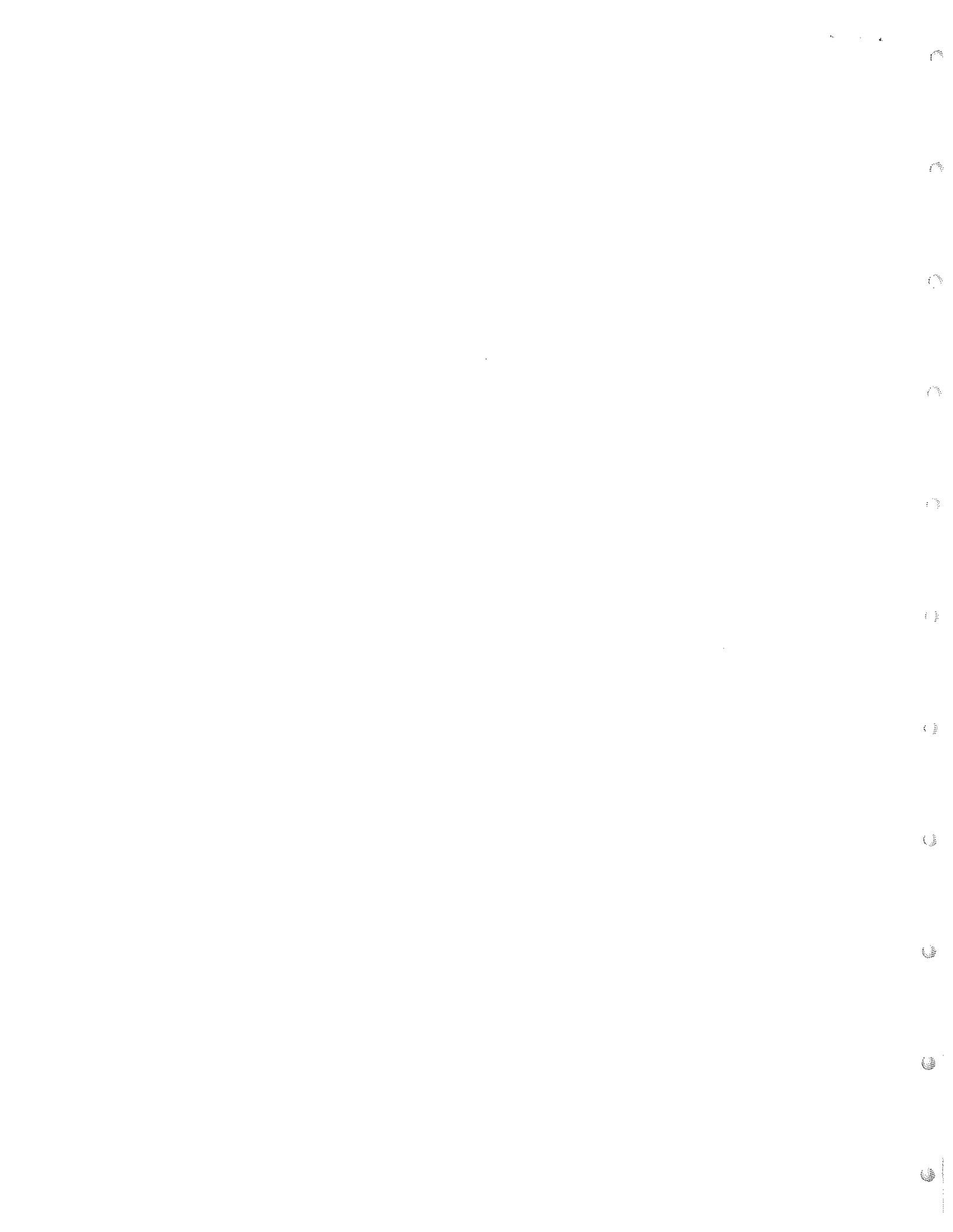
Replacing 2006 Pocket Part supplementing 2002 Main Volume

Includes laws through the 2007 First Extraordinary Session

**THOMSON**  
  
**WEST**

Mat #40632159

9



**PUBLIC HEALTH**

**§ 16-13-16**

Jurisdiction	Laws	Effective Date	Statutory Citation
Arkansas	1985, No. 386		A.C.A. § 20-17-101.
California	L.1982, c. 810	9-7-1982 *	West's Ann.Cal.Health & Safety Code, § 7180.
Colorado	1981, p. 778, § 1		West's C.R.S.A. § 12-36-136.
Delaware	65 Del.Laws, c. 237	2-5-1986	24 Del.C. § 1760.
District of Columbia	1982, D.C.Law 4-68	2-25-1982 *	D.C. Official Code, 2001 Ed. § 7-601.
Georgia	1982, pp. 723, 749		O.C.G.A. § 31-10-16.
Idaho	1981, c. 258		I.C. § 54-1819.
Indiana	1986, S.B.282	3-3-1986	West's A.I.C. 1-1-4-3.
Kansas	1984, c. 345	7-1-1984	K.S.A. 77-204 to 77-206.
Maine	1983, c. 33	3-7-1983 *	22 M.R.S.A. §§ 2811 to 2813.
Maryland	1982, c. 327	7-1-1982	Code, Health-General, § 5-202.
Michigan	1992, P.A. 90	6-4-1992 *	M.C.L.A. §§ 333.1031 to 333.1034.
Minnesota	1989, c. 93	5-9-1989 *	M.S.A. § 145.135.
Mississippi	1981, c. 410	3-24-1981	Code 1972, §§ 41-36-1, 41-36-3.
Missouri	1982, H.B. 1223	8-13-1982	V.A.M.S. § 194.005.
Montana	L.1983, c. 86		MCA § 50-22-101.
Nebraska	1992, LB 906	7-15-1992	R.R.S. 1943, §§ 71-7201 to 71-7203.
Nevada	1985, c. 62	3-30-1985 *	N.R.S. 451.007.
New Hampshire	1986, c. 191:1	7-1-1987	RSA 141-D:1 to 141-D:2.
New Mexico	1993, c. 174	7-1-1993	NMSA 1978 § 12-2-4.
North Dakota	1989, c. 308	7-12-1989	NDCC 23-06.3-01, 23-06.3-02.
Ohio	1982, S. 98	3-15-1982	R.C. § 2108.30.
Oklahoma	1986, c. 262	9-11-1986	63 Okl.St. Ann. §§ 3121 to 3123.
Oregon	1987, c. 517	7-8-1987 *	ORS 432.300.
Pennsylvania	Act 1982, No. 323	2-15-1983	35 P.S. §§ 10201 to 10203.
Rhode Island	1982, c. 411		Gen.Laws 1956, § 23-4-16.
South Carolina	1984, No. 339		Code 1976, §§ 44-43-450, 44-43-460.
South Dakota	1990, c. 273		SDCL 34-25-18.1.
Utah	1989, c. 276	4-24-1989	U.C.A.1953, 26-34-1, 26-34-2.
Vermont	1981, No. 62	4-30-1981	18 V.S.A. § 5218.
Virgin Islands	1993, Act No. 5894, § 2	10-13-1993	19 V.I.C. § 869.
West Virginia	1989, c. 206		Code, 16-10-1 to 16-10-4.
Wyoming	1985, c. 223	5-23-1985	Wyo.Stat. Ann. §§ 35-19-101 to 35-19-103.

\* Date of approval.

**ARTICLE 13**

**SEWAGE WORKS OF MUNICIPAL CORPORATIONS AND SANITARY DISTRICTS**

**Section**

16-13-16. Rates for service; deposit required for new customers; forfeiture of deposit; reconnecting deposit; tenant's

deposit; change or readjustment; hearing; lien and recovery; discontinuance of services.

**§ 16-13-16. Rates for service; deposit required for new customers; forfeiture of deposit; reconnecting deposit; tenant's deposit; change or readjustment; hearing; lien and recovery; discontinuance of services**

The governing body shall have power, and it shall be its duty, by ordinance, to establish and maintain just and equitable rates, fees or charges for the use of and the service rendered by:



(a) Sewerage works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the sewerage system of the municipality, or that in any way uses or is served by such works.

(b) Stormwater works, to be paid by the owner of each and every lot, parcel of real estate, or building that in any way uses or is served by such stormwater works or whose property is improved or protected by the stormwater works or any user of such stormwater works.

(c) The governing body may change and readjust such rates, fees or charges from time to time. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways.

(d) All new applicants for service shall indicate to the governing body whether they are an owner or tenant with respect to the service location.

(e) The governing body may collect from all new applicants for service a deposit of fifty dollars or two twelfths of the average annual usage of the applicant's specific customer class, whichever is greater, to secure the payment of service rates, fees and charges in the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent at the time of disconnection or termination of service, no reconnecting or reinstatement of service may be made by the governing body until another deposit equal to fifty dollars or a sum equal to two twelfths of the average usage for the applicant's specific customer class, whichever is greater, is remitted to the governing body. After twelve months of prompt payment history, the governing body shall return the deposit to the customer or credit the customer's account with interest at a rate as the public service commission may prescribe: *Provided*, That where the customer is a tenant, the governing body is not required to return the deposit until the time the tenant discontinues service with the governing body. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The governing body may, under reasonable rules promulgated by the public service commission, shut off and discontinue water services to a delinquent user of sewer facilities ten days after the sewer services become delinquent regardless of whether the governing body utilizes the security deposit to satisfy any delinquent payments.

(f) Such rates, fees or charges shall be sufficient in each year for the payment of the proper and reasonable expense of operation, repair, replacements and maintenance of the works and for the payment of the sums herein required to be paid into the sinking fund. Revenues collected pursuant to this section shall be considered the revenues of the works.

(g) No such rates, fees or charges shall be established until after a public hearing, at which all the users of the works and owners of property served or to be served thereby and others interested shall have an opportunity to be heard concerning the proposed rates, fees or charges.

(h) After introduction of the ordinance fixing such rates, fees or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates, fees or charges, shall be given by publication as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the municipality. The first publication shall be made at least ten days before the date fixed in such notice for the hearing.

(i) After such hearing, which may be adjourned from time to time, the ordinance establishing rates, fees or charges, either as originally introduced or as modified and amended, shall be passed and put into effect. A copy of the schedule of such rates, fees and charges so established shall be kept on file in the office of the board having charge of the operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates, fees or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice.

(j) Any change or readjustment of such rates, fees or charges may be made in the same manner as such rates, fees or charges were originally established as hereinbefore provided:

## PUBLIC HEALTH

rovided, That if such change or readjustment be made substantially pro rata, as to all asses of service, no hearing or notice shall be required. The aggregate of the rates, fees or charges shall always be sufficient for such expense of operation, repair and maintenance and for such sinking fund payments.

(k) All rates, fees or charges, if not paid when due, shall constitute a lien upon the premises served by such works. If any service rate, fees or charge so established is not paid within twenty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the board in a civil action in the name of the municipality, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto: *Provided*, That where both water and sewer services are furnished by any municipality to any premises the schedule of charges may be billed as a single amount or individually itemized and billed for the aggregate thereof.

(l) Whenever any rates, rentals, fees or charges for services or facilities furnished shall remain unpaid for a period of twenty 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 rates, fees and charges are fully paid. When any payment of rates, rentals, fees or charges becomes delinquent, the governing body may use the security deposit to satisfy the delinquent payment.

(m) The board collecting such rates, fees or charges shall be obligated under reasonable rules to shut off and discontinue both water and sewer services to all delinquent users of either water facilities, or sewer facilities or both, and shall not restore either water facilities or sewer facilities, to any delinquent user of either until all delinquent rates, fees or charges on both water facilities, and sewer facilities, including reasonable interest and penalty charges, have been paid in full.

Acts 1933, Ex. Sess., c. 25, § 16; Acts 1933, 2nd Ex. Sess., c. 48; Acts 1959, c. 125; Acts 1967, c. 105; Acts 2001, c. 212, eff. 90 days after April 14, 2001; Acts 2004, c. 185, eff. 90 days after March 12, 2004.

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

#### Notes of Decisions

Section 3  
Membership of sanitary boards 1.5

both) to be appointed to board. 52 W.Va. Op.Atty. Gen. 217 (February 9, 1967) 1967 WL 93382.

#### 3. Funds

Charleston Sanitary Board treasurer must deliver funds collected from sewer system users to Charleston city treasurer. 52 W.Va. Op.Atty.Gen. 497 (October 6, 1967) 1967 WL 93425.

#### Membership of sanitary boards

Where sanitary board created by municipality optional for either mayor or city manager, (but not

## ARTICLE 13A

### PUBLIC SERVICE DISTRICTS

	Section	
13A-2. Creation of districts by county commission; enlarging, reducing, merging, or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the Secretary of State.	16-13A-9.	Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.
	16-13A-14.	Items included in cost of properties.
13A-4. Board chairman; members' compensation; procedure; district name.	16-13A-25.	Borrowing and bond issuance; procedure.



Form **8038-G**  
(Rev. November 2000)  
Department of the Treasury  
Internal Revenue Service

**Information Return for Tax-Exempt Governmental Obligations**

Under Internal Revenue Code section 149(e)

See separate instructions.

OMB No. 1545-0720

Caution: If the issue price is under \$100,000, use Form 8038-GC.

**Part I Reporting Authority** If Amended Return, check here

1 Issuer's name <b>The City of Huntington</b>	2 Issuer's employer identification number <b>55 : 6000187</b>
3 Number and street (or P.O. box if mail is not delivered to street address) <b>P.O. Box 1659</b>	Room/suite
5 City, town, or post office, state, and ZIP code <b>Huntington, WV 25717</b>	4 Report number <b>3 2007-01</b>
7 Name of issue <b>Sewerage System Refunding Revenue Bonds, Series 2007</b>	6 Date of issue <b>12/27/07</b>
9 Name and title of officer or legal representative whom the IRS may call for more information <b>Scott McClure, City Attorney</b>	8 CUSIP number <b>446834 EN9</b>
	10 Telephone number of officer or legal representative <b>( 304 ) 696-4480</b>

**Part II Type of Issue (check applicable box(es) and enter the issue price)** See instructions and attach schedule

11 <input type="checkbox"/> Education	11
12 <input type="checkbox"/> Health and hospital	12
13 <input type="checkbox"/> Transportation	13
14 <input type="checkbox"/> Public safety	14
15 <input checked="" type="checkbox"/> Environment (including sewage bonds)	15 <b>5,502,114</b>
16 <input type="checkbox"/> Housing	16
17 <input type="checkbox"/> Utilities	17
18 <input type="checkbox"/> Other. Describe <input type="checkbox"/>	18
19 If obligations are TANs or RANs, check box <input type="checkbox"/> If obligations are BANs, check box <input type="checkbox"/>	
20 If obligations are in the form of a lease or installment sale, check box <input type="checkbox"/>	

**Part III Description of Obligations. Complete for the entire issue for which this form is being filed.**

(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21 <b>November 1, 2023</b>	<b>\$ 5,502,114</b>	<b>\$ 5,500,000</b>	<b>9.042</b> years	<b>4.1993149 %</b>

**Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)**

22 Proceeds used for accrued interest	22	<b>-0-</b>
23 Issue price of entire issue (enter amount from line 21, column (b))	23	<b>5,502,114</b>
24 Proceeds used for bond issuance costs (including underwriters' discount)	24	<b>146,962</b>
25 Proceeds used for credit enhancement	25	<b>148,290</b>
26 Proceeds allocated to reasonably required reserve or replacement fund	26	<b>486,860</b>
27 Proceeds used to currently refund prior issues	27	<b>4,720,002</b>
28 Proceeds used to advance refund prior issues	28	<b>-0-</b>
29 Total (add lines 24 through 28)	29	<b>5,502,114</b>
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30	<b>-0-</b>

**Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)**

31 Enter the remaining weighted average maturity of the bonds to be currently refunded	<b>13.447</b> years
32 Enter the remaining weighted average maturity of the bonds to be advance refunded	<b>N/A</b> years
33 Enter the last date on which the refunded bonds will be called	<b>March 1, 2008</b>
34 Enter the date(s) the refunded bonds were issued	<b>November 18, 1993</b>

**Part VI Miscellaneous**

35 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	35	<b>N/A</b>
36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)	36a	<b>N/A</b>
b Enter the final maturity date of the guaranteed investment contract		
37 Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units	37a	<b>N/A</b>
b If this issue is a loan made from the proceeds of another tax-exempt issue, check box <input type="checkbox"/> and enter the name of the issuer		
38 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box <input checked="" type="checkbox"/>		
39 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box <input type="checkbox"/>		
40 If the issuer has identified a hedge, check box <input type="checkbox"/>		

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.

**Sign Here**

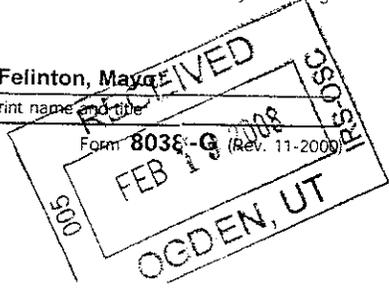
*David Felinton* December 27, 2007 David Felinton, Mayor

Signature of issuer's authorized representative Date Type or print name and title

For Paperwork Reduction Act Notice, see page 2 of the Instructions.

Cat. No. 63773S

Form **8038-G** (Rev. 11-2000)





**WV MUNICIPAL BOND COMMISSION**

Suite 500  
 8 Capitol Street  
 Charleston, WV 25301  
 (304) 558-3971

**NEW ISSUE REPORT FORM**

Date of Report: December 20, 2007

<b>ISSUE:</b> The City of Huntington, Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt)			
<b>ADDRESS:</b> Post Office Box 1659 Huntington, West Virginia 25717		<b>COUNTY:</b> Cabell and Wayne	
<b>PURPOSE OF ISSUE:</b> New Money: <input checked="" type="checkbox"/> X Refunding: <input checked="" type="checkbox"/> X		<b>REFUNDS ISSUE(S) DATED:</b> November 18, 1993	
<b>ISSUE DATE:</b> December 27, 2007		<b>CLOSING DATE:</b> December 27, 2007	
<b>ISSUE AMOUNT:</b> \$5,500,000.00		<b>RATE:</b> 3.50% - 4.00%	
<b>1ST DEBT SERVICE DUE:</b> May 1, 2008		<b>1ST PRINCIPAL DUE:</b> November 1, 2008	
<b>1ST DEBT SERVICE AMOUNT:</b> \$70,786.78		<b>PAYING AGENT:</b> Municipal Bond Commission	
<b>BOND COUNSEL:</b> Steptoe & Johnson PLLC Contact Person: John C. Stump, Esquire Phone: 304-353-8196		<b>UNDERWRITER'S COUNSEL:</b> Reed and Johnson PLLC Contact Person: Gillard B. Johnson, III Phone: 859-255-7080	
<b>CLOSING BANK:</b> United Bank, Inc. Contact Person: Kathy Smith, Vice President Phone: 304-348-8427		<b>ESCROW TRUSTEE:</b> Contact Person: Phone:	
<b>KNOWLEDGEABLE ISSUER CONTACT</b> Contact Person: Loretta Covington Position: Manager, Huntington Sanitary Board Phone: 304-696-4437		<b>OTHER:</b> Ross, Sinclair & Associates, LLC Contact Person: Brian Nurick, Senior Vice President Function: Underwriter Phone: 800-255-0795	
<b>DEPOSITS TO MBC AT CLOSE:</b> _____		<b>Accrued Interest:</b> \$ _____	
By: <input checked="" type="checkbox"/> Wire _____		<b>Capitalized Interest:</b> \$ _____	
_____ Check <input checked="" type="checkbox"/> _____		<b>Reserve Account:</b> \$ _____	
_____ In-House Transfer _____			
<input checked="" type="checkbox"/> Other: (Series 1993 Sinking Fund) \$ _____			
<b>REFUNDS &amp; TRANSFERS BY MBC AT CLOSE</b>			
By: _____ Wire _____		_____ To Escrow Trustee: \$ _____	
_____ Check _____		_____ To Issuer \$ _____	
_____ IGT _____		_____ To Cons. Invest. Fund \$ _____	
_____ To Other: \$ _____			
<b>NOTES:</b> * On March 1, 2008, the Series 1993 Bonds shall be paid in full. Jackie Lowery at the City of Huntington may be the best contact to provide notice of debt service payments.			
<b>FOR MUNICIPAL BOND COMMISSION USE ONLY:</b>			
Documents Required: _____			
Transfers Required: _____			

12.20.07  
 435500.00010

The purpose of the NEW ISSUE REPORT FORM is to provide the WV Municipal Bond Commission with an early warning of three basic facts no later than the day of closing on any issue for which the Commission is to act as fiscal agent. These are:

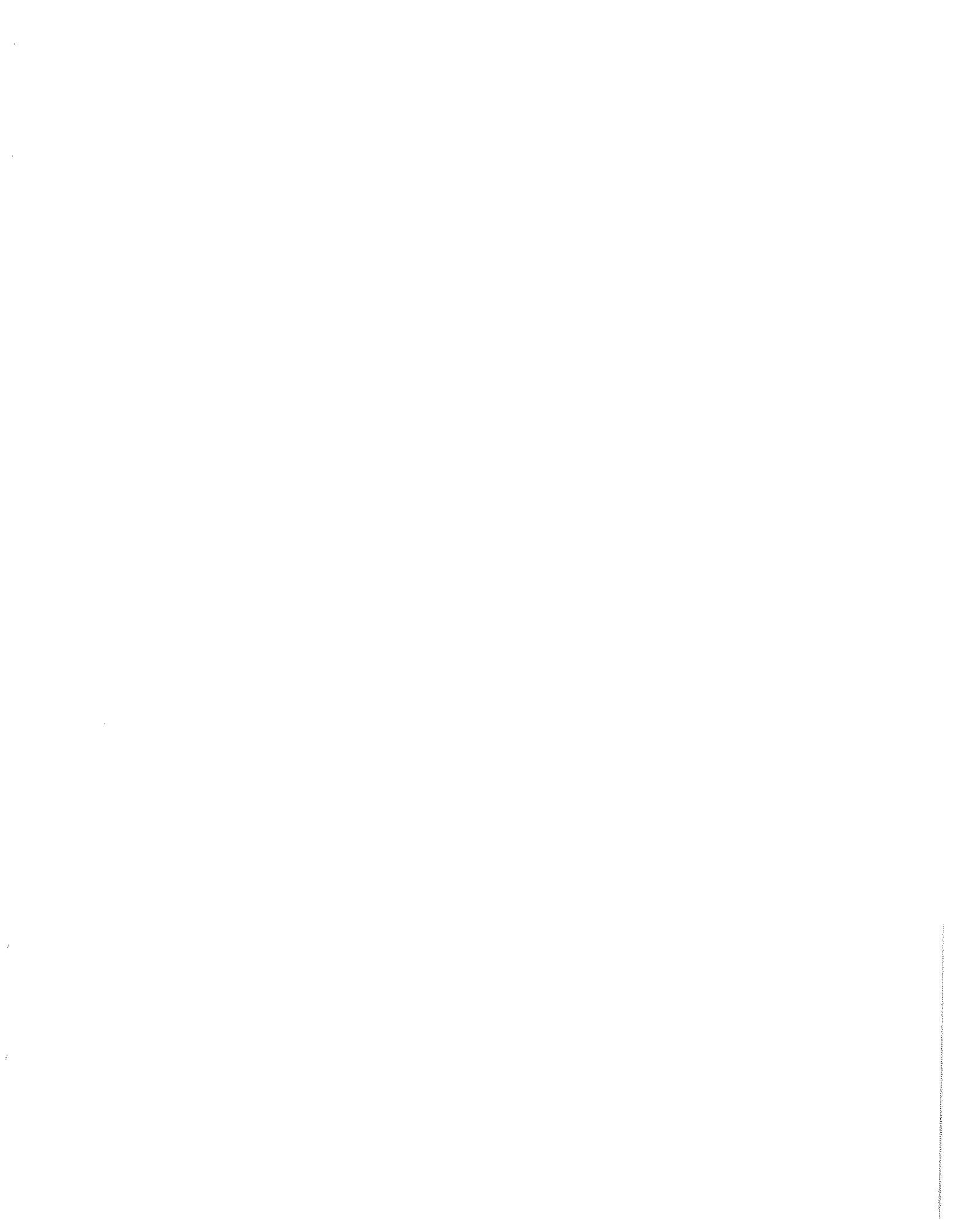
1. Formal notification that a new issue is outstanding.
2. Date of first action or debt service.
3. Contact people should we lack documents, information, or funds needed to administer the issue by the date of the first action or debt service.

The commission recognizes that as bond transcripts become increasingly long and complex, it has become more difficult to assemble and submit them to the Commission within the 30 days specified by the West Virginia Code 13-3-8. This notice is not intended to provide all the information needed to administer an issue, but to alert the Commission and ensure that no debt service payments are missed due to delays in assembling bond transcripts. If, at the time of closing, documents such as the ordinance and all supplements, debt service schedules, and a specimen bond or photostat are available and submitted with this form, it will greatly aid the Commission in the performance of its duties. These documents are needed to set up the proper accounts and to advise the issuer of monthly deposit requirements as far in advance of the first debt service as possible.

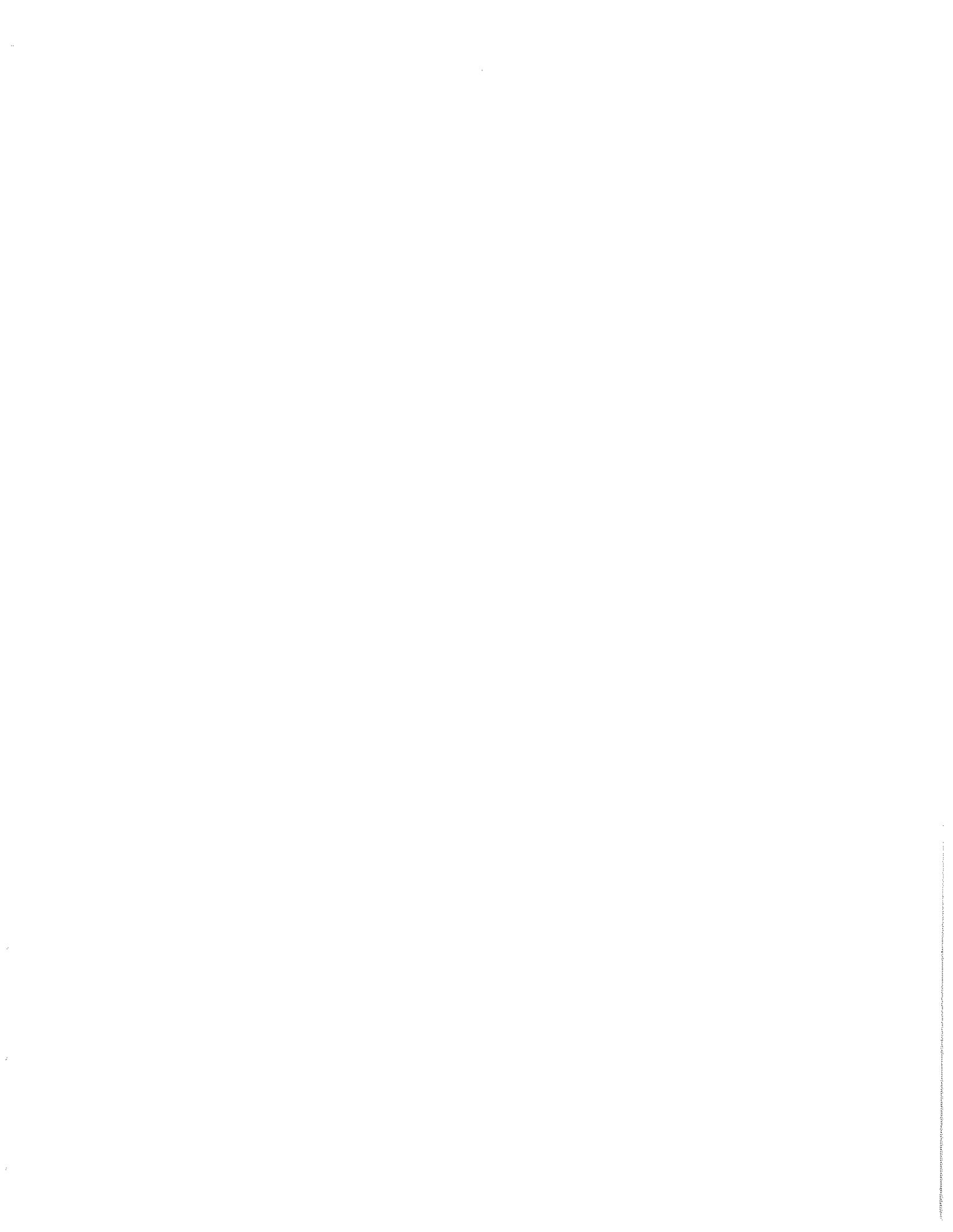
It is not necessary to complete all items if they are not pertinent to your issue. Indicate the County of the issuer. With PSDs that overlap more than one county, indicate the county of their business office. Complete "Rate" only if the issue has only one rate. Please complete a separate form for each series of an issue. Other important information can be recorded under "Notes."

Again, please submit this form on each new issue on the day of closing. If fund transfers into or out of the Commission at closing are required, please submit this form before closing. If no significant facts change by closing, no resubmission at closing is required. If, however, there are changes, please submit an updated form, with changes noted, at closing.

If you should have any questions concerning this form, please call the Commission.



**ON FILE WITH ISSUER**





WEST VIRGINIA

**Water Development Authority**

Celebrating 33 Years of Service 1974 - 2007

December 27, 2007

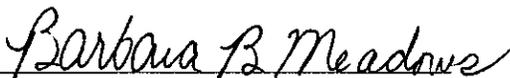
The City of Huntington  
Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt)

TO WHOM IT MAY CONCERN:

In reliance upon a certificate of Griffith & Associates, independent certified public accountant and the bond counsel opinion of Steptoe & Johnson PLLC, stating that the parity requirements have been met, the undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the entire outstanding aggregate principal amount of the Prior Bonds, hereinafter defined and described, hereby consents to the issuance by The City of Huntington (the "Issuer") of its Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt), in the original aggregate principal amount of \$5,355,000 (the "Bonds"), under the terms of the ordinance authorizing the Bonds, on a parity, with respect to liens, pledge and source of and security for payment, with the Issuer's outstanding Sewer Revenue Bonds, Series 1997 (West Virginia SRF Program), Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), and Sewer Revenue Bonds, Series 2000 A (West Virginia SRF Program) (collectively, the "Prior Bonds").

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

By:

  
Its: Authorized Representative



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**CLOSING MEMORANDUM**


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1219 Assembly  
Street  
Columbia, SC  
29201  
803/765-1004  
fax: 803/765/1088  
email:  
sender@rsamuni.com

**DATE:** December 21 2007  
**TO:** Working Group  
**FROM:** Brian Nurick

**RE:** *\$5,500,000 City of Huntington, West Virginia Sewerage System Revenue Bonds,  
Series 2007*

INVESTMENT  
BANKING

FINANCIAL  
ADVISORY

PUBLIC  
FINANCE

BROKERAGE  
SERVICES

The closing for the above referenced transaction will be conducted via telephone beginning at approximately 9:00am on Thursday, December 27, 2007 ("Closing Date"). The closing will be completed upon receipt of the funds.

The following is the description of the Sources and Uses of Funds for the financing referenced above:

### I. Sources and Uses of Funds

#### Sources of Funds

Par Amount of Series 2007 Bonds	\$5,500,000.00
Less: Bond Production & Discount	<u>(76,386.15)</u>
<b>TOTAL</b>	<b>\$5,423,613.85</b>

#### Uses of Funds

Defease Series 1993 Bonds (portion)	\$4,720,002.08
Deposit to Debt Service Reserve Fund	486,860.00
Deposit to Sinking Fund	211.43
Remit Bond Insurance Premium	148,290.34
Deposit to Cost of Issuance Fund	<u>68,250.00</u>
<b>TOTAL</b>	<b>\$5,423,613.85</b>

### II. Wire Instructions:

- A. At approximately 9:00am on the Closing Date the Purchaser will send a federal funds wire to the Municipal Bond Commission to be added to funds in order to defease the City of Huntington's Sewerage System Refunding Revenue Bonds, Series 1993, deposit to the Debt Service Reserve Fund, Sinking Fund and to pay the Costs of Issuance:

**\$5,207,073.51**

Branch Banking and Trust Company  
Charleston, West Virginia  
ABA #: 051503394  
Acct #: 5270517317  
Contact: WV State Treasurer for WV  
Municipal Bond Commission

00 Democrat Drive  
Frankfort, KY  
40601

502/695-7353  
fax: 502/695-2897

700 Walnut Street  
Cincinnati, OH  
45202

513/381-3939  
fax: 513/381-0124

1900 Envoy Circle  
Suite1920  
Louisville, KY  
40299  
502/491-3939  
fax: 502/491-9979

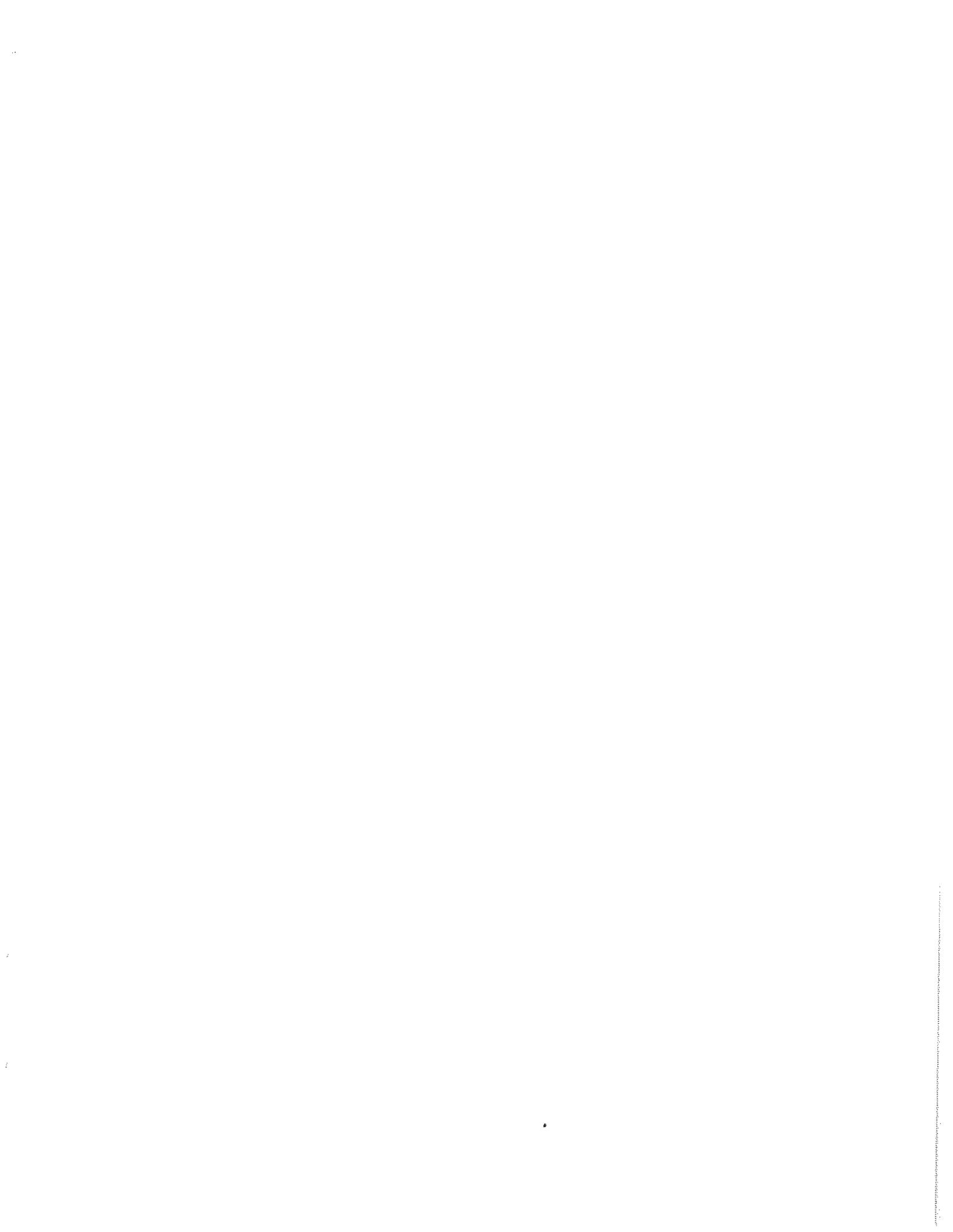
- B. At approximately 9:00 am on the Closing Date, the Underwriter will send a federal funds wire in payment of the insurance premiums to Financial Security Assurance Inc.:

**\$148,290.34**  
The Bank of New York  
ABA#: 021 000 018  
Acct. Name: Financial Security Assurance Inc.  
Account No.: 8900297263  
Policy No.: 209673-N

- C. At approximately 9:00 am on the Closing Date, the Underwriter will send a federal funds wire in payment of the bond counsel fee to Steptoe & Johnson PLLC:

**\$55,000.00**  
The Huntington National Bank  
Routing Number: 044000024  
Account Number: 1521200171  
Account Name: Steptoe & Johnson PLLC Reserve Account  
Bank Address: The Huntington National Bank  
7 Easton Oval  
Columbus, Ohio 43216 USA  
Contact: Debbie Jackson 304-348-4501  
Swift Code: HUNTUS33

- D. On the Closing Date, the Underwriter will remit payment for additional Costs of Issuance in the amount of \$13,250.00.



THE CITY OF HUNTINGTON  
(WEST VIRGINIA)

\$5,500,000

Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt)

**RECEIPT AND RELEASE OF PRIOR NOTES**

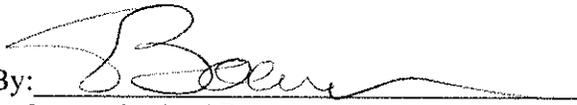
The undersigned, authorized representative of the West Virginia Municipal Bond Commission (the "Paying Agent") hereby certifies as follows:

On the 27th day of December, 2007, the Paying Agent received the sum of \$5,207,073.51 from the proceeds of the Sewerage System Refunding Revenue Bonds, Series 2007 (Tax-Exempt) issued by The City of Huntington (the "City") and such amount is sufficient to pay the entire outstanding principal of and all accrued interest on the Sewerage System Refunding Revenue Bonds, Series 1993, dated November 18, 1993, issued in the original aggregate principal amount of \$7,100,000, to the date hereof and discharge the liens, pledges and encumbrances securing such Bonds.

[signature page follows]

WITNESS my signature on this 27th day of December, 2007.

WEST VIRGINIA MUNICIPAL BOND COMMISSION

By:   
Its: Authorized Representative

12.21.07  
435500.00010



**City of Huntington, West Virginia**

Sewerage System Refunding Revenue Bonds, Series 2007

FINAL: Priced on 12.18.07 - Delivery on 12.27.07

Bond Rating: AAA/NR - Bank Qualified - FSA Insured

**Sources & Uses**

Dated 12/27/2007 | Delivered 12/27/2007

**Sources Of Funds**

Par Amount of Bonds	\$5,500,000.00
Reoffering Premium	2,113.85
Transfers from Prior Issue Debt Service Funds	55,477.06
Transfers from Prior Issue DSR Funds	628,100.00
<b>Total Sources</b>	<b>\$6,185,690.91</b>

**Uses Of Funds**

Underwriter's Discount & Counsel	78,500.00
Costs of Issuance	68,250.00
Bond Insurance Premium	148,290.34
Deposit to Debt Service Reserve Fund (DSRF)	486,860.00
Deposit to Current Refunding Fund	5,348,102.08
Deposit to Sinking Fund	55,477.06
Rounding Amount	211.43
<b>Total Uses</b>	<b>\$6,185,690.91</b>

**City of Huntington, West Virginia**

Sewerage System Refunding Revenue Bonds, Series 2007

FINAL: Priced on 12.18.07 - Delivery on 12.27.07

Bond Rating: AAA/NR - Bank Qualified - FSA Insured

**Detail Costs Of Issuance**

Dated 12/27/2007 | Delivered 12/27/2007

**COSTS OF ISSUANCE DETAIL**

Bond & Disclosure Counsel	\$55,000.00
Bond Rating	\$10,000.00
Registrar	\$1,250.00
Accountant Certification	\$2,000.00
<b>TOTAL</b>	<b>\$68,250.00</b>

2007A | SINGLE PURPOSE | 12/18/2007 | 4:00 PM

**Ross, Sinclaire & Associates, LLC**  
Public Finance - BNurick

**City of Huntington, West Virginia**

Sewerage System Refunding Revenue Bonds, Series 2007

FINAL: Priced on 12.18.07 - Delivery on 12.27.07

Bond Rating: AAA/NR - Bank Qualified - FSA Insured

**Pricing Summary**

Maturity	Type of Bond	Coupon	Yield	Maturity Value	Price	Dollar Price
11/01/2008	Serial Coupon	3.500%	3.200%	250,000.00	100.245%	250,612.50
11/01/2009	Serial Coupon	3.500%	3.220%	265,000.00	100.494%	266,309.10
11/01/2010	Serial Coupon	3.500%	3.250%	275,000.00	100.670%	276,842.50
11/01/2011	Serial Coupon	3.500%	3.300%	290,000.00	100.713%	292,067.70
11/01/2012	Serial Coupon	3.500%	3.350%	305,000.00	100.662%	307,019.10
11/01/2013	Serial Coupon	3.500%	3.400%	320,000.00	100.522%	321,670.40
11/01/2014	Serial Coupon	3.500%	3.500%	335,000.00	100.000%	335,000.00
11/01/2015	Serial Coupon	3.500%	3.600%	350,000.00	99.318%	347,613.00
11/01/2016	Serial Coupon	3.600%	3.650%	365,000.00	99.621%	363,616.65
11/01/2017	Serial Coupon	3.700%	3.750%	360,000.00	99.587%	358,513.20
11/01/2019	Term 1 Coupon	4.000%	3.870%	740,000.00	100.868%	746,423.20
11/01/2020	Serial Coupon	4.000%	3.950%	395,000.00	100.330%	396,303.50
11/01/2021	Serial Coupon	4.000%	4.000%	400,000.00	100.000%	400,000.00
11/01/2023	Term 2 Coupon	4.000%	4.100%	850,000.00	98.838%	840,123.00
<b>Total</b>				<b>\$5,500,000.00</b>		<b>\$5,502,113.85</b>

**City of Huntington, West Virginia**

Sewerage System Refunding Revenue Bonds, Series 2007

FINAL: Priced on 12.18.07 - Delivery on 12.27.07

Bond Rating: AAA/NR - Bank Qualified - FSA Insured

**Pricing Summary**

Part 2 of 2

**Bid Information**

Par Amount of Bonds	\$5,500,000.00
Reoffering Premium or (Discount)	2,113.85
Gross Production	\$5,502,113.85
Total Underwriter's Discount (1.427%)	\$(78,500.00)
Bid (98.611%)	5,423,613.85
Total Purchase Price	\$5,423,613.85
Bond Year Dollars	\$49,824.44
Average Life	9.059 Years
Average Coupon	3.8425251%
Net Interest Cost (NIC)	3.9958357%
True Interest Cost (TIC)	4.0212287%

2007A | SINGLE PURPOSE | 12/18/2007 | 4:00 PM

**Ross, Sinclaire & Associates, LLC**  
Public Finance - BNurick

**City of Huntington, West Virginia**

Sewerage System Refunding Revenue Bonds, Series 2007

FINAL: Priced on 12.18.07 - Delivery on 12.27.07

Bond Rating: AAA/NR - Bank Qualified - FSA Insured

**Debt Service Comparison**

Part 1 of 2

Date	Total P+I	DSR	Est. Float	Net New D/S	Old Net D/S	Savings
06/30/2008	70,786.78	-	(37,788.51)	32,998.27	139,653.13	106,654.86
06/30/2009	451,135.00	-	-	451,135.00	401,025.01	(50,109.99)
06/30/2010	457,122.50	-	-	457,122.50	399,331.26	(57,791.24)
06/30/2011	457,672.50	-	-	457,672.50	402,243.76	(55,428.74)
06/30/2012	462,785.00	-	-	462,785.00	394,893.76	(67,891.24)
06/30/2013	467,372.50	-	-	467,372.50	397,281.26	(70,091.24)
06/30/2014	471,435.00	-	-	471,435.00	399,143.76	(72,291.24)
06/30/2015	474,972.50	-	-	474,972.50	400,481.26	(74,491.24)
06/30/2016	477,985.00	-	-	477,985.00	396,425.01	(81,559.99)
06/30/2017	480,290.00	-	-	480,290.00	625,806.26	145,516.26
06/30/2018	462,060.00	-	-	462,060.00	628,100.01	166,040.01
06/30/2019	448,200.00	-	-	448,200.00	624,212.51	176,012.51
06/30/2020	453,400.00	-	-	453,400.00	623,837.51	170,437.51
06/30/2021	452,900.00	-	-	452,900.00	626,693.76	173,793.76
06/30/2022	442,000.00	-	-	442,000.00	623,071.88	181,071.88
06/30/2023	440,700.00	-	-	440,700.00	622,971.88	182,271.88
06/30/2024	443,700.00	(486,860.00)	-	(43,160.00)	(6,840.62)	36,319.38
<b>Total</b>	<b>\$7,414,516.78</b>	<b>(486,860.00)</b>	<b>(37,788.51)</b>	<b>\$6,889,868.27</b>	<b>\$7,698,331.40</b>	<b>\$808,463.13</b>

**City of Huntington, West Virginia**

Sewerage System Refunding Revenue Bonds, Series 2007

FINAL: Priced on 12.18.07 - Delivery on 12.27.07

Bond Rating: AAA/NR - Bank Qualified - FSA Insured

**Debt Service Comparison**

Part 2 of 2

**PV Analysis Summary (Net to Net)**

Gross PV Debt Service Savings	443,093.98
Effects of changes in DSR investments	(73,111.91)
Effects of Primary Purpose Earnings	37,510.35
Net PV Cashflow Savings @ 4.199%(Bond Yield)	407,492.42
Transfers from Prior Issue Debt Service Fund	
Contingency or Rounding Amount	(55,477.06)
Net Present Value Benefit	211.43
	\$352,226.79
Net PV Benefit / \$5,255,000 Refunded Principal	6.703%
Net PV Benefit / \$5,500,000 Refunding Principal	6.404%

**Refunding Bond Information**

Refunding Dated Date	12/27/2007
Refunding Delivery Date	12/27/2007

2007A | SINGLE PURPOSE | 12/18/2007 | 4:00 PM

**Ross, Sinclaire & Associates, LLC**  
Public Finance - BNurick

**City of Huntington, West Virginia**

Sewerage System Refunding Revenue Bonds, Series 2007

FINAL: Priced on 12.18.07 - Delivery on 12.27.07

Bond Rating: AAA/NR - Bank Qualified - FSA Insured

**Net Debt Service Schedule**

Date	Principal	Coupon	Interest	Total P+I	DSR	Est. Float	Net New D/S
06/30/2008	-	-	70,786.78	70,786.78	-	(37,788.51)	32,998.27
06/30/2009	250,000.00	3.500%	201,135.00	451,135.00	-	-	451,135.00
06/30/2010	265,000.00	3.500%	192,122.50	457,122.50	-	-	457,122.50
06/30/2011	275,000.00	3.500%	182,672.50	457,672.50	-	-	457,672.50
06/30/2012	290,000.00	3.500%	172,785.00	462,785.00	-	-	462,785.00
06/30/2013	305,000.00	3.500%	162,372.50	467,372.50	-	-	467,372.50
06/30/2014	320,000.00	3.500%	151,435.00	471,435.00	-	-	471,435.00
06/30/2015	335,000.00	3.500%	139,972.50	474,972.50	-	-	474,972.50
06/30/2016	350,000.00	3.500%	127,985.00	477,985.00	-	-	477,985.00
06/30/2017	365,000.00	3.600%	115,290.00	480,290.00	-	-	480,290.00
06/30/2018	360,000.00	3.700%	102,060.00	462,060.00	-	-	462,060.00
06/30/2019	360,000.00	4.000%	88,200.00	448,200.00	-	-	448,200.00
06/30/2020	380,000.00	4.000%	73,400.00	453,400.00	-	-	453,400.00
06/30/2021	395,000.00	4.000%	57,900.00	452,900.00	-	-	452,900.00
06/30/2022	400,000.00	4.000%	42,000.00	442,000.00	-	-	442,000.00
06/30/2023	415,000.00	4.000%	25,700.00	440,700.00	-	-	440,700.00
06/30/2024	435,000.00	4.000%	8,700.00	443,700.00	(486,860.00)	-	(43,160.00)
<b>Total</b>	<b>\$5,500,000.00</b>	<b>-</b>	<b>\$1,914,516.78</b>	<b>\$7,414,516.78</b>	<b>(486,860.00)</b>	<b>(37,788.51)</b>	<b>\$6,889,868.27</b>

**City of Huntington, West Virginia**

Sewerage System Refunding Revenue Bonds, Series 2007

FINAL: Priced on 12.18.07 - Delivery on 12.27.07

Bond Rating: AAA/NR - Bank Qualified - FSA Insured

**Proof of Reserve Fund Requirement**

Date	Principal	Interest	TOTAL P+I
11/01/2008	250,000.00	173,541.78	423,541.78
11/01/2009	265,000.00	196,760.00	461,760.00
11/01/2010	275,000.00	187,485.00	462,485.00
11/01/2011	290,000.00	177,860.00	467,860.00
11/01/2012	305,000.00	167,710.00	472,710.00
11/01/2013	320,000.00	157,035.00	477,035.00
11/01/2014	335,000.00	145,835.00	480,835.00
11/01/2015	350,000.00	134,110.00	484,110.00
11/01/2016	365,000.00	121,860.00	486,860.00
11/01/2017	360,000.00	108,720.00	468,720.00
11/01/2018	360,000.00	95,400.00	455,400.00
11/01/2019	380,000.00	81,000.00	461,000.00
11/01/2020	395,000.00	65,800.00	460,800.00
11/01/2021	400,000.00	50,000.00	450,000.00
11/01/2022	415,000.00	34,000.00	449,000.00
11/01/2023	435,000.00	17,400.00	452,400.00
<b>Total</b>	<b>\$5,500,000.00</b>	<b>\$1,914,516.78</b>	<b>\$7,414,516.78</b>

**City of Huntington, West Virginia**

Sewerage System Refunding Revenue Bonds, Series 2007

FINAL: Priced on 12.18.07 - Delivery on 12.27.07

Bond Rating: AAA/NR - Bank Qualified - FSA Insured

**Proof of Reserve Fund Requirement**

Part 2 of 2

**PROOF OF RESERVE FUND**

**MAXIMUM PERIODIC DEBT SERVICE**

100 % of the Maximum Periodic Debt Service

486,860.00

**AVERAGE PERIODIC DEBT SERVICE**

Total P+H

Bond Years (Delivery Date)

7,414,516.78

125 % of the Average Periodic Debt Service

15.84

584,946.10

**PERCENT OF PAR**

10 % of Par

550,000.00

**RESERVE REQUIREMENT**

Computed Requirement

486,860.00

Proof's Requirement

486,860.00

**City of Huntington, West Virginia**

Sewerage System Refunding Revenue Bonds, Series 2007

FINAL: Priced on 12.18.07 - Delivery on 12.27.07

Bond Rating: AAA/NR - Bank Qualified - FSA Insured

**Proof Of Bond Yield @ 4.1993149%**

Date	Cashflow	PV Factor	Present Value	Cumulative PV
12/27/2007	-	1.00000000x	-	-
05/01/2008	70,786.78	0.9857874x	69,780.72	69,780.72
11/01/2008	352,755.00	0.9655149x	340,590.21	410,370.93
05/01/2009	98,380.00	0.9456593x	93,033.96	503,404.89
11/01/2009	363,380.00	0.9262120x	336,566.93	839,971.82
05/01/2010	93,742.50	0.9071647x	85,039.88	925,011.70
11/01/2010	368,742.50	0.8885090x	327,631.04	1,252,642.74
05/01/2011	88,930.00	0.8702370x	77,390.18	1,330,032.92
11/01/2011	378,930.00	0.8523408x	322,977.50	1,653,010.42
05/01/2012	83,855.00	0.8348126x	70,003.21	1,723,013.63
11/01/2012	388,855.00	0.8176448x	317,945.29	2,040,958.92
05/01/2013	78,517.50	0.8008302x	62,879.18	2,103,838.10
11/01/2013	398,517.50	0.7843613x	312,581.69	2,416,419.79
05/01/2014	72,917.50	0.7682310x	56,017.49	2,472,437.27
11/01/2014	407,917.50	0.7524325x	306,930.40	2,779,367.67
05/01/2015	67,055.00	0.7369589x	49,416.78	2,828,784.45
11/01/2015	417,055.00	0.7218035x	301,031.77	3,129,816.22
05/01/2016	60,930.00	0.7069598x	43,075.06	3,172,891.28
11/01/2016	425,930.00	0.6924213x	294,923.01	3,467,814.29
05/01/2017	54,360.00	0.6781818x	36,865.96	3,504,680.25
11/01/2017	414,360.00	0.6642352x	275,232.48	3,779,912.73
05/01/2018	47,700.00	0.6505753x	31,032.44	3,810,945.17
11/01/2018	407,700.00	0.6371964x	259,784.96	4,070,730.12
05/01/2019	40,500.00	0.6240926x	25,275.75	4,096,005.87
11/01/2019	420,500.00	0.6112582x	257,034.08	4,353,039.96
05/01/2020	32,900.00	0.5986878x	19,696.83	4,372,736.79
11/01/2020	427,900.00	0.5863759x	250,910.27	4,623,647.05

**City of Huntington, West Virginia**

Sewerage System Refunding Revenue Bonds, Series 2007

FINAL: Priced on 12.18.07 - Delivery on 12.27.07

Bond Rating: AAA/NR - Bank Qualified - FSA Insured

**Proof Of Bond Yield @ 4.1993149%**

Date	Cashflow	PV Factor	Present Value	Cumulative PV
05/01/2021	25,000.00	0.5743172x	14,357.93	4,638,004.98
11/01/2021	425,000.00	0.5625065x	239,065.28	4,877,070.26
05/01/2022	17,000.00	0.5509387x	9,365.96	4,886,436.22
11/01/2022	432,000.00	0.5396088x	233,110.99	5,119,547.21
05/01/2023	8,700.00	0.5285118x	4,598.05	5,124,145.26
11/01/2023	443,700.00	0.5176431x	229,678.25	5,353,823.51
<b>Total</b>	<b>\$7,414,516.78</b>	<b>-</b>	<b>\$5,353,823.51</b>	<b>-</b>

**Derivation Of Target Amount**

Par Amount of Bonds	\$5,500,000.00
Reoffering Premium or (Discount)	2,113.85
Bond Insurance Premium..... (200.0 bp)	(148,290.34)
Original Issue Proceeds	\$5,353,823.51

**City of Huntington, West Virginia**

Sewerage System Refunding Revenue Bonds, Series 2007

FINAL: Priced on 12.18.07 - Delivery on 12.27.07

Bond Rating: AAA/NR - Bank Qualified - FSA Insured

**Derivation Of Form 8038 Yield Statistics**

Maturity	Issuance Value	Price	Issuance PRICE	Exponent	Bond Years
12/27/2007	-	-	-	-	-
11/01/2008	250,000.00	100.245%	250,612.50	0.8444444x	211,628.33
11/01/2009	265,000.00	100.494%	266,309.10	1.8444444x	491,192.34
11/01/2010	275,000.00	100.670%	276,842.50	2.8444444x	787,463.11
11/01/2011	290,000.00	100.713%	292,067.70	3.8444444x	1,122,838.05
11/01/2012	305,000.00	100.662%	307,019.10	4.8444444x	1,487,336.97
11/01/2013	320,000.00	100.522%	321,670.40	5.8444444x	1,879,984.78
11/01/2014	335,000.00	100.000%	335,000.00	6.8444444x	2,292,888.89
11/01/2015	350,000.00	99.318%	347,613.00	7.8444444x	2,726,830.87
11/01/2016	365,000.00	99.621%	363,616.65	8.8444444x	3,215,987.26
11/01/2017	360,000.00	99.587%	358,513.20	9.8444444x	3,529,363.28
11/01/2018	-	99.556%	-	10.8444444x	-
11/01/2018	360,000.00	100.868%	363,124.80	10.8444444x	3,937,886.72
11/01/2019	-	100.000%	-	11.8444444x	-
11/01/2019	380,000.00	100.868%	383,298.40	11.8444444x	4,539,956.60
11/01/2020	395,000.00	100.330%	396,303.50	12.8444444x	5,090,298.29
11/01/2021	400,000.00	100.000%	400,000.00	13.8444444x	5,537,777.78
11/01/2022	-	100.000%	-	14.8444444x	-
11/01/2022	415,000.00	98.838%	410,177.70	14.8444444x	6,088,860.08
11/01/2023	-	100.000%	-	15.8444444x	-
11/01/2023	435,000.00	98.838%	429,945.30	15.8444444x	6,812,244.42
<b>Total</b>	<b>\$5,500,000.00</b>	-	<b>\$5,502,113.85</b>	-	<b>\$49,752,537.77</b>

**City of Huntington, West Virginia**

Sewerage System Refunding Revenue Bonds, Series 2007

FINAL: Priced on 12.18.07 - Delivery on 12.27.07

Bond Rating: AAA/NR - Bank Qualified - FSA Insured

**Derivation Of Form 8038 Yield Statistics**

Part 2 of 2

**IRS Form 8038**

Weighted Average Maturity = Bond Years/Issue Price	9.042 Years
Total Interest from Debt Service Reoffering (Premium) or Discount	1,914,516.78
	(2,113.85)
Total Interest	1,912,402.93
NIC = Interest / (Issue Price * Average Maturity)	3.8438299%
Bond Yield for Arbitrage Purposes	4.1993149%

**City of Huntington, West Virginia**

Sewerage System Refunding Revenue Bonds, Series 1993  
(Tax-Exempt)

**Total Refunded Debt Service**

Part 1 of 2

Date	Principal	Coupon	Interest	Total P+I
05/01/2008	-	-	139,653.13	139,653.13
11/01/2008	125,000.00	5.250%	139,653.13	264,653.13
05/01/2009	-	-	136,371.88	136,371.88
11/01/2009	130,000.00	5.250%	136,371.88	266,371.88
05/01/2010	-	-	132,959.38	132,959.38
11/01/2010	140,000.00	5.250%	132,959.38	272,959.38
05/01/2011	-	-	129,284.38	129,284.38
11/01/2011	140,000.00	5.250%	129,284.38	269,284.38
05/01/2012	-	-	125,609.38	125,609.38
11/01/2012	150,000.00	5.250%	125,609.38	275,609.38
05/01/2013	-	-	121,671.88	121,671.88
11/01/2013	160,000.00	5.250%	121,671.88	281,671.88
05/01/2014	-	-	117,471.88	117,471.88
11/01/2014	170,000.00	5.250%	117,471.88	287,471.88
05/01/2015	-	-	113,009.38	113,009.38
11/01/2015	175,000.00	5.250%	113,009.38	288,009.38
05/01/2016	-	-	108,415.63	108,415.63
11/01/2016	420,000.00	5.250%	108,415.63	528,415.63
05/01/2017	-	-	97,390.63	97,390.63
11/01/2017	445,000.00	5.250%	97,390.63	542,390.63
05/01/2018	-	-	85,709.38	85,709.38
11/01/2018	465,000.00	5.250%	85,709.38	550,709.38
05/01/2019	-	-	73,503.13	73,503.13
11/01/2019	490,000.00	5.375%	73,503.13	563,503.13
05/01/2020	-	-	60,334.38	60,334.38
11/01/2020	520,000.00	5.375%	60,334.38	580,334.38
05/01/2021	-	-	46,359.38	46,359.38
11/01/2021	545,000.00	5.375%	46,359.38	591,359.38

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**Ross, Sinclaire & Associates, LLC**  
Public Finance - BNurick

**City of Huntington, West Virginia**

Sewerage System Refunding Revenue Bonds, Series 1993  
(Tax-Exempt)

**Total Refunded Debt Service**

Part 2 of 2

Date	Principal	Coupon	Interest	Total P+I
05/01/2022	-	-	31,712.50	31,712.50
11/01/2022	575,000.00	5.375%	31,712.50	606,712.50
05/01/2023	-	-	16,259.38	16,259.38
11/01/2023	605,000.00	5.375%	16,259.38	621,259.38
<b>Total</b>	<b>\$5,255,000.00</b>	<b>-</b>	<b>\$3,071,431.40</b>	<b>\$8,326,431.40</b>

**Yield Statistics**

Base date for Avg. Life & Avg. Coupon Calculation

Average Life

Average Coupon

Weighted Average Maturity (Par Basis)

12/27/2007

10.803 Years

5.3340041%

10.803 Years

**Refunding Bond Information**

Refunding Dated Date

Refunding Delivery Date

12/27/2007

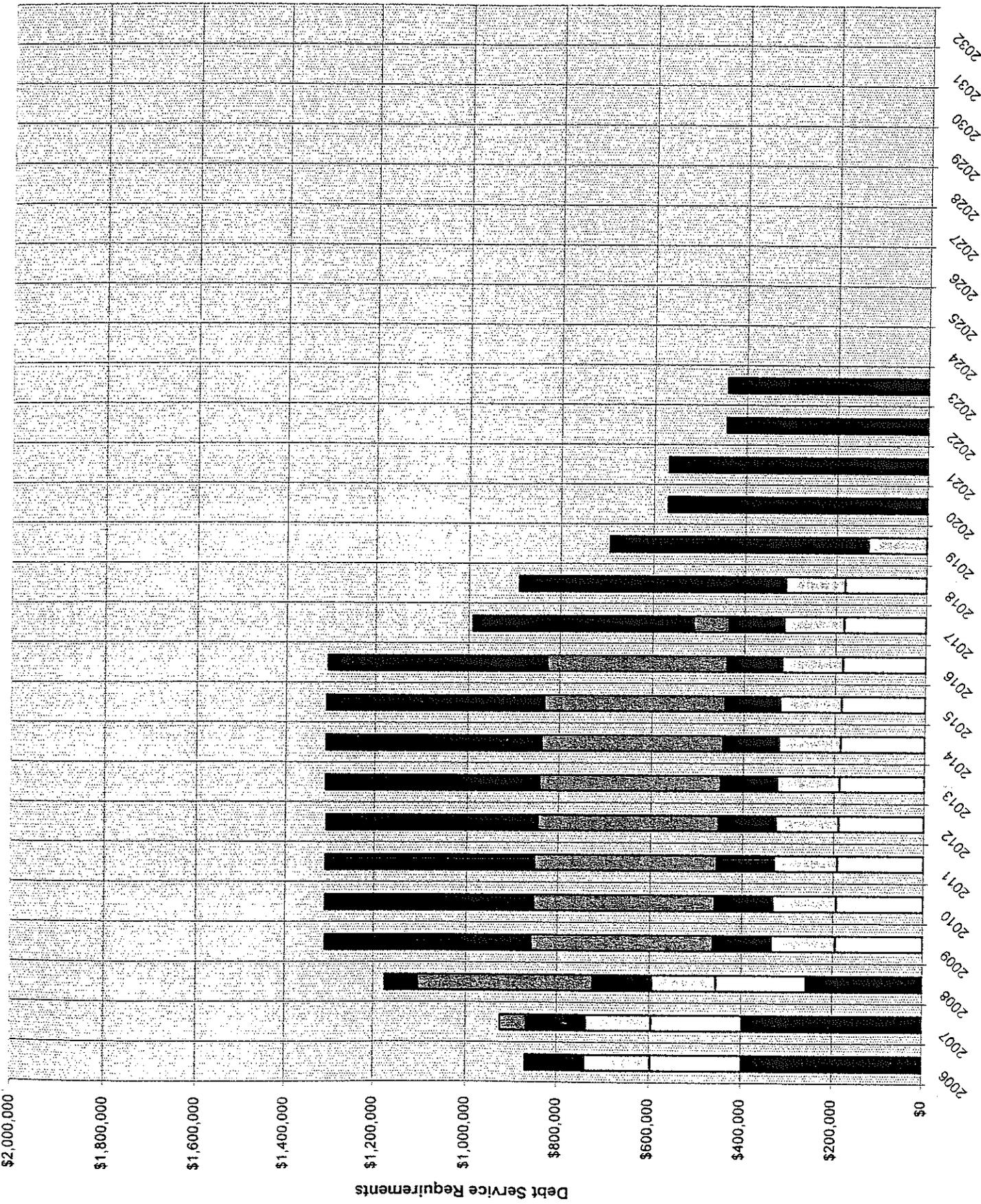
12/27/2007

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**Ross, Sinclaire & Associates, LLC**  
Public Finance - BNurick

**Debt Capsule Report**

(A)	(B)	(C)	(D)	(E)	(F)
Bond Series	Original Par Amount	Current Amount Outstanding	Interest Rate Range	Final Maturity	Call Information
1997	\$3,039,895	\$1,745,000	3.000%	2019	Consent Only
1999	\$2,083,550	\$1,325,000	3.000%	2020	Consent Only
2000	\$1,867,098	\$1,285,000	3.000%	2021	Consent Only
2006A	\$3,150,000	\$3,150,000	4.250% - 4.700%	2016	Nov 2011 @ 100%
2007	\$5,500,000	\$5,500,000	3.500% - 4.000%	2023	Nov 2015 @ 100%
Totals:	\$15,640,543	\$13,005,000	---	---	---



Fiscal Year Ending June 30th

*Net Debt Service Structure Report*

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
Fiscal Year	Series 1993 RM Bonds	Series 1997 Bonds	Series 1999 Bonds	Series 2000 Bonds	Series 2006A Bonds	Series 2007 REF Bonds	Total Payments
2006	\$397,886	\$198,434	\$142,681	\$129,108			\$868,109
2007	\$397,738	\$197,063	\$141,727	\$128,278	\$59,929		\$924,735
2008	\$257,528	\$195,665	\$140,754	\$127,433	\$382,671	\$70,787	\$1,174,838
2009		\$194,239	\$139,762	\$126,570	\$396,660	\$451,135	\$1,308,366
2010		\$192,783	\$138,751	\$125,689	\$394,695	\$457,123	\$1,309,042
2011		\$191,299	\$137,718	\$124,791	\$397,045	\$457,673	\$1,308,526
2012		\$189,785	\$136,666	\$123,877	\$393,693	\$462,785	\$1,306,805
2013		\$188,240	\$135,591	\$122,942	\$394,470	\$467,373	\$1,308,615
2014		\$186,664	\$134,495	\$121,989	\$394,405	\$471,435	\$1,308,988
2015		\$185,056	\$133,376	\$121,015	\$393,475	\$474,973	\$1,307,895
2016		\$183,416	\$132,236	\$120,023	\$391,673	\$477,985	\$1,305,333
2017		\$181,743	\$131,072	\$119,013	\$79,048	\$480,290	\$991,165
2018		\$180,036	\$129,884	\$117,980		\$462,060	\$889,960
2019		\$0	\$128,673	\$116,927		\$448,200	\$693,801
2020		\$0	\$0	\$115,852		\$453,400	\$569,252
2021				\$114,756		\$452,900	\$567,656
2022				\$0		\$442,000	\$442,000
2023						\$440,700	\$440,700
2024						\$0	\$0
2025						\$0	\$0
2026						\$0	\$0
2027						\$0	\$0
2028						\$0	\$0
2029						\$0	\$0
2030						\$0	\$0
2031						\$0	\$0
2032						\$0	\$0
Totals:	\$1,053,152	\$2,464,422	\$1,903,389	\$1,956,243	\$3,677,763	\$6,970,817	\$18,025,785

*Note: Net Debt Service Requirements Assume No Interest Earnings on Debt Service Reserve Funds*

**City of Huntington, West Virginia**  
**Sewerage System Cumulative Debt Service Payment Schedule**  
**(Prepared December 19, 2007)**

Payment Date	Bond Series	Principal Portion	Interest Portion	Total Payment	Calendar Year Payments	Fiscal Year Payments	Payment Date	Check Number
03/01/08	1997A	\$55,481	\$13,391.55	\$48,872.32			/ /	
03/01/08	1999A	\$24,675	\$10,482.96	\$35,157.96			/ /	
03/01/08	2000A	\$21,460	\$10,371.77	\$31,831.77			/ /	
05/01/08	2006A		\$66,232.50	\$66,232.50			/ /	
05/01/08	2007A		\$70,786.78	\$70,786.78			/ /	
06/01/08	1997A	\$55,658	\$13,125.45	\$48,783.62			/ /	
06/01/08	1999A	\$24,799	\$10,297.90	\$35,096.90			/ /	
06/01/08	2000A	\$21,567	\$10,210.82	\$31,777.82			/ /	
09/01/08	1997A	\$35,836	\$12,858.01	\$48,694.48			/ /	
09/01/08	1999A	\$24,923	\$10,111.91	\$35,034.91		\$368,539.67	/ /	
09/01/08	2000A	\$21,675	\$10,049.06	\$31,724.06			/ /	
11/01/08	2006A	\$270,000	\$66,232.50	\$336,232.50			/ /	
11/01/08	2007A	\$250,000	\$102,755.00	\$352,755.00			/ /	
12/01/08	1997A	\$36,016	\$12,589.24	\$48,604.89			/ /	
12/01/08	1999A	\$25,047	\$9,924.98	\$34,971.98			/ /	
12/01/08	2000A	\$21,783	\$9,886.50	\$31,669.50			/ /	
03/01/09	1997A	\$36,196	\$12,319.12	\$48,514.85	\$1,288,226.99		/ /	
03/01/09	1999A	\$25,172	\$9,737.13	\$34,909.13			/ /	
03/01/09	2000A	\$21,892	\$9,723.13	\$31,615.13			/ /	
05/01/09	2006A		\$60,427.50	\$60,427.50			/ /	
05/01/09	2007A		\$98,380.00	\$98,380.00			/ /	
06/01/09	1997A	\$36,377	\$12,047.65	\$48,424.35			/ /	
06/01/09	1999A	\$25,298	\$9,548.34	\$34,846.34			/ /	
06/01/09	2000A	\$22,002	\$9,558.94	\$31,560.94			/ /	
09/01/09	1997A	\$36,559	\$11,774.82	\$48,333.41		\$1,308,365.56	/ /	
09/01/09	1999A	\$25,425	\$9,358.61	\$34,783.61			/ /	
09/01/09	2000A	\$22,112	\$9,393.92	\$31,505.92			/ /	
11/01/09	2006A	\$280,000	\$60,427.50	\$340,427.50			/ /	
11/01/09	2007A	\$265,000	\$98,380.00	\$363,380.00			/ /	
12/01/09	1997A	\$36,741	\$11,500.64	\$48,242.02			/ /	
12/01/09	1999A	\$25,552	\$9,167.92	\$34,719.92			/ /	
12/01/09	2000A	\$22,222	\$9,228.08	\$31,450.08	\$1,321,520.70		/ /	

**City of Huntington, West Virginia**  
**Sewerage System Cumulative Debt Service Payment Schedule**  
**(Prepared December 19, 2007)**

Payment Date	Bond Series	Principal Portion	Interest Portion	Total Payment	Calendar Year Payments	Fiscal Year Payments	Payment Date	Check Number
03/01/10	1997A	\$36,925	\$11,225.08	\$48,150.17			/ /	
03/01/10	1999A	\$25,680	\$8,976.28	\$34,656.28			/ /	
03/01/10	2000A	\$22,333	\$9,061.42	\$31,394.42			/ /	
05/01/10	2006A		\$54,267.50	\$54,267.50			/ /	
05/01/10	2007A		\$93,742.50	\$93,742.50			/ /	
06/01/10	1997A	\$37,110	\$10,948.14	\$48,057.85			/ /	
06/01/10	1999A	\$25,808	\$8,783.68	\$34,591.68			/ /	
06/01/10	2000A	\$22,445	\$8,893.92	\$31,338.92			/ /	
09/01/10	1997A	\$37,295	\$10,669.81	\$47,965.07		\$1,309,041.78	/ /	
09/01/10	1999A	\$25,937	\$8,590.12	\$34,527.12			/ /	
09/01/10	2000A	\$22,557	\$8,725.58	\$31,282.58			/ /	
11/01/10	2006A	\$295,000	\$54,267.50	\$349,267.50			/ /	
11/01/10	2007A	\$275,000	\$93,742.50	\$368,742.50			/ /	
12/01/10	1997A	\$37,482	\$10,390.10	\$47,871.84			/ /	
12/01/10	1999A	\$26,067	\$8,395.59	\$34,462.59			/ /	
12/01/10	2000A	\$22,670	\$8,556.41	\$31,226.41	\$1,321,544.93		/ /	
03/01/11	1997A	\$37,669	\$10,108.99	\$47,778.14			/ /	
03/01/11	1999A	\$26,197	\$8,200.09	\$34,397.09			/ /	
03/01/11	2000A	\$22,783	\$8,386.38	\$31,169.38			/ /	
05/01/11	2006A		\$47,777.50	\$47,777.50			/ /	
05/01/11	2007A		\$88,930.00	\$88,930.00			/ /	
06/01/11	1997A	\$37,857	\$9,826.47	\$47,683.96			/ /	
06/01/11	1999A	\$26,328	\$8,003.61	\$34,331.61			/ /	
06/01/11	2000A	\$22,897	\$8,215.51	\$31,112.51		\$1,308,525.80	/ /	
09/01/11	1997A	\$38,047	\$9,542.54	\$47,589.32			/ /	
09/01/11	1999A	\$26,460	\$7,806.15	\$34,266.15			/ /	
09/01/11	2000A	\$23,012	\$8,043.78	\$31,055.78			/ /	
11/01/11	2006A	\$305,000	\$47,777.50	\$352,777.50			/ /	
11/01/11	2007A	\$290,000	\$88,930.00	\$378,930.00			/ /	
12/01/11	1997A	\$38,237	\$9,257.19	\$47,494.20			/ /	
12/01/11	1999A	\$26,592	\$7,607.70	\$34,199.70			/ /	
12/01/11	2000A	\$23,127	\$7,871.19	\$30,998.19	\$1,320,491.03		/ /	

**City of Huntington, West Virginia**  
**Sewerage System Cumulative Debt Service Payment Schedule**  
**(Prepared December 19, 2007)**

Payment Date	Bond Series	Principal Portion	Interest Portion	Total Payment	Calendar Year Payments	Fiscal Year Payments	Payment Date	Check Number
03/01/12	1997A	\$38,428	\$8,970.41	\$47,398.61			/ /	
03/01/12	1999A	\$26,725	\$7,408.26	\$34,133.26			/ /	
03/01/12	2000A	\$23,243	\$7,697.74	\$30,940.74			/ /	
05/01/12	2006A		\$40,915.00	\$40,915.00			/ /	
05/01/12	2007A		\$83,855.00	\$83,855.00			/ /	
06/01/12	1997A	\$38,620	\$8,682.20	\$47,302.54			/ /	
06/01/12	1999A	\$26,859	\$7,207.82	\$34,066.82			/ /	
06/01/12	2000A	\$23,359	\$7,523.42	\$30,882.42			/ /	
09/01/12	1997A	\$38,813	\$8,392.54	\$47,205.98		\$1,306,805.23	/ /	
09/01/12	1999A	\$26,993	\$7,006.38	\$33,999.38			/ /	
09/01/12	2000A	\$23,476	\$7,348.22	\$30,824.22			/ /	
11/01/12	2006A	\$320,000	\$40,915.00	\$360,915.00			/ /	
11/01/12	2007A	\$305,000	\$83,855.00	\$388,855.00			/ /	
12/01/12	1997A	\$39,008	\$8,101.44	\$47,108.95			/ /	
12/01/12	1999A	\$27,128	\$6,803.93	\$33,931.93			/ /	
12/01/12	2000A	\$23,593	\$7,172.15	\$30,765.15	\$1,323,100.00		/ /	
03/01/13	1997A	\$39,203	\$7,808.89	\$47,011.44			/ /	
03/01/13	1999A	\$27,263	\$6,600.47	\$33,863.47			/ /	
03/01/13	2000A	\$23,711	\$6,995.21	\$30,706.21			/ /	
05/01/13	2006A		\$33,555.00	\$33,555.00			/ /	
05/01/13	2007A		\$78,517.50	\$78,517.50			/ /	
06/01/13	1997A	\$39,399	\$7,514.87	\$46,913.43			/ /	
06/01/13	1999A	\$27,400	\$6,396.00	\$33,796.00			/ /	
06/01/13	2000A	\$23,829	\$6,817.37	\$30,646.37		\$1,308,615.03	/ /	
09/01/13	1997A	\$39,596	\$7,219.38	\$46,814.93			/ /	
09/01/13	1999A	\$27,537	\$6,190.50	\$33,727.50			/ /	
09/01/13	2000A	\$23,949	\$6,638.66	\$30,587.66			/ /	
11/01/13	2006A	\$335,000	\$33,555.00	\$368,555.00			/ /	
11/01/13	2007A	\$320,000	\$78,517.50	\$398,517.50			/ /	
12/01/13	1997A	\$39,794	\$6,922.41	\$46,715.94			/ /	
12/01/13	1999A	\$27,674	\$5,983.97	\$33,657.97			/ /	
12/01/13	2000A	\$24,068	\$6,459.04	\$30,527.04	\$1,324,112.96		/ /	

**City of Huntington, West Virginia**  
**Sewerage System Cumulative Debt Service Payment Schedule**  
**(Prepared December 19, 2007)**

Payment Date	Bond Series	Principal Portion	Interest Portion	Total Payment	Calendar Year Payments	Fiscal Year Payments	Payment Date	Check Number
03/01/14	1997A	\$39,993	\$6,623.96	\$46,616.46			/ /	
03/01/14	1999A	\$27,813	\$5,776.42	\$33,589.42			/ /	
03/01/14	2000A	\$24,189	\$6,278.53	\$30,467.53			/ /	
05/01/14	2006A		\$25,850.00	\$25,850.00			/ /	
05/01/14	2007A		\$72,917.50	\$72,917.50			/ /	
06/01/14	1997A	\$40,192	\$6,324.02	\$46,516.48			/ /	
06/01/14	1999A	\$27,952	\$5,567.82	\$33,519.82			/ /	
06/01/14	2000A	\$24,310	\$6,097.11	\$30,407.11		\$1,308,987.86	/ /	
09/01/14	1997A	\$40,393	\$6,022.57	\$46,415.99			/ /	
09/01/14	1999A	\$28,092	\$5,358.18	\$33,450.18			/ /	
09/01/14	2000A	\$24,431	\$5,914.79	\$30,345.79			/ /	
11/01/14	2006A	\$350,000	\$25,850.00	\$375,850.00			/ /	
11/01/14	2007A	\$335,000	\$72,917.50	\$407,917.50			/ /	
12/01/14	1997A	\$40,595	\$5,719.62	\$46,315.01			/ /	
12/01/14	1999A	\$28,232	\$5,147.49	\$33,379.49			/ /	
12/01/14	2000A	\$24,553	\$5,731.55	\$30,284.55	\$1,323,842.83		/ /	
03/01/15	1997A	\$40,798	\$5,415.16	\$46,213.53			/ /	
03/01/15	1999A	\$28,373	\$4,935.75	\$33,308.75			/ /	
03/01/15	2000A	\$24,676	\$5,547.41	\$30,223.41			/ /	
05/01/15	2006A		\$17,625.00	\$17,625.00			/ /	
05/01/15	2007A		\$67,055.00	\$67,055.00			/ /	
06/01/15	1997A	\$41,002	\$5,109.17	\$46,111.53			/ /	
06/01/15	1999A	\$28,515	\$4,722.95	\$33,237.95			/ /	
06/01/15	2000A	\$24,799	\$5,362.34	\$30,161.34		\$1,307,895.02	/ /	
09/01/15	1997A	\$41,207	\$4,801.65	\$46,009.02			/ /	
09/01/15	1999A	\$28,658	\$4,509.09	\$33,167.09			/ /	
09/01/15	2000A	\$24,923	\$5,176.34	\$30,099.34			/ /	
11/01/15	2006A	\$365,000	\$17,625.00	\$382,625.00			/ /	
11/01/15	2007A	\$350,000	\$67,055.00	\$417,055.00			/ /	
12/01/15	1997A	\$41,413	\$4,492.60	\$45,906.01			/ /	
12/01/15	1999A	\$28,801	\$4,294.16	\$33,095.16			/ /	
12/01/15	2000A	\$25,048	\$4,989.42	\$30,037.42	\$1,321,930.55		/ /	

**City of Huntington, West Virginia**  
**Sewerage System Cumulative Debt Service Payment Schedule**  
**(Prepared December 19, 2007)**

Payment Date	Bond Series	Principal Portion	Interest Portion	Total Payment	Calendar Year Payments	Fiscal Year Payments	Payment Date	Check Number
03/01/16	1997A	\$41,620	\$4,182.00	\$45,802.47			/ /	
03/01/16	1999A	\$28,945	\$4,078.15	\$33,023.15			/ /	
03/01/16	2000A	\$25,173	\$4,801.56	\$29,974.56			/ /	
05/01/16	2006A		\$9,047.50	\$9,047.50			/ /	
05/01/16	2007A		\$60,930.00	\$60,930.00			/ /	
06/01/16	1997A	\$41,829	\$3,869.84	\$45,698.42			/ /	
06/01/16	1999A	\$29,090	\$3,861.06	\$32,951.06			/ /	
06/01/16	2000A	\$25,299	\$4,612.76	\$29,911.76		\$1,305,332.96	/ /	
09/01/16	1997A	\$42,038	\$3,556.13	\$45,593.85			/ /	
09/01/16	1999A	\$29,235	\$3,642.89	\$32,877.89			/ /	
09/01/16	2000A	\$25,426	\$4,423.02	\$29,849.02			/ /	
11/01/16	2006A	\$385,000	\$9,047.50	\$394,047.50			/ /	
11/01/16	2007A	\$365,000	\$60,930.00	\$425,930.00			/ /	
12/01/16	1997A	\$42,248	\$3,240.85	\$45,488.76			/ /	
12/01/16	1999A	\$29,381	\$3,423.62	\$32,804.62			/ /	
12/01/16	2000A	\$25,553	\$4,232.33	\$29,785.33	\$1,323,715.89		/ /	
03/01/17	1997A	\$42,459	\$2,923.99	\$45,383.14			/ /	
03/01/17	1999A	\$29,528	\$3,203.27	\$32,731.27			/ /	
03/01/17	2000A	\$25,681	\$4,040.68	\$29,721.68			/ /	
05/01/17	2007A		\$54,360.00	\$54,360.00			/ /	
06/01/17	1997A	\$42,671	\$2,605.54	\$45,276.98			/ /	
06/01/17	1999A	\$29,676	\$2,981.81	\$32,657.81			/ /	
06/01/17	2000A	\$25,809	\$3,848.07	\$29,657.07		\$1,306,164.92	/ /	
09/01/17	1997A	\$42,885	\$2,285.51	\$45,170.31			/ /	
09/01/17	1999A	\$29,824	\$2,759.24	\$32,583.24			/ /	
09/01/17	2000A	\$25,938	\$3,654.50	\$29,592.50			/ /	
11/01/17	2007A	\$360,000	\$54,360.00	\$414,360.00			/ /	
12/01/17	1997A	\$43,099	\$1,963.87	\$45,063.09			/ /	
12/01/17	1999A	\$29,973	\$2,535.56	\$32,508.56			/ /	
12/01/17	2000A	\$26,068	\$3,459.97	\$29,527.97	\$898,593.62		/ /	
03/01/18	1997A	\$43,315	\$1,640.63	\$44,955.35			/ /	
03/01/18	1999A	\$30,123	\$2,310.76	\$32,433.76			/ /	

**City of Huntington, West Virginia**  
**Sewerage System Cumulative Debt Service Payment Schedule**  
 (Prepared December 19, 2007)

Payment Date	Bond Series	Principal Portion	Interest Portion	Total Payment	Calendar Year Payments	Fiscal Year Payments	Payment Date	Check Number
03/01/18	2000A	\$26,198	\$3,264.46	\$29,462.46			/ /	
05/01/18	2007A		\$47,700.00	\$47,700.00			/ /	
06/01/18	1997A	\$43,531	\$1,315.77	\$44,847.06			/ /	
06/01/18	1999A	\$30,274	\$2,084.84	\$32,358.84			/ /	
06/01/18	2000A	\$26,329	\$3,067.97	\$29,396.97		\$889,960.11	/ /	
09/01/18	1997A	\$43,749	\$989.28	\$44,738.23			/ /	
09/01/18	1999A	\$30,425	\$1,857.78	\$32,282.78			/ /	
09/01/18	2000A	\$26,461	\$2,870.51	\$29,331.51			/ /	
11/01/18	2007A	\$360,000	\$47,700.00	\$407,700.00			/ /	
12/01/18	1997A	\$43,968	\$661.16	\$44,628.86			/ /	
12/01/18	1999A	\$30,577	\$1,629.59	\$32,206.59			/ /	
12/01/18	2000A	\$26,593	\$2,672.05	\$29,265.05	\$881,307.46		/ /	
03/01/19	1997A	\$44,188	\$331.41	\$44,518.94			/ /	
03/01/19	1999A	\$30,730	\$1,400.27	\$32,130.27			/ /	
03/01/19	2000A	\$26,726	\$2,472.60	\$29,198.60			/ /	
05/01/19	2007A		\$40,500.00	\$40,500.00			/ /	
06/01/19	1999A	\$30,884	\$1,169.79	\$32,053.79			/ /	
06/01/19	2000A	\$26,860	\$2,272.16	\$29,132.16		\$827,686.78	/ /	
09/01/19	1999A	\$31,038	\$938.16	\$31,976.16			/ /	
09/01/19	2000A	\$26,994	\$2,070.71	\$29,064.71			/ /	
11/01/19	2007A	\$380,000	\$40,500.00	\$420,500.00			/ /	
12/01/19	1999A	\$31,194	\$705.38	\$31,899.38			/ /	
12/01/19	2000A	\$27,129	\$1,868.25	\$28,997.25	\$749,971.26		/ /	
03/01/20	1999A	\$31,350	\$471.42	\$31,821.42			/ /	
03/01/20	2000A	\$27,264	\$1,664.78	\$28,928.78			/ /	
05/01/20	2007A		\$32,900.00	\$32,900.00			/ /	
06/01/20	1999A	\$31,506	\$236.30	\$31,742.30			/ /	
06/01/20	2000A	\$27,401	\$1,460.30	\$28,861.30		\$696,691.30	/ /	
09/01/20	2000A	\$27,538	\$1,254.80	\$28,792.80			/ /	
11/01/20	2007A	\$395,000	\$32,900.00	\$427,900.00			/ /	
12/01/20	2000A	\$27,675	\$1,048.26	\$28,723.26	\$639,669.86		/ /	
03/01/21	2000A	\$27,814	\$840.70	\$28,654.70			/ /	

**City of Huntington, West Virginia**  
**Sewerage System Cumulative Debt Service Payment Schedule**  
**(Prepared December 19, 2007)**

Payment Date	Bond Series	Principal Portion	Interest Portion	Total Payment	Calendar Year Payments	Fiscal Year Payments	Payment Date	Check Number
05/01/21	2007A		\$25,000.00	\$25,000.00			/ /	
06/01/21	2000A	\$27,953	\$632.09	\$28,585.09		\$567,655.85	/ /	
09/01/21	2000A	\$28,093	\$422.45	\$28,515.45			/ /	
11/01/21	2007A	\$400,000	\$25,000.00	\$425,000.00			/ /	
12/01/21	2000A	\$28,233	\$211.75	\$28,444.75	\$564,199.99		/ /	
05/01/22	2007A		\$17,000.00	\$17,000.00		\$498,960.20	/ /	
11/01/22	2007A	\$415,000	\$17,000.00	\$432,000.00	\$449,000.00		/ /	
05/01/23	2007A		\$8,700.00	\$8,700.00		\$440,700.00	/ /	
11/01/23	2007A	\$435,000	\$8,700.00	\$443,700.00	\$452,400.00	\$443,700.00	/ /	
<b>Totals:</b>		\$12,971,170	\$3,532,457.94	\$16,503,628.07	\$16,503,628.07	\$16,503,628.07		



**STANDARD  
& POOR'S**

55 Water Street, 38th Floor  
New York, NY 10041-0003  
tel 212 438-2074  
reference no.: 40205322

December 27, 2007

Financial Security Assurance Inc  
Financial Guaranty Group  
31 West 52nd Street  
New York, NY 10019  
Attention: Mr. Richard Bauerfeld, Managing Director

Re: *\$5,500,000 The City of Huntington (West Virginia), Sewerage System Refunding Revenue Bonds, Series 2007, dated: Date of Delivery, due: November 1, 2008-2017, November 1, 2019-2021, November 1, 2023, (POLICY #209673-N)*

Dear Mr. Bauerfeld:

Pursuant to your request for a Standard & Poor's rating on the above-referenced obligations, we have reviewed the information submitted to us and, subject to the enclosed *Terms and Conditions*, have assigned a rating of "AAA". The rating reflects our assessment of the likelihood of repayment of principal and interest based on the bond insurance policy your company is providing. Therefore, rating adjustments may result from changes in the financial position of your company or from alterations in the documents governing the issue.

The rating is not investment, financial, or other advice and you should not and cannot rely upon the rating as such. The rating is based on information supplied to us by you but does not represent an audit. We undertake no duty of due diligence or independent verification of any information. The assignment of a rating does not create a fiduciary relationship between us and you or between us and other recipients of the rating. We have not consented to and will not consent to being named an "expert" under the applicable securities laws, including without limitation, Section 7 of the Securities Act of 1933. The rating is not a "market rating" nor is it a recommendation to buy, hold, or sell the obligations.

This letter constitutes Standard & Poor's permission to you to disseminate the above-assigned rating to interested parties. Standard & Poor's reserves the right to inform its own clients, subscribers, and the public of the rating.

Standard & Poor's relies on the issuer and its counsel, accountants, and other experts for the accuracy and completeness of the information submitted in connection with the rating. This rating is based on financial information and documents we received prior to the issuance of this letter. Standard & Poor's must receive complete documentation relating to this issue no later than 90 days after the date of this letter. Standard & Poor's assumes that the documents you have provided to us are final. If any subsequent changes were made in the final documents, you must notify us of such changes by sending us the revised final documents with the changes clearly marked.

STANDARD  
& POOR'S

Mr. Richard Bauerfeld  
Page 2  
December 27, 2007

Standard & Poor's is pleased to be of service to you. For more information please visit our website at [www.standardandpoors.com](http://www.standardandpoors.com). If we can be of help in any other way, please contact us. Thank you for choosing Standard & Poor's and we look forward to working with you again.

Sincerely yours,

Standard & Poor's Ratings Services  
a division of The McGraw-Hill Companies, Inc.

A handwritten signature in black ink that reads "Standard and Poor's" followed by a stylized monogram or initials.

kb  
enclosure

STANDARD  
AND POOR'S

**Standard & Poor's Ratings Services  
Terms and Conditions  
Applicable To  
U.S. Public Finance Ratings**

Request for a rating. Standard & Poor's issues public finance ratings for a fee upon request from an issuer, or from an underwriter, financial advisor, investor, insurance company, or other entity, provided that the obligor and issuer (if different from the obligor) each has knowledge of the request. The term "issuer/obligor" in these Terms and Conditions means the issuer and the obligor if the obligor is different from the issuer.

Agreement to Accept Terms and Conditions. Standard & Poor's assigns Public Finance ratings subject to the terms and conditions stated herein and in the rating letter. The issuer/obligor's use of a Standard & Poor's public finance rating constitutes agreement to comply in all respects with the terms and conditions contained herein and in the rating letter and acknowledges the issuer/obligor's understanding of the scope and limitations of the Standard & Poor's rating as stated herein and in the rating letter.

Fees and expenses. In consideration of our analytic review and issuance of the rating, the issuer/obligor agrees to pay Standard & Poor's a rating fee. Payment of the fee is not conditioned on Standard & Poor's issuance of any particular rating. In most cases an annual surveillance fee will be charged for so long as we maintain the rating. The issuer/obligor will reimburse Standard & Poor's for reasonable travel and legal expenses if such expenses are not included in the fee. Should the rating not be issued, the issuer/obligor agrees to compensate Standard & Poor's based on the time, effort, and charges incurred through the date upon which it is determined that the rating will not be issued.

Scope of Rating. The issuer/obligor understands and agrees that (i) an issuer rating reflects Standard & Poor's current opinion of the issuer/obligor's overall financial capacity to pay its financial obligations as they come due, (ii) an issue rating reflects Standard & Poor's current opinion of the likelihood that the issuer/obligor will make payments of principal and interest on a timely basis in accordance with the terms of the obligation, (iii) a rating is an opinion and is not a verifiable statement of fact, (iv) ratings are based on information supplied to Standard & Poor's by the issuer/obligor or by its agents and upon other information obtained by Standard & Poor's from other sources it considers reliable, (v) Standard & Poor's does not perform an audit in connection with any rating and a rating does not represent an audit by Standard & Poor's, (vi) Standard & Poor's relies on the issuer/obligor, its accountants, counsel, and other experts for the accuracy and completeness of the information submitted in connection with the rating and surveillance process, (vii) Standard & Poor's undertakes no duty of due diligence or independent verification of any information, (viii) Standard & Poor's does not and cannot guarantee the accuracy, completeness, or timeliness of the information relied on in connection with a rating or the results obtained from the use of such information, (ix) Standard & Poor's may raise, lower, suspend, place on CreditWatch, or withdraw a rating at any time, in Standard & Poor's sole discretion, and (x) a rating is not a "market" rating nor a recommendation to buy, hold, or sell any financial obligation.

Publication. Standard & Poor's reserves the right to publish, disseminate, or license others to publish or disseminate the rating and the rationale for the rating unless the issuer/obligor specifically requests that the rating be assigned and maintained on a confidential basis. If a confidential rating subsequently becomes public through disclosure by the issuer/obligor or a third party other than Standard & Poor's, Standard & Poor's reserves the right to publish it. Standard & Poor's may publish explanations of Standard & Poor's ratings criteria from time to time and nothing in this Agreement shall be construed as limiting Standard & Poor's ability to modify or refine Standard & Poor's criteria at any time as Standard & Poor's deems appropriate.

Information to be Provided by the Issuer/obligor. The issuer/obligor shall meet with Standard & Poor's for an analytic review at any reasonable time Standard & Poor's requests. The issuer/obligor also agrees to provide Standard & Poor's promptly with all information relevant to the rating and surveillance of the rating including information on material changes to information previously supplied to Standard & Poor's. The rating may be affected by Standard & Poor's opinion of the accuracy, completeness, timeliness, and reliability of information received from the issuer/obligor or its agents. Standard & Poor's undertakes no duty of due diligence or independent verification of

information provided by the issuer/obligor or its agents. Standard & Poor's reserves the right to withdraw the rating if the issuer/obligor or its agents fails to provide Standard & Poor's with accurate, complete, timely, or reliable information.

Standard & Poor's Not an Advisor, Fiduciary, or Expert. The issuer/obligor understands and agrees that Standard & Poor's is not acting as an investment, financial, or other advisor to the issuer/obligor and that the issuer/obligor should not and cannot rely upon the rating or any other information provided by Standard & Poor's as investment or financial advice. Nothing in this Agreement is intended to or should be construed as creating a fiduciary relationship between Standard & Poor's and the issuer/obligor or between Standard & Poor's and recipients of the rating. The issuer/obligor understands and agrees that Standard & Poor's has not consented to and will not consent to being named an "expert" under the applicable securities laws, including without limitation, Section 7 of the U.S. Securities Act of 1933.

Limitation on Damages. The issuer/obligor agrees that Standard & Poor's, its officers, directors, shareholders, and employees shall not be liable to the issuer/obligor or any other person for any actions, damages, claims, liabilities, costs, expenses, or losses in any way arising out of or relating to the rating or the related analytic services provided for in an aggregate amount in excess of the aggregate fees paid to Standard & Poor's for the rating, except for Standard & Poor's gross negligence or willful misconduct. In no event shall Standard & Poor's, its officers, directors, shareholders, or employees be liable for consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses, legal fees, or losses (including, without limitation, lost profits and opportunity costs). In furtherance and not in limitation of the foregoing, Standard & Poor's will not be liable in respect of any decisions made by the issuer/obligor or any other person as a result of the issuance of the rating or the related analytic services provided by Standard & Poor's hereunder or based on anything that appears to be advice or recommendations. The provisions of this paragraph shall apply regardless of the form of action, damage, claim, liability, cost, expense, or loss, whether in contract, statute, tort (including, without limitation, negligence), or otherwise. The issuer/obligor acknowledges and agrees that Standard & Poor's does not waive any protections, privileges, or defenses it may have under law, including but not limited to, the First Amendment of the Constitution of the United States of America.

Term. This Agreement shall terminate when the ratings are withdrawn. Notwithstanding the foregoing, the paragraphs above, "Standard & Poor's Not an Advisor, Fiduciary, or Expert" and "Limitation on Damages", shall survive the termination of this Agreement or any withdrawal of a rating.

Third Parties. Nothing in this Agreement, or the rating when issued, is intended or should be construed as creating any rights on behalf of any third parties, including, without limitation, any recipient of the rating. No person is intended as a third party beneficiary to this Agreement or to the rating when issued.

Binding Effect. This Agreement shall be binding on, and inure to the benefit of, the parties hereto and their successors and assigns.

Severability. In the event that any term or provision of this Agreement shall be held to be invalid, void, or unenforceable, then the remainder of this Agreement shall not be affected, impaired, or invalidated, and each such term and provision shall be valid and enforceable to the fullest extent permitted by law.

Complete Agreement. This Agreement constitutes the complete agreement between the parties with respect to its subject matter. This Agreement may not be modified except in a writing signed by authorized representatives of both parties.

Governing Law. This Agreement and the rating letter shall be governed by the internal laws of the State of New York. The parties agree that the state and federal courts of New York shall be the exclusive forums for any dispute arising out of this Agreement and the parties hereby consent to the personal jurisdiction of such courts.

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