THE CITY OF HUNTINGTON

Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

BOND TRANSCRIPT

Table of Contents

BASIC DOCUMENTS

1. Bond Ordinance
2. Supplemental Resolution
3. Loan Agreement
4. Public Service Commission Orders
5. Infrastructure Council Approval
6. Cross-Receipt for Bond and Bond Proceeds
7. Direction to Authenticate and Deliver Bonds
8. Specimen Bond

OPINIONS OF COUNSEL

9. Approving Opinion of Steptoe & Johnson, Bond Counsel
10. Opinion of Counsel to Issuer
11. Opinion of Counsel to Sanitary Board
12. Title Opinion

CERTIFICATES

13. General Certificate of Issuer and Attorney

14. Certificate as to Arbitrage

15. Certificate of Engineer, with Schedule A Attached

16. Certificate of Certified Public Accountant

DOCUMENTS OF THE ISSUER

17. City Charter

18. City Council Rules and Regulations

19. Oaths of Office of City Officers and Councilmembers

20. Ordinance Creating Sanitary Board

21. Petition of Sanitary Board

22. Sewer Rate Ordinance and Public Service Commission Orders relating thereto

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

24. Minutes on Adoption and Enactment of Sewer Rate Ordinance

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

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

27. IRS Information Return (Form 8038-G) and Letter of Transmittal

28. Municipal Bond Commission New Issue Report

MISCELLANEOUS DOCUMENTS

29. Acceptance by Bank One, West Virginia, National Association, of Appointment as Depository Bank

30. Acceptance by One Valley Bank, National Association, of Duties as Registrar

31. Certificate of Registration of Bonds

32. Registrar's Agreement

33. 1993 Bond Ordinance and Supplemental Resolution

34. 1997 Bond Ordinance and Supplemental Resolution

35. Consent of 1997 Bondholder

36. NPDES Permit

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THE CITY OF HUNTINGTON

SEWER REVENUE BONDS, SERIES 1999
(WEST VIRGINIA SRF PROGRAM)

BOND ORDINANCE

Table of Contents

Subject **Page**

ARTICLE I
STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01	Authority for this Ordinance	1
Section 1.02	Findings	1
Section 1.03	Bond Legislation Constitutes Contract	4
Section 1.04	Definitions	4

ARTICLE II
AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01	Authorization of Acquisition and Construction of the Project	19

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

Section 3.01	Authorization of Bonds	20
Section 3.02	Terms of Bonds	20
Section 3.03	Execution of Bonds	21
Section 3.04	Authentication and Registration	21
Section 3.05	Negotiability, Transfer and Registration	21
Section 3.06	Bonds Mutilated, Destroyed, Stolen or Lost	22
Section 3.07	Bonds not to be Indebtedness of the Issuer	22

Section 3.08	Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds	23
Section 3.09	Delivery of Bonds	23
Section 3.10	Form of Bonds	23
	FORM OF BOND	24
Section 3.11	Sale of Bonds; Approval and Ratification of Execution of Loan Agreement	32
Section 3.12	"Amended Schedule A" Filing	32

ARTICLE IV
[RESERVED] 33

ARTICLE V
FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01	Establishment of Funds and Accounts with Depository Bank	34
Section 5.02	Establishment of Funds and Accounts with Commission	34
Section 5.03	System Revenues; Flow of Funds	35

ARTICLE VI
BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01	Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds	40
Section 6.02	Disbursements From the Bond Construction Trust Fund	40

ARTICLE VII
ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01	General Covenants of the Issuer	42
Section 7.02	Bonds not to be Indebtedness of the Issuer	42
Section 7.03	Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds	42
Section 7.04	Rates and Charges	42
Section 7.05	Sale of the System	42
Section 7.06	Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances	44
Section 7.07	Additional Parity Bonds	44
Section 7.08	Books; Records and Audit	46
Section 7.09	Rates	48
Section 7.10	Operating Budget and Monthly Financial Report	49
Section 7.11	Engineering Services and Operating Personnel	49
Section 7.12	No Competing Franchise	50
Section 7.13	Enforcement of Collections	50

Section 7.14	No Free Services	51
Section 7.15	Insurance and Construction Bonds	51
Section 7.16	Mandatory Connections	53
Section 7.17	Completion of Project; Permits and Orders	54
Section 7.18	Compliance with Loan Agreement and Law	54
Section 7.19	Tax Covenants	54
Section 7.20	Securities Law Compliance	55
Section 7.21	Contracts	56

ARTICLE VIII
INVESTMENT OF FUNDS; NON ARBITRAGE

Section 8.01	Investments	57
Section 8.02	Arbitrage and Tax Exemption	58
Section 8.03	Small Issuer Exemption from Rebate of Excess Investment Earnings to the United States	58

ARTICLE IX
DEFAULT AND REMEDIES

Section 9.01	Events of Default	61
Section 9.02	Remedies	61
Section 9.03	Appointment of Receiver	62

ARTICLE X
PAYMENT OF BONDS

Section 10.01	Payment of Bonds	64

ARTICLE XI
MISCELLANEOUS

Section 11.01	Amendment or Modification of Bond Legislation	65
Section 11.02	Bond Legislation Constitutes Contract	65
Section 11.03	Severability of Invalid Provisions	65
Section 11.04	Headings, Etc.	65
Section 11.05	Conflicting Provisions Repealed; Prior Ordinances	65
Section 11.06	Covenant of Due Procedure, Etc.	66
Section 11.07	Effective Date	66
Section 11.08	Statutory Notice and Public Hearing	66
	SIGNATURES	66
	CERTIFICATION	67
	EXHIBIT A	68

THE CITY OF HUNTINGTON

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF HUNTINGTON AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $2,100,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1999 (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

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

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

A. The City of Huntington (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Cabell and Wayne Counties of said State.

B. The Issuer presently owns and operates a public sewerage system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain additions, betterments and improvements for the existing public sewerage system of the Issuer, consisting of replacement and relocation of an existing force main, together with all appurtenant facilities (collectively, the "Project"), which constitute properties for the collection and transportation of liquid or solid wastes, sewage or industrial wastes (the existing public sewerage system of the Issuer, the Project and any further additions, betterments and improvements thereto are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The Issuer intends to permanently finance a portion of the costs of acquisition and construction of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority (the "Authority"), in connection with the West Virginia Water Pollution Control Revolving Fund program (the "SRF Program"), pursuant to the Act, in order to take advantage of the favorable terms available to the Issuer under the SRF Program.

D. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), in the total aggregate principal amount of not more than $2,100,000 (the "Series 1999 Bonds"), initially to be represented by a single bond, to permanently finance a portion of costs of acquisition and construction of the Project. Such costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor and eligible under the SRF Program; interest upon the Series 1999 Bonds prior to and during acquisition or construction and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Series 1999 Bonds Reserve Account (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority, including the SRF Administrative Fee (as hereinafter defined), discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 1999 Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof, provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 1999 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

E. The period of usefulness of the System after completion of the Project is not less than 25 years.

F. It is in the best interests of the Issuer that its Series 1999 Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement (the "Loan Agreement") by and among the Issuer, the Authority and the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment (the "DEP"), in form satisfactory to the Issuer, the Authority and the DEP, to be approved hereby if not previously approved by resolution of the Issuer.

G. There are outstanding obligations of the Issuer which will rank on parity with the Series 1999 Bonds as to liens, pledge, source of and security for payment, being 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, and the Sewer Revenue Bonds, Series 1997 (West Virginia SRF Program), dated November 25, 1997, issued in the original aggregate principal amount of $3,039,895 (collectively, the "Prior Bonds").

The Series 1999 Bonds shall be issued on a parity with the Prior Bonds, with respect to liens, pledge and source of and security for payment and in all other respects. Prior to the issuance of the Series 1999 Bonds, the Issuer will obtain a certificate of an Independent Accountant stating that the parity test of the Prior Bonds is met. 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.

H. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all costs of operation and maintenance of the System, the principal of and interest on the Prior Bonds and the Series 1999 Bonds and to make payments into all funds and accounts and other payments provided for herein.

I. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 1999 Bonds, or will have so complied prior to issuance of any thereof, including, among other things, the approval of the Project and the financing thereof by the West Virginia Infrastructure and Jobs Development Council and the obtaining of a Certificate of Public Convenience and Necessity from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 1999 Bonds or such final order will not be subject to appeal.

J. The Issuer is a governmental unit which has general taxing powers to finance operations of or facilities of the nature of the Project and the System; 95% or more of the Net Proceeds of the Series 1999 Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and the Issuer, all subordinate entities, all entities which issue

obligations on behalf of the Issuer, and all entities formed or, to the extent provided under Section 148 of the Code, herein defined, availed of, to avoid the purposes of Section 148(f)(4)(D) of the Code and all other entities benefitting thereby reasonably expect to issue less than $5,000,000 aggregate principal amount of tax-exempt obligations (other than private activity bonds) during the calendar year in which the Series 1999 Bonds are to be issued.

K. Pursuant to the Act, the Issuer has heretofore established a Sanitary Board, and the Sanitary Board has petitioned the Council to issue the Series 1999 Bonds for the purposes set forth herein.

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

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 1999 Bonds by the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Bondholders of any and all of such Series 1999 Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds and by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

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

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 1999 Bonds, or any other agency, board or department of the State that succeeds to the functions of the Authority.

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

"Board" means the Sanitary Board of the Issuer.

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

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

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

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

"Bonds" means, collectively, the Series 1999 Bonds, the Prior Bonds, and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another ordinance of the Issuer.

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

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

"Closing Date" means the date upon which there is an exchange of the Series 1999 Bonds for the proceeds representing the purchase price of the Series 1999 Bonds or at least a de minimis portion thereof from the Authority and the DEP.

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

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

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

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

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

"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.

"DEP" means the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment, or any other agency, board or department of the State that succeeds to the functions of the DEP.

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

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

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

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

"Governing Body" means the Council of the Issuer.

"Government Obligations" means direct and general obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury), or obligations that are unconditionally guaranteed as to principal and interest by the United States of America, including (in the case of direct and general obligations of the United States of America) evidences of ownership of proportionate interests in future interest and principal payments of such obligations; provided that, investments in such proportionate interests shall be limited to circumstances wherein (a) a bank or trust company acts as custodian and holds the underlying United States obligations; (b) the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor of the underlying United States obligations; and (c) the underlying United States obligations are held in a special account separate from the custodian's general assets, and are not available to satisfy any claim of the custodian, any person claiming through the custodian, or any person to whom the custodian may be obligated.

"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).

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

"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 other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

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

"Issuer" means The City of Huntington, a municipal corporation and political subdivision of the State of West Virginia, in Cabell and Wayne Counties, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" means the Loan Agreement heretofore entered, or to be entered, into among the Authority, the DEP and the Issuer, providing for the purchase of the Series 1999 Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by the Supplemental Resolution.

"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 Bond Year.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 1999 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 1999 Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 1999 Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

"Net Revenues" means Gross Revenues less Operating Expenses.

"Nonpurpose Investment" means any Investment Property which is acquired with the gross proceeds or any other proceeds of the Series 1999 Bonds and is not acquired in order to carry out the governmental purpose of the Series 1999 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, the SRF Administrative Fee, 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.

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

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

"Prior Bonds" means, collectively, the Issuer's Series 1993 Bonds and the Series 1997 Bonds.

"Prior Ordinances" means, collectively, the ordinance of the Issuer enacted on October 12, 1993, as supplemented by the supplemental resolution of the Issuer adopted November 3, 1993, authorizing the Series 1993 Bonds, and the ordinance of the Issuer

enacted on December 11, 1995, as supplemented by the supplemental resolution of the Issuer adopted November 10, 1997, authorizing the Series 1997 Bonds.

"Private Business Use" means use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit; provided that use as a member of the general public shall not be taken into account.

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

"Qualified Investments" means and includes the following:

1. (a) Direct obligations (other than an obligation subject to variation in principal repayment) of the United States of America ("United States Treasury Obligations"), (b) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by the United States of America, (c) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by any agency or instrumentality of the United States of America when such obligations are backed by the full faith and credit of the United States of America, or (d) evidences of ownership of proportionate interests in future interest and principal payments on obligations described above 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 government obligations are not available to any person claiming through the custodian or to whom the custodian may be obligated.

2. Federal Housing Administration debentures.

3. The listed obligations of government sponsored agencies which are <u>not</u> backed by the full faith and credit of the United States of America:

-Federal Home Loan Mortgage Corporation (FHLMC)
Participation certificates (excluded are stripped mortgage securities which are purchased at prices exceeding their principal amounts)
Senior Debt obligations
-Farm Credit Banks (formerly, Federal Land Banks, Federal Intermediate Credit Banks and Banks for Cooperatives)
Consolidated system-wide bonds and notes
-Federal Home Loan Banks (FHL Banks)
Consolidated debt obligations
-Federal National Mortgage Association (FNMA)
Senior debt obligations

Mortgage-backed securities (excluded are stripped mortgage securities which are purchased at prices exceeding their principal amounts)

-Student Loan Marketing Association (SLMA)

Senior debt obligations (excluded are securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date)

-Financing Corporation (FICO)

Debt obligations

-Resolution Funding Corporation (REFCORP)

Debt obligations

4. Unsecured certificates of deposit, time deposits, and bankers' acceptances (having maturities of not more than 30 days) of any bank the short-term obligations of which are rated `A-1' or better by S&P.

5. Deposits the aggregate amount of which are fully insured by the Federal Deposit Insurance Corporation (FDIC), in banks which have capital and surplus of at least $5 million.

6. Commercial paper (having original maturities of not more than 270 days) rated `A-1+' by S&P and `Prime-1' by Moody's.

7. Money market funds rated `AAm' or `AAm-G' by S&P, or better.

8. "State Obligations," which means:

A. Direct general obligations of any state of the United States of America or any subdivision or agency thereof to which is pledged the full faith and credit of a state the unsecured general obligation debt of which is rated `A3' by Moody's <u>and</u> `A' by S&P, or better, or any obligation fully and unconditionally guaranteed by any state, subdivision or agency whose unsecured general obligation debt is so rated.

B. Direct general short-term obligations of any state agency or subdivision or agency thereof described in (A) above and rated `A-1+' by S&P and `Prime-1' by Moody's.

C. Special Revenue Bonds (as defined in the United States Bankruptcy Code) of any state, state agency or subdivision described in (A) above and rated `AA' or better by S&P and `Aa' or better by Moody's.

9. Pre-refunded municipal obligations rated "AAA" by Standard & Poor's Corporation and "Aaa" by Moody's Investors Service meeting the following requirements:

A. the municipal obligations are (1) not subject to redemption prior to maturity or (2) the trustee for the municipal obligations has been given irrevocable instructions concerning their call and redemption and the issuer of the municipal obligations has covenanted not to redeem such municipal obligations other than as set forth in such instructions;

B. the municipal obligations are secured by cash or United States Treasury Obligations which may be applied only to payment of the principal of, interest and premium on such municipal obligations;

C. the principal of and interest on the United States Treasury Obligations (plus any cash in the escrow) has been verified by the report of independent certified public accountants to be sufficient to pay in full all principal of, interest, and premium, if any, due and to become due on the municipal obligations ("Verification");

D. the cash or United States Treasury Obligations serving as security for the municipal obligations are held by an escrow agent or trustee in trust for owners of the municipal obligations;

E. no substitution of a United States Treasury Obligation shall be permitted except with another United States Treasury Obligation and upon delivery of a new Verification; and

F. the cash or United States Treasury Obligations are not available to satisfy any other claims, including those by or against the trustee or escrow agent.

10. Repurchase agreements:

A. With any domestic bank the long term debt of which is rated 'AA' or better by S&P (so long as an opinion is rendered that the repurchase agreement is a "repurchase agreement" and a "qualified financial contract" as defined in the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") and that such bank is subject to FIRREA), or any foreign bank the long term debt of which is rated at least 'AA' by S&P and 'AAA' by S&P and at least 'Aa' by Moody's; provided the term of such repurchase agreement is for one year or less.

B. With (1) any broker-dealer with "retail customers" which has, or the parent company of which has, long-term debt rated at least 'AA' by S&P and 'Aa' by Moody's, which broker-dealer falls under the jurisdiction of the Securities Investors Protection Corporation (SIPC); or (2) any other entity approved by Financial Security, provided that:

a. The market value of the collateral is maintained (i) for United States Treasury Securities at the levels shown below under "Collateral Levels for United States Treasury Obligations" and (ii) for other collateral, at levels acceptable to Financial Security;

b. Failure to maintain the requisite collateral percentage will require the Issuer to liquidate the collateral.

c. The Issuer, the Paying Agent or a third party acting solely as agent therefor (the "Holder of the Collateral") has possession of the collateral or the collateral has been transferred to the Holder of the Collateral in accordance with applicable state and federal laws (other than by means of entries on the transferor's books);

d. The repurchase agreement shall state and an opinion of counsel shall be rendered that the Holder of the Collateral has a perfected first priority security interest in the collateral, any substituted collateral and all proceeds thereof (in the case of bearer securities, this means the Holder of the Collateral is in possession);

e. The transferor represents that the collateral is free and clear of any third-party liens or claims;

f. An opinion is rendered that the repurchase agreement is a "repurchase agreement" as defined in the United States Bankruptcy Code and, if the provider is a bank, that such bank is subject to FIRREA and the repurchase agreement is a "qualified financial contract" as defined in FIRREA;

g. There is or will be a written agreement governing every repurchase transaction;

h. The Issuer represents that it has no knowledge of any fraud involved in the repurchase transaction; and

i. The Issuer receives the opinion of counsel (which opinion shall be addressed to the Issuer and the Bond Insurer) that such repurchase agreement is legal, valid, binding and enforceable upon the provider in accordance with its terms.

11. Investment agreements with (A) a domestic bank the long-term debt of which is rated at least 'AA' by S&P and 'Aa' by Moody's (so long as an opinion is rendered that the bank is subject to FIRREA); or (B) a foreign bank the long-term debt of which is rated 'AAA' by S&P and at least "Aa' by Moody's, or at least 'AA' by S&P and 'Aaa' by Moody's; provided, that, by the terms of the investment agreement:

(1) interest payments are to be made at times and in amounts as necessary to pay debt service (or, if the investment agreement is for the construction fund, construction draws) on the Bonds;

(2) the invested funds are available for withdrawal without penalty or premium, at any time upon not more than seven days' prior notice (which notice may be amended or withdrawn at any time prior to the specified withdrawal date); provided that the Ordinance specifically requires the Issuer to give notice in accordance with the terms of the investment agreement so as to receive funds thereunder with no penalty or premium paid;

(3) the investment agreement shall state that is the unconditional and general obligation of, and is not subordinated to any other obligation of, the provider thereof;

(4) a fixed guaranteed rate of interest is to be paid on invested funds and all future deposits, if any, required to be made to restore the amount of such funds to the level specified under the Ordinance;

(5) the term of the investment agreement does not exceed seven years or such longer term as shall be approved by the Bond Insurer;

(6) the Issuer receives the opinion of domestic counsel (which opinion shall be addressed to the Issuer and the Bond Insurer) that such investment agreement is legal, valid, binding and enforceable upon the provider in accordance with its terms and of foreign counsel (if applicable) in form and substance acceptable;

(7) the investment agreement shall provide that if during its term

(a) the provider's rating by either S&P or Moody's falls below 'AA' or 'Aa,' respectively, or, with respect to a foreign bank, below the ratings of such provider at the delivery date of the investment agreement, the provider must, at the direction of the Issuer (who shall give such direction if so directed by the Bond Insurer), within 10 days of receipt of such direction, either (i) collateralize the investment agreement by delivering or transferring in accordance with applicable state and federal laws (other than by means of entries on the provider's books) to the Issuer, the Paying Agent or a third party acting solely as agent therefor (the "Holder of the Collateral") United States Treasury Obligations which are free and clear of any third-party liens or claims at the Collateral Levels set forth below; or (ii) repay the principal of and accrued but unpaid interest on the investment, and

(b) the provider's rating by either Moody's or S&P is withdrawn or suspended or falls below 'A,' or, with respect to a foreign bank, below "AA" or "Aa" by S&P or Moody's, as appropriate, the provider must, at the direction of the Issuer (who shall give such direction if so directed by the Bond Insurer), within 10 days of receipt of such direction, repay the principal of and accrued but unpaid interest on the investment, in either case with no penalty or premium to the Issuer; and

(8) The investment agreement shall state and an opinion of counsel shall be rendered that the Holder of the Collateral has a perfected first priority security interest in the collateral, any substituted collateral and all proceeds thereof (in the case of bearer securities, this means the Holder of the Collateral is in possession);

(9) the investment agreement must provide that if during its term

(a) the provider shall default in its payment obligations, the provider's obligations under the investment agreement shall, at the direction of the Issuer (who shall give such direction if so directed by the Bond Insurer), be accelerated and amounts invested and accrued but unpaid interest thereon shall be repaid to the Issuer or Paying Agent, as appropriate, and

(b) the provider shall become insolvent, not pay its debts as they become due, be declared or petition to be declared bankrupt, etc. ("event of insolvency"), the provider's obligations shall automatically be accelerated and amounts invested and accrued but unpaid interest thereon shall be repaid to the Issuer or Paying Agent, as appropriate.

(10) Any State-administered pool investment fund in which the Issuer is statutorily permitted or required to invest.

(11) Subject to the prior written approval of the Bond Insurer, such other obligations as shall be permitted to be legal investments of the Issuer by the laws of the State.

COLLATERAL LEVELS FOR UNITED STATES TREASURY OBLIGATIONS

	Remaining maturity				
	1 year or less	5 years or less	10 years or less	15 years or less	30 years or less
Frequency of valuation					
Daily	102	105	106	108	114
Weekly	103	111	112	114	120
Monthly	105	117	120	125	133
Quarterly	107	120	130	133	140

VALUATION REQUIREMENTS:

(1) On each valuation date the Issuer, the Paying Agent, or the custodian who shall confirm to the Issuer and the Paying Agent, shall, at the cost of the provider, value the

market value (exclusive of accrued interest) of the collateral, which market value will be an amount equal to the requisite collateral percentage times the principal amount of the investment and unpaid accrued interest thereon that is being secured;

(2) In the event the collateral level is below its collateral percentage on a valuation date, such percentage shall be restored within the following restoration periods: one business day for daily valuations, two business days for weekly and monthly valuations, and one month for quarterly valuations. [The use of different restoration periods affect the requisite collateral percentage.];

(3) The Issuer shall terminate the repurchase agreement or investment agreement, as appropriate, upon a failure to maintain the requisite collateral percentage after the restoration period and, if not paid by the counterparty in federal funds against transfer of the collateral, liquidate the collateral.

(f) The prior written consent of the Bond Insurer shall be a condition precedent to the deposit of any credit instrument provided in lieu of a cash deposit into the Reserve Account.

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

"Registrar" means the Bond Registrar.

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

"Reserve Accounts" means, collectively, the respective reserve accounts established for the Prior Bonds and the Series 1999 Bonds.

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

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

"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 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 Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), of the Issuer, authorized by this Bond Legislation.

"Series 1999 Bonds Reserve Account" means the Series 1999 Bonds Reserve Account established in the Series 1999 Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1999 Bonds Reserve Account Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1999 Bonds in the then current or any succeeding year.

"Series 1999 Bonds Sinking Fund" means the Series 1999 Bonds Sinking Fund established by Section 5.02 hereof.

"Sinking Funds" means, collectively, the respective sinking fund established for the Prior Bonds and the Series 1999 Bonds.

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

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

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

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the," refers specifically to the supplemental resolution authorizing the sale of the Series 1999 Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 1999 Bonds, and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation or the Prior Ordinances 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 and the Reserve Accounts.

"System" means, collectively, the complete existing municipal sewage treatment and collection system of the Issuer, as presently existing in its entirety or any integral part thereof, and shall include the Project and any 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.

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

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized the acquisition and construction of the Project, at an estimated cost of $2,100,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 1999 Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the SRF Program. The cost of the Project is estimated not to exceed $2,100,000, all of which will be obtained from proceeds of the Series 1999 Bonds.

ARTICLE III

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

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 1999 Bonds, funding a reserve account for the Series 1999 Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 1999 Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the negotiable Series 1999 Bonds of the Issuer. The Series 1999 Bonds shall be issued as a single bond, designated "Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program)", in the principal amount of not more than $2,100,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 1999 Bonds remaining after funding of the Series 1999 Bonds Reserve Account (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in or credited to the Bond Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Terms of Bonds. The Series 1999 Bonds shall be issued in such principal amounts; shall bear interest at such rate or rates, not exceeding the then legal maximum, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the Loan Agreement. The Series 1999 Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 1999 Bonds shall be paid by check or draft of the Paying Agent or its agent, mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 1999 Bonds shall initially be issued in the form of a single bond, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 1999 Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 1999 Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

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

Section 3.03. Execution of Bonds. The Series 1999 Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the City Clerk. In case any one or more of the officers who shall have signed or sealed the Series 1999 Bonds shall cease to be such officer of the Issuer before the Series 1999 Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 1999 Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 1999 Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 hereof shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Series 1999 Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 1999 Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting the Series 1999 Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 1999 Bonds remain outstanding, the Issuer, through the Bond Registrar or its agent, shall keep and maintain books for the registration and transfer of such Bonds.

The registered Series 1999 Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Series 1999 Bonds or transferring the registered Series 1999 Bonds are exercised, all Series 1999 Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 1999 Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Series 1999 Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Series 1999 Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 1999 Bonds or, in the case of any proposed redemption of Series 1999 Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 1999 Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 1999 Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No holder or holders of the Series 1999 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 1999 Bonds or the interest thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service on the Series 1999 Bonds shall be secured by a first lien on the Net Revenues derived from the System, on a parity with the lien on the Net Revenues in favor of the Holders of the Prior Bonds. The Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Prior Bonds and the Series 1999 Bonds and to make all other payments hereinafter set forth, are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 1999 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 1999 Bonds to the original purchasers upon receipt of the documents set forth below:

A. If other than the Authority, a list of the names in which the Series 1999 Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;

B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 1999 Bonds to the original purchasers;

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

D. An executed copy of the Loan Agreement; and

E. The unqualified approving opinion of bond counsel on the Series 1999 Bonds.

Section 3.10. Form of Bonds. The text of the Series 1999 Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF HUNTINGTON
SEWER REVENUE BOND,
SERIES 1999
(WEST VIRGINIA SRF PROGRAM)

No. R-____ $_____

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF HUNTINGTON, a municipal corporation and political subdivision of the State of West Virginia in Cabell and Wayne Counties of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ DOLLARS ($_____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, _____, as set forth on the "Schedule of Annual Debt Service" attached as EXHIBIT B hereto and incorporated herein by reference, with interest on each installment at the rate per annum set forth on said EXHIBIT B. The interest and the SRF Administrative Fee (as defined in the hereinafter described Bond Legislation) shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, _____, as set forth on EXHIBIT B attached hereto.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Division of Environmental Protection (the "DEP), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and among the Issuer, the Authority and the DEP, dated _____, 199___.

This Bond is issued (i) to pay the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing public sewerage system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Bond Ordinance duly enacted by the Issuer on _____, 199___, and a Supplemental Resolution duly adopted by the Issuer on _____, 199___ (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH 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 (THE "SERIES 1993 BONDS"), AND 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"). THE SERIES 1993 BONDS AND THE SERIES 1997 BONDS ARE HEREINAFTER COLLECTIVELY REFERRED TO AS THE "PRIOR BONDS".

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the Holders of the Prior Bonds, and from moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1999 Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay all operating expenses of the System and the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside

as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 1999 Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 120% of the maximum amount payable in any year for principal of and interest on the Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Prior Bonds, so long as the Series 1993 Bonds are outstanding, and thereafter, 115% of such amount; provided however, that, if the Series 1993 Bonds are no longer outstanding and so long as there exists in the Series 1999 Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

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

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

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

[SEAL]

_____
Mayor

ATTEST:

_____
City Clerk

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

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

Date: _____, 199___.

ONE VALLEY BANK, NATIONAL
ASSOCIATION, as Registrar

_____
Authorized Officer

(Form of)

EXHIBIT A

RECORD OF ADVANCES

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

TOTAL $_____

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

(Form of)

ASSIGNMENT

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

_____

_____

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

Dated: _____, _____.

_____

In the presence of:

_____

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreement. The Series 1999 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous ordinance or resolution, the Mayor is specifically authorized and directed to execute the Loan Agreement in the form attached hereto as "Exhibit A" and made a part hereof, and the City Clerk is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed.

Section 3.12. "Amended Schedule A" Filing. Within 60 days following the Completion Date, the Issuer will file with the Authority a schedule in substantially the form of the "Amended Schedule A" to the Loan Agreement, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

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

(1) Revenue Fund (established by the Prior Ordinances);

(2) Depreciation Fund (established by the Prior Ordinances); and

(3) Bond Construction Trust Fund.

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

(1) Series 1993 Bonds Sinking Fund (established by the Prior Ordinances);

(2) Within the Series 1993 Bonds Sinking Fund, the Series 1993 Bonds Reserve Account (established by the Prior Ordinances);

(3) Within the Series 1993 Bonds Sinking Fund, the Series 1993 Bonds Redemption Account (established by the Prior Ordinances);

(4) Series 1997 Bonds Sinking Fund (established by the Prior Ordinances);

(5) Within the Series 1997 Bonds Sinking Fund, the Series 1997 Bonds Reserve Account (established by the Prior Ordinances);

(6) Series 1999 Bonds Sinking Fund;

(7) Within the Series 1999 Bonds Sinking Fund, the Series 1999 Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System and all parts thereof shall be deposited upon receipt by the Issuer in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in the Prior Ordinances and in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner provided in the Prior Ordinances and in this Bond Legislation. All moneys 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 Commission (i) for deposit in the Series 1993 Bonds Sinking Fund, the amount required by the Prior Ordinances to pay the interest on the Series 1993 Bonds; (ii) for deposit in the Series 1997 Bonds Sinking Fund, the amount required by the Prior Ordinances to pay the interest on the Series 1997 Bonds; and (iii) commencing 3 months prior to the first date of payment of interest on the Series 1999 Bonds for which interest has not been capitalized or as required in the Loan Agreement, for deposit in the Series 1999 Bonds Sinking Fund, an amount equal to 1/3rd of the amount of interest which will become due on the Series 1999 Bonds on the next ensuing quarterly interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1999 Bonds Sinking Fund and the next quarterly interest payment date is less than 4 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly interest payment date, the required amount of interest coming due on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Series 1993 Bonds Sinking Fund, the amount required by the Prior Ordinances to pay the principal of the Series 1993 Bonds; (ii) for deposit in the Series 1997 Bonds Sinking Fund, the amount required by the Prior Ordinances to pay the interest on the Series 1997 Bonds; and (iii) commencing 3 months prior to the first date of payment of principal of the Series 1999 Bonds, for deposit in the Series 1999 Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 1999 Bonds on the next ensuing quarterly principal payment date; provided that, in

the event the period to elapse between the date of such initial deposit in the Series 1999 Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Series 1993 Bonds Reserve Account, the amount required by the Prior Ordinances; (ii) for deposit in the Series 1997 Bonds Reserve Account, the amount required by the Prior Ordinances; and (iii) commencing 3 months prior to the first date of payment of principal of the Series 1999 Bonds, if not fully funded upon issuance of the Series 1999 Bonds, for deposit in the Series 1999 Bonds Reserve Account, an amount equal to 1/120th of the Series 1999 Bonds Reserve Account Requirement; provided that, no further payments shall be made into the Series 1999 Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1999 Bonds Reserve Account Requirement.

(5) Thereafter, from the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing with the first month in which interest shall be payable from the Revenue Fund and as previously set forth in the Prior Ordinances and not in addition thereto, transfer from the Revenue Fund to the Depreciation Fund, an amount equal to not less than 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of the Reserve Accounts.

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:

(a) To make up any deficiency in the Reserve Accounts (so that the amount on deposit therein is at least equal to the Reserve Account Requirement), or to reimburse in whole or in part any issuer of a reserve account letter of credit in the event of a draw thereon;

(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 (excluding the Reserve Accounts);

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

(d) Upon resolution of the Board and the Issuer, moneys in the Depreciation Fund in excess of $1,000,000 may be used for optional redemption or for purchase of Bonds. In the event of purchase of Bonds, the Issuer may direct the purchase of Bonds offered for sale at the lowest price below the redemption price of such Bonds.

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

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

Moneys in the Series 1999 Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 1999 Bonds as the same shall become due. Moneys in the Series 1999 Bonds Reserve Account shall be used only for the purpose of paying principal of and interest on the Series 1999 Bonds as the same shall come due, when other moneys in the Series 1999 Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 1999 Bonds Sinking Fund and the Series 1999 Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Bond Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment due on the Series 1999 Bonds and then to the next ensuing principal payment due thereon.

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

As and when additional Bonds ranking on a parity with the Series 1999 Bonds are issued, provision shall be made for additional payments into the respective sinking fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the appropriate reserve account in an amount equal to the maximum amount of principal and interest which will become due in any year for account of the Bonds of such series, including such additional Bonds.

The Issuer shall not be required to make any further payments into the Series 1999 Bonds Sinking Fund or the Series 1999 Bonds Reserve Account when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 1999 Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

Principal, interest or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Prior Bonds and Series 1999 Bonds, in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 1999 Bonds Sinking Fund and the Series 1999 Bonds Reserve Account created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited. If required by the Authority at anytime, the Issuer shall make the necessary arrangements whereby required payments into said accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Moneys in the Series 1999 Bonds Sinking Fund and the Series 1999 Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 1999 Bonds Sinking Fund and the Series 1999 Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 1999 Bonds under the conditions and restrictions hereinafter set forth.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required principal, interest and reserve payments with respect to the Series 1999 Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. The Issuer shall also on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the SRF Administrative Fee as set forth in the Loan Agreement.

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

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

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

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

ARTICLE VI

BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of any or all of the Series 1999 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 1999 Bonds, there shall first be deposited with the Commission in the Series 1999 Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 1999 Bonds for the period commencing on the date of issuance of the Series 1999 Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 1999 Bonds, there shall be deposited with the Commission in the Series 1999 Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 1999 Bonds Reserve Account.

C. As the Issuer receives advances of the remaining moneys derived from the sale of the Series 1999 Bonds, such moneys shall be deposited with the Depository Bank in the Bond Construction Trust Fund and applied solely to payment of the costs of the Project in the manner set forth in Section 6.02 hereof and, until so expended, are hereby pledged as additional security for the Series 1999 Bonds.

D. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 1999 Bonds shall be used to fund the Series 1999 Bonds Reserve Account, if not funded upon issuance of the Series 1999 Bonds, in an amount not to exceed the Series 1999 Bonds Reserve Requirement; provided that, in no event shall more than 10% of the proceeds of the Series 1999 Bonds be deposited in the Series 1999 Bonds Reserve Account.

Section 6.02. Disbursements From the Bond Construction Trust Fund. On or before the Closing Date, the Issuer shall have delivered to the Authority and the DEP a report listing the specific purposes for which the proceeds of the Series 1999 Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly.

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

(1) a completed and signed "Payment Requisition Form," a form of which is attached to the Loan Agreement as Exhibit C, and

(2) a certificate, signed by an Authorized Officer and the Consulting Engineers, stating that:

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

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

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

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

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

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 1999 Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 1999 Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 1999 Bonds or the interest thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 1999 Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of the Series 1999 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 1999 Bonds or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service on the Series 1999 Bonds shall be secured by a first lien on the Net Revenues derived from the System, on a parity with the lien on the Net Revenues in favor of the Holders of the Prior Bonds. The Net Revenues in an amount sufficient to pay the principal of and interest on the Prior Bonds and the Series 1999 Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Rates and Charges. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the sewer rate ordinance of the Issuer enacted October 26, 1998, which rates are incorporated herein by reference as a part hereof.

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

So long as the Series 1999 Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority and the DEP, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding, in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 1999 Bonds, immediately be remitted to the Commission for deposit in the Series 1999 Bonds Sinking Fund, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest on the Series 1999 Bonds. Any balance remaining after the payment of the Series 1999 Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Board 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 Board shall, in writing, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Board 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 Board shall first, in writing, determine with the written approval of the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Council may then, if it be so advised, by resolution duly adopted, approve and concur in such finding and authorize such sale, lease or other disposition of such property 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 shall not reduce the amounts required to be paid into said fund by other provisions of the Prior Ordinances and this Bond Legislation.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom shall be in excess of $200,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders of the Series 1999 Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Series 1999 Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in Section 7.07 hereof, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 1999 Bonds. All obligations issued by the Issuer after the issuance of the Series 1999 Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Series 1999 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 1999 Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 1999 Bonds and the interest thereon in this Bond Legislation, or upon the System or any part thereof.

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

Section 7.07. Additional Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinances shall be applicable. In addition, no additional parity Bonds, as in this section defined, payable out of the revenues of the System, shall be issued after the issuance of the Series 1999 Bonds pursuant to this Ordinance, without the prior written consent of the Authority and the DEP and without complying with the conditions and requirements herein provided (unless less restrictive than the provisions of the Prior Ordinances).

No such additional parity Bonds shall be issued except for the purpose of financing the costs of the acquisition and 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 City Clerk of the Issuer a written statement by Independent Accountants, reciting the conclusion that the Net Revenues actually

derived, from the System during the Fiscal Year 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 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 1999 Bonds then Outstanding;

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

(3) 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 the increased Net Revenues to be available as a result of existing additional customers required by law to be served by the System upon completion of the facilities to be financed with the proceeds of any 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 City 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 Prior Bonds and the Series 1999 Bonds, and all the covenants and other provisions of the Prior Ordinances and this Bond Legislation (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 Prior Bonds and the Series 1999 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 Prior Ordinances and this Bond Legislation required for and on account of such additional parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to the Prior Ordinances and this Bond Legislation.

No additional parity Bonds shall be valid unless authenticated in accordance with the Prior Ordinances and this Bond Legislation. Prior to such authentication, registration, if applicable, and delivery, the Registrar shall receive those documents prescribed by the Prior Ordinances and this Bond Legislation, modified as deemed necessary by the Registrar to reflect the issuance of such additional parity Bonds.

The term "additional parity Bonds," as used in this section, shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien on the revenues of the System of which is subject to the prior and superior lien of the Bonds on such revenues. Any such subordinate bonds, notes, certificates or other obligations shall be payable from the Net Revenues remaining after all payments required to be made in accordance with the Prior Ordinances and this Bond Legislation have first been paid. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or equally, as to lien and source of and security for payment from such revenues, with the Prior Bonds and the Series 1999 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 Prior Ordinances and this Bond Legislation on account of the Prior Bonds and the Series 1999 Bonds then Outstanding (excluding the Depreciation Fund), and any other payments provided for in the Prior Ordinances and this Bond Legislation, shall have been made in full as required to the date of delivery of the additional parity Bonds.

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

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

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

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

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

The Issuer shall file with the Consulting Engineers, the Authority and the DEP, or any other original purchaser of the Series 1999 Bonds, and shall mail in each year to any Holder or Holders of the Series 1999 Bonds, requesting the same, an annual report containing the following:

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

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

(C) The amount of any Bonds, notes or other obligations payable from the revenues of the System outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Accountants in compliance with the applicable OMB Circular, or any successor thereof, and the Single Audit Act, or any successor thereof, to the extent legally required, and shall mail upon request, and make available generally, the report of the Independent Accountants, or a summary thereof, to any Holder or Holders of

the Series 1999 Bonds and shall submit the report to the Authority and the DEP, or any other original purchaser of the Series 1999 Bonds. Such audit report submitted to the Authority and the DEP shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the Loan Agreement and this Bond Legislation and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

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

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

Section 7.09. Rates. Prior to the issuance of the Series 1999 Bonds, rates or charges for the use of the services and facilities of the System will be fixed and established, all in the manner and form required by law, and a copy of such rates and charges so fixed and established shall at all times be kept on file in the office of the City Clerk of the Issuer, which copy will be open to inspection by all interested parties. The schedule or schedules of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds and accounts created hereunder. Such schedule or schedules of rates and charges shall be revised from time to time, whenever necessary, so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule or schedules of rates or charges from time to time in effect shall be sufficient to produce Net Revenues equal to not less than the sum of (i) 120% of the Maximum Annual Debt Service on the Bonds in any Fiscal Year, so long as the Series 1993 Bonds are Outstanding, 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 Series 1999 Bonds Reserve Account Requirement is on deposit in the Series 1999 Bonds Reserve Account and any reserve accounts for obligations prior to or on a parity with the Series 1999 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.

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

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

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

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

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

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

The Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a "Performance Certificate," a form of which is attached to the Loan Agreement as Exhibit A, to the DEP within 60 days of the end of the first year after the Project is completed.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the Project is 90% completed.

The Issuer shall employ qualified operating personnel properly certified by the State before the Project is 25% complete and shall retain such a certified operator to operate the System during the entire term of the Loan Agreement. The Issuer shall notify the DEP in writing of the certified operator employed at the 25% completion stage.

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

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

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

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

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

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 1999 Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the greater of the fair appraised value or the actual cost thereof. In the event of any damage to or destruction of any portion of the System, the Board will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damages or destroyed portion. The Board will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the prime contractor and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than is customarily carried by municipalities of equivalent size with respect to works and properties similar to the System to protect the Issuer and the Board from claims for bodily injury and/or death and 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 and the Board from claims arising out of operation or ownership of motor vehicles of or for the System, provided that, the Board, with the review of an insurance consultant and the concurrence of the Issuer, may elect to self-insure. If the Issuer determines in good faith that any required insurance is not commercially available at a reasonable cost with reasonable terms, it shall engage an insurance consultant to verify the determination and to make recommendations regarding the types, amounts and provisions of any such insurance that should be purchased or funded by the Issuer, taking into consideration the costs and practices of other municipal water and sewer systems of similar size and type in the State to the extent that such information is available. The Issuer may, upon resolution adopted in good faith and upon the recommendations of the insurance consultant, adopt alternate or supplemental risk management programs which the Issuer determines to be reasonable, including the right to self-insure and participate in captive insurance companies.

(3) 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 Board 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.

(4) FIDELITY BONDS will be provided as to every officer and employee of the Board or the Issuer 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.

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

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

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

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

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

building where there is such gravity flow or transportation by such other method approved by the State Division of Health and such house, dwelling or building can be adequately served by the sewerage facilities portion of the System, and every such owner, tenant or occupant shall, after a 30-day notice of the availability of the sewerage facilities portion of the System, pay the rates and charges established therefor.

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

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

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

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

Section 7.19. 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 1999 Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Series 1999 Bonds during the term thereof is, under the terms of the Series 1999 Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used

for a Private Business Use; and (ii) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the Series 1999 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 1999 Bonds during the term thereof is, under the terms of the Series 1999 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 1999 Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project, or if the Series 1999 Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such Private Business Use is related, all of the foregoing to be determined in accordance with the Code.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of 5% of the Net Proceeds of the Series 1999 Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 1999 Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

D. INFORMATION RETURN. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 1999 Bonds and the interest thereon, including, without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer will take any and all actions that may be required of it (including, without limitation, those deemed necessary by the Authority) so that the interest on the Series 1999 Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including, without limitation, those deemed necessary by the Authority), the result of which would adversely affect such exclusion.

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

Section 7.21. Contracts. A. The Issuer shall, simultaneously with the delivery of the Series 1999 Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the DEP for written approval. The Issuer shall obtain the written approval of the DEP before expending any proceeds of the Series 1999 Bonds held in "contingency" as set forth in the Schedule A attached to the Loan Agreement. The Issuer shall also obtain the written approval of the DEP before expending any proceeds of the Series 1999 Bonds made available due to bid or construction or project underruns.

ARTICLE VIII

INVESTMENT OF FUNDS; NON ARBITRAGE

Section 8.01. Investments. The Issuer shall invest and reinvest, and shall instruct the 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 Reserve Accounts shall mature or be subject to retirement at the option of the holder within not more than 5 years from the date of such investment.

(B) The Issuer shall, or shall cause the Commission to semiannually transfer from the Reserve Accounts to the Sinking Funds any earnings on the moneys deposited therein and any other funds in excess of the Reserve Account Requirement; provided, however, that there shall at all times remain on deposit in the Reserve Accounts an amount at least equal to the 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 the Reserve Accounts, whereupon it shall be valued immediately after such withdrawal. If amounts

on deposit in the Reserve Accounts shall, at any time, be less than the applicable Reserve Account Requirement, the applicable Bond Insurer or Bondholder shall be notified immediately of such deficiency, and such deficiency shall be made up from the first available Net Revenues after required deposits to the Sinking Funds and otherwise in accordance with the Prior Ordinances and this Bond Legislation.

(D) All amounts representing accrued and capitalized interest shall be held by the 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 the Sinking Funds may be invested by the Commission in the West Virginia "consolidated fund" managed by the West Virginia Investment Management Board pursuant to Chapter 12, Article 6 of the Code of West Virginia, 1931, as amended.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year (or more often if reasonably requested by the Issuer), a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 1999 Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest on the Series 1999 Bonds from gross income for federal income tax purposes.

Section 8.02. Arbitrage and Tax Exemption. The Issuer covenants that (i) it shall not take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Series 1999 Bonds which would cause the Series 1999 Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Series 1999 Bonds) so that the interest on the Series 1999 Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 8.03. Small Issuer Exemption from Rebate of Excess Investment Earnings to the United States. In accordance with Section 148 (f)(4)(D) of the Code, the Issuer covenants that it is a governmental unit with general taxing powers; that no part of the Series 1999 Bonds are private activity bonds; that 95% or more of the Net Proceeds of the Series 1999 Bonds are to be used for local governmental activities of the Issuer (or of a

governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and that the aggregate face amount of all the tax-exempt obligations (other than private activity bonds) issued by the Issuer during the calendar year in which the Series 1999 Bonds are issued does not and will not exceed $5,000,000, determined in accordance with Section 148(f)(4)(D) of the Code and the Regulations from time to time in effect an applicable to the Series 1999 Bonds. For purposes of the first paragraph of Section 8.03 and for purposes of applying Section 148(f)(4)(D) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a governmental unit to make loans to other governmental units with general taxing powers not subordinate to such unit shall, for purposes of applying this first paragraph of Section 8.03 and Section 148(f)(4)(D) of the Code, be treated as not issued by such unit; all obligations issued by a subordinate entity shall, for purposes of applying this first paragraph of Section 8.03 and Section 148(f)(4)(D) of the Code to each other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(D) of the Code and all other entities benefiting thereby shall be treated as one issuer.

Notwithstanding the foregoing, if in fact the Issuer is subject to the rebate requirements of Section 148(f) of the Code, and not exempted from such requirements, the Issuer covenants to make, or cause to be made, all rebate calculations, computations and payments in the time, manner and as required in Section 148(f) of the Code and the Regulations from time to time in effect and applicable to the Series 1999 Bonds and otherwise covenants and agrees to comply with the provisions of such Section 148(f) of the Code and the Regulations from time to time in effect and applicable to the Series 1999 Bonds. In the event of a failure to pay the correct rebate amount, the Issuer will pay from any lawful sources available therefor, to the United States such amount, plus a penalty equal to 50% of the rebate amount not paid, plus interest on that amount, unless waived. In order to provide for the administration of this paragraph, the Issuer may provide for the employment of independent attorneys, accountants and consultants compensated on such reasonable basis as the Issuer may deem appropriate.

The Issuer shall furnish to the Authority, annually, and at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information relating thereto as may be requested by the Authority. In addition, the Issuer shall cooperate with the Authority in preparing any required rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the Issuer.

The Issuer shall submit to the Authority within 15 days following the end of each Bond Year a certified copy of its rebate calculation or, if the Issuer qualifies for the

small governmental issue exception to rebate, the Issuer shall submit a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the Series 1999 Bonds subject to rebate. The Issuer shall also furnish the Authority, at any time, such additional information relating to rebate as may be reasonably requested by the Authority, including information with respect to earnings on all funds constituting "gross proceeds" of the Series 1999 Bonds (as such term "gross proceeds" is defined in the Code).

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 1999 Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest on any Series 1999 Bonds; or

(2) If default occurs in the Issuer's or the Issuer's observance of any of the covenants, agreements or conditions on their respective parts relating to the Series 1999 Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 1999 Bonds, and such default shall have continued for a period of 30 days after the Issuer or Issuer, as appropriate shall have been given written notice of such default by the Commission, the Depository Bank, the Registrar, the Paying Agent or any other Paying Agent or a Holder of a Bond; or

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

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

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds; (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Holders of the Series 1999 Bonds shall be on a parity with the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds, any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

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

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

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

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the

System, but the authority of such receiver shall be limited to the completion of the Project and the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

PAYMENT OF BONDS

Section 10.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid, to the Holders of the Series 1999 Bonds, the principal of and interest due or to become due thereon, if any, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 1999 Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest on the Series 1999 Bonds from gross income for federal income tax purposes.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 1999 Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 1999 Bonds, no material modification or amendment of this Ordinance, or of any ordinance, resolution or order amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 1999 Bonds shall be made without the consent in writing of the Registered Owners of the Series 1999 Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of the Series 1999 Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 1999 Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the excludability of interest on the Series 1999 Bonds from gross income of the holders thereof.

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

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution or the Series 1999 Bonds.

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

Section 11.05. Conflicting Provisions Repealed; Prior Ordinances. All ordinances, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed, provided that, in the event of any conflict between this Ordinance and the Prior Ordinances, the Prior Ordinances shall

control (unless less restrictive), so long as the Prior Bonds or any portion thereof are Outstanding.

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

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

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

Passed on First Reading:	May 10, 1999
Passed on Second Reading:	May 24, 1999
Passed on Final Reading Following Public Hearing:	June 14, 1999

Sean Dean

Mayor

CL492581.1

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of THE CITY OF HUNTINGTON on the 14th day of June, 1999.

Dated: June 22, 1999.

[SEAL]

City Clerk

THE CITY OF HUNTINGTON

Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1999 (WEST VIRGINIA SRF PROGRAM), OF THE CITY OF HUNTINGTON; RATIFYING AND APPROVING A LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the city council (the "Governing Body") of The City of Huntington (the "Issuer") has duly and officially adopted and enacted a bond ordinance, effective June 14, 1999 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF HUNTINGTON AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $2,100,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1999 (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS;

APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Bond Ordinance provides for the issuance of Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program) (the "Bonds" or the "Series 1999 Bonds"), of the Issuer, in the aggregate principal amount not to exceed $2,100,000, and has authorized the execution and delivery of a loan agreement relating to the Bonds (the "Loan Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection (the "DEP"), all in accordance with Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Bond Ordinance it is provided that the form of the Loan Agreement and the exact principal amount, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

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

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

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the Loan Agreement be ratified and approved by the Issuer, that the exact principal amount, the date, the maturity date, the redemption provision, the interest rate, the interest and principal payment dates and the sale price of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

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

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), of the Issuer, originally represented by a single Bond, numbered R-1, in the principal amount of $2,083,550. The Bonds shall be dated the date of delivery thereof, shall finally mature June 1, 2020, and shall bear interest at the rate of 2% per annum. The principal of and the interest on the Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2000, and ending June 1, 2020, and in the amounts as set forth in "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Bonds.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Bond Ordinance.

Section 3. The Issuer does hereby approve and shall pay the administrative fee equal to 1% of the principal amount of the Bonds set forth in the "Schedule Y" attached to the Loan Agreement.

Section 4. The Issuer does hereby ratify, approve and accept the Loan Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the Loan Agreement and in the application to the DEP and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 5. The Issuer does hereby appoint and designate One Valley Bank, National Association, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Bonds under the Bond Ordinance and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 6. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds under the Bond Ordinance.

Section 7. The Issuer does hereby appoint and designate Bank One, West Virginia, National Association, Huntington, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 8. Series 1999 Bonds proceeds in the amount of $-0- shall be deposited in the Series 1999 Bonds Sinking Fund, as capitalized interest.

Section 9. Series 1999 Bonds proceeds in the amount of $-0- shall be deposited in the Series 1999 Bonds Reserve Account.

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

Section 11. The Mayor and the City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered on or about June 22, 1999, to the Authority pursuant to the Loan Agreement.

Section 12. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Bonds is in the public interest, serves a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

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

Section 14. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such repurchase agreements or time accounts until further directed in writing by the Issuer. Moneys in the Series 1999 Bonds Sinking Fund, including the Series 1999 Bonds Reserve Account therein, shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

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

Issuer will take all actions necessary to comply with the Code and Treasury Regulations to be promulgated thereunder.

Section 16. The Issuer is a governmental unit with general taxing powers to finance operations of or facilities of the nature of the Project and the System; no part of the Bonds are private activity bonds; 95% or more of the net proceeds of the Bonds are to be used for local governmental activities of the Issuer; and the Issuer reasonably expects to issue less than $5,000,000 aggregate principal face amount of tax-exempt obligations (other than private activity bonds) during the calendar year 1999, being the calendar year in which the Bonds are to be issued. For purposes of this Section and for purposes of applying Section 148(f)(4)(D) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a governmental unit to make loans to other governmental units with general taxing powers not subordinate to such unit shall, for purposes of applying this Section and Section 148(f)(4)(D) of the Code, be treated as not issued by such unit; all obligations issued by a subordinate entity shall, for purposes of applying this Section and Section 148(f)(4)(D) of the Code to each other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(D) of the Code and all other entities benefiting thereby shall be treated as one issuer.

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

Adopted this 14th day of June, 1999.

Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of The City of Huntington on the 14th day of June, 1999.

Dated: June 22, 1999.

[SEAL]

City Clerk

05/11/99
435500/98001

SRF-LP-1
(August 1998)

LOAN AGREEMENT

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

CITY OF HUNTINGTON
(Local Government)

W I T N E S S E T H:

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

WHEREAS, pursuant to the provisions of Chapter 20, Article 5I, of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a state water pollution control revolving fund program (the "Program") to direct the distribution of loans to particular local governments pursuant to the Clean Water Act;

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

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

WHEREAS, pursuant to the Act, the Authority and DEP are empowered to make loans from the Fund to local governments for the acquisition or construction of

wastewater treatment projects by such local governments, all subject to such provisions and limitations as are contained in the Clean Water Act and the Act;

WHEREAS, the Local Government constitutes a local government as defined by the Act;

WHEREAS, the Local Government is included on the DEP State Project Priority List and the Intended Use Plan and has met DEP's pre-application requirements for the Program;

WHEREAS, the Local Government is authorized and empowered by the statutes of the State to construct, operate and improve a wastewater treatment project and to finance the cost of constructing or acquiring the same by borrowing money to be evidenced by revenue bonds issued by the Local Government;

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

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

WHEREAS, having reviewed the Application and the Fund having available sufficient funds therefor, the Authority and DEP are willing to lend the Local Government the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Local Government with moneys held in the Fund, subject to the Local Government's satisfaction of certain legal and other requirements of the Program.

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

ARTICLE I

Definitions

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II

The Project and the System

2.1 The Project shall generally consist of the construction and acquisition of the facilities described in the Application, to be, being or having been constructed in accordance with plans, specifications and designs prepared for the Local Government by the Consulting Engineers, the DEP and Authority having found, to the extent applicable, that the Project is consistent with the applicable provisions of the Program.

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

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

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

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

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

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

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

2.9 The Local Government shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority, DEP and the Local Government at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Local Government shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Local Government shall notify DEP in writing of such receipt. The Local Government shall submit a Performance Certificate, the form of which is attached hereto as Exhibit A, and being incorporated herein by reference, to DEP within 60 days of the end of the first year after the Project is completed.

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

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

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

2.13 The Local Government, during construction of the Project, shall complete Payment Requisition Forms, the form of which is attached hereto as Exhibit C and incorporated herein by reference, and forward the Form to DEP in compliance with the Local Government's construction schedule.

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

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

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

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

(d) The Local Government shall either have received bids or entered into contracts for the construction of the Project, which are in an amount and otherwise compatible with the plan of financing described in the Application; provided, that, if the Loan will refund an interim financing of construction, the Local Government must either be constructing or have constructed its Project for a cost and as otherwise compatible with the plan of financing described in the Application; and, in either case, the Authority and DEP shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit D;

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

(f) The Local Government shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the construction of the Project and operation of the System, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

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

(h) The Local Government shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project) with all requisite appeal periods having expired, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

(i) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsection 4.1(b)(ii) hereof, and the Authority and DEP shall have received a certificate of the accountants for the Local Government, or such other person or firm experienced in the finances of local governments and satisfactory to the Authority and DEP, to such effect; and

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

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

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

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

3.5 The Local Government understands and acknowledges that it is one of several local governments which have applied to the Authority and DEP for loans to finance wastewater treatment projects and that the obligation of the Authority to make any such loan is subject to the Local Government's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing and to the requirements of the Program. The Local Government specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Fund to purchase all the Local Bonds and that, prior to such purchase, the Authority may purchase the bonds of other local governments set out in the State Project Priority List, as defined in the SRF Regulations. The

Local Government further specifically recognizes that all loans will be originated in conjunction with the SRF Regulations and with the approval of DEP.

3.6 The Local Government shall provide DEP with the appropriate documentation to comply with the special conditions established by federal and state regulations as set forth in Exhibit E hereto at such times as are set forth in Exhibit E.

ARTICLE IV

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

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

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

(i) to pay Operating Expenses of the System;

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

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

or making emergency repairs or replacements to the System or eliminating any deficiencies in the Reserve Account; and

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

Provided that if the Local Government has existing outstanding indebtedness which has greater coverage or renewal and replacement fund requirements, then the greater requirements will prevail until said existing indebtedness is paid in full.

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by the net revenues from the System;

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

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

(iv) That, except as otherwise required by State law or the Regulations, the System may be sold, mortgaged, leased or otherwise disposed of as a whole or substantially as a whole provided that the net proceeds to be realized from such sale, mortgage, lease or other deposition shall be sufficient to fully pay all of the local bonds outstanding and further provided that portions of the System when no longer required for the ongoing operation of such System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

(v) That the Local Government shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and

on any obligations secured by a lien on or payable from the revenues of the System prior to the Local Bonds and with the written consent of the Authority and DEP; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

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

(vii) That the Local Government will not render any free services of the System;

(viii) That any Local Bond owner may, by proper legal action, compel the performance of the duties of the Local Government under the Local Act, including the making and collection of sufficient rates or charges for services rendered by the System, and shall also have, in the event of a default in payment of principal of or interest on the Local Bonds, the right to obtain the appointment of a receiver to administer the System or construction of the Project, or both, as provided by law and all rights as set forth in Section 5 of the Act;

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

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

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

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

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

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

(xv) That, as long as the Authority is the owner of any of the Local Bonds, the Local Government may authorize redemption of the Local Bonds with 30 days written notice to the Authority;

(xvi) That the Local Government shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the West Virginia Municipal Bond Commission (the "Commission") its required interest, principal and reserve fund payment. The Local Government shall complete the Monthly Payment Form, attached hereto as Exhibit F and incorporated herein by reference, and submit a copy of said form along with a copy of the check to the Authority by the 5th day of such calendar month;

(xvii) That the Commission shall serve as paying agent for all Local Bonds;

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

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

(xx) That the Local Government shall, to the full extent permitted by applicable law and the rules and regulations of the West Virginia Public Service Commission, terminate the services of any water facility owned by it to any customer of the System who is delinquent in payment of charges for services provided by the System and will

not restore the services of the water facility until all delinquent charges for the services of the System have been fully paid or, if the water facility is not owned by the Local Government, then the Local Government shall enter into a termination agreement with the water provider.

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

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

4.3 At least five percent (5%) of the proceeds of the Local Bonds will be advanced on the Date of Loan Closing. The remaining proceeds of the Local Bonds shall be advanced by the Authority monthly as required by the Local Government to pay Costs of the Project, provided, however, if the proceeds of the Local Bonds will be used to repay an interim financing, the proceeds will be advanced on a schedule mutually agreeable to the Local Government, the DEP and the Authority. The Local Bonds shall not bear interest during the construction period but interest shall commence accruing on the completion date as defined in the SRF Regulations, provided that the annual repayment of principal and payment of interest shall begin not later than one (1) year after the completion date. The repayment of principal and interest on the Local Bonds shall be as set forth on Schedule Y hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

4.4 The Local Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Local Government. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series.

4.5 As provided by the SRF Regulations, the Local Government agrees to pay from time to time, if required by the Authority and DEP, the Local Government's allocable share of the reasonable administrative expenses of the Authority relating to the Program. Such administrative expenses shall be determined by the Authority and shall include without limitation Program expenses, legal fees paid by the Authority and fees paid to the trustee and paying agents for any bonds or notes to be issued by the Authority for contribution to the Fund and the fees and expenses of any corporate trustee for the Fund.

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

ARTICLE V

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

5.1 The Local Government hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Local Government hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System, as set forth in the Local Act and in compliance with the provisions of Subsection 4.1(b)(ii) hereof.

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

5.3 In the event the Local Government defaults in any payment due to the Authority pursuant to Section 4.2 hereof, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

5.4 The Local Government hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Local Government, the Authority may exercise any or all of the rights and powers granted under Section 5 of the Act, including without limitation the right to impose, enforce and collect directly charges upon users of the System.

ARTICLE VI

Other Agreements of the Local Government

6.1 The Local Government hereby acknowledges to the Authority and DEP its understanding of the provisions of the Act, vesting in the Authority and DEP certain powers, rights and privileges with respect to wastewater treatment projects in the event of default by local governments in the terms and covenants of loan agreements, and the Local Government hereby covenants and agrees that, if the Authority should hereafter have

recourse to said rights and powers, the Local Government shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Loan Agreement.

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

6.3 The Local Government hereby agrees to repay on or prior to the Date of Loan Closing any moneys due and owing by it to the Authority or any other lender for the planning or design of the Project, provided that such repayment shall not be made from the proceeds of the Loan.

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

6.5 Notwithstanding Section 6.4, the Authority and DEP may at any time, in their sole discretion, cause the rebate calculations prepared by or on behalf of the Local Government to be monitored or cause the rebate calculations for the Local Government to be prepared, in either case at the expense of the Local Government.

6.6 The Local Government hereby agrees to give the Authority and DEP prior written notice of the issuance by it of any other obligations to be used for the Project, payable from the revenues of the System or from any grants for the Project or otherwise related to the Project or the System.

6.7 The Local Government hereby agrees to file with the Authority upon completion of acquisition and construction of the Project a schedule in substantially the form of Amended Schedule A to the Application, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE VII

Miscellaneous

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

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

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

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

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

7.6 By execution and delivery of this Loan Agreement, notwithstanding the date hereof, the Local Government specifically recognizes that it is hereby agreeing to sell its Local Bonds to the Authority and that such obligation may be specifically enforced or subject to a similar equitable remedy by the Authority.

7.7 This Loan Agreement shall terminate upon the earlier of:

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

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

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

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

City of Huntington
[Proper Name of Local Government]

(SEAL)

By: Jean Dean
Its: Mayor

Attest:

Date: 5-20-99

Its City Clerk

WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION

By:
Its: Chief

Date: 5/21/99

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By:
Its: Director

Attest:

Date: May 19, 1999

Barbara B Meadows
Secretary-Treasurer

EXHIBIT A

[Form of Performance Certificate]

[TO BE PROVIDED BY DEP]

EXHIBIT B

[Form of Monthly Financial Report]
[Name of Local Government]
[Name of Bond Issue]
Fiscal Year - __
Report Month: _____

ITEM	CURRENT MONTH	YEAR TO DATE	BUDGET YEAR TO DATE	BUDGET DIFFERENCE
1. Gross Revenues Collected				
2. Operation and Maintenance Expense				
3. Other Bond Debt Payments (including Reserve Fund deposits)				
4. SRF Bond Payments (include Reserve Fund deposits)				
5. Renewal and Replacement Fund Deposit				
6. Funds available for capital construction				

Witnesseth my signature this __ day of ____, ____.

[Name of Local Government]

By: _____
Authorized Officer

EXHIBIT C

PAYMENT REQUISITION FORM

(All Copies to Be Provided by DEP for Each Project)

EXHIBIT D

FORM OF CERTIFICATE OF CONSULTING ENGINEER

_____
(Issuer)

_____
(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No._____, of _____, Consulting Engineers, _____, _____, hereby certify that my firm is engineer for the acquisition and construction of _____ to the _____ system (herein called the "Project") of _____ (the "Issuer") to be constructed primarily in _____County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the _____ passed by the _____ of the Issuer on _____, 19___, effective _____, 19___, and the Loan Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Division of Environmental Protection ("DEP") dated _____, 19___.

1. The Bonds are being issued for the purpose of _____ _____ (the "Project").

2. The undersigned hereby certifies that (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the application submitted to the Authority requesting the Authority to purchase the Bonds (the "Application") and approved by all necessary governmental bodies, (ii) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least twenty years, (iii) the Issuer has received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application and my firm has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified by my firm for accuracy, (iv) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, (v) the rates and charges for the System as adopted by the ____ of the Issuer are sufficient to comply with the provisions of Subsection 4.1(b) of the Loan Agreement, (vi) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay the costs of construction and

acquisition of the Project as set forth in the Application, and (vii) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this _____ day of _____, 19___.

_____

By _____

West Virginia License No. __

[SEAL]

EXHIBIT E

SPECIAL CONDITIONS

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

B. AUDIT REQUIREMENT (Supplement to Article IV 4.1 (b) (xi)) - The loan recipient that receives $300,000 or more in a fiscal year must obtain audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular A-133 or any appropriate successor. Financial statement audits are required once all funds have been received by the loan recipient.

EXHIBIT F

[Monthly Payment Form]

West Virginia Water Development
Authority
180 Association Drive
Charleston WV 25311-1571

Re: [Name of bond issue]

Dear Sirs:

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

Sinking Fund:

Interest $_____

Principal $_____

Total: $_____

Reserve Fund: $_____

Witness my signature this ____ day of_____.

[Name of Local Government]

By: _____
Authorized Officer

Enclosure: copy of check(s)

EXHIBIT G

[Opinion of Bond Counsel for Local Government]

[To Be Dated as of Date of Loan Closing]

West Virginia Water Development Authority
180 Association Drive
Charleston WV 25311-1571

Gentlemen:

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

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated _____, 19__, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Local Government and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Local Government, dated _____, 19_ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of $_____, issued in the form of one bond registered as to principal and interest to the Authority, with interest payable _____ 1, ____ 1, _____ 1, and _____ 1 of each year, beginning _____ 1, 19_, at the respective rate or rates and with principal payable in installments on ____ 1 in each of the years, all as follows:

Year	Installment	Interest Rate

The Local Bonds are issued for the purpose of _____ and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of _____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond _____ duly enacted by the Local Government on _____ (the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement that has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

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

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

3. The Local Government is a duly organized and presently existing _____ _____, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Government has legally and effectively enacted the Local Act and all other necessary _____ in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds are valid and legally enforceable special obligations of the Local Government, payable from the net revenues of the System referred to in the Local Act and secured by a [first] lien on and pledge of the net revenues of said System, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.

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

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

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

Very truly yours,

SCHEDULE X

DESCRIPTION OF BONDS

Principal Amount of Bonds	$ 2,083,550
Purchase Price of Bonds	$ 2,083,550

Interest on the Bonds shall be zero percent from the date of delivery to and including May 31, 2000. Principal and interest on the Bonds is payable quarterly, commencing Sept. 1, 2000, at a rate of 2 % per annum. Quarterly payments will be made thereafter on each September 1, December 1, March 1 and June 1 as set forth on Schedule Y attached hereto and incorporated herein by reference. As of the date of this Loan Agreement, it is the Authority's and DEP's understanding that the Local Government has [other obligations outstanding which have a lien as to the source of and security for payment equal to or superior to the lien being granted by the Bonds] or [provide list of outstanding debt]. (See attached schedule) *

The Local Government shall submit its payments monthly to the West Virginia Municipal Bond Commission with instructions that the West Virginia Municipal Bond Commission will make quarterly payments to the West Virginia Water Development Authority at such address as is given to the Bond Commission in writing by the Authority. If the Reserve Fund is not fully funded at closing, the Local Government shall commence the payment of the 1/120 of the maximum annual debt service on the first day of the month it makes its first monthly payment to the Bond Commission. The Local Government shall instruct the Bond Commission to notify the Authority of any monthly payments which are not received by the 20th day of the month in which the payment was due.

The Bonds will be fully registered in the name of the West Virginia Water Development Authority as to principal and interest and such Bonds shall grant the Authority a first lien on the net revenues of the Local Government's system.

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

*Sewerage System Refunding Revenue Bonds, Series 1993, dated November 1, 1993, issued in the original aggregate principal amount of $7,100,000.

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

City of Huntington, West Virginia

$2,083,550 CWSRF Loan

20 Years, 2% Interest Rate, 1% Administrative Fee

NET DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
9/01/1999	-	-	-	-
12/01/1999	-	-	-	-
3/01/2000	-	-	-	-
6/01/2000	-	-	-	-
9/01/2000	21,246.00	2.000%	10,417.75	31,663.75
12/01/2000	21,352.00	2.000%	10,311.52	31,663.52
3/01/2001	21,459.00	2.000%	10,204.76	31,663.76
6/01/2001	21,566.00	2.000%	10,097.47	31,663.47
9/01/2001	21,674.00	2.000%	9,989.64	31,663.64
12/01/2001	21,783.00	2.000%	9,881.27	31,664.27
3/01/2002	21,891.00	2.000%	9,772.35	31,663.35
6/01/2002	22,001.00	2.000%	9,662.90	31,663.90
9/01/2002	22,111.00	2.000%	9,552.89	31,663.89
12/01/2002	22,221.00	2.000%	9,442.34	31,663.34
3/01/2003	22,333.00	2.000%	9,331.23	31,664.23
6/01/2003	22,444.00	2.000%	9,219.57	31,663.57
9/01/2003	22,556.00	2.000%	9,107.35	31,663.35
12/01/2003	22,669.00	2.000%	8,994.57	31,663.57
3/01/2004	22,783.00	2.000%	8,881.22	31,664.22
6/01/2004	22,897.00	2.000%	8,767.31	31,664.31
9/01/2004	23,011.00	2.000%	8,652.82	31,663.82
12/01/2004	23,126.00	2.000%	8,537.77	31,663.77
3/01/2005	23,242.00	2.000%	8,422.14	31,664.14
6/01/2005	23,358.00	2.000%	8,305.93	31,663.93
9/01/2005	23,475.00	2.000%	8,189.14	31,664.14
12/01/2005	23,592.00	2.000%	8,071.76	31,663.76
3/01/2006	23,710.00	2.000%	7,953.80	31,663.80
6/01/2006	23,829.00	2.000%	7,835.25	31,664.25
9/01/2006	23,948.00	2.000%	7,716.11	31,664.11
12/01/2006	24,067.00	2.000%	7,596.37	31,663.37
3/01/2007	24,188.00	2.000%	7,476.03	31,664.03
6/01/2007	24,309.00	2.000%	7,355.09	31,664.09
9/01/2007	24,430.00	2.000%	7,233.55	31,663.55
12/01/2007	24,552.00	2.000%	7,111.40	31,663.40
3/01/2008	24,675.00	2.000%	6,988.64	31,663.64
6/01/2008	24,799.00	2.000%	6,865.26	31,664.26
9/01/2008	24,923.00	2.000%	6,741.27	31,664.27
12/01/2008	25,047.00	2.000%	6,616.65	31,663.65
3/01/2009	25,172.00	2.000%	6,491.42	31,663.42
6/01/2009	25,298.00	2.000%	6,365.56	31,663.56
9/01/2009	25,425.00	2.000%	6,239.07	31,664.07
12/01/2009	25,552.00	2.000%	6,111.94	31,663.94
3/01/2010	25,680.00	2.000%	5,984.18	31,664.18
6/01/2010	25,808.00	2.000%	5,855.78	31,663.78
9/01/2010	25,937.00	2.000%	5,726.74	31,663.74
12/01/2010	26,067.00	2.000%	5,597.06	31,664.06
3/01/2011	26,197.00	2.000%	5,466.72	31,663.72

City of Huntington, West Virginia

$2,083,550 CWSRF Loan

20 Years, 2% Interest Rate, 1% Administrative Fee

NET DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
6/01/2011	26,328.00	2.000%	5,335.74	31,663.74
9/01/2011	26,460.00	2.000%	5,204.10	31,664.10
12/01/2011	26,592.00	2.000%	5,071.80	31,663.80
3/01/2012	26,725.00	2.000%	4,938.84	31,663.84
6/01/2012	26,859.00	2.000%	4,805.21	31,664.21
9/01/2012	26,993.00	2.000%	4,670.92	31,663.92
12/01/2012	27,128.00	2.000%	4,535.95	31,663.95
3/01/2013	27,263.00	2.000%	4,400.31	31,663.31
6/01/2013	27,400.00	2.000%	4,264.00	31,664.00
9/01/2013	27,537.00	2.000%	4,127.00	31,664.00
12/01/2013	27,674.00	2.000%	3,989.31	31,663.31
3/01/2014	27,813.00	2.000%	3,850.94	31,663.94
6/01/2014	27,952.00	2.000%	3,711.88	31,663.88
9/01/2014	28,092.00	2.000%	3,572.12	31,664.12
12/01/2014	28,232.00	2.000%	3,431.66	31,663.66
3/01/2015	28,373.00	2.000%	3,290.50	31,663.50
6/01/2015	28,515.00	2.000%	3,148.63	31,663.63
9/01/2015	28,658.00	2.000%	3,006.06	31,664.06
12/01/2015	28,801.00	2.000%	2,862.77	31,663.77
3/01/2016	28,945.00	2.000%	2,718.76	31,663.76
6/01/2016	29,090.00	2.000%	2,574.04	31,664.04
9/01/2016	29,235.00	2.000%	2,428.59	31,663.59
12/01/2016	29,381.00	2.000%	2,282.41	31,663.41
3/01/2017	29,528.00	2.000%	2,135.51	31,663.51
6/01/2017	29,676.00	2.000%	1,987.87	31,663.87
9/01/2017	29,824.00	2.000%	1,839.49	31,663.49
12/01/2017	29,973.00	2.000%	1,690.37	31,663.37
3/01/2018	30,123.00	2.000%	1,540.50	31,663.50
6/01/2018	30,274.00	2.000%	1,389.89	31,663.89
9/01/2018	30,425.00	2.000%	1,238.52	31,663.52
12/01/2018	30,577.00	2.000%	1,086.39	31,663.39
3/01/2019	30,730.00	2.000%	933.51	31,663.51
6/01/2019	30,884.00	2.000%	779.86	31,663.86
9/01/2019	31,038.00	2.000%	625.44	31,663.44
12/01/2019	31,194.00	2.000%	470.25	31,664.25
3/01/2020	31,350.00	2.000%	314.28	31,664.28
6/01/2020	31,505.00	2.000%	157.53	31,662.53
Total	**2,083,550.00**	**-**	**449,552.54**	**2,533,102.54** *

*Plus $2,809.71 one-percent administrative fee paid quarterly. Total administrative fee paid over the life of the loan is $224,776.80.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
3-14-99
By Commission Order

Entered: March 8, 1999

CASE NO. 98-1445-S-CN

CITY OF HUNTINGTON SANITARY BOARD,
a municipal utility.
Application for a certificate of convenience and necessity to replace and relocate an existing force main.

RECOMMENDED DECISION

On November 30, 1998, the City of Huntington Sanitary Board (Huntington), a municipal corporation, Huntington, Cabell County, filed an application with the Public Service Commission, pursuant to *West Virginia Code* (*Code*) §24-2-11, for a certificate of public convenience and necessity to replace an existing force main.

On December 1, 1998, as amended on December 2, 1998, the Commission directed that Huntington publish the Notice of Filing, once, in a newspaper duly qualified by the Secretary of State, published and generally circulated in Cabell County. The Notice of Filing provided that, if no one protested the proposed project within thirty days, the Commission may waive formal hearing and grant the certificate based upon its review of the evidence submitted with the application. On December 29, 1998, Huntington filed a publication affidavit indicating that it had published the Notice of Filing on December 9, 1998, in *The Herald-Dispatch*, a newspaper published and generally circulated in Cabell County, West Virginia. No one has protested the proposed project.

On December 17, 1998, Staff Attorney James V. Kelsh, Esquire, filed the Initial Joint Staff Memorandum, attaching the December 10, 1998 Utilities Division Initial Staff Memorandum from Chief Utilities Manager Cleo C. McGraw, Utilities Division, indicating that the Commission should refer this matter to the Division of Administrative Law Judges (ALJ Division).

On December 30, 1998, the Commission entered the Commission Referral Order in this proceeding, referring this matter to the ALJ Division for decision on or before June 28, 1999, thereby implicitly waiving the 30-day notice requirement of *Code* §24-2-11.

On January 22, 1999, Staff Attorney Kelsh filed the Final Joint Staff Memorandum, indicating that Commission Staff still was evaluating this matter and would file a final recommendation once it had completed its investigation. Responding to all of the above, on January 25, 1999, the

Administrative Law Judge (ALJ) issued a Procedural Order establishing a procedural schedule to process and resolve this matter, including an April 1, 1999 hearing date.

On February 18, 1999, Staff Attorney James V. Kelsh, Esquire, filed the Further Final Joint Staff Memorandum, dated February 17, 1999, attaching the February 1, 1999 Utilities Division Final Staff Recommendation from Chief Utilities Manager Cleo C. McGraw, Utilities Division, and the February 11, 1999 Utilities Division Staff Recommendation from Technical Analyst James Spurlock, Water and Wastewater Section, Engineering Division. Together, these Memoranda comprise Commission Staff's final recommendation. On February 18, 1999, Executive Secretary Sandra Squire served Huntington with a copy of Commission Staff's final recommendation, granting it seven days to respond in writing. Huntington did not respond.

Commission Staff reported that the proposed project to replace and relocate an existing force main at a cost of $2,083,550 would be financed with a West Virginia State Revolving Fund (SRF) loan bearing interest at the rate of 3% and payable over 20 years. The West Virginia Division of Environmental Protection (DEP) has ordered Huntington to pursue this project. Huntington recently passed a rate ordinance which will cover the increased debt service. The technical aspects of the project comply with generally accepted engineering standards and Commission rules and regulations. Commission Staff has recommended that the Commission grant the certificate without a hearing, provided that Huntington has to obtain separate approval should the scope or the financing for the project change for any reason.

DISCUSSION

The ALJ has considered all of the above, and, since no dispute remains to be resolved in this proceeding, the ALJ will consider the parties to have waived their rights under *Code* §24-1-9(b) to file proposed findings of fact and conclusions of law, or briefs, in this proceeding, or to a hearing. Entering this Recommended Decision obviates the necessity for the procedural schedule established by the January 25, 1999 Procedural Order, including the April 1, 1999 hearing date, and the same will be canceled.

The ALJ holds that, since Huntington published the Revised Notice of Filing on December 9, 1998, in *The Herald-Dispatch*, a newspaper published and generally circulated in Cabell County, West Virginia; since no one has protested the proposed project; since the DEP has ordered Huntington to pursue this project; since Huntington recently passed a rate ordinance which will cover the increased debt service; since the technical aspects of the project comply with generally accepted engineering standards and Commission rules and regulations; and since Commission Staff has recommended that the Commission grant the certificate without a hearing, the ALJ will grant the certificate. Since the proposed project to replace and relocate an existing force main at a cost of $2,083,550 would be financed with a SRF loan bearing interest at the rate of 3% and payable over 20 years, and since Huntington recently passed a rate ordinance which will cover the increased debt service, the ALJ will approve the proposed financing for the project. The ALJ also will require that, should the scope or the financing for the project change for any reason, Huntington will first have to obtain separate Commission approval before commencing construction.

FINDINGS OF FACT

1. The City of Huntington Sanitary Board filed an application with the Commission, pursuant to *Code* §24-2-11, for a certificate of public convenience and necessity to replace an existing force main. (See, Application, filed November 30, 1998).

2. Huntington published the Amended Notice of Filing on December 9, 1998, in *The Herald-Dispatch*, a newspaper published and generally circulated in Cabell County, West Virginia. (See, Publication Affidavit, filed December 29, 1998).

3. No one has protested the proposed project. (See, Commission's file).

4. The DEP has ordered Huntington to pursue this project. (See, Further Final Joint Staff Memorandum, with attachments, filed February 18, 1999).

5. Huntington recently passed a rate ordinance which will cover the increased debt service. (See, Further Final Joint Staff Memorandum, with attachments, filed February 18, 1999).

6. The technical aspects of the project comply with generally accepted engineering standards and Commission rules and regulations. (See, Further Final Joint Staff Memorandum, with attachments, filed February 18, 1999).

7. Commission Staff has recommended that the Commission grant the certificate without a hearing, provided that the Commission require that, should the scope or the financing for the project change for any reason, Huntington would have to obtain separate Commission approval before commencing construction. (See, Further Final Joint Staff Memorandum, with attachments, filed February 18, 1999).

8. The proposed project to replace and relocate an existing force main would be financed with a $2,083,550 SRF loan bearing interest at the rate of 3% and payable over 20 years. (See, Further Final Joint Staff Memorandum, with attachments, filed February 18, 1999).

CONCLUSIONS OF LAW

1. For all of the reasons set forth in Finding of Fact Nos. 2 through 7, it is reasonable to conclude that public convenience and necessity require the proposed project.

2. For all of the reasons set forth in Conclusion of Law No. 1, it is reasonable to grant the certificate.

3. For all of the reasons set forth in Finding of Fact Nos. 5 and 8, it is reasonable to approve the proposed financing for the project.

APR 26 '99 01:04PM ROBERT R RODECKER P.4

4. For all of the reasons set forth in Finding of Fact No. 7, it is reasonable to require that, should the scope or the financing for the project change for any reason, Huntington will have to obtain separate Commission approval prior to commencing construction.

ORDER

IT IS, THEREFORE, ORDERED that the application filed with the Commission on November 30, 1998, by the City of Huntington Sanitary Board, pursuant to *Code* §24-2-11, for a certificate of public convenience and necessity to replace an existing force main, be, and it hereby is, granted.

IT IS FURTHER ORDERED that the proposed financing for the project, comprised of a $2,083,550 SRF loan bearing interest at the rate of 3% and payable over 20 years, be, and it hereby is, approved.

IT IS FURTHER ORDERED that, should the scope or the financing for the proposed project change for any reason, Huntington shall have to first obtain separate Commission approval prior to commencing construction of the project.

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

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

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

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

Ronnie Z. McCann
Deputy Chief Administrative Law Judge

RZM:s
981445AA.WPD

981445sec030999.wpd

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA, in the City of Charleston on the 9th day of March, 1999.

CASE NO. 98-1445-S-CN

CITY OF HUNTINGTON SANITARY BOARD,
a municipal utility.
Application for a certificate of convenience
and necessity to replace and relocate an
existing force main.

COMMISSION ORDER
WAIVING EXCEPTION PERIOD

On March 8, 1999, Deputy Chief Administrative Law Judge Ronnie Z. McCann entered a Recommended Decision which, among other things, granted the City of Huntington Sanitary Board a certificate of public convenience and necessity to replace an existing force main.

On March 9, 1999, Robert R. Rodecker, Esq., counsel for the Applicant, filed a Petition For Waiver of Exceptions" to the March 8, 1999 Recommended Decision. Commission Staff has indicated it has no objection to granting said waiver.

West Virginia Code §24-1-9 provides a time period of at least twenty (20) days from the date of a recommended order until it becomes effective. According to West Virginia Code §24-1-9(c), at least fifteen (15) days must be afforded the parties within which to file exceptions. In addition, West Virginia Code §24-1-9(e) provides that when no exceptions are filed within the specified time period, the Commission shall have an additional five (5) days within which to stay or postpone the order.

The Commission is of the opinion and belief that said request for waiver received by the Commission on March 8, 1999 should be granted.

IT IS, THEREFORE, ORDERED that the requested waiver be, and the same hereby is, granted.

IT IS FURTHER ORDERED that the Administrative Law Judge's Recommended Decision in this matter becomes final five (5) days after the date of this order.

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

A True Copy, Teste:

Sandra Squire
Executive Secr

SH/ft
981445s.wpd

Public Service Commission
of West Virginia
Charleston

MAR 26 '99 01:05PM ROBERT R RODECKER P.2

West Virginia Infrastructure & Jobs Development Council

Public Members:
Russell L. Isaacs, Chairman
Cottageville
James D. Williams, Vice-Chairman
St. Albans
Lloyd P. Adams, P.E.
Wheeling
James L. Harrison, Sr.
Princeton

1320 One Valley Square
Charleston, West Virginia 25301
Telephone: (304) 558-4607
Facsimile: (304)558-4609

Susan J. Riggs, Esquire
Executive Secretary

May 8, 1997

Kevin L. Sarrett
Woolpert LLP
Suite 400
606 Virginia Street, East
Charleston, WV 25301

Re: Huntington Sanitary Board
Guyandotte Force Main Replacement Project 97S-306

Dear Mr. Sarrett:

The West Virginia Infrastructure and Jobs Development Council (Council) has reviewed the Huntington Sanitary Board's (Board) preliminary application regarding a proposed project to replace its Guyandotte Force Main (Project). Based on the findings of the Sewer Technical Review Committee, the Council has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act. The Board should carefully review the enclosed comments of the Sewer Technical Review Committee. The Board may need to address certain issues raised in said comments as it proceeds with the Project.

Pursuant to its review of the preliminary application, the Council recommends the Board pursue a State Revolving Fund loan to finance the Project. Please contact the Division of Environmental Protection at 558-0641 for specific information on the steps the Board needs to follow to apply for this loan. **Please note that this letter <u>does not</u> constitute funding approval from the State Revolving Fund.**

If you have any questions regarding this matter, please contact Susan J. Riggs at (304) 558-4607.

Sincerely,

Russell L. Isaacs

RLI/bh
Enclosures
cc: J. Michael Johnson
Phillip Keyes
David Michael

THE CITY OF HUNTINGTON

Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

CROSS-RECEIPT FOR BOND AND BOND PROCEEDS

The undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, and the undersigned Mayor of The City of Huntington (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the 22nd day of June, 1999, the Authority received the entire original issue of $2,083,550 principal amount of the Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), of the Issuer (the "Bonds"), issued as a single, fully registered Bond, numbered R-1, and dated June 22, 1999.

2. At the time of such receipt of the Bonds upon original issuance, the Bonds had been executed by the Mayor and the City Clerk of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been affixed upon the Bonds.

3. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Series 1999 Bonds, of $163,745, being a portion of the principal amount of the Series 1999 Bonds. The balance of the principal amount of the Series 1999 Bonds will be advanced by the Authority and the West Virginia Division of Environmental Protection to the Issuer as acquisition and construction of the Project progresses.

WITNESS our respective signatures on this 22nd day of June, 1999.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

Barbara B Meadows
Authorized Representative

THE CITY OF HUNTINGTON

Sean Sean
Mayor

05/27/99
435500/98001

CL526626.1

6

THE CITY OF HUNTINGTON

Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

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

Ladies and Gentlemen:

There are delivered to you herewith:

(1) Bond No. R-1, constituting the entire original issue of The City of Huntington Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), in the principal amount of $2,083,550, dated June 22, 1999 (the "Bonds"), executed by the Mayor and the City Clerk of The City of Huntington (the "Issuer") and bearing the official seal of the Issuer, authorized to be issued under and pursuant to a Bond Ordinance duly enacted by the Issuer on June 14, 1999, and a Supplemental Resolution duly adopted by the Issuer on June 14, 1999 (collectively, the "Bond Legislation");

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

(3) Executed counterparts of the loan agreement dated May 19, 1999, by and among the West Virginia Water Development Authority (the "Authority"), the West Virginia Division of Environmental Protection (the "DEP") and the Issuer (the "Loan Agreement"); and

(4) An executed opinion of nationally recognized bond counsel regarding the validity of the Loan Agreement and the Bonds.

You are hereby requested and authorized to deliver the Bonds to the Authority upon payment to the Issuer of the sum of $163,745, representing a portion of the principal amount of the Bonds. Prior to such delivery of the Bonds, you will please cause the Bonds to be authenticated and registered by an authorized officer, as Bond Registrar, in accordance with the form of Certificate of Authentication and Registration thereon.

Dated this 22nd day of June, 1999.

THE CITY OF HUNTINGTON

Fran Dean

Mayor

05/27/99
435500/98001

(SPECIMEN BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF HUNTINGTON
SEWER REVENUE BOND,
SERIES 1999
(WEST VIRGINIA SRF PROGRAM)

No. R-1 $2,083,550

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF HUNTINGTON, a municipal corporation and political subdivision of the State of West Virginia in Cabell and Wayne Counties of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of TWO MILLION EIGHTY-THREE THOUSAND FIVE HUNDRED FIFTY DOLLARS ($2,083,550), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2000, as set forth on the "Schedule of Annual Debt Service" attached as EXHIBIT B hereto and incorporated herein by reference, with interest on each installment at the rate per annum set forth on said EXHIBIT B. The interest and the SRF Administrative Fee (as defined in the hereinafter described Bond Legislation) shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2000, as set forth on EXHIBIT B attached hereto.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia

Division of Environmental Protection (the "DEP), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and among the Issuer, the Authority and the DEP, dated May 19, 1999.

This Bond is issued (i) to pay the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing public sewerage system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Bond Ordinance duly enacted by the Issuer on June 14, 1999, and a Supplemental Resolution duly adopted by the Issuer on June 14, 1999 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S 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"), AND 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"). THE SERIES 1993 BONDS AND THE SERIES 1997 BONDS ARE HEREINAFTER COLLECTIVELY REFERRED TO AS THE "PRIOR BONDS".

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the Holders of the Prior Bonds, and from moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1999 Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay all operating expenses of the System and the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 1999 Bonds

Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 120% of the maximum amount payable in any year for principal of and interest on the Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Prior Bonds, so long as the Series 1993 Bonds are outstanding, and thereafter, 115% of such amount; provided however, that, if the Series 1993 Bonds are no longer outstanding and so long as there exists in the Series 1999 Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes

of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

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

IN WITNESS WHEREOF, THE CITY OF HUNTINGTON has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its City Clerk, and has caused this Bond to be dated June 22, 1999.

[SEAL]

_____
Mayor

ATTEST:

_____
City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

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

Date: June 22, 1999.

ONE VALLEY BANK, NATIONAL
ASSOCIATION, as Registrar

_____
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	$163,745	6-22-99	(19)	$	
(2)	$		(20)	$	
(3)	$		(21)	$	
(4)	$		(22)	$	
(5)	$		(23)	$	
(6)	$		(24)	$	
(7)	$		(25)	$	
(8)	$		(26)	$	
(9)	$		(27)	$	
(10)	$		(28)	$	
(11)	$		(29)	$	
(12)	$		(30)	$	
(13)	$		(31)	$	
(14)	$		(32)	$	
(15)	$		(33)	$	
(16)	$		(34)	$	
(17)	$		(35)	$	
(18)	$		(36)	$	

TOTAL $_____

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

City of Huntington, West Virginia

$2,083,550 CWSRF Loan

20 Years, 2% Interest Rate, 1% Administrative Fee

NET DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
9/01/1999	-	-	-	-
12/01/1999	-	-	-	-
3/01/2000	-	-	-	-
6/01/2000	-	-	-	-
9/01/2000	21,246.00	2.000%	10,417.75	31,663.75
12/01/2000	21,352.00	2.000%	10,311.52	31,663.52
3/01/2001	21,459.00	2.000%	10,204.76	31,663.76
6/01/2001	21,566.00	2.000%	10,097.47	31,663.47
9/01/2001	21,674.00	2.000%	9,989.64	31,663.64
12/01/2001	21,783.00	2.000%	9,881.27	31,664.27
3/01/2002	21,891.00	2.000%	9,772.35	31,663.35
6/01/2002	22,001.00	2.000%	9,662.90	31,663.90
9/01/2002	22,111.00	2.000%	9,552.89	31,663.89
12/01/2002	22,221.00	2.000%	9,442.34	31,663.34
3/01/2003	22,333.00	2.000%	9,331.23	31,664.23
6/01/2003	22,444.00	2.000%	9,219.57	31,663.57
9/01/2003	22,556.00	2.000%	9,107.35	31,663.35
12/01/2003	22,669.00	2.000%	8,994.57	31,663.57
3/01/2004	22,783.00	2.000%	8,881.22	31,664.22
6/01/2004	22,897.00	2.000%	8,767.31	31,664.31
9/01/2004	23,011.00	2.000%	8,652.82	31,663.82
12/01/2004	23,126.00	2.000%	8,537.77	31,663.77
3/01/2005	23,242.00	2.000%	8,422.14	31,664.14
6/01/2005	23,358.00	2.000%	8,305.93	31,663.93
9/01/2005	23,475.00	2.000%	8,189.14	31,664.14
12/01/2005	23,592.00	2.000%	8,071.76	31,663.76
3/01/2006	23,710.00	2.000%	7,953.80	31,663.80
6/01/2006	23,829.00	2.000%	7,835.25	31,664.25
9/01/2006	23,948.00	2.000%	7,716.11	31,664.11
12/01/2006	24,067.00	2.000%	7,596.37	31,663.37
3/01/2007	24,188.00	2.000%	7,476.03	31,664.03
6/01/2007	24,309.00	2.000%	7,355.09	31,664.09
9/01/2007	24,430.00	2.000%	7,233.55	31,663.55
12/01/2007	24,552.00	2.000%	7,111.40	31,663.40
3/01/2008	24,675.00	2.000%	6,988.64	31,663.64
6/01/2008	24,799.00	2.000%	6,865.26	31,664.26
9/01/2008	24,923.00	2.000%	6,741.27	31,664.27
12/01/2008	25,047.00	2.000%	6,616.65	31,663.65
3/01/2009	25,172.00	2.000%	6,491.42	31,663.42
6/01/2009	25,298.00	2.000%	6,365.56	31,663.56
9/01/2009	25,425.00	2.000%	6,239.07	31,664.07
12/01/2009	25,552.00	2.000%	6,111.94	31,663.94
3/01/2010	25,680.00	2.000%	5,984.18	31,664.18
6/01/2010	25,808.00	2.000%	5,855.78	31,663.78
9/01/2010	25,937.00	2.000%	5,726.74	31,663.74
12/01/2010	26,067.00	2.000%	5,597.06	31,664.06
3/01/2011	26,197.00	2.000%	5,466.72	31,663.72

City of Huntington, West Virginia

$2,083,550 CWSRF Loan

20 Years, 2% Interest Rate, 1% Administrative Fee

NET DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
6/01/2011	26,328.00	2.000%	5,335.74	31,663.74
9/01/2011	26,460.00	2.000%	5,204.10	31,664.10
12/01/2011	26,592.00	2.000%	5,071.80	31,663.80
3/01/2012	26,725.00	2.000%	4,938.84	31,663.84
6/01/2012	26,859.00	2.000%	4,805.21	31,664.21
9/01/2012	26,993.00	2.000%	4,670.92	31,663.92
12/01/2012	27,128.00	2.000%	4,535.95	31,663.95
3/01/2013	27,263.00	2.000%	4,400.31	31,663.31
6/01/2013	27,400.00	2.000%	4,264.00	31,664.00
9/01/2013	27,537.00	2.000%	4,127.00	31,664.00
12/01/2013	27,674.00	2.000%	3,989.31	31,663.31
3/01/2014	27,813.00	2.000%	3,850.94	31,663.94
6/01/2014	27,952.00	2.000%	3,711.88	31,663.88
9/01/2014	28,092.00	2.000%	3,572.12	31,664.12
12/01/2014	28,232.00	2.000%	3,431.66	31,663.66
3/01/2015	28,373.00	2.000%	3,290.50	31,663.50
6/01/2015	28,515.00	2.000%	3,148.63	31,663.63
9/01/2015	28,658.00	2.000%	3,006.06	31,664.06
12/01/2015	28,801.00	2.000%	2,862.77	31,663.77
3/01/2016	28,945.00	2.000%	2,718.76	31,663.76
6/01/2016	29,090.00	2.000%	2,574.04	31,664.04
9/01/2016	29,235.00	2.000%	2,428.59	31,663.59
12/01/2016	29,381.00	2.000%	2,282.41	31,663.41
3/01/2017	29,528.00	2.000%	2,135.51	31,663.51
6/01/2017	29,676.00	2.000%	1,987.87	31,663.87
9/01/2017	29,824.00	2.000%	1,839.49	31,663.49
12/01/2017	29,973.00	2.000%	1,690.37	31,663.37
3/01/2018	30,123.00	2.000%	1,540.50	31,663.50
6/01/2018	30,274.00	2.000%	1,389.89	31,663.89
9/01/2018	30,425.00	2.000%	1,238.52	31,663.52
12/01/2018	30,577.00	2.000%	1,086.39	31,663.39
3/01/2019	30,730.00	2.000%	933.51	31,663.51
6/01/2019	30,884.00	2.000%	779.86	31,663.86
9/01/2019	31,038.00	2.000%	625.44	31,663.44
12/01/2019	31,194.00	2.000%	470.25	31,664.25
3/01/2020	31,350.00	2.000%	314.28	31,664.28
6/01/2020	31,505.00	2.000%	157.53	31,662.53
Total	**2,083,550.00**	**-**	**449,552.54**	**2,533,102.54** *

*Plus $2,809.71 one-percent administrative fee paid quarterly. Total administrative fee paid over the life of the loan is $224,776.80.

ASSIGNMENT

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

_____

_____

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

Dated: _____, _____.

_____

In the presence of:

_____

STEPTOE & JOHNSON
ATTORNEYS AT LAW
BANK ONE CENTER
SIXTH FLOOR
P. O. BOX 2190
CLARKSBURG, W. VA. 26302-2190
(304) 624-8000
FACSIMILE (304) 624-8183

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

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

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P. O. BOX 2629
MARTINSBURG, W. VA. 25402-2629
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FACSIMILE (304) 262-3541

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

THE RIVERS OFFICE PARK
200 STAR AVENUE, SUITE 220
P. O. BOX 628
PARKERSBURG, W. VA. 26102-0628
(304) 422-6463
FACSIMILE (304) 422-6462

ALAN B. MOLLOHAN INNOVATION CENTER
1000 TECHNOLOGY DRIVE
SUITE 2210
FAIRMONT, W. VA. 26554-8824
(304) 368-8000
FACSIMILE (304) 368-8413

WRITER'S DIRECT DIAL NUMBER

June 22, 1999

The City of Huntington
Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

The City of Huntington
Huntington, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Division of
Environmental Protection
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by The City of Huntington (the "Issuer"), a municipal corporation and political subdivision organized and existing under the laws of the State of West Virginia, of its $2,083,550 Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a loan agreement, dated May 19, 1999, including all schedules and exhibits attached thereto (the "Loan Agreement"), among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Division of Environmental Protection (the "DEP") and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal and interest to the Authority, with interest at the rate of 2% per annum, and with principal installments and interest payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2000, and ending June 1, 2020, all as set forth in "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13 and Chapter 22C,

Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act, the Bond Ordinance duly enacted by the Issuer on June 14, 1999, as supplemented by a Supplemental Resolution duly adopted by the Issuer on June 14, 1999 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the Loan Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the Loan Agreement.

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

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

1. The Issuer is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

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

3. The Bond Legislation and all other necessary ordinances and resolutions have been duly and effectively enacted and adopted by the Issuer in connection with the issuance and sale of the Bonds and constitute valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their terms. The Bond Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System referred to in the Bond Legislation and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's outstanding Sewerage System Refunding Revenue Bonds, Series 1993, dated

November 1, 1993, issued in the original aggregate principal amount of $7,100,000, and Sewer Revenue Bonds, Series 1997 (West Virginia SRF Program), dated November 25, 1997, issued in the original aggregate principal amount of $3,039,895, all in accordance with the terms of the Bonds and the Bond Legislation.

5. Under existing laws, regulations, rulings and judicial decisions of the United States of America, as presently written and applied, the interest on the Bonds (a) is excludable from gross income of the owners thereof for federal income tax purposes pursuant to the Code and (b) is not an item of tax preference for purposes of the federal alternative minimum tax imposed upon individuals and corporations under the Code. It should be noted, however, that interest on the Bonds is included in the adjusted current earnings of certain corporations for purposes of computing the alternative minimum tax that may be imposed with respect to corporations. The opinions set forth above are subject to the condition that the Issuer comply, on a continuing basis, with all requirements of the Code that must be satisfied subsequent to issuance of the Bonds for interest thereon to be or continue to be excludable from gross income for federal income tax purposes and all certifications, covenants and representations which may affect the excludability from gross income of the interest on the Bonds set forth in the Bond Legislation and the Certificate as to Arbitrage, and other certificates delivered in connection with the issuance of the Bonds. Failure to comply with certain of such Code provisions or such certifications, covenants and representations could cause the interest on the Bonds to be includable in gross income retroactive to the date of issuance of the Bonds. Except as set forth in paragraph 6 below, we express no opinion regarding other federal tax consequences arising with respect to the Bonds.

6. Based upon the certifications of the Issuer set forth in the Certificate as to Arbitrage and under existing laws, regulations, rulings and judicial decisions of the United States of America, as presently written and applied, the proceeds of the Bonds are not subject to the arbitrage rebate requirements set forth in Section 148(f) of the Code. The opinion set forth above is subject to the condition that the Issuer comply, on a continuing basis, with all requirements of the Code relating to the applicable exceptions to rebate. The Issuer has covenanted to comply with all such requirements. Failure to comply with such requirements could cause proceeds of the Bonds to be subject to such arbitrage rebate requirements retroactive to the date of issuance of the Bonds.

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

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

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

Very truly yours,

STEPTOE & JOHNSON

04/29/99
435500/98001

CITY OF HUNTINGTON
WEST VIRGINIA

OFFICE OF THE CITY ATTORNEY
City Hall, P.O. Box 1659, Zip 25717
Phone (304) 696-4480

June 22, 1999

The City of Huntington
Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

The City of Huntington
Huntington, West Virginia

West Virginia, Water Development Authority
Charleston, West Virginia

West Virginia Division of
Environmental Protection
Charleston, West Virginia

Steptoe & Johnson
Clarksburg, West Virginia

Ladies and Gentlemen:

I am the City Attorney for the City of Huntington in Cabell and Wayne Counties, West Virginia (the "Issuer"). As such counsel, I have examined copies of the approving opinion of Steptoe & Johnson, as bond counsel, a loan agreement dated May 19, 1999, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and among the West Virginia Water Development Authority (the "Authority"), the West Virginia Division of Environmental Protection (the "DEP"), and the Issuer, a Bond Ordinance duly enacted by the Issuer on June 14, 1999, as supplemented by a Supplemental Resolution duly adopted by the Issuer on June 14, 1999 (collectively, the "Bond Legislation"), and other documents relating to the above-captioned Bonds of the Issuer (the "Bonds"). Capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Legislation and the Loan Agreement when used herein.

I am of the opinion that:

1. The Issuer has been duly created and is validly existing as a municipal corporation and political subdivision of the State of West Virginia, and the Mayor, City Clerk and members of the council of the Issuer and the Sanitary Board have been duly and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act on behalf of the Issuer in their respective capacities.

2. The Loan Agreement has been duly authorized, executed and delivered by the Issuer, and, assuming due authorization, execution and delivery by the DEP and the Authority, constitutes a valid and binding agreement of the Issuer enforceable in accordance with its terms.

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

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

5. The Issuer has received all permits, licenses, approvals and authorizations necessary for the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of the rates and charges for the use of the System, including, without limitation, the receipt of all requisite orders and approvals from the Public Service

Commission of West Virginia, the DEP and the West Virginia Infrastructure and Jobs Development Council, and has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance prescribing such rates and charges. The time for appeal of the Final Orders of the Public Service Commission of West Virginia entered on March 8, 1999, and March 9, 1999, in Case No. 98-1445-S-CN, granting the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project has expired prior to the date hereof without any appeal.

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

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

Very truly yours,

Jendonnae L. Houdyschell
City Attorney

JLH:tlr

LAMP, O'DELL, BARTRAM, LEVY & TRAUTWEIN, PLLC
ATTORNEYS AND COUNSELORS AT LAW

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DONALD B. O'DELL *
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RANDALL L. TRAUTWEIN
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LEGAL ASSISTANTS:
PAMELA S. HICKS
JANET L. HALL

June 22, 1999

File No. 2490

The City of Huntington
Sewer Revenue Bonds, Series 1999
West Virginia SRF Program)

Huntington Sanitary Board
Huntington, West Virginia

The City of Huntington
Huntington, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Division of Environmental Protection
Charleston, West Virginia

Steptoe & Johnson
Clarksburg, West Virginia

Ladies and Gentlemen:

I am Counsel to the Sanitary Board (the "Board") of The City of Huntington in Cabell and Wayne Counties, West Virginia (the "Issuer"). As such counsel, I have

examined copies of the approving opinion of Steptoe & Johnson, as bond counsel, a loan agreement dated May 19, 1999, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and among the West Virginia Water Development Authority (the "Authority"), the West Virginia Division of Environmental Protection (the "DEP"), and the Issuer, a Bond Ordinance duly enacted by the Issuer on June 14, 1999, as supplemented by a Supplemental Resolution duly adopted by the Issuer on June 14, 1999 (collectively, the "Bond Legislation"), a Petition of the Board duly adopted May 6, 1999, and other documents relating to the above-captioned Bonds of the Issuer (the "Bonds"). All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Legislation and the Loan Agreement when used herein.

I am of the opinion that:

1. The Board has been duly created and is validly existing and the members of the Board have been duly and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act on behalf of the Board in their respective capacities.

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

3. The Issuer has, to the best of my knowledge, received all permits, licenses, approvals and authorizations necessary for the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges for use of the System, including, without limitation, the receipt of all requisite orders and approvals from the Public Service Commission of West Virginia, the DEP and the West Virginia Infrastructure and Jobs Development Council, and has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance prescribing such rates and charges. The time for appeal of the Final Orders of the Public Service Commission of West Virginia entered on March

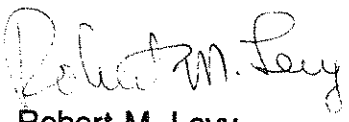
8, 1999, and March 9, 1999, in Case No. 98-1445-S-CN, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project has expired prior to the date hereof without any appeal.

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

5. Based upon my review of the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, I am of the opinion that such surety bonds and policies (1) are in compliance with the contracts; (2) are adequate in form, substance and amount to protect the various interests of the Issuer; (3) apparently have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act, the Bond Legislation and the Loan Agreement; and (5) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

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

Very truly yours,



Robert M. Levy

RML:kd

F:\#\2490\L\OPINION.LTR

LAMP, O'DELL, BARTRAM, LEVY & TRAUTWEIN, PLLC
ATTORNEYS AND COUNSELORS AT LAW

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LEGAL ASSISTANTS
PAMELA S. HICKS
JANET L. HAI

File No. 2490

State Revolving Fund of West Virginia
Charleston, West Virginia

RE: Huntington Sanitary Board SRF Loan Application
Guyandotte Force Main Project

Gentlemen:

I am an attorney at law, duly licensed to practice law in the State of West Virginia, and I am Counsel for the Huntington Sanitary Board, Huntington, West Virginia.

I do hereby certify that, pursuant to the scope of work and information provided for this project by Woolpert LLC, the Board's design, consulting and supervising engineers for the above project, that all temporary and permanent easements necessary for the reconstruction of the Guyandotte Force Main, which those engineers have specified, have been obtained and have been recorded in the Office of the Clerk of the County Commission of Cabell County Commission of Cabell County, West Virginia, in the appropriate records therein. Pursuant to the advice of those engineers, the only easement required was from Inco Alloys International, Inc. and such easement, dated November 24, 1998, is of record in said clerk's office in Bonds, Contracts and Leases Book No. 307, at Page 178.

I am further of the opinion that said easement described above vests good and adequate title in the Huntington Sanitary Board, for such intended use by the Board.

Sincerely yours,

Robert M. Levy

Robert M. Levy

RML:kd

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THE CITY OF HUNTINGTON

Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

GENERAL CERTIFICATE OF ISSUER AND ATTORNEY ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. CERTIFICATION OF COPIES OF DOCUMENTS
6. INCUMBENCY AND OFFICIAL NAME
7. LAND AND RIGHTS-OF-WAY
8. MEETINGS, ETC.
9. CONTRACTORS' INSURANCE, ETC.
10. LOAN AGREEMENT
11. RATES
12. SIGNATURES AND DELIVERY
13. BOND PROCEEDS
14. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE
15. PUBLIC SERVICE COMMISSION ORDER
16. PRIVATE USE OF FACILITIES
17. NO FEDERAL GUARANTY
18. IRS INFORMATION RETURN
19. SPECIMEN BOND
20. CONFLICT OF INTEREST
21. CLEAN WATER ACT
22. YEAR 2000 COMPLIANCE

We, the undersigned MAYOR AND CITY CLERK of The City of Huntington in Cabell and Wayne Counties, West Virginia (the "Issuer"), and the undersigned CITY ATTORNEY, hereby certify in connection with the $2,083,550 principal amount of The City of Huntington Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), dated the date hereof (the "Bonds" or the "Series 1999 Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning as set forth in the Bond

Ordinance of the Issuer duly enacted June 14, 1999, and the Supplemental Resolution duly adopted June 14, 1999 (collectively, the "Bond Legislation").

2. NO LITIGATION: No controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the receipt of the Gross Revenues, or in any way contesting or affecting the validity of the Bonds, or any proceedings of the Issuer taken with respect to the issuance or sale of the Bonds, the pledge or application of the Net Revenues or any other moneys or security provided for the payment of the Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, sale and issuance of the Bonds, the acquisition and construction of the Project, the operation of the System, the pledge or application of moneys and security or the collection of the Gross Revenues or the pledge of Net Revenues as security for the Bonds.

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

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval, execution and delivery by the Issuer of the Loan Agreement, and the Issuer has met all conditions prescribed in the Loan Agreement entered into among the Issuer, the DEP and the Authority. The Issuer has or can provide the financial, institutional, legal and managerial capabilities necessary to complete the Project.

There are outstanding obligations of the Issuer which will rank on parity with the Series 1999 Bonds as to liens, pledge, source of and security for payment, being 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, and the Sewer Revenue Bonds, Series 1997 (West Virginia SRF Program), dated November 25, 1997, issued in the original aggregate principal amount of $3,039,895 (collectively, the "Prior Bonds").

The Issuer has met the parity test requirements of the Prior Bonds and the Series 1999 Bonds shall be issued on a parity with the Prior Bonds, with respect to liens, pledge and source of and security for payment and in all other respects. The Issuer has obtained a certificate of an Independent Accountant stating that the parity test of the Prior Bonds is met. Other than the Prior Bonds, there are no outstanding bonds or obligations of

the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with the covenants of the Prior Bonds and the Prior Ordinances.

5. CERTIFICATION OF COPIES OF DOCUMENTS: The copies of the below-listed documents hereto attached or delivered herewith or heretofore delivered are true, correct and complete copies of the originals of the documents of which they purport to be copies, and such original documents are in full force and effect and have not been repealed, rescinded, amended or changed in any way unless modification appears from later documents also listed below:

Bond Ordinance

Supplemental Resolution

Loan Agreement

Public Service Commission Orders

Infrastructure Council Approval

City Charter

City Council Rules and Regulations

Oaths of Office of City Officers and Councilmembers

Ordinance Creating Sanitary Board

Petition of Sanitary Board

Sewer Rate Ordinance and Public Service Commission Orders relating thereto

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

Minutes on Adoption and Enactment of Sewer Rate Ordinance

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

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

1993 Bond Ordinance and Supplemental Resolution

1997 Bond Ordinance and Supplemental Resolution

Consent of 1997 Bondholder

NPDES Permit

6. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "The City of Huntington." The Issuer is a municipal corporation in Cabell and Wayne Counties and is presently existing under the laws of, and a political subdivision of, the State of West Virginia. The governing body of the Issuer is its Council, consisting of a Mayor and 11 councilmembers, all duly elected or appointed, as applicable, qualified and acting, and whose names and dates of commencement and termination of current terms of office are as follows:

Name			Date of Commencement of Office	Date of Termination of Office
Jean Dean	-	Mayor	July 1, 1997	December 31, 2000
Robert Bailey	-	Councilmember	July 1, 1997	December 31, 2000
A. F. Bobersky	-	Councilmember	July 1, 1997	December 31, 2000
Philip E. Cline	-	Councilmember	July 1, 1997	December 31, 2000
B. W. Ellis	-	Councilmember	July 1, 1997	December 31, 2000
Frances Jackson	-	Councilmember	July 1, 1997	December 31, 2000
Calvin Kent	-	Councilmember	July 1, 1997	December 31, 2000
Renee Maass	-	Councilmember	July 1, 1997	December 31, 2000
Mary Neely	-	Councilmember	June 1, 1999	December 31, 2000
Larry D. Patterson	-	Councilmember	July 1, 1997	December 31, 2000
Chuck Polan	-	Councilmember	July 1, 1997	December 31, 2000
James Ritter	-	Councilmember	July 1, 1997	December 31, 2000

The names of the duly appointed, qualified and acting members of the Sanitary Board of the Issuer are as follows:

Chairman	-	Jean Dean
Member	-	L. D. Riddle, P.E.
Member	-	Charles Webb

The duly appointed and acting City Clerk of the Issuer is Ann C. Shaye. The duly appointed and acting City Attorney is Jendonnae L. Houdyschell.

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

8. MEETINGS, ETC.: All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds and the acquisition, construction, operation and financing of the Project or the System were authorized or adopted at regular or special meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes, including, particularly and without limitation, Chapter 6, Article 9A, of the West Virginia Code of 1931, as amended, and a quorum of duly elected or appointed, as applicable, qualified and acting members of the Governing Body was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

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

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

the Loan Agreement not misleading; and (iv) the Issuer is in compliance with the Loan Agreement.

11. RATES: The Issuer has duly enacted a sewer rate ordinance on October 26, 1998, setting rates and charges for the services of the System. The appeal of such sewer rate ordinance to the Public Service Commission of West Virginia has been dismissed by Final Orders entered December 21, 1998, and January 27, 1999, in Case No. 98-1465-S-MA, and such rates are currently in effect.

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

13. BOND PROCEEDS: On the date hereof, the Issuer received $163,745 from the Authority and the DEP, being a portion of the principal amount of the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

14. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE: Upon adoption of the Bond Ordinance, an abstract thereof, determined by the Governing Body to contain sufficient information as to give notice of the contents thereof, was published once each week for 2 successive weeks, with not less than 6 full days between each publication, the first such publication occurring not less than 10 days before the date stated below for the public hearing, in *The 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 Bond Ordinance had been adopted and that the Issuer contemplated the issuance of the Bonds described in such Bond Ordinance, stating that any person interested may appear before the Council at the public hearing held at a public meeting of Council on the 14th day of June, 1999, at 7:00 p.m., at the Huntington City Hall and present protests, and stating that a certified copy of the Bond Ordinance was on file at the office of the City Clerk of the Issuer for review by interested parties during the office hours of the Issuer. At such hearing all objections and suggestions were heard by the Governing Body and the Bond Ordinance became finally adopted, enacted and effective as of the date of such public hearing, and remains in full force and effect.

15. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received the Final Orders of the Public Service Commission of West Virginia entered on March 8,

1999, and March 9, 1999, in Case No. 98-1445-S-CN, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of such Final Orders has expired prior to the date hereof without any appeal.

16. PRIVATE USE OF FACILITIES: The Issuer shall at all times take, and refrain from taking, and shall not fail to take, any and all actions necessary in order to assure the initial and continued tax-exempt status of the Bonds and the interest thereon. Less than 10% of the proceeds of the Bonds will be used, directly or indirectly, for any private business use, and less than 10% of the payment of principal of, or the interest on, such issue, under the terms of such issue or any underlying arrangement, is, directly or indirectly, secured by any interest in property used or to be used for a private business use, payments in respect of such property, or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use. None of the proceeds of the Bonds will be used, directly or indirectly, for any private business use which is not related to the governmental use of the proceeds of the Bonds, including the disproportionate related business use of the proceeds of the Bonds, and none of the payment of principal on, or the interest on, such issue, under the terms of any underlying arrangement, is, directly or indirectly, secured by any interest in property used, or to be used for a private business use, payments in respect of such property or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use with respect to such private business use, which is not related to any government use of such proceeds, including the disproportionate business use of the issue of the Bonds. None of the proceeds of the issue of the Bonds will be used, directly or indirectly, to make or finance loans to persons other than governmental units. For purposes of this paragraph, private business use means use, directly or indirectly, in a trade or business carried on by any person, including related persons, other than a governmental unit or other than use as a member of the general public. All of the foregoing shall be determined in accordance with and within the meaning of the Internal Revenue Code of 1986, as amended, including any successor provisions and rules and regulations thereunder (the "Code").

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

18. IRS INFORMATION RETURN: On the date hereof, the undersigned Mayor did officially execute a properly completed IRS Form 8038-G in connection with the Bonds and will cause such executed IRS Form 8038-G to be filed in a timely manner pursuant to Section 149(e) of the Code with the Internal Revenue Service Center, Philadelphia, Pennsylvania. The information contained in such executed Form 8038-G is true, correct and complete.

19. SPECIMEN BOND: Delivered concurrently herewith is a true and accurate specimen of the Bond.

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

21. CLEAN WATER ACT: The Project as described in the Bond Ordinance complies with Sections 208 and 303(e) of the Clean Water Act.

22. YEAR 2000 COMPLIANCE: The Issuer represents that it has undertaken or will undertake an investigation to determine whether the operations of the System, including but not limited to any billing, collection and inventory computer programs of the System and any electronic or mechanical components of the System are Year 2000 Compliant. The Issuer further represents that if it determines as a result of this investigation that any Mission-Critical Component of the System is not Year 2000 Compliant, the Issuer (i) will take timely and affirmative action to repair or replace any such component, and (ii) will perform adequate testing to ensure the sound operation and Year 2000 Compliant status of the repaired or replaced component. For purposes of this paragraph, "Year 2000 Compliant" means, with respect to the information technology the Issuer uses or will use in the operation of the System (including any date-sensitive microprocessors embedded in electronic or mechanical components of the System), the information technology is designed to be used prior to, during and after calendar Year 2000 A.D., and the information technology used during each such time period will accurately receive, provide and process date-time data (including, but not limited to, calculating, comparing and sequencing) from, into and between the twentieth and twenty-first centuries, including the years 1999 and 2000, and leap-year calculations, and will not malfunction, cease to function, or provide invalid or incorrect results as a result of date-time data. For purposes of this paragraph, "Mission-Critical Component" means any component of the System that would be critical to (a) the System's continued operation after January 1, 2000; (b) the Issuer's ability to continue to bill its customers and collect amounts billed from those customers after January 1, 2000; or (c) the Issuer's ability to make all principal and interest payments for the Bonds as and when they become due.

WITNESS our signatures and the official seal of THE CITY OF HUNTINGTON on this 22nd day of June, 1999.

[CORPORATE SEAL]

SIGNATURE	OFFICIAL TITLE
Frank Dean	Mayor
Ann C. Shaye	City Clerk
Jendonna L. Houdyshell	City Attorney

05/27/99
435500/98001

THE CITY OF HUNTINGTON

Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

CERTIFICATE AS TO ARBITRAGE

The undersigned Mayor of The City of Huntington in Cabell and Wayne Counties, West Virginia (the "Issuer"), being the official of the Issuer duly charged with the responsibility for the issuance of the $2,083,550 Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), of the Issuer, dated the date hereof (the "Bonds"), hereby certify as follows:

1. This certificate is being executed and delivered pursuant to Section 148 of the Internal Revenue Code of 1986 and applicable regulations (the "Code"). I am the officer of the Issuer duly charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances, and estimates herein certified and duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the same meaning as set forth in the ordinance authorizing the Bonds duly enacted by the Issuer on June 14, 1999 (as supplemented, the "Bond Ordinance").

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

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

4. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on June 22, 1999, the date on which the Bonds are to be physically delivered in exchange for more than a de minimis amount of the principal amount of the Bonds, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

5. The Bonds were sold on June 22, 1999, to the West Virginia Water Development Authority (the "Authority"), pursuant to a loan agreement dated May 19, 1999, by and among the Issuer, the Authority and the West Virginia Division of Environmental Protection (the "DEP") for an aggregate purchase price of $2,083,550 (100% of par), at

which time, the Issuer received $163,745, being the first advance of the principal amount of the Bonds from the Authority. No accrued interest has been or will be paid on the Bonds.

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

7. The Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying the costs of acquisition and construction of additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (ii) paying costs of issuance and related costs thereof.

8. Not later than simultaneously with the delivery of the Bonds, the Issuer shall enter into agreements which require the Issuer to expend in excess of $100,000 on the Project, constituting a substantial binding commitment. The acquisition and construction of the Project shall commence immediately and shall proceed with due diligence to completion, and with the exception of proceeds constituting capitalized interest, if any, and proceeds deposited in the Series 1999 Bonds Reserve Account for the Bonds, if any, all of the proceeds from the sale of the Bonds, together with any investment earnings thereon, will be expended for payment of costs of the Project on or before May, 2000. The acquisition and construction of the Project is expected to be completed by May, 2000.

9. The total cost of the Project (including all costs of issuance of the Bonds) is estimated at $2,083,550. Sources and uses of funds for the Project are as follows:

SOURCES	
Gross Proceeds of the Bonds	$2,083,550
Total Sources	$2,083,550
USES	
Costs of Acquisition and Construction of the Project	$2,067,050
Capitalized Interest	-0-
Fund Reserve Account	-0-
Costs of Issuance	16,500
Total Uses	$2,083,550

The amount of the costs of the Project is estimated to be at least equal to the gross proceeds of the Bonds. Except for the proceeds of the Bonds, no other funds of the Issuer will be available to meet costs of the Project, which would constitute "replacement proceeds" within the meaning of Treas. Reg. § 1.148-1(c), inasmuch as (i) the Issuer does not reasonably expect that the term of the Bonds is longer than is reasonably necessary for the governmental purposes of the Issuer, (ii) the weighted average maturity of the Bonds does not exceed 120% of the average expected economic life of the Project, and (iii) there are no amounts that have a sufficiently direct nexus to the Bonds or to the governmental purpose of the Bonds to conclude that the amounts would have been used for that governmental purpose if the proceeds of the Bonds were not used or to be used for that governmental purpose.

10. Pursuant to Article V of the Bond Ordinance, the following special funds or accounts have been created (or continued if previously established by the Prior Ordinances):

(1) Revenue Fund;

(2) Depreciation Fund;

(3) Bond Construction Trust Fund;

(4) Series 1993 Bonds Sinking Fund;

(5) Within the Series 1993 Bonds Sinking Fund, the Series 1993 Bonds Reserve Account and the Series 1993 Bonds Redemption Account;

(6) Series 1997 Bonds Sinking Fund;

(7) Within the Series 1997 Bonds Sinking Fund, the Series 1997 Bonds Reserve Account;

(8) Series 1999 Bonds Sinking Fund; and

(9) Within the Series 1999 Bonds Sinking Fund, the Series 1999 Bonds Reserve Account.

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

(1) Series 1999 Bonds proceeds in the amount of $-0- will be deposited in the Series 1999 Bonds Sinking Fund as capitalized interest and applied to payment of interest on the Bonds during acquisition and construction of the Project and for not more than six months thereafter.

(2) Series 1999 Bonds proceeds in the amount of $-0- will be deposited in the Series 1999 Bonds Reserve Account.

(3) The balance of the proceeds of the Series 1999 Bonds will be deposited in the Bond Construction Trust Fund as received from time to time and applied solely to payment of costs of the Project, including costs of issuance of the Series 1999 Bonds and related costs.

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

12. Moneys held in the Series 1999 Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on moneys in the Series 1999 Bonds Sinking Fund and Series 1999 Bonds Reserve Account, if any, will be withdrawn therefrom and deposited into the Bond Construction Trust Fund during construction of the Project, and following completion of the Project, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Ordinance.

13. Except for the Series 1999 Bonds Sinking Fund and the Series 1999 Bonds Reserve Account, there are no other funds or accounts established or held by the Issuer which are reasonably expected to be used to pay debt service on the Bonds, or which are pledged as collateral for the Bonds and for which there is a reasonable assurance that

amounts therein will be available to pay debt service on the Bonds if the Issuer encounters financial difficulties. The Issuer does not expect that moneys in the Depreciation Fund will be used or needed for payments upon the Bonds. Except as provided herein, no funds which have been or will be used to acquire directly or indirectly securities, obligations, annuity contracts, investment-type property or any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan producing a yield in excess of the yield on the Bonds have been or will be pledged to payment of the Bonds. Less than 10% of the moneys received from the sale of the Bonds, if any, will be deposited in the Series 1999 Bonds Reserve Account or any other reserve or replacement fund. The amounts deposited in the Series 1999 Bonds Reserve Account from time to time by the Issuer will not exceed the maximum annual principal of and interest on the Bonds and will not exceed 125% of average annual principal of and interest on the Bonds. Amounts in the Series 1999 Bonds Reserve Account, not to exceed 10% of the proceeds of the Bonds, if invested, will be invested without yield limitation. The establishment of the Series 1999 Bonds Reserve Account is required by the Authority, is vital to its purchase of the Bonds, and is reasonably required to assure payments of debt service on the Bonds.

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

14. Not later than simultaneously with the delivery of the Bonds, the Issuer shall enter into a contract for the construction of the Project, and the amount to be expended pursuant to such contract exceeds the lesser of 2 1/2% of the estimated total Project cost financed with proceeds from the sale of the Bonds or $100,000.

15. Work with respect to the acquisition and construction of the Project will proceed with due diligence to completion. The acquisition and construction of the Project is expected to be completed within 11 months of the date hereof.

16. Except for a reasonable temporary period until such proceeds are needed for the purpose for which such Bonds were issued or as otherwise allowed, no portion of the proceeds of the Bonds will be used, directly or indirectly, to acquire higher yielding investments, or to replace funds which were used, directly or indirectly, to acquire higher yielding investments, all within the meaning of Section 148 of the Code.

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

18. With the exception of the amount deposited in the Series 1999 Bonds Sinking Fund for payment of interest on the Bonds, if any, and the amount deposited in the

Series 1999 Bonds Reserve Account, if any, all of the proceeds of the Bonds will be expended on the Project within 11 months from the date of issuance thereof.

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

20. The Series 1999 Bonds Sinking Fund (other than the Series 1999 Bonds Reserve Account therein) is intended primarily to achieve a proper matching of payments of debt service on the Bonds each year. The Series 1999 Bonds Sinking Fund (other than the Series 1999 Bonds Reserve Account therein) will be depleted at least once a year except for a reasonable carryover amount not in excess of the greater of 1/12th of annual debt service on the Bonds, or 1 year's interest earnings on the Series 1999 Bonds Sinking Fund (other than the Series 1999 Bonds Reserve Account therein). Except as otherwise allowed, any money deposited in the Series 1999 Bonds Sinking Fund for payment of the principal of or interest on the Bonds (other than the Series 1999 Bonds Reserve Account therein), will be spent within a 13-month period beginning on the date of receipt and will be invested without yield limitation, and any moneys received from the investment of amounts held in the Series 1999 Bonds Sinking Fund (other than in the Series 1999 Bonds Reserve Account therein) will be spent within a 1-year period beginning on the date of receipt.

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

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

23. No more than 10% of the proceeds of the Bonds will be used (directly or indirectly) in any trade or business carried on by, and less than 5% of the proceeds of the Bonds have been or will be used to make or finance loans to, any person who is not a governmental unit.

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

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

26. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from treatment afforded by Section 103(a) of the Code by reason of classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions and refrain from taking such actions as shall be

necessary to comply with the Code in order to ensure the interest on the Bonds is excludable from gross income for federal income tax purposes.

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

28. The Issuer is a governmental unit and has general taxing powers; no Bonds are private activity bonds; 95% or more of the net proceeds of the Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and the aggregate face amount of all tax-exempt bonds or obligations (other than private activity bonds) issued by the Issuer during the calendar year 1999, the calendar year in which the Bonds are issued, is not reasonably expected to exceed $5,000,000, determined in accordance with Section 148(f)(4)(D) of the Code. For purposes of this paragraph and for purposes of applying such Section 148(f)(4)(D) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a governmental unit to make loans to other governmental units with general taxing powers not subordinate to such unit shall, for purposes of applying this paragraph and Section 148(f)(4)(D) of the Code, be treated as not issued by such unit; all obligations issued by a subordinate entity shall, for purposes of applying this paragraph and Section 148(f)(4)(D) of the Code to each other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(D) of the Code and all other entities benefiting thereby shall be treated as one issuer. No portion of the Bonds is issued to refund other obligations.

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

30. The Issuer shall comply with the yield restriction on the proceeds of the Bonds as set forth in the Code.

31. The Issuer has either (a) funded the Series 1999 Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year with the proceeds of the Bonds, or (b) created the Series 1999 Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 1999 Bonds Reserve Account holds an amount equal to the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year. Moneys in the Series 1999 Bonds Reserve Account and the Series 1999 Bonds Sinking Fund (established for the annual payment of principal and interest) will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

32. The Issuer shall submit to the Authority within 15 days following the end of each bond year a certified copy of its rebate calculation or, if the Issuer qualifies for the small governmental issuer exception to rebate, the Issuer shall submit a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the bond year which would make the Bonds subject to rebate.

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

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

35. The Issuer will rebate to the United States the amount, if any, required by the Code and will take all steps necessary to make such rebates. In the event the Issuer fails to make such rebates as required, the Issuer shall pay any and all penalties and obtain a waiver from the Internal Revenue Service in order to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

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

37. The Issuer shall file Form 8038-G in a timely fashion with the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255.

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

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

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

41. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

WITNESS my signature on this 22nd day of June, 1999.

THE CITY OF HUNTINGTON

Sean Scott

Mayor

05/27/99
435500/98001

THE CITY OF HUNTINGTON

Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

CERTIFICATE OF ENGINEER

I, Steven D. Cole, Registered Professional Engineer, West Virginia License No. 10436, of Woolpert LLP, Consulting Engineers, Charleston, West Virginia, hereby certify as follows:

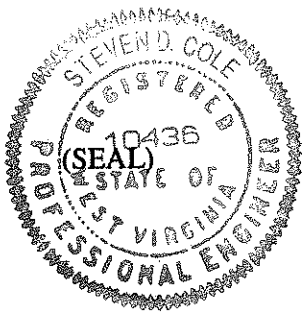
1. My firm is engineer currently under contract for the design and construction observation of certain additions, betterments and improvements (the "Project") to the existing public sewerage system (the "System") of The City of Huntington (the "Issuer") to be constructed primarily in Cabell County, West Virginia, which is, to the best of my knowledge, information and belief, being permanently financed in whole by the proceeds of the above-captioned bonds (the "Bonds") of the Issuer.

2. The Bonds are, to the best of my knowledge, information and belief, being issued for the purposes of (i) paying the costs of acquisition and construction of the Project; and (ii) paying costs of issuance and related costs, as shown on the final amended "Schedule A - Total Cost of Project, Sources of Funds and Cost of Financing", a copy of which is attached as Exhibit A hereto.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed by the Issuer and/or the successful bidders in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the DEP and any change orders approved by the Issuer, the DEP and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least twenty years, if properly constructed, operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount compatible with the plan of financing set forth in the Schedule A attached hereto as Exhibit A; (iv) our records indicate that the successful bidders received all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the DEP and the bid forms provided to the bidders contain, in my opinion, the critical designed operational components of the Project; (vi) the successful bids, as received, include prices for every separate line item on such bid forms; (vii) the uniform bid procedures were followed; (viii) in my professional opinion, the Issuer has obtained the

applicable permits required to this point by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and the operation of the System; and (ix) the proceeds of the Bonds, together with all other sources of funds, if any, set forth in the Schedule A are, in my opinion, sufficient to pay the estimated total costs of acquisition and construction of the Project, plus the costs of financing, all as set forth on the attached Schedule A.

WITNESS my signature and seal on this 22nd day of June, 1999.



(SEAL)

WOOLPERT LLP

Steven D. Cole, P.E.
West Virginia License No. 10436

06/15/99
435500/98001

SCHEDULE A

NAME OF GOVERNMENTAL AGENCY: Huntington Sanitary Board

ESTIMATED TOTAL COST OF PROJECT, SOURCES OF FUNDS AND COST OF FINANCING

A. Cost of Project

1.	Construction	$ 1,072,082.25	
2.	Technical Services	$ 252,000.00	
3.	Legal and Fiscal	$ 1,109.89	
4.	Administrative	$	
5.	~~Site and Other Lands~~ Permit Fees	$ 15,000.00	
**6.	Fac. Plan/Design or Other Loan Repayment (Specify Type: _____)	$	
7.	Interim Financing Costs	$ 30,000.00	
8.	Contingency	$ 696,857.86	
9.	Total of Lines 1 Through 8		$ 2,067,050.00

B. Sources of Funds

10.	Federal Grants:[1] _____	$	
	(Specify Sources) _____	$	
11.	State Grants:[1] _____	$	
	(Specify Sources) _____	$	
12.	Other Grants:[1] _____	$	
	(Specify Sources) _____	$	
13.	Any Other Source[2] _____	$	
	(Specify) _____	$	
14.	Total of lines 10 Through 13		$ 0
15.	Net Proceeds Required from Bond Issue (Line 9 minus Line 14)		$ 2,067,050.00

C. Cost of Financing

16.	Capitalized Interest (Construction period plus six months)	$	
17.	Funded Reserve Account:[3]	$	
18.	Other Costs:[4]	$ 16,500.00	
		$	
19.	Total Cost of Financing (lines 16-18)	$ 16,500.00	
20.	Size of Bond Issue (Line 15 plus Line 19)		$ 2,083,550.00

* not allowable for State Revolving Fund Assistance

** WDA loans are not allowable

R.E. Trocin

Signature of Applicant
Robert E. Trocin, Executive Director

Date 6/22/99

Signature of Consulting Engineer
Steven D. Cole, P.E.

Date 6/18/99

SCH
Smith, Cochran & Hicks, P.L.L.C.
Certified Public Accountants
Beckley Bridgeport Charleston Montgomery
405 Capitol Street ● Suite 908 ● Charleston, West Virginia 25301 ● 304-345-1151 ● Fax 304-346-6731

June 22, 1999

The City of Huntington
Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

West Virginia Water Development
Authority
Charleston, West Virginia

West Virginia Division of
Environmental Protection
Charleston, West Virginia

Ladies and Gentlemen:

Based upon the rates and charges set forth in the sewer rate ordinance of The City of Huntington (the "Issuer"), enacted October 26, 1998, and projected operation and maintenance expenses and anticipated customer usage as furnished to us by Woolpert Consultants, Consulting Engineer, 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 at least 120% of the maximum amount required in any year for debt service on the Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program) (the "Bonds"), and all other obligations secured by or payable from revenues of the System prior to or on a parity with or junior to the Bonds, including the Issuer's Sewerage System Refunding Revenue Bonds, Series 1993, and Sewer Revenue Bonds, Series 1997 (West Virginia SRF Program) (collectively, the "Prior Bonds"). 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 Bonds, plus the increased annual Net Revenues expected to be received after the date of issuance of the Bonds, will not be less than 120% of the maximum annual debt service on the Prior Bonds and the Bonds.

Very truly yours,

Smith, Cochran & Hicks, P.L.L.C.

Smith, Cochran & Hicks, P.L.L.C.

CHARTER
of the
CITY OF HUNTINGTON
WEST VIRGINIA

*****

Prepared by the
HUNTINGTON CHARTER BOARD and
Revised at theMunicipal General Election, June 1, 1993
and the Special Municipal Election, November 5, 1996

PROPOSED CHARTER
of the
CITY OF HUNTINGTON

***

CONTENTS

ARTICLE

ONE: Incorporation; Form of Government; Powers

TWO: Mayor

THREE: Council

FOUR: City Attorney

FIVE: Municipal Court

SIX: Taxation

SEVEN: Department of Public Works

EIGHT: Planning and Zoning

NINE: Department of Administration and Finance

TEN: Budget and Financial Procedures

ELEVEN: Nominations and Elections

TWELVE: Initiative, Referendum and Recall

THIRTEEN: Succession in Government

FOURTEEN: General Provisions

APPENDIX "A": Election Districts

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 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 Fifty-Five Thousand Six Hundred 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.

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

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 full and 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.

* Amended by ordinance 9/13/93 (Further amended, 1996 General Election Cabell County; effective January 1, 1997)

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.

CHARTER
OF THE
CITY OF HUNTINGTON

*****

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.

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 then 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 amendment 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. **(Adopted, 1993 Municipal Election; effective date: July 1, 1993)**

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 full and 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. * Amended by ordinance 9/13/93 (Further amended, 1996 General Election Cabell County; effective January 1, 1997)

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 "A" 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 further 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. (Amended by ordinance, 2/26/93)

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 I-O 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 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. (Adopted, 1993 Municipal Election; effective date: July 1, 1993)

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 involving 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.(Amended by Ordinance 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.

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: INVESTIGATION; 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. (Adopted, 1993 Municipal Election; effective date: July 1, 1993)

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; andmaintain 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. (Amended by Ordinance 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. (Amended by Ordinance 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 WORK: QUALIFICA TIONS, 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 therefore, 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 ADOPTED

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. (Amended by Ordinance 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. (Amended by Ordinance 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

ıbmitted to the Commission for its consideration and no such plan, plat or ıeplat 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. (Amended by Ordinance 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.

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

ection 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

apital 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. (Amended by Ordinance 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. (Amended by Ordinance, 5/8/89) **(Further amended, 1993 Municipal Election; effective date: July 1, 1993)**

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 (Amended by Ordinance, 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 of 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. *Amended by ordinance 9/13/93 (Further amended 1996 General Election Cabell County; effective date: January 1, 1997)

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 CERTIFICATIONS 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, provided that, beginning in the year 2000, the primary election shall be held on the same day in said year as the primary election for the State of West Virginia and the County of Cabell, 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, 19__. 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 _____, 19__.

Notary Public in and for Cabell or Wayne Counties, West Virginia, (or some other officer qualified to ad minister 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.

• Amended by ordinance 9/13/93 (Further amended, 1996 General Election Cabell County; effective date: January 1, 1997)

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. Beginning in the year 2000, general elections for the offices of Mayor and all Council members shall be held on the Tuesday next after the first Monday in November of such year,

and on such day in each fourth year thereafter. The officers elected thereat shall assume office on the first day of January of the year next after such general election is held with their terms of office to expire as soon as their successors have been elected and qualified. * Amended by ordinance 9/13/93 (Further amended, 1996 General Election Cabell County; effective date: January 1, 1997)

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. The dates of all subsequent primary and general elections and filings of certificates of candidacy shall be governed by the provision of Sections 11.1, 11.4 and 11.5 of this Charter. * Amended by ordinance 9/13/93 (Frther amended, 1996 General election Cabell County; effective date: January 1, 1997)

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 expiration of the time for filing Certificates of Candidacy as required by Sections 11.5 and 11.7 of this Charter, ıe City Clerk shall cause to be published in a newspaper having general rculation 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. Votes 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 any one 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 ordinance to Council and if Council fails to adopt an ordinance so proposed without an change in substance, to adopt or reject it at a City election; provided, howeve such power shall not extend to the budget, capital program or any ordinan relating to appropriation of money, levy of taxes or salaries of City officers 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 petitions' 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 o such request and approve or disapprove it and Council's determination shal then be a final determination as to the sufficiency of the petition. A fina determination as to the sufficiency of a petition shall nevertheless be subject t judicial review. Whenever required, the burden of proof shall be on the Cit Clerk to establish the insufficiency of any petition. A final determination o insufficiency, even if sustained upon judicial review, shall not prejudice th filing of a new petition for the same purpose, except in the case of referendu 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, tl ordinance sought to be reconsidered shall be suspended from taking effe Such suspension shall terminate when there is a final determination of insuf ciency of the petition, the petitioners' committee withdraws the petitic Council repeals the ordinance or upon final certification of the results of the Ci 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 to be 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.

ECTION 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 o the question have favored recall, the office of the individual so recalled shall b vacant.

SECTION 12.10: FILLING VACANCY CAUSED BY RECALL

When a vacancy occurs as the result of a recall election or when a officer resigns after a recall petition certified by the City Clerk to be sufficie is presented to Council, the vacancy shall be filled in accordance with t provisions of this Charter relating to the filling of vacancies in the respecti office involved.

SECTION 12.11: LIMITATIONS ON RECALL

No recall petition shall be filed against any officer within six mon after he or she takes office nor within six months prior to the end of his or h term. No officer shall be subjected to more than one recall election during a te 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 in this Charter with a name or with powers and duties the same or substantially in 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 any 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 administrativeability 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 administrationof 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 r 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. 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 and a vacancy in the respective office or position. The Mayor shall be charged with enforcement of this section. (Amended by Ordinance 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 th 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, th Mayor, the City Clerk, each member of the Election Commission and eac Director or Chief of a City office, department, division or agency and such othe personnel as Council may require, shall give bond for the faithful performanc of their duties, payable to the City of Huntington, in such amounts and wit such corporate surety as may be approved by Council. Council may provid for obtaining a blanket bond covering all City officers and employees, designat ing specific officers or employees whose bond shall be in excess of the amour of the blanket bond. The premiums on such bond or bonds shall be paid by th City after it has been ascertained that the premiums are not in excess of the

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 interes direct, indirect or by reason of ownership of stock in any corporation, in an contract with the City or in the sale of any land, material, supplies or services t the City or to any contractor supplying the City, shall make known that intere to the Mayor and Council and shall refrain from voting upon or otherwis participating in his or her capacity as a City officer or employee in the makir of such sale or in the making or performance of such contract. Any City offic or employee who willfully conceals such a substantial financial interest willfully violates the requirements of this section shall be guilty of malfeasan in office or position and shall forfeit his or her office or position. Violation of th section with the knowledge, express or implied, of the person or corporatic contracting with or making a sale to the City shall render the contract or sale voidable by the Mayor or Council. A "substantial financi interest" as used herein, shall be deemed to be an interest amounting to mo 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 automobi and other vehicles owned by the City shall be registered, stored and controll when not in use or on assignment and from which the head of any offi department, division, board, commission or agency shall requisition the use any such automobile or other vehicle as may be required in the performance his or her duties. The Mayor or his or her designee shall establish and promulg such rules and regulations respecting such facility as to effect the great possible economy and efficiency in its operation. No vehicles shall be perr nently assigned to any office, department, division, board, agency or individ thereof without prior approval by Council; provided, however, such appro by Council shall not be required of any vehicle assigned to the police or departments. Notwithstanding any provision contained herein, no City owned vehicle shall be taken beyond the corporate limits of the C except in the performance of authorized official city business.

SECTION 14.12: PUBLIC ACCESSIBILITY OF RECORDS

All records and documents of every office, department, divis board, commission or agency of the City shall be open to inspection by citizen, representative of a civic organization or representative of the press a reasonable times and under reasonable regulations established by Cou provided, however, records and documents authorized to be excluded u Chapter 29B, Article 1, of the Official Code of West Virginia or other applic 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 as 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.

SECTION 14.19: WHEN VACANCY CREATED

(Repeal and renumber subsequent sections)

(NEW) 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. (Amended by Ordinance 5/8/89)

APPENDIX "A"

to the

CHARTER of the
CITY OF HUNTINGTON

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, and sixty-one of Wayne County, West Virginia, with a total population of Six Thousand Six Hundred; District Two shall be composed of precinct numbers two, three, five, six, seven and ten of Cabell County with a total population of Five Thousand Eight Hundred Ninety-Four; District Three shall be composed of precinct numbers eleven, twelve, thirteen, and fourteen of Cabell County with a total population of Six Thousand Five Hundred Five; District Four shall be composed of precinct numbers eight, nine, twenty-five, twenty-nine, thirty, thirty-five, and thirty-six of Cabell County with a total population of Six Thousand Three; District Five shall be composed of precinct numbers twenty-six, twenty-seven, twenty-eight, thirty-one, thirty-two, thirty-three, and thirty-four of Cabell County with a total population of Five Thousand Nine Hundred Twelve; District Six shall be composed of precinct numbers thirty-seven, forty-three, forty-five, forty-six, forty-seven, forty-eight and forty-nine of Cabell County with a total population of Six Thousand Four Hundred Ten; District Seven shall be composed of precinct numbers thirty-eight, thirty-nine, forty, forty-one, forty-two, and forty-four of Cabell County with a total population of Six Thousand Three Hundred Ninety-Six; District Eight shall be composed of precinct numbers fifteen, sixteen, seventeen, eighteen, nineteen and twenty of Cabell County with a total population of Five Thosand Four Hundred Ninety-Three; District Nine shall be composed of precinct numbers twenty-one, twenty-two, twenty-three, twenty-four and fifty 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 25 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 complicance with Charpter 8, Article 3 , section 3, of the Official Code of West Virginia, as amended, this 26 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
Tom McCallister

Its: Secretary
Secretary

CERTIFICATE OF THE ATTORNEY GENERAL

The Attorney General of the State of West Virginia hereby certifies that the Proposed Charter for the City of Huntington, West Virginia, which was approved and adopted by the Huntington Charter Board on the 26th day of March, 1985, a complete copy of which was received by the aforesaid Attorney General on the 28th day of March, 1985, is consistent in all respects with the Constitution and general law of the State of West Virginia.

Given under my hand this 28th day of March, 1985.

CHARLIE BROWN
ATTORNEY GENERAL

By: Gene W. Bailey
GENE W. BAILEY, Esq.
Assistant Attorney General

CITY OF HUNTINGTON
WEST VIRGINIA

COUNCIL
City Hall, P.O. Box 1659, Zip 25717
Phone (304) 696-5530

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.

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.

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

The presiding officer is vested with the authority to preserve order and decorum during meetings of Council. The presiding officer may order the removal of any person 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.

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

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.

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 whcih 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

Council person 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 of 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 - ADDRESSES BY NON-MEMBERS

Citizens of the City of Huntington exercise their right to a democratically elected government by voting for the candidate of their choice.

Nevertheless, nonmembers may voice their opinions on issues during public hearings and Good and Welfare. The following rules shall apply:

a. Speakers are limited to five minutes on any topic before the Council unless being questioned by a member of the Council. The chair may grant an extension of time to any speaker unless there is an objection to such extension by a member of the Council. If there is such an objection time can be extended only by a 2/3rds vote of the Council present and voting.

b. Speakers are required to limit discussion to only those matters before Council during public hearings.

c. Discussion of all relevant issues are permissible during Good and Welfare.

d. No speaker may address the Council more than once on any specific topic without the majority of the Council present and voting, concurring.

e. Speakers must comply with the rules of conduct stated in Section 19.

Speakers and members of the audience failing to comply with this section or otherwise disrupting the orderly proceedings of meetings are subject to immediate removal by the presiding officer and subject to prosecution pursuant to WV Code Section 61-6-19.

Any citizen may address City Council regarding the issues before it, upon second reading of an Ordinance after Council has discussed the issue and on any Resolution after Council has discussed the issue. Further, any citizen may address the Council on any issue under the Good and Welfare section of the Agenda. A sign-up sheet shall be provided and those persons whose names appear on the same shall be asked to speak first and in the order their names appear on said sheet for the item which their name appears. However, no person shall be prohibited from speaking for having failed to sign their name to the sign-up sheet.

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

At the first meeting of Council in July 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.

These Rules were adopted by Resolution of Council on March 23,

1992. (11 yeas; 0 nays). Copy of Resolution may be found in the Council file for March 23, 1992.

The last paragraph of Section 8 was added to the Rules by Resolution of Council on November 23, 1992. (9 yeas; 2 nays - Barrett, Zink). Copy of Resolution may be found in the Council file for November 23, 1992.

Under Section 1 - Meetings, A. Regular Meetings, the following sentence was added. "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." This was adopted by Resolution of Council on February 22, 1993. (10 yeas; 0 nays; 1 absent - Alexander). Copy of Resolution may be found in the Council file for February 22, 1993.

The "Proposed Changes to the Huntington City Council Rules" were adopted on August 9, 1993 as indicated on the attached resolution. (10 yeas; 0 nays; 1 absent - Grubb)

Section 23 was amended on July 7, 1997 and has been incorporated into the Rules and Regulations. (10 yeas; 0 nays; 1 absent - Polan) See Council file, July 7, 1997.

Section 17 was amended on September 22, 1997 and has been incorporated into the Rules and Regulations. (9 yeas; 0 nays; 2 absent - Maass, Patterson) See Council file, September 22, 1997.

Section 23 was amended on September 22, 1997 and has been incorporated into the Rules and Regulations. (9 yeas; 0 nays; 2 absent - Maass, Patterson) See Council file, September 22, 1997.

A RESOLUTION OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING THE RULES FOR THE TRANSACTION OF BUSINESS BY THE HUNTINGTON CITY COUNCIL BY AMENDING, MODIFYING AND RE-ENACTING SECTION 7 REGARDING THE FILING OF ORDINANCES AND RESOLUTIONS; AGENDA.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that Section 7 of the Rules for the Transaction of Business by the Huntington City Council is hereby **AMENDED, MODIFIED and RE-ENACTED** to read as follows:

.....

SECTION 7 - FILING OF ORDINANCES AND RESOLUTIONS; AGENDA

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 Wednesday 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.

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 ~~at least four (4) Council Members~~ any Council member shall be placed on the Agenda with or without the consent of the Chairperson.

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 re-submitted as described in Paragraph A above for consideration and inclusion upon the next Council Agenda.

.....

BE IT FURTHER RESOLVED, that all other articles and provisions of the Rules for the Transaction of Business by the Huntington City Council shall remain in full force and effect until the further action of this Council.

SPONSORED BY: COUNCILMAN CHUCK POLAN

APPROVED AS TO FORM BY: JLH

ACTION TAKEN BY COUNCIL: Motion by Councilman Kent to change the last sentence, under Section 7, B to read "by any Council member" instead of "by at least four (4) Council Members"; seocnded by Councilman Ellis.(10 yeas; 0 nays; 1 absent - Cline) ADOPTED AS AMENDED (10 yeas; 0 nays; 1 absent - Cline)

DATE: 11-23-98

Ann C. Shaye

ANN C. SHAYE, CITY CLERK

DATE: 11-23-98

JEAN DEAN, MAYOR

APPROVE

DATE:

VETO

In accordance with Section 2.7 of the Charter I shall not take action upon this Resolution.
Jean Dean
Mayor
11-25-98

Mayor Dean chose not to sign this resolution; therefore, it became operative on December 7, 1998 at 12:00 p.m., noon.

Ann C. Shaye

Ann C. Shaye, City Clerk

STATE OF WEST VIRGINIA

COUNTY OF CABELL

Came Jean Dean, who being by the undersigned authority first duly sworn upon oath says the "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 - City of Huntington to the best of my skill and judgment."

Signed Jean Dean

Taken, subscribed and sworn to before me this 23rd day of June, 1997.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ANN C. SHAYE
1953 UNDERWOOD AVE.
HUNTINGTON, WV 25701
My Commission Expires August 25, 2006

Ann C. Shaye
NOTARY PUBLIC,
CABELL COUNTY, WV

My Commission expires the 25th day of August 2006

STATE OF WEST VIRGINIA

COUNTY OF CABELL

Came Ann C. Shaye, who being by the undersigned authority first duly sworn upon oath says the "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 City Clerk - City of Huntington, WV to the best of my skill and judgment."

Signed Ann C. Shaye

Taken, subscribed and sworn to before me this 16th day of October, 1991.

NOTARY PUBLIC,
CABELL COUNTY, WV

My Commission expires the 24th day of March 1995

STATE OF WEST VIRGINIA

COUNTY OF CABELL

Came Robert Bailey, who being by the undersigned authority first duly sworn upon oath says the "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 Councilmember -City of Huntington to the best of my skill and judgment."

Signed Bob Bailey

Taken, subscribed and sworn to before me this 23rd day of June, 1997.

NOTARY PUBLIC,
CABELL COUNTY, WV

My Commission expires the 25th day of August 2006

The term of office will begin on July 1, 1997. See attachment.

STATE OF WEST VIRGINIA

COUNTY OF CABELL

Came A. F. Bobersky, who being by the undersigned authority first duly sworn upon oath says the "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 Councilmember -City of Huntington to the best of my skill and judgment."

Signed A F Bobersky

Taken, subscribed and sworn to before me this 30th day of ~~July~~ June, 1997.

NOTARY PUBLIC,
CABELL COUNTY, WV

My Commission expires the 25th day of August 2006

STATE OF WEST VIRGINIA

COUNTY OF CABELL

Came Philip E. Cline, who being by the undersigned authority first duly sworn upon oath says the "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 Councilmember -City of Huntington to the best of my skill and judgment."

Signed Philip E. Cline

Taken, subscribed and sworn to before me this 23rd day of June, 1997.

NOTARY PUBLIC,
CABELL COUNTY, WV

My Commission expires the 25th day of August 2006

The term of office will begin on July 1, 1997. See attachment.

STATE OF WEST VIRGINIA

COUNTY OF CABELL

Came B. W. Ellis, who being by the undersigned authority first duly sworn upon oath says the "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 Councilmember -City of Huntington to the best of my skill and judgment."

Signed Burton W. Ellis

Taken, subscribed and sworn to before me this 23rd day of June, 1997.

NOTARY PUBLIC,
CABELL COUNTY, WV

My Commission expires the 25th day of August 2006

The term of office will begin on July 1, 1997. See attachment.

STATE OF WEST VIRGINIA

COUNTY OF CABELL

Came Frances Jackson, who being by the undersigned authority first duly sworn upon oath says the "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 Councilmember -City of Huntington to the best of my skill and judgment."

Signed Frances Jackson

Taken, subscribed and sworn to before me this 23rd day of June, 1997.

NOTARY PUBLIC,
CABELL COUNTY, WV

My Commission expires the 25th day of August 2006

The term of office will begin on July 1, 1997. See attachment.

STATE OF WEST VIRGINIA

COUNTY OF CABELL

Came Calvin "Cal" Kent, who being by the undersigned authority first duly sworn upon oath says the "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 Councilmember -City of Huntington to the best of my skill and judgment."

Signed Calvin H. Kent

Taken, subscribed and sworn to before me this 30th day of ~~July~~ June, 1997.

C. C. Sharpe

NOTARY PUBLIC,
CABELL COUNTY, WV

My Commission expires the 25th day of August 2006

STATE OF WEST VIRGINIA

COUNTY OF CABELL

Came Renee Maass, who being by the undersigned authority first duly sworn upon oath says the "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 Councilmember -City of Huntington to the best of my skill and judgment."

Signed Renee C. Maass

Taken, subscribed and sworn to before me this 23rd day of June, 1997.

NOTARY PUBLIC,
CABELL COUNTY, WV

My Commission expires the 25th day of August 2006

The term of office will begin on July 1, 1997. See attachment.

STATE OF WEST VIRGINIA

COUNTY OF CABELL

Came Mary Neely, who being by the undersigned authority first duly sworn upon oath says the "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 Councilmember -City of Huntington to the best of my skill and judgment."

Signed Mary L. Neely

Taken, subscribed and sworn to before me this 23rd day of June, 1997.

NOTARY PUBLIC,
CABELL COUNTY, WV

My Commission expires the 25th day of August 2006

The term of office will begin on July 1, 1997. See attachment.

STATE OF WEST VIRGINIA

COUNTY OF CABELL

Came Larry D. Patterson, who being by the undersigned authority first duly sworn upon oath says the "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 Councilmember -City of Huntington to the best of my skill and judgment."

Signed Larry D. Patterson

Taken, subscribed and sworn to before me this 23rd day of June, 1997.

NOTARY PUBLIC,
CABELL COUNTY, WV

My Commission expires the 25th day of August 2006

The term of office will begin on July 1 1997. See attachment.

STATE OF WEST VIRGINIA

COUNTY OF CABELL

Came Chuck Polan, who being by the undersigned authority first duly sworn upon oath says the "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 Councilmember -City of Huntington to the best of my skill and judgment."

Signed

Taken, subscribed and sworn to before me this 23rd day of June, 1997.

NOTARY PUBLIC,
CABELL COUNTY, WV

My Commission expires the 25th day of August 2006

The term of office will begin on July 1, 1997. See attachment.

STATE OF WEST VIRGINIA

COUNTY OF CABELL

Came Jim Ritter, who being by the undersigned authority first duly sworn upon oath says the "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 Councilmember -City of Huntington to the best of my skill and judgment."

Signed James Ritter

Taken, subscribed and sworn to before me this 23rd day of June, 1997.

NOTARY PUBLIC,
CABELL COUNTY, WV

My Commission expires the 25th day of August 2006

The term of office will begin on July 1, 1997. See attachment.

STATE OF WEST VIRGINIA

COUNTY OF CABELL

Came Mary L. Neely, who being by the undersigned authority first duly sworn upon oath says the "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 City Councilmember for the City of Huntington to the best of my skill and judgment, so help me God."

Signed Mary L. Neely

Taken, subscribed and sworn to before me this 2 day of June, 1999.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ANN C. SHAYE
1953 UNDERWOOD AVE.
HUNTINGTON, WV 25701
My Commission Expires August 25, 2006

Ann C. Shaye
NOTARY PUBLIC,
CABELL COUNTY, WV

My Commission expires the 25th day of August 2006

CITY OF HUNTINGTON
WEST VIRGINIA

OFFICE OF THE CITY ATTORNEY
City Hall, P.O Box 1659, Zip 25717
Phone (304) 696-4480

Memorandum

To:	Ann Shaye, City Clerk
CC:	Councilman Larry Patterson Mayor Jean Dean
From:	Jendonnae L. Houdyschell Acting City Attorney
Date:	June 17, 1997
Subject:	Legal Opinion on Swearing In of Council Members

Please be advised that West Virginia Code §8-5-8 states as follows:

§8-5-8. Oath of Office.

"Every person elected or appointed to an office in any municipality shall unless otherwise provided in the charter thereof, within twenty days after his election or appointment and before he shall enter upon the duties of his office, take and subscribe to the oath of office prescribed for district officer, which may be done before any person authorized by law to administer oaths, or before the mayor or recorded of such municipality. The oath, together with the certificate of the officer administering the same, shall be filed, recorded and preserved in the office of the recorder of the municipality, and a certified copy of such oath and certificate shall be filed and recorded in the office of the clerk of the county court [county commission] of the county in which the municipality or the major portion of the territory thereof is located.".

Clearly, the Code requires that the oath be taken within twenty (20) days after his election and before he shall enter into the duties of his office. Under the Code section and based upon he case of Daughtery v. Town of Mabscott, 131 W.Va. 500, 48 S.E.2d 342 (1948) and State ex rel. Morrison v. Freeland, 139 W.Va. 327, 81 S.E.2d 685 (1954), the elected officers are required to have taken their oath of office by July 2, 1997 and before they are to take office. Clearly, it is the intent of the statute that at any time during that twenty (20) day period after the election results, the person may be sworn in and take their oath of office. Obviously, their office would not begin to run until July 1, but since all of this must be done prior to their taking office, the only way it could be facilitated is to have a swearing in prior to July 1, 1997.

JLH:tlr

PART V. OATH OF OFFICE; TERMS OF OFFICE; FILLING VACANCIES.

§ 8-5-8. Oath of office.

Every person elected or appointed to an office in any municipality shall, unless otherwise provided in the charter thereof, within twenty days after his election or appointment and before he shall enter upon the duties of his office, take and subscribe to the oath of office prescribed for district officers, which may be done before any person authorized by law to administer oaths, or before the mayor or recorder of such municipality. The oath, together with the certificate of the officer administering the same, shall be filed, recorded and preserved in the office of the recorder of the municipality, and a certified copy of such oath and certificate shall be filed and recorded in the office of the clerk of the county court [county commission] of the county in which the municipality or the major portion of the territory thereof is located. (Code 1868, c. 47, § 18; 1882, c. 92, § 18; Code 1923, c. 47, § 18; 1969, c. 86.)

Editor's notes. — The bracketed words were inserted by the editor. See W. Va. Const., art. IX, § 9.

Oath an essential requirement. — The taking of the requisite oath, after a person has been appointed or has been declared to have been elected to a public office, is the essential requirement to his qualification for the office. Hertzog v. Fox, 141 W. Va. 849, 93 S.E.2d 239 (1956).

But filing thereof is merely incidental to qualification. — The requirement that a person file the oath in the manner provided by this section is merely incidental to his qualification. Hertzog v. Fox, 141 W. Va. 849, 93 S.E.2d 239 (1956).

And failure to file oath and certificate does not deprive one of office. — Under this section a person elected to a municipal office qualifies for such office when he takes and subscribes the oath of office within twenty days after his election has been ascertained and declared; and his failure to file such oath and the certificate of the person administering it in the office of the recorder of the municipality, and to file a certified copy of such oath and certificate within twenty days after his election has been ascertained and declared, does not deprive him of his right to, or create a vacancy in, such office. Hertzog v. Fox, 141 W. Va. 849, 93 S.E.2d 239 (1956).

When twenty-day period commences running. — Under the provisions of this section, a municipal officer is to be regarded as "elected" when returns of the election have been duly canvassed to that effect and the result declared by order of the body authorized by law to do so, and not before, and the twenty-day period within which officer must take oath of office commences running at such time. Dougherty v. Town of Mabscott, 131 W. Va. 500, 48 S.E.2d 342 (1948); State ex rel. Morrison v. Froeland, 139 W. Va. 327, 81 S.E.2d 685 (1954).

Failure to take oath within twenty days. — The provision in this section, respecting the time within which a person elected or appointed to a municipal office shall take and subscribe the oath of office, is only directory, and although the taking and subscribing of such oath must be accomplished before a person may assume the duties of the office to which he was duly elected or appointed, failure to take and subscribe the oath within the twenty-day period prescribed by this section will not, in itself, be sufficient to cause a forfeiture of that office. 46 Op. Att'y Gen. 233 (1955).

§ 8-5-9. Terms of office.

Except as otherwise provided in the charter of any municipality, the terms of all officers elected after the first election in municipalities holding biennial elections shall commence on the first day of July following their election and shall be for two years, and in municipalities holding quadrennial elections the terms of all elected officers shall commence on the first day of July following their election and shall be for four years.

ARTICLE 169
Sanitary Board

169.01 Creation; members.
169.02 Sewerage collection system supervision; expenditures; revenue bonds.
169.03 Rules and regulations.
169.04 Compensation; Secretary and Treasurer.

CROSS REFERENCES

Composition of Board - see W. Va. Code 16-13-18
Publication of financial statement - see W. Va. Code 16-13-18a
Powers and duties - see W. Va. Code 16-13-3 et seq.

169.01 CREATION; MEMBERS.

There is hereby created a Sanitary Board to consist of three members. The Mayor is hereby designated as a member of the Board, and the Mayor shall select the two other members of the Board subject to approval by Council. 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 State law. (Ord. 3-11-35)

169.02 SEWERAGE COLLECTION SYSTEM SUPERVISION; EXPENDITURES; REVENUE BONDS.

The custody, administration, operation and maintenance of any sewerage collection system or other works that may be constructed or required under the provisions of law and of this article shall be under the supervision and control of the Sanitary Board. All necessary preliminary expense actually incurred by the 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, shall be paid out of the General Fund of the City not otherwise appropriated, in the manner provided in West Virginia Code 16-13-4; provided, however, that the funds of the City from which such payments are made shall be fully reimbursed and repaid by the Board out of the first proceeds of the sale of revenue bonds. (Ord. 3-11-35)

169.03 RULES AND REGULATIONS.

The further regulation and control of the Sanitary Board, except in so far as the Board is given authority by law 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 Council by proper ordinance, within the terms of State law. (Ord. 3-11-35)

169.04 COMPENSATION; SECRETARY AND TREASURER.

Until the further order of Council the members of the Sanitary Board shall serve without compensation. The Board is hereby directed to select a Secretary and Treasurer pursuant to West Virginia Code 16-13-18. The bond of the Treasurer is hereby fixed at five thousand dollars ($5,000). Such bond shall be given by a recognized surety company, and the cost of the premium thereof shall be paid by the Board as part of its expenses.
(Ord. 3-11-35)

THE CITY OF HUNTINGTON

Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

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 sewer revenue bonds of the City be issued pursuant to the provisions of Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended, such bonds to be in an amount not to exceed $2,100,000 for the purpose of financing the costs of acquisition and construction of additions, betterments and improvements to the existing public sewerage system of the City, together with all necessary appurtenances, and the costs of issuance and related costs.

Directed this 6th day of May, 1999.

SANITARY BOARD OF THE CITY OF HUNTINGTON

Sean Dean

Chairman

04/26/99
435500/98001

CL525593.1

THE CITY OF HUNTINGTON

AN ORDINANCE SETTING FORTH SEWER RATES, DISCONNECTION CHARGE, RECONNECTION CHARGE AND LATE PAYMENT PENALTY FOR SERVICE TO CUSTOMERS OF THE SEWERAGE SYSTEM OF THE CITY OF HUNTINGTON

THE COUNCIL OF THE CITY OF HUNTINGTON HEREBY ORDAINS:

SECTION 1. SCHEDULE OF RATES, CHARGES AND PENALTY

933.24 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.

INITIAL RATES AND CHARGES:

RATES:

For the first 300 cubic feet or less per month
or 900 cubic feet or less per quarter.....$2.49 per 100 cu. ft.
For the next 19,700 cubic feet per month
or 59,100 cubic feet per quarter
or any part thereof.....$1.71 per 100 cu. ft.
For the next 980,000 cubic feet per month
or 2,940,000 cubic feet per quarter
or any part thereof.....$1.30 per 100 cu. ft.
For the next 1,000,000 cubic feet per month
or 3,000,000 cubic feet per quarter
or any part thereof.....$ .88 per 100 cu. ft.

MINIMUM CHARGES:
Per month: $2.00
Per quarter: $6.00

DISCONNECTION CHARGES:
The disconnection charge shall be $20.00.

RECONNECTION CHARGES:
The reconnection charge shall be $20.00

INTERMEDIATE RATES AND CHARGES:

RATES:

For the first 300 cubic feet or less per month
or 900 cubic feet or less per quarter.....$2.69 per 100 cu. ft.
For the next 19,700 cubic feet per month
or 59,100 cubic feet per quarter
or any part thereof.....$1.85 per 100 cu. ft.
For the next 980,000 cubic feet per month
or 2,940,000 cubic feet per quarter
or any part thereof.....$1.40 per 100 cu. ft.
For the next 1,000,000 cubic feet per month
or 3,000,000 cubic feet per quarter
or any part thereof.....$ .95 per 100 cu. ft.

MINIMUM CHARGES:
Per month: $2.00
Per quarter: $6.00

DISCONNECTION CHARGES:
The disconnection charge shall be $20.00.

RECONNECTION CHARGES:
The reconnection charge shall be $20.00

FINAL RATES AND CHARGES:

RATES:

For the first 300 cubic feet or less per month
or 900 cubic feet or less per quarter.....$2.89 per 100 cu. ft.
For the next 19,700 cubic feet per month
or 59,100 cubic feet per quarter
or any part thereof.....$1.99 per 100 cu. ft.
For the next 980,000 cubic feet per month
or 2,940,000 cubic feet per quarter
or any part thereof.....$1.51 per 100 cu. ft.
For the next 1,000,000 cubic feet per month
or 3,000,000 cubic feet per quarter
or any part thereof.....$1.02 per 100 cu. ft.

MINIMUM CHARGES:

Per month: $2.00
Per quarter: $6.00

DISCONNECTION CHARGES:

The disconnection charge shall be $20.00.

RECONNECTION CHARGES:

The reconnection charge shall be $20.00

Notwithstanding the foregoing, in the event that the City of Huntington Sanitary Board shall utilize the services of the West Virginia American Water Company for the billing and collecting of sewage service charges, surcharges and fees, and in the further event that the West Virginia American Water Company shall institute and provide for a customer optional monthly budget payment plan, then and in such event the sewage service charges and surcharges herein provided may likewise be billed by the West Virginia American Water Company on such optional monthly budget payment plan.

933.25 LATE PAYMENT PENALTY AND DISCONNECT FOR NON-PAYMENT

The above tariff is net. On all accounts not paid in full within 30 days of the date of bill, 10% will be added to the net amount shown. This late payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

If any bill is not paid with 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.

SECTION 2. EFFECTIVE DATE

The Initial Rates and Charges and late payment penalty provided herein shall be effective 45 days after the enactment hereof; the Intermediate Rates and Charges shall be effective one year after the enactment hereof; and the Final Rates and Charges shall be effective two years after the enactment 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 26th day of October, 1998, 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.

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of THE CITY OF HUNTINGTON on the 26th day of October, 1998.

Dated: October 26, 1998.

{SEAL}

Ann C. Shaye

Ann C. Shaye, City Clerk

SPONSORED BY Councilman A. F. Bobersky

APPROVED AS TO FORM _____

FIRST READING Tabled on 3-9-98 (6 yeas; 4 nays - Bobersky, Kent, Maass, Neely; 1 absent - Cline) Removed from table on 9-28-98- motion to change the date, under Section 4 from the 23rd to the 12th & from March to October; change 3-9-87 to 9-28-98; delete "and adopted" from the phrase "and adopted on the first reading."

SECOND READING 10-12-98: POSTPONED until October 26, 1998.
ADOPTED (7 yeas; 4 nays - Bailey, Ellis, Jackson, Ritter)

DATE October 26, 1998

Ann C. Shaye

ANN C. SHAYE, CITY CLERK

DATE October 27, 1998

Jean Dean

JEAN DEAN, MAYOR

✓ APPROVE

DATE 10-27-98

VETO

981465alj122198.wpd

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: December 21, 1998

CASE NO. 98-1465-S-MA

CITY OF HUNTINGTON,
a municipal corporation.
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.

RECOMMENDED DECISION

On October 26, 1998, the City of Huntington (Utility) adopted an ordinance which established new rates and charges for sewer service to become effective on and after December 10, 1998.

On November 25, 1998, Gil Vanderkraats filed a petition with the Commission alleging that the Utility's rate structure was discriminatory.

On December 4, 1998, Staff filed an Internal Memorandum recommending suspension of the Utility's rate increase and referral to the Division of Administrative Law Judges for review pursuant to W.Va. Code §24-2-4b(c)(2)and (3).

On December 4, 1998, the Commission suspended the Utility's rates and referred the matter to the Division of Administrative Law Judges. The Commission established a Staff Report due date of February 2, 1999, and a decision due date of March 8, 1999.

On December 8, 1998, Staff served Mr. Vanderkraats with its first set of interrogatories.

On December 8, 1998, the Commission issued a Corrective Order which modified the Administrative Law Judge's decision due date to March 12, 1999.

On December 8, 1998, the Utility moved to dismiss the proceeding. The Utility indicated that, according to its records, Mr. Vanderkraats was not a customer of record and, therefore, had no standing to invoke the Commission's jurisdiction. The Utility attached an affidavit from Mr. Robert E. Trocin, the Executive Director of the Utility's Sanitary Board. Mr. Trocin indicated that he had reviewed the Sanitary Board's

22B

records, which do not reflect a Gilbert Vanderkraats as a customer of record.

On December 11, 1998, the Utility requested that the Referral Order be rescinded.

On December 18, 1998, Mr. Vanderkraats responded to the Staff interrogatories. Mr. Vanderkraats indicated that he was not a customer of record of the Utility. He indicated that he currently uses a septic system to dispose of his sewage. He has no account number and has never received a monthly statement from the Utility.

DISCUSSION

W.Va. Code §24-2-4b explicitly indicates that only a "customer" of the Utility may petition the Commission to review a rate ordinance. The Commission's rules precisely define the term customer to be applied in the situation. (See Procedural Rule for Commission Review of Electric Cooperatives, Telephone Cooperatives and Municipal Rate Changes, pursuant to W.Va. Code §24-2-4b. Rule 2.2.b.) The Commission's Rules define a customer as a "customer of record with the Utility". The definition specifically states that the definition of a customer "cannot be broadened to include all residents of a municipality or those who may be ultimate consumers of a product". Rule 2.2.b.1. It is clear from Mr. Vanderkraats' own responses to the Staff discovery request that he is not a customer of the Utility. The petition should be dismissed.

FINDINGS OF FACT

1. On November 25, 1998, Gil Vanderkraats filed a petition alleging that the City of Huntington's sewer utility rates were discriminatory. (See Petition filed November 25, 1998).

2. Mr. Vanderkraats is not a customer of the City of Huntington's sewer system. (See Responses to discovery filed by Vanderkraats on December 18, 1998).

CONCLUSION OF LAW

Mr. Vanderkraats' status as a non-customer precludes Mr. Vanderkraats from pursuing review of the Utility's rate structure under W.Va. Code §24-2-4b, and, accordingly, this proceeding should be dismissed.

ORDER

IT IS, THEREFORE, ORDERED that the petition filed by Gil Vanderkraats on November 25, 1998, for review of the City of Huntington's rate ordinance, be, and hereby is, denied and dismissed.

IT IS FURTHER ORDERED that the suspension of the use of Huntington's rate ordinance be, and hereby is, lifted.

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

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

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

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

K. A. George

Keith A. George
Administrative Law Judge

KAG/pst
981465A.WPD

981465com012799.wpd

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the Public Service Commission of West Virginia, in the City of Charleston, on the 27th day of January, 1999.

CASE NO. 98-1465-S-MA

CITY OF HUNTINGTON, a municipal corporation.
Investigation and suspension of increase in sewer rates and charges as a result of petitions filed in accordance with W. Va. Code § 24-2-4b.

COMMISSION ORDER

On October 26, 1998, the City of Huntington adopted an ordinance which established new rates and charges for general domestic, commercial and industrial sewer service, to become effective on and after December 10, 1998. On November 25, 1998, Gil Vanderkraats and 33 others petitioned the Commission to review the new rates, pursuant to W. Va. Code § 24-2-4b. Mr. Vanderkraats alleged that the new rates were discriminatory because they were not cost-based. Letter of protest p. 1. The others generally protested the rate increase and asked the Commission to review it, but did not allege discrimination. Petitions p. 1.

On December 4, 1998, the Commission suspended the use of the new rates to allow Staff to investigate. Commission Order p. 2, as amended by Commission Corrective Order p. 1 (Dec. 8, 1998). The Commission referred the case to the Division of Administrative Law Judges. Id.

On December 7, 1998, Commission Staff issued discovery requests to Mr. Vanderkraats to determine whether he lived within the city limits and whether he was a Huntington sewer customer. Staff's 1st Request for Information.

On December 8, 1998, Huntington moved to dismiss the proceeding, alleging that W. Va. Code § 24-2-4b(c)(2) authorizes the Commission to investigate alleged discrimination when the issue is raised by a customer who lives outside the city limits and that Mr. Vanderkraats lives in Huntington. Motion to Dismiss p. 2. Similarly, W. Va. Code § 24-2-4b(c)(3) authorizes the Commission to investigate alleged discrimination when the issue is raised by a customer who lives within the city limits, and that Mr. Vanderkraats, while he lives within the city limits, is not a Huntington sewer service customer. Id. p. 3 & Ex. 1

(Robert E. Trocin affidavit). Huntington relied on one of the Commission's rules, which defines customer as "any person . . . who purchases . . . services of any utility" and which expressly excludes potential customers as follows:

> (1) This definition refers to customers of record with the utility and cannot be broadened to include all residents of a municipality or those who may be ultimate consumers of the product.

Rule 2.2(b), Procedural Rules for Commission Review of Electric Cooperatives, Natural Gas Cooperatives and Municipal Rate Change Pursuant to West Virginia Code § 24-2-4b, 150 C.S.R. Series X (hereinafter "Procedural Rules Pursuant to West Virginia Code § 24-2-4b").

On December 18, 1998, Mr. Vanderkraats advised that he does not live within Huntington's city limits and that he is not a Huntington sewer customer. Response to Staff's 1st Request for Information.

On December 21, 1998, the Administrative Law Judge recommended that the proceeding be dismissed because Mr. Vanderkraats was not a customer, and W. Va. Code § 24-2-4b prevents a non-customer from seeking Commission review of a municipal rate ordinance.[1] Rec. Dec. p. 2. Thus, the ALJ lifted the suspension of the use of Huntington's rate ordinance. Id. The ALJ provided 15 days to file exceptions to the Recommended Decision. Id. p. 3.

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[1] The petitions from the other customers had been misfiled and were not part of the case file when the ALJ considered Huntington's Motion to Dismiss. Thus, the ALJ's Recommended Decision is silent as to the remaining petitioners.

Also, on December 21, 1998, Staff advised that W. Va. Code § 24-2-4b(c)(1) permits the Commission to review a rate ordinance if more than 25 percent of a municipal utility's customers file a petition. Staff's Response to Motion to Dismiss p. 3. Huntington serves 22,392 customers. Id. Thus, to invoke the Commission's review, petitions from 5,598 customers are required. Id. Assuming that all of the 33 petitioners are customers of Huntington, the number of petitioners falls far short of triggering Commission jurisdiction, Staff said. Id. Staff also supported Huntington's position regarding Mr. Vanderkraats' ability to petition for Commission review. Id. pp. 4-6. Staff's memo was filed the same day as, but after, the Recommended Decision was issued, so the ALJ order is silent as to Staff's position.

Similarly, on December 21, 1998, but after the Recommended Decision was issued, Huntington advised that Mr. Vanderkraats' response to Staff's information request established that he was not a customer. Huntington's letter p. 1. Thus, the Commission should find that jurisdiction was improvidently invoked and the matter should be dismissed. Id.

Public Service Commission
of West Virginia
Charleston

On January 6, 1999, Hazel Parker advised that large-volume users and low-volume users may not be treated equally under Huntington's new ordinance. Ms. Parker's letter p. 1. Ms. Parker was not one of the 33 petitioners.

Also on January 6, 1999, Mr. Vanderkraats objected to the Recommended Decision. He said that negotiations were pending for his connection to the sewer system, so this case should not be dismissed. Motion to Reconsider p. 1. Furthermore, the terms of Huntington's Sewer Revenue Bonds required mandatory connections, so anyone who lived at 547 N. Inwood Drive was a bona fide customer, whether serviced now or at a later date. Id. & attachment.

On January 8, 1999, Huntington said Mr. Vanderkraats' opposition to the Recommended Decision was filed too late. Letter p. 1. Specifically, the 15-day exception period expired on January 5, and Mr. Vanderkraats' motion was not filed until January 6, 1999. Id. Should the Commission choose to consider Mr. Vanderkraats' motion, Huntington advised that it supported the Recommended Decision. Id.

DISCUSSION

Taking procedural matters first, Rule 12.4 of the Commission's Rules of Practice and Procedure permits parties to participate in Commission proceedings, including the introduction of evidence or the presentation of legal argument. Ms. Parker was not one of the 33 petitioners. It was only after the Recommended Decision was issued that she first filed a document in this case. Under these facts, the Commission finds that she is not a party and she is not able to participate in this proceeding. Therefore, in accordance with Procedural Rule 12.4, the Commission shall not consider Ms. Parker's filing.

Next, W. Va. Code § 24-1-9(e) explains the effect of filing exceptions, in pertinent part, as follows:

> When no exceptions are filed within the time specified, such recommended order shall become the order of the commission five days following the expiration of the period for filing exceptions unless the order is stayed or postponed by the commission: Provided, That the commission may, on its own motion before such order becomes the order of the commission, review any such matter and take action thereon as if exceptions thereto had been filed.

The Recommended Decision was issued on December 21, 1998, and the parties were given 15 days to except. Rec. Dec. p. 3. Huntington correctly states that the 15-day period expired on January 5. Therefore, Mr. Vanderkraats' exceptions, filed January 6, are untimely. Since the Commission did not stay the Recommended Decision, the

Public Service Commission
of West Virginia
Charleston

Recommended Decision has become the Commission's order.

However, under Rule 19 of the Commission's Rules of Practice and Procedure, applications for reconsideration may be made. We shall treat Mr. Vanderkraats' exceptions as a petition to reconsider in this instance because Mr. Vanderkraats is not represented by counsel and his exceptions were filed only one day after the deadline. The Commission reminds Mr. Vanderkraats that the Commission's time frames set forth the deadlines to file a document with the Commission, not to mail it. In other words, the Commission must receive the document by the deadline date. We caution that the Commission's exercise of discretion in his favor in this case is not to be construed as a promise of similar treatment if Mr. Vanderkraats misses other deadlines in Commission proceedings.

Moving to substantive matters, W. Va. Code § 24-2-4b(c), enacted March 10, 1979, and amended July 1, 1981, removed Commission jurisdiction over rate changes by municipally operated public utilities, except upon the filing of a petition within thirty (30) days of the municipality's adoption of the ordinance by:

> (1) any customer aggrieved by the changed rates or charges who presents to the Commission a petition signed by not less than twenty-five percent of the customers served by such municipally operated public utility; or
>
> (2) any customer who is served by a municipally operated public utility and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a petition alleging discrimination between customers within and without the municipal boundaries if said petition is accompanied by evidence of discrimination; or
>
> (3) any customer or group of customers who are affected by said change in rates who reside within the municipal boundaries and who present a petition to the Commission alleging discrimination between said customers or group of customers and other customers of the municipal utility, if said petition is accompanied by evidence of discrimination . . .

As a matter of law, the Commission cannot act unless one of these tests is met.

We agree with Staff that the petitioners, except for Mr. Vanderkraats, generally protested the rate change and did not allege discrimination. Therefore, subsection (1) applies. If enough customers petition for review, then the Commission has jurisdiction. If not, then the Commission is not able to review in the rate change. In this case, Huntington serves 22,392 customers, and twenty-five percent of 22,392 is 5,598. Only 33 people petitioned the Commission in this case. Thus, even if all of the petitioners are Huntington

Public Service Commission
of West Virginia
Charleston

customers, not enough petitions have been filed to result in Commission jurisdiction pursuant to W. Va. Code § 24-2-4b(c)(1).

Mr. Vanderkraats alleged discrimination, so it is possible that the Commission could review Huntington's rate ordinance under subsection (2) or subsection (3). Under subsection (2) "any customer . . . who resides outside the corporate limits and who is affected by the change in said rates and charges" may petition for Commission review. Under subsection (3), "any customer or group of customers who are affected by said change in rates who reside within the municipal boundaries" may petition for Commission review. We agree with Staff, Huntington and the ALJ that Mr. Vanderkraats is not a customer of the Huntington Sanitary Board. Therefore, Mr. Vanderkraats' petition is not sufficient to trigger the Commission's jurisdiction under W. Va. Code § 24-2-4b(c)(2) or (3).

W. Va. Code § 24-2-4b significantly reduced the Commission's ability to review rate changes by municipal utilities. The Legislature laid out the limited circumstances which would trigger Commission review. In doing so, when a municipal customer alleged discrimination, the Legislature required that the customer be affected by the rate change. To be affected by the rate change requires that one be a customer now, not in the future. It is only speculative whether Huntington's new ordinance will affect Mr. Vanderkraats if and when he becomes a customer. By that time, Huntington may have changed its sewer rates one or more times by other ordinances. If such speculation were permitted, the Commission's jurisdiction would be far broader than the Legislature intended. The "who is affected by" language makes clear that the Legislature did not intend to give the Commission such a free reign.

In accord with the statute, Rule 2.2(b) of the Commission's Procedural Rules Pursuant to West Virginia Code § 24-2-4b defines customer as "any person . . . who purchases . . . services of any utility" and expressly excludes all residents of a municipality or those who may be ultimate consumers of the product. Huntington, Staff and the ALJ are correct to rely upon it.

Mr. Vanderkraats presents an equitable argument that he should be considered a customer because a sewer extension is planned and, when that extension is complete, it will be mandatory that he become a customer. This argument cannot override the statutory language which authorizes the Commission to act only when a customer who is affected by the rate change presents a petition. The statute is clear, and when a statute is clear, we are not able to construe its meaning. In this instance, by using the present tense of the verb, the Legislature granted the Commission the jurisdiction to review a claim of discrimination only when that customer is affected by the rate change. While the Legislature could have specified "is or will be," the Legislature did not. Therefore, Mr. Vanderkraats' petition is not sufficient to trigger the Commission's jurisdiction under W. Va. Code § 24-2-4b(c)(2)

Public Service Commission
of West Virginia
Charleston

or (3).

Furthermore, subsection (2) applies only to customers who live outside of the city limits and who are affected by the rate change. Thus, even if he were a customer, we agree with Huntington that since Mr. Vanderkraats lives within Huntington's limits, he could not invoke the Commission's jurisdiction via subsection (2).

In sum, none of the petitions presented is sufficient to trigger the Commission's authority to review Huntington's rate ordinance. We adopt the Recommended Decision, as modified by this order. The ALJ correctly lifted the suspension of the use of the changed rates.

FINDINGS OF FACT

1. Huntington serves 22,392 sewer customers. Staff's Response to Motion to Dismiss p. 3.

2. On October 26, 1998, Huntington adopted an ordinance which established new rates and charges for general domestic, commercial and industrial sewer service, to become effective on and after December 10, 1998.

3. On November 25, 1998, Gil Vanderkraats and 33 others petitioned the Commission to review the new rates, pursuant to W. Va. Code § 24-2-4b. Mr. Vanderkraats alleged that the new rates were discriminatory because they were not cost-based. Letter of protest p. 1. The others generally protested the rate increase and asked the Commission to review it, but did not allege discrimination. Petitions p. 1.

4. Hazel Parker did not file a petition for Commission review on November 25, 1998.

5. On December 4, 1998, the Commission suspended the use of the new rates to allow Staff to investigate. Commission Order p. 2, as amended by Commission Corrective Order p. 1 (Dec. 8, 1998). The Commission referred the case to the Division of Administrative Law Judges. Id.

6. On December 8, 1998, Huntington moved to dismiss the proceeding, pursuant to W. Va. Code § 24-2-4b.

7. Mr. Vanderkraats does not live within Huntington's city limits. Response to Staff's 1st Request for Information.

Public Service Commission
of West Virginia
Charleston

8. Mr. Vanderkraats is not a Huntington sewer customer. Id.

9. On December 21, 1998, the Administrative Law Judge recommended that the proceeding be dismissed because Mr. Vanderkraats was not a customer, and W. Va. Code §.24-2-4b prevents a non-customer from seeking Commission review of a municipal rate ordinance. Rec. Dec. p. 2. Thus, the ALJ lifted the suspension of the use of Huntington's rate ordinance. Id. The ALJ provided 15 days to file exceptions to the Recommended Decision. Id. p. 3.

10. The petitions from the other customers were not part of the case file when the ALJ considered Huntington's Motion to Dismiss.

11. Later on December 21, 1998, after the Recommended Decision was issued, Staff advised that W. Va. Code § 24-2-4b(c)(1) permits the Commission to review a rate ordinance if more than 25 percent of a municipal utility's customers file a petition, but far less than 25 percent of Huntington's customers had petitioned the Commission to review the rate ordinance. Staff's Response to Motion to Dismiss p. 3. Staff also advised that Mr. Vanderkraats did not meet the statutory test to petition for review of a discrimination claim. Id. pp. 4-6.

12. Similarly, on December 21, 1998, but after the Recommended Decision was issued, Huntington asked the Commission to find that jurisdiction was improvidently invoked because Mr. Vanderkraats was not a Huntington customer. Huntington's letter p. 1.

13. On January 6, 1999, Hazel Parker advised that large-volume users and low-volume users may not be treated equally under Huntington's new ordinance. Ms. Parker's letter p. 1.

14. Also on January 6, 1999, Mr. Vanderkraats objected to the Recommended Decision. He said that negotiations were pending for his connection to the sewer system, so this case should not be dismissed. Motion to Reconsider p. 1.

15. On January 8, 1999, Huntington said Mr. Vanderkraats' opposition to the Recommended Decision was filed too late. Letter p. 1. Should the Commission choose to consider Mr. Vanderkraats' motion, Huntington advised that it supported the Recommended Decision. Id.

CONCLUSIONS OF LAW

1. Ms. Parker was not one of the 33 petitioners who filed on November 25, 1998. She first filed a document in this case after the Recommended Decision was issued. Under

Public Service Commission
of West Virginia
Charleston

these facts, the Commission finds that she is not a party.

2. Since Ms. Parker is not a party, she is not able to participate in this proceeding, pursuant to Rule 12.4 of the Commission's Rules of Practice and Procedure. Therefore, the Commission shall not consider Ms. Parker's filing.

3. Since the 15-day period to except to the Recommended Decision expired on January 5, Mr. Vanderkraats' exceptions, filed January 6, are untimely.

4. Since the Commission did not stay the Recommended Decision, the Recommended Decision has become the Commission's order, pursuant to W. Va. Code § 24-1-9(e).

5. Pursuant to Rule 19 of the Commission's Rules of Practice and Procedure, the Commission may consider applications for reconsideration of Commission orders. Since Mr. Vanderkraats is not represented by counsel and his exceptions were filed only one day after the deadline, the Commission shall exercise its discretion and treat Mr. Vanderkraats' late-filed exceptions as a petition to reconsider.

6. The Commission may review a general protest to Huntington's rate ordinance, pursuant to W. Va. Code § 24-2-4b(c)(1), only if 25 percent of Huntington's customers petition for review. Huntington serves 22,392 customers, so petitions from 5,598 customers are required. In this case, only 33 petitions were received. Thus, not enough petitions have been filed to result in Commission jurisdiction.

7. Mr. Vanderkraats alleged discrimination, so it is possible that the Commission could review Huntington's rate ordinance under subsection (2) or (3).

8. Under subsections (2) and (3), the Commission can review a municipal rate change when a customer who is affected by the rate change presents a petition alleging discrimination. Mr. Vanderkraats is not a customer of the Huntington Sanitary Board, so the Commission does not have jurisdiction via subsections (2) and (3).

9. Subsection (2) applies only to customers who live outside of the city limits and who are affected by the change by the rate change. Even if Mr. Vanderkraats was a Huntington customer, since he lives within Huntington's limits, the Commission does not have jurisdiction via subsection (2).

10. W. Va. Code § 24-2-4b significantly reduced the Commission's ability to review rate changes by municipal utilities. The Legislature laid out the limited circumstances which would trigger Commission review. The statute is clear and not subject to

Public Service Commission
of West Virginia
Charleston

interpretation. Therefore, Mr. Vanderkraats' equitable argument -- that he someday will be a customer -- is not permitted by statute and should be rejected.

11. In sum, none of the petitions presented is sufficient to trigger the Commission's authority to review Huntington's rate ordinance.

12. The Commission should adopt the Recommended Decision, as modified by this order.

ORDER

IT IS THEREFORE ORDERED that the Recommended Decision is adopted, as modified by this order. The suspension of the use of Huntington's revised sewer rates and charges is lifted. Huntington may charge the revised rates for all sewer service rendered on or after December 10, 1998.

IT IS FURTHER ORDERED that Mr. Vanderkraats' petition to reconsider is denied.

IT IS FURTHER ORDERED that this proceeding be removed from the Commission's docket of active cases.

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

CLW/lfg
981465c.wpd

A True Copy, Teste:

Sandra Squire
Sandra Squire
Executive Secretary

Public Service Commission
of West Virginia
Charleston

NOTICE IS HEREBY given that on the 12th day of October, 1998 at the hour 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 Chamber 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 SETTING FORTH SEWER RATES, DISCONNECTION CHARGE, RECONNECTION CHARGE ANDN LATE PAYMENT PENALTY FOR SERVICE TO CUSTOMERS OF THE SEWERAGE SYSTEM OF THE CITY OF HUNTINGTON.
Dated this 29th day of September, 1998.
ANN C. SHAYE
City Clerk
LH-1606 10-2,9,98

AFFIDAVIT OF PUBLICATION

WEST VIRGINIA,

OF CABELL, TO-WIT:

Webb being first duly sworn, depose and say that I am for The Herald-Dispatch, a corporation, who publishes at Huntington, Cabell County, West newspaper: The Herald-Dispatch, an independent newspaper, in the morning seven days each ay through Sunday including New Year's Day, Memorial Day, the Fourth of July, Labor Day and Christmas; that I have been duly authorized by the Board of Directors of such corporation is affidavit of publication for and on behalf of such corporation and the newspaper mentioned he legal advertisement attached in the left margin of this affidavit and made a part hereof and ber LH-1606 was duly published in

Dispatch

one time, once a week for 2 successive weeks, commencing with its issue of the 2nd day of Oct, 19 98, and ending with the issue of the 9th day of Oct, 19 98, and was posted at the EAST DOOR OF THE CABELL COUNTY COURTHOUSE on the 2nd day of Oct, 19 98: that said legal advertisement was published on the following dates: October 2, 9, 1998; that the cost of publishing said annexed advertisement as aforesaid was $38.29; 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 that 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.

Diana Webb

Taken, subscribed and sworn to before me in my said county this 9th day of Oct, 19 98.

commission expires 1-24-2000

Ruth Adkins

23

OFFICIAL SEAL
Notary Public, State of West Virginia
RUTH A. ADKINS
Rt. 1 Box 70-A
West Hamlin, WV 25571
My Commission Expires January 24, 2000

Notary Public
Cabell County
West Virginia

A Regular Meeting of Huntington City Council was held on the 9th day of March, 1998, at 7:30 p.m., in City Hall Council Chambers with Chairperson Larry D. Patterson, presiding.

INVOCATION AND PLEDGE

INVOCATION AND PLEDGE

The Invocation was given by Council Chairperson Larry D. Patterson.

The Pledge of Allegiance to the Flag was led by Councilman Bo Bobersky.

ROLL CALL

ROLL CALL

The following Members of Council were present for this Meeting:

Larry D. Patterson, Chairperson
Bob Bailey
A. F. Bobersky
Burlen W. Ellis
Frances Jackson
Calvin Kent
Renee Maass
Mary Neely
Charles Polan
James Ritter

Absent was: Philip Cline

Also present were: Mayor Jean Dean
Mrs. Jendonnae Houdyschell, City Attorney
Mrs. Ann C. Shaye, City Clerk

SYNOPSIS

SYNOPSIS

Motion by Councilmember Neely, seconded by Councilman Kent, to approve the Synopsis, as submitted. Motion carried unanimously.

REPORTS OF THE MAYOR

REPORTS OF THE MAYOR

Mayor Dean distributed a written report concerning events that have taken place with respect to the slippage concerns, resulting from clear-cutting acreage purchased by a church, close to Sunset Drive and S. Altamont Road. She noted that the residents in that area had spoken with the pastor of the church and it is anticipated that the church will be making every effort to be a good neighbor.

Continuing, Mayor Dean distributed the financial statement for the month ending January 31, 1998 of the Huntington Sanitary Board.

Mayor Dean explained she had just received a report from the Division of Environmental Protection that she wished to share with City Council. It was a copy of a report that was submitted to the U.S. Environmental Protection Agency with regard to the waste water treatment plant. There were no deficiences noted during the inspection. It was actually a letter of commendation as to the operation of the plant. Pointing out that the report was highly technical Mayor Dean noted two paragraphs were of great importance:

Permit

1. The permittee (the Sanitary Board) is currently under Order to repair the Guyandotte force main, to install telemetry systems on all of the lift stations and to upgrade the chlorination facilities at the waste water treatment plant.

Compliance Schedules

2. The permittee is also currently under Order to upgrade the disinfection system, to install telemetry at the lift stations and to repair the Guyandotte force main. The Office of Water Resources has granted some time extensions and as such the facility still has time to accomplish these tasks. Failure to meet the deadlines should be met with strong enforcement actions(s) by the Department of Environment Protection.

Mayor Dean advised she had no other reports.

?ND READ ORD RE: 'NTRACT FOR AUDITING 'ICES TO THE CITY.

Second Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO PROVIDE AUDITING SERVICES TO THE CITY OF HUNTINGTON, AS REQUIRED BY THE WEST VIRGINIA DEPARTMENT OF TAX AND REVENUE.

Motion by Councilman Kent, seconded by Councilman Ellis, to adopt this Ordinance. No vote taken at this time.

Mayor Dean explained that the firm of Sullivan, Ware & Hall in Huntington submitted the low bid in the amount of $13,200 to complete the audit for the City (for the period from July 1, 1996 through June 30, 1997). The firm is on the list of auditors that has been prequalified by the state. There were three other proposal submitted.

2ND READ ORD RE: CONTRACT FOR AUDITING SERVICES TO THE CITY - CONT.

Motion to adopt this Ordinance carried ten (10) yeas; zero (0) nays; one (1) absent - Cline.

Second Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 191.06 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED, BY AMENDING, MODIFYING AND RE-ENACTING SECTION 191.06 (B) REGARDING COMPENSATION FOR ATTORNEYS FOR SERVICE IN MUNICIPAL COURT.

2ND READ ORD RE: COMPENSATION FOR ATTORN FOR SERVICE IN MUNICIP/ COURT

Motion by Councilmember Neely, seconded by Councilman Bailey, to adopt this Ordinance. No vote taken at this time.

Mayor Dean advised this was proposed by the City Attorney. On occasion the City is obligated to provide attorneys to represent individuals in municipal court. In the past some attorneys have been slow in submitting their invoices. The purpose of the ordinance is to establish a time in which the attorneys must submit their invoices for payment.

Motion to adopt this Ordinance carried ten (1) yeas; zero (0) nays; one (1) absent - Cline.

First Reading of an Ordinance re: AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF HUNTINGTON, WEST VIRGINIA, 1960, AND THE ZONE MAP ATTACHED THERETO AS A PART THEREOF BY ZONING TO B-1 LOCAL BUSINESS FROM R-5 MULTI-FAMILY RESIDENTIAL, PROPERTY LOCATED AT 724 AND 726 NINTH AVENUE AND 822-826 SEVENTH STREET, TAX MAP 44, PARCELS 87-89, 91-92 AND PART OF 90.

1ST READ ORD RE: AMEND ZONING ORDINANCE PROPERTY LOCATED AT 724 & 726 9TH AVE & 822-826 7TH ST.

Mayor Dean advised that this item was before the Planning Commission last Monday and was unanimously approved. The property is the vicinity of the new bank under construction at the corner of Ninth Avenue and Eighth Street.

THIS ORDINANCE WAS ADVERTISED.

First Reading of an Ordinance re: AN ORDINANCE VACATING, CLOSING AND ABANDONING A CERTAIN ALLEY OR RIGHT-OF-WAY BETWEEN THE EASTERLY END OF 31ST STREET AND THE WESTERLY END OF 30TH STREET, IN BLOCK 284, GIDEON DISTRICT, IN THE CITY OF HUNTINGTON, CABELL COUNTY, WEST VIRGINIA BEING A STRIP OF LAND APPROXIMATELY 10 FEET IN WIDTH AND 140 FEET IN LENGTH.

1ST READ ORD RE: ABANDONING AN ALLEY BET. 31st ST & 30TH ST.

Mayor Dean stated that this refers to a 10 foot alley that runs east/west behind the Beard Mortuary. It was before the Planning Commission and has been recommended for adoption. She deferred to the Planning Director, Mr. Richard Dixon for any questions.

Councilmember Maass asked Mr. Dixon why this action had been requested.

Mr. Richard Dixon, Planning Director, explained that the alley runs through the parking lot. The cars are driving at such speeds that there have been some "near-misses" with their patrons and employees.

Mrs. Maass asked if the mortuary owns the property on either side of the alley.

Mr. Dixon replied that they do own the property.

Mrs. Maass asked if this were an unusual situation or if there had ever been a similar occurrence.

Mr. Dixon said that normally alleys are not closed that are used by the general public.

Mrs. Maass asked if there had been any objections by surrounding neighbors.

Mr. Dixon said that there had been objections by neighbors who felt the alley provides them with easy access to 30th Street, rather than having to drive to 31st Street which is heavily traveled.

Mrs. Maass asked if Beard's had an alternative plan should Council not vote to close the alley.

Mr. Dixon said that Beard's will have to fence off their parking lot if the alley isn't abandoned.

Councilman Kent said he had driven to the area and believed that if the alley were closed off the city would be merely trading one safety problem for an even larger safety problem. It will force people to loop all the way around or drive onto 31st Street which is one of the busiest intersections in the City, especially at the rush hour.

Councilman Ellis said that 31st Street, between 3rd Avenue and Merrill Avenue, was turned into one-way traffic which means people have to drive three blocks out of their way in order to get back to 4th Avenue. With reference to the alley it has turned into a "road" rather than an alley. To him, it would remove a safety hazard rather than create another. The alley is too narrow for cars to pass; this forces the cars to drive onto the parking lots.

1ST READ ORD RE: ABANDONING AN ALLEY BET. 31ST ST. & 30TH ST.- CONT.

Councilman Polan asked if it would be possible for the Police Department to provide data as to how many accidents have occurred in the alley over the past few years.

The Chair commented that he, too, felt there should be some sort of a study conducted to see if closing the alley would be the best solution to the problem.

Mr. Barry Ransbottom, 209 W. 11th Avenue, explained that he is an employee of Beard Mortuary. The problem occurs when traffic backs up at the 31st Street bridge; people then drive down the alley to avoid the light. They travel at high rates of speed and it has created a dangerous situation. The alley is too narrow for cars to pass; they swerve into the parking lots and there are people going to their cars after visiting in the funeral home. He could see no reason not to close the alley.

THIS ORDINANCE WAS ADVERTISED.

1ST READ ORD RE: SETTING FORTH SEWER RATES

First Reading of an Ordinance re: AN ORDINANCE SETTING FORTH SEWER RATES, DISCONNECTION CHARGE, RECONNECTION CHARGE AND LATE PAYMENT PENALTY FOR SERVICE TO CUSTOMERS OF THE SEWERAGE SYSTEM OF THE CITY OF HUNTINGTON.

Mayor Dean said that this rate increase has been discussed for sometime; this ordinance will break the increase down into three portions which should help the citizens in paying the fees. The first portion of the increase would occur upon its passage and approval; the second portion would occur one year from then; the third portion would occur two years from the date of adoption. At the end of two years it will almost be the same amount as had been proposed previously. There would be a 4 cents difference. She deferred to Councilman Bobersky, sponsor of the ordinance and Mr. Bob Trocin, executive director of the Sanitary Board.

Councilman Bobersky explained that he had been out of the city when the rate proposal had gone before Council previously. He was disappointed that Council had not addressed the financial concerns of the Sanitary Board and he was concerned about the amount of the increase. After reviewing the issue he concluded it would be less of an impact on the general public if it were done in three steps. He reminded everyone that the city has not had a rate increase since 1984. Most people, who work, have had pay increases since then, property owners have raised their rental fees and utility companies have raised their rates. The sewer rates have remained the same. From 1990 to 1996 the board's operating expenses have increased over 15%; the operating revenue has decreased 2.5%. One of the reasons rates were not increased is that new customers were being added; this is no longer happening. There have been questions about where the money "has gone." He pointed out some of the projects the board had undertaken -- 40th Street, Inwood/Shockey, Stanley Road, the high school, The Woodlands, Seneca Woods, Pleasant Valley and Bostic Road. He estimated the cost of these projects to be at least 5 million dollars. The City has been ordered to do certain projects, the Guyandotte force main at 2.1 million; the chlorination system at 2.8 million; the SCADA system at 2.7 million; the Orchard Avenue sewer at 1 million; Four Pole at $250,000 and the Harveytown upgrade at 3 million dollars. He believed a rate increase to be inevitable. The manner in which this would be structured would cause the first 300 cubic feet to go from $1.75 to $2.49. He noted that his average use is 430 cubic feet of water which will mean that his fee will go from $6.69 to $8.10. He also found his highest bill which had occurred during the summer; he had used 660 cubic feet. The rate will go from $9.57 to $16.43. In the following year there will be an 8% increase on top of that and the next year a 7.4% increase. He read from "City of Huntington, West Virginia Schedule of Findings and Questioned costs for the fiscal year ended June 30, 1995.

Insufficient Rates - Sewerage System

CONDITION:

It was determined that during an examination of the City services that the rates the City of Huntington charges for sewage service are not sufficient to pay all expenses of the system. As reflected in the statement of revenues, expenses and changes in the retained earnings of the proprietary funds, the Sewerage Fund incurred a net loss of $791,841 all during the fiscal year ending June 30, 1995. This is a repeat finding.

CRITERIA:

West Virginia Code 16-13-16 states in part that:

That such rates or charges shall be sufficient in each year for the payment of the proper and reasonable expenses of operation, repair, replacements and maintenance of the works and for the payment of sums herein required to be paid into the sinking fund.

EFFECT:

Failure on the part of the City of Huntington to adhere to the West Virginia State Code 16-13-16 caused this deficiency.

RECOMMENDATION:

The officials of the City of Huntington are directed to review this statute and comply with the provisions set forth.

1ST READ ORD RE: SETTING FORTH SEWER RATES - CONT.

RESPONSE:

> In order to maintain essential sewerage services without placing an added burden upon users the Huntington Sanitary Board has been utilizing accumulated reserve funds from prior years to cover expenses which are in excess of current year revenues. The City is aware that this condition exists and realizes that it will have to address the question of a rate increase as reserve balances reduce."

Continuing, Mr. Bobersky said that during the time he was running for City Council he had visited people who live on Arlington Boulevard. They had told him that their children had played in raw sewage, after a hard rain. To get these problems corrected there will have to be sewer rate increase. If any Council member decides to vote against this then they should have an alternative plan to salvage the Sanitary Board and the City of Huntington.

Councilman Ritter asked if this were the same as the ordinance that had been before Council previously.

Councilman Bobersky answered that it was not since it is a step increase. He noted his increase would only be $1.40.

Mr. Ritter said that he could afford the raise, but not all citizens can. He believed he heard the Mayor say the amount was basically the same as had been in the former ordinance. He believed this was a way to push a rate increase through. The monies that will be spent are public monies, not Council's money. There needs to be a final resolution with reference to the investigation, audit being conducted by the Public Service Commission before citizens are charged a 62% increase in their sewer rates, which is what the other ordinances was asking.

Chairman Patterson asked the City Attorney for her opinion as to whether or not this ordinance is simply a "rehashing" of the other ordinance.

The City Attorney, Jendonnae Houdyschell, stated that she believed this is substantially different since there are three different tiers. The rates are not identical.

Councilmember Maass asked the Chair if she could ask Mr. Trocin a few questions.

Councilman Ritter asked if he did not still have the floor.

In response, the Chair advised he did.

> Motion by Councilman Ritter, seconded by Councilmember Jackson, to table this Ordinance. Motion carried six (6) yeas; four (4) nays - Bobersky, Kent, Maass, Neely; one (1) absent - Cline.

Before moving forward on the agenda, Mayor Dean asked to make a statement. She pointed out that both new members of the Sanitary Board supported the Ordinance and that both were Council's appointees. She felt it most unfortunate that a rate increase would not be considered until sometime in the future. Council has complained for a long time about the manner in which the board has been run. Now that the new members are Council appointees it still does not appear that the majority of Council is willing to give the board the money that it needs to meet the demands being made upon it and the mandates upon which the board is under. The continual disregard for the sewer rate increase will impact the City at some point and she believed, further, it would be very costly to the Sanitary Board.

Chairman Patterson said he wished to comment also. His problem, he stated, was the fact that the same items that the City has been mandated to do were mandated long before the Inwood/Shockey project came along. At that time there was no attempt to deal with the Guyandotte force main. He knew there had been attempts to get a telemetry system, adding that he had voted for this twice. The concern, to him, would not be "where we are at this particular point, but where we've been so that we know where we're going."

Councilmember Neely said that she had received a telephone call from Mr. Webb, one of the Sanitary Board members, advising her that he was in favor of the Ordinance at this time.

Councilman Polan asked if water and sewer projects could be a permissible use for Community Development Block Grant funds.

Mayor Dean advised these monies could only be used in designated areas. The Bostic Road and 40th Street project were done with CDBG funds, but the majority of the projects that need to be done could not make use of these monies. The Orchard Avenue project may qualify; however, it is not one of the mandated projects.

Councilman Ellis asked if the Guyandotte force main could not be paid for by CDBG funds and if the telemetry system could not come out of thedistrict, which would cut down on the cost.

Mayor Dean answered that one of the main reasons these projects would not qualify is that they are maintenance items, such as the collapse of the force main. Community Development Block Grant funds cannot be used, purely, for maintenance.

RESOLUTION RE: LEASE AGREEMENT WITH CENTRAL CITY MARKET

Resolution re: A RESOLUTION OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH CENTRAL CITY MARKET CORPORATION.

Motion by Councilman Bailey, seconded by Councilmember Neely, to adopt this Resolution. No vote taken at this time.

Mayor Dean said the Farmers Market will be completed this summer. In order to have the necessary agreements in place for the administration of the market the City is proposing to enter into an agreement with the Central City Market Corporation.

THIS RESOLUTION WAS ADVERTISED.

GOOD AND WELFARE

GOOD AND WELFARE

Councilman Polan asked Mayor Dean for an up-to-date report on the status of the Stanard Building with reference to the plans for it housing the Police Department.

In response Mayor Dean stated that the Huntington Municipal Development Authority met with the architect on February 27 to review the situation with the bids since they had come in higher than anticipated. The various options were discussed. Those options were (1. to negotiate with the low bidders and endeavor to arrive at a figure within the budgeted amount, (2. to negotiate with the one lowest bidder (the two low bidders were very close, $81,000 apart), (3. to negotiate with all the current bidders, (4. or reject all bids and readvertise after the architect has reworked the project. The latter option is the one that was chosen by the Authority. The architect is currently reworking the project, removing certain items that would not adversely affect the project. Examples of that would be that the fourth and fifth floors, which will remain empty until a tenant is located, would not even be roughed in; the elevator that goes to those two floors would not be installed at the present time. The plans should be completed by the end of this month. It will be readvertised and rebid.

Councilman Polan said there had been discussions previously with the architect who said that he could design the project so that it would come in under the budgeted amount. He questioned how it came in so far over the budget.

Mayor Dean said she believed it was merely a case of getting carried away with the amount of space existing in the building. Sometimes when there is a lot of space, the thought is to use all of it. It is not unusual for a project to come in over budget. Nor is it unusual for a project to be reworked in order to get it under budget.

Mr. Polan asked if the Mayor thought the Stanard Building should still be the focus rather then to go back to the more fundamental question of location.

In response, Mayor Dean said she believed that to be somewhat premature since it is not costing anything to have the plans reworked.

Mr. Polan said he had read in the newspaper that something had occurred with regard to the old Huntington High School building and he wondered if the Mayor would bring him up-to-date on that.

Mayor Dean said the two-phase report that was funded by the City and the Cabell County Commission has been completed.

Having this feasibility study it is now possible to move forward with the different entities who wish to be a part of it. The study outlines the steps to be taken, what the cost may be and how each entity will function. The report is somewhat voluminous; however, she advised any member of Council was welcome to borrow it.

Mr. Polan said he had been assured that it was not the intention of the City to subsidize the project. He asked if that were still the case.

Mayor Dean said it was not the City's intention to subsidize it in the sense of ongoing maintenance or administrative costs. However, it has been suggested that possibly some Community Development Block Grant funds may be used in order to help the project move forward.

Mr. Polan asked if anyone else has committed funds to the project.

Mayor Dean answered that on one had other than the city and the county, i.e., in paying for the study. The Board of Education still retains ownership of the building and has continued to maintain the utilities.

Councilman Kent asked the Mayor to convey his thanks and admiration to the Fire Department for the job they did when the house at the corner of Washington Boulevard and Spring Drive caught on fire this past Wednesday. The words used to describe the actions of the department were gallant, heroic and courageous.

Mayor Dean said she would be happy to and suggested that he might put his thoughts in writing so that it could be circulated in the Fire Department.

Mr. Sean Walters, Route 1, 1166 Box A, Wayne, WV asked if something could be done to get more curb cuts for the handicapped in Huntington.

Mayor Dean said the City would continue to see that this does take place in the City; however, it cannot all be done at once. It is an ongoing project.

GOOD AND WELFARE - CONT.

Councilman Ellis asked if the utility companies, working around the corners of sidewalks, were not required to put in curb cuts upon completion.

Mayor Dean said she was not sure if they were required or if they have been doing it to help the handicapped.

Mr. Ellis asked if that could be looked into and an ordinance prepared if it is not mandatory for the companies.

Mr. Sean Walters said a bill had been passed in the Legislature and questioned why the City has not taken advantage of this.

Mayor Dean asked if he were referring to volunteers to fine cars that are illegally parked in handicapped spaces.

Mr. Walters said that is what he meant.

Mayor Dean said she would not support it here; she believed the Police Department enforces the parking in handicapped spaces quite stringently. She felt the volunteer program could be very dangerous for the volunteers and anyone involved in it.

Councilman Bailey asked if this were not referring to private property, such as Krogers, etc.

Mayor Dean said the bill was to allow the volunteers to take photographs of any illegally parked cars, whether on private property or on public streets.

Councilman Ritter asked if the Police Department is allowed to go onto private property with reference to handicapped spaces.

The response from some of the members of Council was that they can.

Councilman Polan asked the Mayor what the policy is with respect to the Police Department going onto private property.

Mayor Dean said she did not know; however, she would ask the Police Chief.

Mr. Leo Mulvey, Adams Landing Apartments, said he agreed with Mr. Walters and was upset that the Mayor would not allow Huntington to take part in the volunteer program.

Mr. John Brumfield, 1830 Jefferson Avenue, said he could not understand why the City would not initiate the program that had been passed in the Legislature. In Columbia, South Carolina this was put into practice and there have been no problems. It reduced the number of those parking illegally in the handicapped parking spaces from 900 to 19 during the first year. He did not feel it would cause any confrontational problems.

Mayor Dean said she was not sure why she had been singled out for criticism. She had merely made a statement to a few in her administration that she could not support it if it were passed.

Hearing no other business to come before this Council, the meeting was adjourned.

LARRY D. PATTERSON, CHAIRPERSON

ANN C. SHAYE, CITY CLERK

A Regular Meeting of Huntington City Council was held on the 28th day of September, 1998, at 7:30 p.m., in City Hall Council Chambers with Chairperson Larry D. Patterson, presiding.

INVOCATION AND PLEDGE

INVOCATION AND PLEDGE

The Invocation was given by Councilman Calvin Kent.

The Pledge of Allegiance to the Flag was led by Councilman Bob Bailey.

ROLL CALL

ROLL CALL

The following Members of Council were present for this Meeting:

Larry D. Patterson, Chairperson
Bob Bailey
A. F. Bobersky
Philip Cline
Burlen W. Ellis
Frances Jackson
Calvin Kent
Renee Maass
Mary Neely
Chuck Polan
James Ritter

Also present were: Mayor Jean Dean
Mrs. Jendonnae Houdyschell, City Attorney
Mrs. Ann C. Shaye, City Clerk

SYNOPSIS

SYNOPSIS

Motion by Councilmember Ellis, seconded by Councilmember Neely, to approve the synopsis. Motion carried unanimously.

REPORTS OF THE MAYOR

REPORTS OF THE MAYOR

Mayor Dean distributed the September 1, 1998, Sanitary Board minutes. She also announced that on Friday, October 2, at 7:00 p.m. in the Radisson Hotel, the City of Huntington Foundation will induct into the Greater Huntington Wall of Fame four new honorees. She hoped many would attend the ceremony since this is a fund-raising event for the City of Huntington Foundation. She recalled some of the activities of the Foundation, e.g., the renovation of the Council Chambers, the lobby in City Hall, the auditorium and the Mayor's suite of offices, etc.

2ND READ ORD RE: AUTHORIZING CONTRACT FOR DEMOLITION SERVICES

Second 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.

Motion by Councilman Ellis, seconded by Councilman Kent, to adopt this ordinance. No vote was taken at this time.

Mayor Dean explained this would serve to award three contracts for demolition of various properties. The first contract would be awarded to KAR Construction of Lesage, WV, in the amount of $21,230; the second one would be awarded to R. L. Fannin Trucking, Inc. in the amount of $25,900 and the final one would be awarded to Scarberry & Son Demolition in the amount of $5,360.

Mr. David Roach, 725 5th Avenue, Guyandotte, asked if the city would see that sewer taps are marked when the demolition has been completed.

Mayor Dean deferred to the public works director, Mr. George McClennen.

Mr. McClennen stated the location of the sewer taps is on file in City Hall.

Motion to adopt this Ordinance carried eleven (11) yeas; zero (0) nays.

2ND READ ORD RE: AUTHORIZING CONTRACT FOR PAVING OF CERTAIN STREETS AND ALLEYS

Second Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH LABOR, MATERIALS AND EQUIPMENT TO PAVE CERTAIN STREETS AND ALLEYS WITHIN THE CITY OF HUNTINGTON.

Motion by Councilmember Neely seconded by Councilman Bobersky, to adopt this Ordinance. No vote was taken at this time.

Mayor Dean explained that the low bidder for the city's annual street paving project is West Virginia Paving, Inc., of Dunbar, WV. The unit price, at this point, totals $298, 227.21. She noted council had been supplied with the list of streets, adding that there will be a few more to be added. These will be funded with Community Development Block Grant funds.

The Chair asked for [illegible]

Responding, Councilman Ritter said "I was looking at the list, hoping that the area in Cabell County that I represent will get some streets, with Community Block Grant money, because they didn't get any in the list I was given. Westmoreland got one section of street paving on Piedmont Road and that's all they got. Maybe the Mayor and I don't get along, I don't know, but the people down in Westmoreland supported you heavily. And they got a little section of Piedmont Road."

2ND READ ORD RE: AUTHORIZING CONTRACT FOR PAVING OF CERTAIN STREETS AND ALLEYS - CONT.

Responding, Mayor Dean said "Well, Mr Ritter, I certainly appreciate the support from the voters in Westmoreland; I can assure you that the allocation of money to street resurfacing was not based upon that criteria. However, each list of streets submitted by members of Council was taken into account, and I think that the memorandum given to you on Friday explains exactly how we go about determining which streets are put on the list. It would make me very happy if I could provide that every Council member's street request be fully granted and everyone else who askes that a street be resurfaced. But that simply isn't possible; we are doing the best we can with the small amount of money that we have each year."

Mr. Ritter asked if this would be put in the paper.

Answering his question, Mayor Dean said she had no idea what would be put in the paper.

Mr. Ritter said he wondered so that people would know what is going on.

Mayor Dean advised that those people could have a copy of the list.

Councilman Bobersky said his section of town, the southeast hills, had only one street as well.

Councilman Cline reported that he received his request, one street.

Councilmember Neely thanked Mayor Dean for having included Westview Avenue and Napier Street since she had received a number of calls about the condition of these streets.

Mr. Tom McCallister, 336 W. 5th Avenue, said he noticed District 2 received two streets. He pointed out the area between Washington Avenue and Adams Avenue, where an automotive store, a drug store and a food store are located, has a street (W. 5th Street) next to it that is in terrible condition. He hoped it would be given consideration since the companies pay the city many dollars in fees.

Mr. John Brumfield, 1830 Jefferson Avenue, asked if there were any provisions for curb cuts when the roads are resurfaced.

Mayor Dean stated that during a meeting with Mr. Brumfield he had explained he believed that when resurfacing takes place curbs should be made handicapped accessible and, when necessary, replaced. An access program has been initiated and the city will be working out from the downtown section of the city. There is no provision in the contract for curb cuts, etc. She noted she did not share his interpretation of the current ADA law as it applies to street resurfacing. She believed the ADA requires that the city make a good effort in order to make the streets handicapped accessible; however, she did not feel it required that it be made handicapped accessible at the same time street resurfacing is done.

Mr. Brumfield responded by indicating he felt Council would be in violation of federal law should it adopt this ordinance. He quoted from Title II, section 35.151 of the Americans with Disabilities Act: "It requires that all newly constructed or altered streets, roads or highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers through entry from the street level pedestrian walkway."

Councilman Polan asked if Mr. Brumfield had made any specific requests to the Mayor or had he asked for the changes to be made when streets are resurfaced.

Mr. Brumfield said he had asked this be done when streets are resurfaced.

Mr. Polan asked if the city attorney would provide a legal opinion.

The City Attorney, Jendonnae Houdyschell, advised the Mayor had asked her to research the issue. Hopefully, she would have a response very soon.

Councilman Cline said he believed what Mr. Brumfield read was referring to new streets; therefore, he felt Council could legally take action.

Mr. Brumfield said he had mentioned newly constructed streets; however, it also included "altered" streets which would be resurfacing.

Chairman Patterson asked when this work would be started and completed.

Mayor Dean advised the streets would not be finished until sometime in the spring and the work would begin within 30 days after the award of the contract.

Motion to adopt this Ordinance carried eight (8) yeas;
three (3) nays - Bailey, Patterson, Ritter.

First Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 190 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED, BY AMENDING, MODIFYING AND RE-ENACTING SECTION 190.02 REGARDING ATTENDANCE REQUIREMENTS.

1ST READ ORD RE: AMENDING ARTICLE 190 OF THE CITY CODE REGARDING ATTENDANCE REQUIREMENTS

1ST READ ORD RE: AMENDING ARTICLE 190 OF THE CITY CODE REGARDING ATTENDANCE REQUIREMENTS - CONT.

Chairman Patterson asked the sponsor, Councilman Polan, to explain the ordinance.

Councilman Polan stated that it occurred to him there should be an attendance requirement for the various boards and commissions. He felt it would be beneficial to the organizations. Currently the attendance is poor for some of the entities, to the point that some agencies have trouble attaining a quorum. This ordinance would provide that the appointees would have to attend a minimum of 50% of the meetings. Further, the boards and commissions would have to report to Council annually on the attendance for the preceding year.

Councilman Cline pointed out that in the City Charter, Section 14.17, it states the attendance requirement for boards, agencies, commissions shall be 40%. Based on that he believed if Council were to adopt the ordinance it would be in violation of the City Charter.

Councilman Bobersky asked who would be in charge of policing this, and why this has not been done.

Mayor Dean advised she felt it would be up to each board and commission.

Chairman Patterson said if there were any violations, the governing body would have to address the matter.

Mayor Dean commented that originally Mr. Polan had the figure of 40% in the ordinance and after talking with him she had asked that he change it to 50%, since 40% is very difficult in terms of computation.

Chairman Patterson advised that question would have to be answered before the next meeting.

> Motion by Councilman Kent, seconded by Councilman Polan, to amend as follows: on the second line of paragraph a, between the words "Huntington" and "appointed" insert the words "who has been" and on the third line between the words "member" and "appointed" insert the word "was" for the word "is."

Tom McCallister, 336 W. 5th Avenue, referring to the Charter, said it would be up to the Mayor to "police" the attendance records of the boards and commissions. He noted the Charter states 40%; therefore, it could not be changed to 50%.

> The motion to amend carried ten (10) yeas; one (1) nay - Cline.

THIS ORDINANCE WAS ADVERTISED.

1ST READ ORD RE: AMEND ZONING ORDINANCE BY ZONING TO B-1 FROM R-4 PROPERTY LOCATED ON THE SW CORNER OF ADAMS AVENUE AND 9TH STREET, WEST

First Reading of an Ordinance re: AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF HUNTINGTON, WEST VIRGINIA, 1960, AND THE ZONE MAP ATTACHED THERETO AS A PART THEREOF, BY ZONING TO B-1 LOCAL BUSINESS FROM R-4 TWO-FAMILY RESIDENTIAL PROPERTY LOCATED ON THE SOUTHWEST CORNER OF ADAMS AVENUE AND 9TH STREET, WEST, PARCELS 365-367 TAX MAP 27.

Mayor Dean explained that this issue had been before the Planning Commission and the petitioner, Mr. John Garton, was present for any questions.

Mr. John Garton, 233 11th Avenue, stated he would like to have the property rezoned in order to locate his insurance agency on the corner of 9th Street, West and Adams Avenue.

Councilman Bobersky asked to see a drawing of the proposed facility.

Mr. Garton responded by passing one around to Council members.

Councilman Ritter asked if anyone had spoken at the commission's meeting with reference to this being "spot zoning."

Councilman Bailey said there is a pest control business across the street, a carpet company and also a factory in that immediate area. He felt this would be a great improvement.

Councilman Kent said he believed Council had been told this would be in compliance with the Comprehensive Plan.

THIS ORDINANCE WAS ADVERTISED.

1ST READ ORD RE: AUTHORIZING CONTRACT FOR REPLACEMENT SANITARY MANHOLE FOR HUNTINGTON INDUSTRIAL PARK

First Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING MAYOR JEAN DEAN, CHAIRMAN OF THE HUNTINGTON SANITARY BOARD, TO ENTER INTO A CONTRACT TO PROVIDE A REPLACEMENT SANITARY MANHOLE FOR THE HUNTINGTON INDUSTRIAL PARK.

Mayor Dean stated that the recommendation would be to award the contract, in the amount of $68,900, to Famco, Inc. of Huntington, WV. This will be a reimbursable item from the Huntington Industrial Center.

THIS ORDINANCE WAS ADVERTISED.

Motion made by Councilman Bobersky, seconded by Councilman Kent, to remove from the table the ordinance setting the sewer rates, disconnection charges, late payment penalty for services to customers of the sewerage system of the City of Huntington.

The motion carried eight (8) yeas; three (3) nays - Jackson, Ritter, Bailey.

ON THE TABLE: ORDINANCE SETTING FORTH SEWER RATES AND RELATED CHARGES FOR SEWERAGE CUSTOMERS IN HUNTINGTON

First Reading of an Ordinance re: AN ORDINANCE SETTING FORTH SEWER RATES, DISCONNECTION CHARGE, RECONNECTION CHARGE AND LATE PAYMENT PENALTY FOR SERVICES TO CUSTOMERS OF THE SEWERAGE SYSTEM OF THE CITY OF HUNTINGTON.

OFF THE TABLE FOR 1ST READING: ORDINANCE SETTING FORTH SEWER RATES AND RELATED CHARGES FOR SEWERAGE CUSTOMERS IN HUNTINGTON

The sponsor, Councilman Bobersky, explained this would be an incremental rate increase. For the first year it would increase the rates 42%. There would be an additional increase in the next two years for a total increase of 65%. The initial rate charges were given to Council in cubic feet. For the first 300 cubic feet or less, per month, or 900 cubic feet or less per quarter there would be a 74 cents and a 38 cents increase. He felt a good analogy would be to compare it with the cost of a "cheeseburger, fries and a medium Coke." The rates would conform to the water usage.

Mayor Dean advised that the Sanitary Board, for some time, has needed a rate increase in order to not only maintain the operations at the wastewater treatment plant but to also accomplish three large mandated projects. There is no money to do this. The board has not had an increase in the last 14 years. The city has the lowest rate in the entire state of West Virginia. She noted that both a board member and the executive director were present for questions.

Mr. Bob Trocin, Executive Director, 103 Whitaker Boulevard, said the need for the increase is vital at this point. In addition to the mandated projects there are other numerous projects and contracts, some of which have resulted from the action of City Council. One agreement has been to work with developers of subdivisions, etc., with reference to providing materials for the sewer system in order to have the properties annexed into the city. This is a very expensive proposition. Most other municipalities in West Virginia have had rate increases, some very recently. Effective January, 1999, the board will have no money. When people cannot be helped when their sewers are not working, when dig-downs cannot be accomplished, etc., the entire city will suffer.

Councilmember Neely commented that the sewer system is over 100 years old, it continues to deteriorate and few municipalities can say they can function without an increase. The safety of the public has to be considered.

Councilman Kent referring to the spread sheet distributed, asked Mr. Trocin about capital expenditures, specifically the number of items that would not be accomplished this year if there is no increase.

Mr. Trocin answered that none of the projects could be done.

Councilman Kent asked how much of the rate increase would be allocated for the existing system and how much would be allocated for capital improvements.

Mr. Trocin explained that capital expenditures are listed, beginning in 1999 of $5,852,332. This is offset by some loans to take care of these expenditures. The remaining funds will be used for operations.

Dr. Kent asked if the mandated projects were not done would the city be in violation of state and/or federal law.

In response, Mr. Trocin said the city would be in violation of both stae and federal law.

Dr. Kent said it seemed there would need to be approximately $504,000 per year for debt repayment. The rest of the money that will come from the increase, will in the first year amount to approximately $1,800,000. It will escalate each year after that by approximately $500,000. The rest of the money will be used for projects and maintenance of the system.

Mr. Trocin confirmed that to be the case.

Dr. Kent said he understood there was no backup on many essential services, equipment.

Mr. Trocin said the problem at the plant occurs when major equipment is installed. An effort is made to have at least one backup for every motor, pump, etc., and hopefully two. At this time there is only one backup in every situation. Should this one "go" the plant would have to be closed down.

Dr. Kent said this would mean there is no margin for safety since there has not been sufficient revenue for the redundant equipment needed. Continuing, he noted he had received a letter from the bond counsel which indicated the city is in technical violation of bond covenants. He asked Mr. Trocin to explain that.

Mr. Trocin said if further financing were to be needed by the City of Huntington the reviewing agency would rate down the city because of that.

Dr. Kent said he believed it had been stated, in the last three audits, that the city was in violation of state law having not raised the sewer rate fees. Was that the case?

Mr. Trocin stated that it was the case.

1ST READ ORD RE: ORDINANCE SETTING FORTH SEWER RATES AND RELATED CHARGES FOR SEWERAGE CUSTOMERS IN HUNTINGTON CONT.

Continuing, Dr. Kent said it appeared to him that even with the rate increase that by the year 2002 the board will be back in a deficit position. This would only provide funds for three years

Mr. Trocin replied that this would be the case, only if there were no major catastrophes, such as West 7th Street which cost the board $250,000

Dr. Kent said it was his understanding that there are no monies to take care of "non-critical" matters. For example, one of his constituents has a cave-in, due to the sewer system, in her back yard. This has not been repaired because there is no leakage and because there is no money. Additionally, this would be the case in many more cases throughout the city.

Mr. Trocin said that was true.

Councilmember Maass asked if there would be layoffs if the rate increase did not go through.

Mr. Trocin advised that there would be, and no later than January 1, 1999.

Mrs. Maass asked how many people the board employs and what impact this might have.

Mr. Trocin explained there were 64 and the impact would be significant.

Councilman Bobersky, referring to WV State Code, 16-13-16, asked what the penalty would be to the city for being in violation of that law.

Mr. Trocin did not know, but he felt there could be legal action.

Mr. Bobersky asked if the Public Service Commission could, conceivably, take over the operation of the Sanitary Board facilities.

Mr. Trocin said that was a good possibility.

Mr. Bobersky felt, at that point, the rates would increase measurably.

Chairman Patterson said that would be very speculative; he felt the primary concern should be addressed at this time.

Councilman Polan asked under what authority the PSC could take over the operation of the Sanitary Board.

Mr. Trocin said the PSC has never said it would do that; however, it was indicated that it does have the authority with public service districts and therefore, the assumption was made that it would also be true for municipalities.

Mr. Polan asked Mr. Trocin to provide him with the appropriate code citation.

Mr. Trocin answered that he would.

Councilman Ritter asked if any work had been done in-house on any of the mandated projects.

Mr. Trocin said no work had been done, in-house; however, there are plans to do all three of the projects.

Mr. Ritter asked if the Guyandotte force main had not been mandated in 1994.

Mr. Trocin said that it had been.

Mr. Ritter commented that he had a problem with that, raising the citizens' rates, if that had been mandated in 1994 and still has not been done. There have been problems with the Sanitary Board, as many people know, and he did not think it right to raise rates (65%) for mistakes the board has made. He questioned where "the money" had gone.

In explanation, Mr. Trocin said that if Mr. Ritter would look at the spread sheet he would see the board has been running a deficit all the time. This deficit has been financed out of the reserves; now the reserves are gone.

Mr. Ritter said his concern was that if this went through, how could he be assured the job would be done better.

Councilman Polan said he had read what had been provided, adding that he had a problem understanding the distinction between capital expenditures and maintenance expenditures. He was seeing, on the sheet in front of him, an accumulative net income loss in year 2002. It looked as if that were after both operating expenses and capital expenditures were subtracted from the revenues. He asked if that were a usual and customary accounting treatment for these kinds of expenditures.

Mr. Trocin advised that what he was looking at was a cash flow statement; therefore, it would be different from a profit and loss statement.

Mr. Polan asked if he did not have a board member who is a certified public accountant, and if so could he prepare a projection for the year 2002 based on generally accepted accounting principles. He wondered if this would show the same loss.

Mr. Trocin said it probably would not; but this type of statement must be used in order to explain what is happening with the dollars.

Mr. Polan said that might be

1ST READ ORD RE: ORDINANCE SETTING FORTH SEWER RATES AND RELATED CHARGES FOR SEWERAGE CUSTOMERS IN HUNTINGTON CONT.

Mr. Trocin agreed that this was somewhat difficult. It had been decided to reflect, properly, all capital expenditures and all maintenance expenditures. What had been done in the past was a little gyration of accounting to make it possible to utilize reserves to do maintenance jobs, that are called capital expenditures. This was necessary in order to keep the flow of things going at a time when there were no adequate rates.

Councilman Ellis said he had seen an inspection report of the wastewater treatment plant which said that the chlorination system was doing a good job and had been approved to the year 2001. Now Council has been told it is not in good condition.

Mr. Trocin said this would be a case of doing a "good job" with what the plant has versus what the federal law states the plant must have in place. The federal law says the current system is not adequate and they will not continue to accept that.

Mr. Ellis said that might be the case; however, there are a number of senior citizens in the city on fixed incomes who cannot afford a big increase in their bill. The increase is too high. These people would like to know where the money has gone that the board had.

Mr. Trocin said the citizens have had a break over the past 14 years ... now something has to be done.

Councilman Kent said he had seen documents that indicated the $10,000,000, that people wonder about, is what has been used in order not to raise rates. The surplus that the board had, has now been spent. He asked Mr. Trocin to bring the documents to the next meeting that will show how the bills were paid over this period of time, using the surplus. If there is no money left, there is simply no other way other than to raise rates to provide the city with the most necessary of all services, sanitary services.

Councilman Cline asked Mr. Trocin if it would be fair to say that the board operated off of the interest earned on the reserve funds. Once the board had to begin using the reserve funds and the interest rates dropped, there was not enough money to cover the operating expenses.

Mr. Trocin advised this to be the case.

Councilman Bailey asked for confirmation of the number of employees, 64, and also the amount of the board's annual payroll.

Mr. Trocin said that 64 was the correct number but he was not sure of the annual payroll; he thought it to be approximately $1,200,000.

Councilman Bobersky said he had been looking at a report which indicated that operating revenues have been flat since 1984 and the operating costs have increased by more than 15%.

Mr. Trocin said that was correct.

Mr. Bobersky said the report also explained there was $10,000,000 in 1991 and it was below $5,800,00 in 1996. The reserve funds fell, the overall assets decreased, and the reserve monies had to be used.

Chairman Patterson said he felt there needed, at this point, to be another direction taken. He suggested Council conducting a work session or two in order to have more in-depth discussions and also to provide a time for the public to discuss the issue, before a vote is taken.

Councilman Cline noted there are some dates that should be corrected.

Mr. Trocin asked that Council amend the ordinance to reflect the correct dates since there is a requirement that a legal ad be published 10 days prior to the final reading.

Councilman Cline made a motion to change the date, under Section 4, from the 23rd to the 12th and from March to October, 1998. Under the Certification and Notice, the March 9, 1998 date should be changed to September 28, 1998. Additionally, it also reads "and adopted on the first reading ..." which should be changed to delete the words "and adopted"; seconded by Councilman Kent.

The motion to amend carried nine (9) yeas; one (1) nay - Ritter; one (1) absent - Bobersky.

Councilman Bailey asked Mayor Dean to provide an answer as to how much the city is paying the WV American Water Company to collect the sewer rate fees. Could this be done in-house? He also asked how many attorneys were on retainer for the Sanitary Board.

Mayor Dean advised there is only one attorney, Mr. Robert M. Levy. However, another attorney has been asked to look at the contractual situation with respect to the Inwood sewer project.

Mr. Bailey asked that Mayor Dean provide the amount of money paid to Mr. Levy since January 1, 1998.

Councilman Kent said he felt there should be another meeting to discuss the issue.

1ST READ ORD RE: ORDINANCE SETTING FORTH SEWER RATES AND RELATED CHARGES FOR SEWERAGE CUSTOMERS IN HUNTINGTON - CONT.

Chairman Patterson asked if this would be what Council would like to do. Hearing no definitive responses, the Chair indicated he felt this would not be the wish of Council.

THIS ORDINANCE WAS ADVERTISED.

CONFIRMATION OF APPT. TO HUNTINGTON HUMAN RELATIONS COMMISSION

Confirmation of Appointment to: HUNTINGTON HUMAN RELATIONS COMMISSION

Motion by Councilman Bailey, seconded by Councilmember Neely, to confirm the appointment of Dr. William J. Radig to a three-year term.

Mayor Dean explained this will be Dr. Radig's first, three year term.

Motion to confirm Dr. William Radig carried eleven (11) yeas; zero (0) nays.

GOOD & WELFARE

GOOD & WELFARE

Councilman Ellis asked the Chair to appoint a committee in order to make a decision as to who is to make appointments to the different boards and commissions. He would like that committee to make a decision, based on its findings, as to which appointments have been in compliance with the State Code and the City Charter and which have not been in compliance. Should there be any that are not in compliance, corrective action should be taken.

Councilman Cline asked if there were not a standing committee that could take care of the issue.

Chairman Patterson advised it would be the legal standing committee, whose members are Councilman Ellis, Bobersky and Kent.

Councilman Bailey asked Mayor Dean to check into a situation regarding repair of a sidewalk located at 2nd Street and 7th Avenue. The Bocooks, who live there, now have their money to take care of their portion.

Mayor Dean said she would take care of the matter.

Councilman Kent explained that one of his constituents, who lives on 14th Avenue, had called him before the meeting to let him know there appears to be a parking lot that has been created between 14th and 17th Avenues. There are no curb cuts, and it is being used as a parking lot. Very large lights have been installed on poles. These lights are shining into the residents' homes and it appears they are on city light poles. Is the city paying for the electric? Can the property be used, legally, as a parking lot?

On another matter, Dr. Kent noted that the new signal light on Hal Greer Boulevard, close to the hospital, is hidden by tree limbs. He hoped the limbs would be removed.

Councilman Polan said that before this evening's meeting, Mr. Harrington had delivered to him a report that he had requested concerning the rental status of Level I Fasteners. He continued as follows: "If I am reading it correctly, Level I Fasteners owes the city almost $120,000 in back rent. And if I am reading it correctly, during the initial five-year lease, in the initial 60-month period, only during four of the 60 months did Level I Fasteners pay their rent. The other 52 months they made no rent payments. As I understand the report, for the current lease - I guess they must now be in the early months of the second five-year term - the rent is supposed to be $8,520 per month and they are actually paying $1,800 per month. I had understood that they were in arrears and were hoping all this would be reconciled, if and when they purchased the building. But I only realized, myself, when I saw this report this evening that during that initial five-year period - I thought that it had only been recently that rent payments were not being made - I was very surprised to see that during the five-year period they never made any rent payments, with the exception of four months in 1994. I would like to know who authorized them to continue occupying city property during the term of that lease without making any regular rent payments. I don't understand how that could happen."

Chairman Patterson asked Mayor Dean if she would address the issue.

Mayor Dean said "I don't have the benefit of the information Mr. Polan apparently has and so I am not prepared to answer it, since I don't have that."

Mr. Polan said "It was given to me by Mr. Harrington at the beginning of the work session."

Mayor Dean said "I don't doubt that, but I don't have it."

Mr. Polan then said "Do you have another copy, Dave?"

Chairman Patterson told Mr. Polan he had an extra copy, if needed.

Mayor Dean said "Obviously, this is not a question I am going to answer off the top of my head; I am not doubting what Mr. Polan is saying nor what this report is saying that has just been handed to me. But I'm not in a position to answer the question. I was not aware of the circumstance that Mr. Polan is referring to."

Mr. Polan said "It is a question that has been discussed, raised and discussed at previous Council meetings, but [illegible] this [illegible]."

GOOD & WELFARE-CONT.

Mayor Dean said "Mr. Polan, what I said was I am not aware of the fact that they have not been paying their rent. And it's obviously something that, without knowing the circumstances and the figures, I am not in a position to answer tonight."

Mr. Polan said "Maybe Mr. Harrington ... if I have mischaracterized his report I would certainly want the record to be corrected. Maybe Mr. Harrington could shed some additional light on the subject."

Chairman Patterson asked Mayor Dean if she had any further remarks or would Mr. Harrington have any comments.

Mr. Polan said again "Well if I have mischaracterized his report I would certainly hope he would speak up because that was not my intention."

Mayor Dean said "Well, I think we all know that this type of particular agreement which was entered into back in 1992 or 1993, has certain provisions within it about employment and improvements to the building, etc. And I personally, without having that agreement in front of me, do not know if that has any effect on the way the rent is paid up and that is why I am not prepared to answer it, Mr. Polan."

Mr. Polan said "Well, maybe Mr. Harrington would."

Chairman Patterson interrupted to say that perhaps in order to get the answer that is deserved the Mayor and Administration should have some time to prepare an answer.

Councilman Ritter remarked that it was given to Council just prior to the meeting. "Why was this given to us if nobody's got an answer?"

Mayor Dean said "Well, had we known the questions were going to be asked we would have had the answers. But we didn't and we don't."

Mr. Polan said "One last point that would certainly be of interest to me is that I would like to know when the Adnimistration first became aware that the rent was delinquent."

Mayor Dean said "Approximately five minutes ago, Mr. Polan."

Chairman Patterson said there would need to be further dialog with the Administration to determine the status, etc. He suggested the City Clerk make notes and forward Mr. Polan's questions to the Mayor.

Councilman Ritter said there had been an ordinance that referred to the attendance of boards and commissions and the percentage of attendance of its members. Should there be an ordinance, as well, to limit the appointment of the same people to boards and commissions?

Chairman Patterson said that he felt the Unite Rally was very successful this past weekend. He was appreciative of all who worked hard to add to its success.

Mr. Tom McCallister, 336 W. 5th Avenue, stated that there was an ordinance that established the Huntington Municipal Development Authority. The ordinance, itself, established that Council makes the appointments. There are four plans of government. Plan Two is the one chosen by the citizens of Huntington. It clearly states that Council is the governing body. The Mayor is the Administrator. He asked if Council had approved, by ordinance, bonds to cover the $4,000,000 project (the Jean Dean Public Safety Building). He did not believe this had been done.

Mr. Paul Dempsey, 1678 14th Avenue, said that the had returned home this evening from having worked all day only to find that at the normal time it usually gets dark, his bedroom was filled with light. He went outside and saw that seven large, quartz halogen lights had been installed on city poles. He believed that Cabell Huntington Hospital had done this to illuminate what, they hope, will become their parking lot. He asked if there were not a city ordinance which provides that any city parking lot, large enough for four or more cars, must be paved with a concrete or asphalted surface. He asked if that exists.

Chairman Patterson confirmed that to be true.

Mr. Dempsey asked if anyone knew that the hospital has been in violation of the ordinance for the entire summer. Hearing no answer, he explained that he had called City Hall on more that one occasion and had been shuttled from one office to another. Continuing, he explained that this past Tuesday he went outside and began counting cars on the "parking lot" -- he stopped at 72. He then called the Inspection Division at City Hall and learned that many people had called. However, apparently the "people" from the hospital had come to City Hall and "that was the end of it." Continuing, he siad someone from the Inspection Division had called his wife and told her that the City Attorney's office should be contacted.

Subsequently, he did this. The City Attorney told him to call the Compliance Office. He asked if the law were going to be obeyed or not.

Chairman Patterson said he certainly hoped so, adding that he knew the hospital was intending to build parking lots in his neighborhood.

Mr. Dempsey said that irrespective of that, the hospital has not covered the ground with concrete nor an asphalt surface. Therefore, it does not meet the requirements to be a parking lot. Talking about the lights, he said they were on the level of

GOOD & WELFARE - CONT.

his bedroom. He had driven around the immediate area to see that all of the other similar lights were shaded, so that the beam would go straight down. This is not the case with the lights installed outside his home. He asked if this could be considered "harassment"? He expected it to be dark when he goes to bed.

Referring to the street paving ordinance, Mr. Dempsey said that 14th Avenue had not recieved a teaspoon of blacktop in the 25 years that he had lived there. Additionally there is an enormous pothole in front of his home. It appeared that 14th Avenue had been abandoned... he was not sure. However, he hoped the city would remember that there are six people who still live there. These residents pay taxes -- the hospital does not.

Mr. Tom McCallister, 336 W. 5th Avenue, said the people in that area are being held hostage. He urged Council to take some action and go to the County Commission to see what can be done to help the citizens.

Mrs. Barbara Dempsey, 1678 14th Avenue, asked if Council members would take the time, after the meeting, to drive to their neighborhood to see spotlights shining all over their homes.

Miss Hazel Parker, 1115 22nd Street, said that she had learned that in March, 1998, it became apparent to Council that part of the utilities of the building, which houses the Police Department and Level I Fasteners, have been paid by the City of Huntington, and recorded as an expense of the Police Department. This has not been paid back. It is planned to be taken care of with an adjusted sale price. This adjustment would not cover the fact that the books were not correct. She hoped Council would consider this.

Hearing no other business to come before Council, the Chairman adjoiurned the meeting at 9:50 p.m.

LARRY D. PATTERSON, CHAIRPERSON

ANN C. SHAYE, CITY CLERK

A Regular Meeting of Huntington City Council was held on the 12th day of October, 1998, at 7:30 p.m., in City Hall Council Chambers with Chairperson Larry D. Patterson, presiding.

CHAIRPERSON'S REMARKS

CHAIRPERSON'S REMARKS

Chairman Patterson explained that Council had received information from the Attorney General's office that no action could be taken on items on the agenda since this was Columbus Day, a state legal holiday. It was the decision of City Council to meet and provide the public with an opportunity to discuss the proposed ordinances, etc. The items will be postponed until the next regularly scheduled meeting.

INVOCATION AND PLEDGE

INVOCATION AND PLEDGE

The Invocation was given by Councilman Philip Cline.

The Pledge of Allegiance to the Flag was led by Councilman A. F. Bobersky.

ROLL CALL

ROLL CALL

The following Members of Council were present for this Meeting:

Larry D. Patterson, Chairperson
Bob Bailey
A. F. Bobersky
Philip Cline
Burlen W. Ellis
Frances Jackson
Calvin Kent
Renee Maass
Mary Neely
Chuck Polan
James Ritter

Also present were: Mayor Jean Dean
Mrs. Jendonnae Houdyschell, City Attorney
Mrs. Ann C. Shaye, City Clerk

SYNOPSIS

SYNOPSIS

Motion by Councilman Ritter, seconded by Councilman Ellis, to approve the Synopsis of the last regular meeting, as submitted. Motion carried unanimously.

REPORTS OF THE MAYOR

REPORTS OF THE MAYOR

Mayor Dean distributed the September 17, 1998, Sanitary Board minutes as well as the Financial Statement for the board, period ending June 30, 1998.

Reporting further, Mayor Dean explained that an infrastructure task force had been organized approximately one year ago. She noted Council would be given a copy of its report. The beginning of the report speaks of Huntington as a beautiful city; the goal is to maintain that beauty. One of the qualities contributing to the beauty is the friendliness of the citizens. The report used the analogy of a stool as supporting our city; one leg would represent the people and their friendliness. The second leg would be the fact that Huntington is a safe place in which to live. For further insight, Mayor Dean deferred to Mr. David Fox, chair of the infrastructure task force.

Mr. Fox began by calling attention to the fact a stool could not remain upright without three legs. The third leg of the stool would be comfort. With respect to infrastructure, comfort could certainly be the provision of a toilet rather than an outhouse, indoor running water rather than a well, and paved roads rather than rutted, muddy ones. Past citizens have contributed to the infrastructure of the city. Now, he believed, would be the time for the present citizens to continue the task of maintaining the infrastructure in order for Huntington to remain a beautiful city. He introduced the people who were on the committees and applauded them for their many hours of work toward arriving at the task force's recommendations to the city. Mr. Fox stepped aside while chairpersons of the subcommittees briefly outlined their findings.

Mr. Monty Fulton, sanitary sewers subcommittee, explained that his committee had toured the wastewater treatment plant, had ventured into some of the city's sewers. They reviewed plans which revealed some of the sewers to be well over 100 years old. The committee was made aware of the mandated projects the city must undertake. He called attention to the problem of the sanitary and storm sewers being connected. Without more funds coming into the Sanitary Board none of the mandated projects can be done nor can any improvements be made to the present sewer system. He felt the situation to be critical.

Mr. Doug Morris, bridge subcommittee, explained that the city has 70 bridges within it. The city owns 10 of them. The committee recommended that the Roby Road bridge be

REPORTS OF THE MAYOR CONT.

deeded to the state in order for them to replace it; the Beechwood bridge should be replaced and the Madison Avenue and Whitaker Boulevard bridges be renovated. Another recommendation would be to replace or renovate the six remaining bridges. The total cost would be approximately 2.4 million dollars.

Mr. Joe Rardin, storm sewers and floodwall subcommittee, found that one of the most troubling problems is that of flooding in the city after a hard storm. He pointed out areas that flood, including some of the viaducts. Their recommendation leaned heavily toward the maintenance of the present sewer systems. He explained that various catch basins are full of leaves and have grass growing out of them -- obviously preventing water from draining into and through them. Another recommendation is for the city to divert the storm water into the creeks, rather than into the sanitary sewers. In closing, he pointed out that the city must take measures to at least "get started" with what must be done.

Ms Judy Rule, streets, curbs and sidewalks subcommittee, explained that the members had learned that most citizens are in favor of brick streets rather than asphalted streets. The subcommittee would like a test area established to determine the cost of both the repair of existing brick streets and the surface removal of those that have been asphalted. It was felt the city should budget, annually, 1.5 million dollars for street repair, resurfacing. The public should be made aware that the sidewalks are the responsibility of the property owner.

Mr. Andy Fischer, Finance subcommittee, stated the problems found will not go away overnight; however, they must be addressed and a way to pay for them must be found. The members recommended a rate increase in order to maintain operations and to replace obsolete systems. There has not been a rate increase since 1984. It was also the recommendation of the members to propose an excess levy dedicated to the solving of these problems. A plan must be established for payment of the needed projects, whether it be through a local institution, a state agency, etc. A study should be conducted, in conjunction with the Corps of Engineers, on the issue of storm/sanitary sewer separation.

Mr. Randy Richardson, vice chairperson of the Infrastructure Task Force, called attention to the fact that there is nothing more importantn than taking care of the city's infrastructure. Although it is expensive, it is essential and absolutely critical. He urged Council and the city to earnestly consider this.

Mayor Dean asked the Council members to read, carefully, the report being distributed. It will take many years to correct the problems but a first step has been taken by the task force. She expressed her appreciation to those members who took part in the process. The next step will be to work toward accomplishing the recommendations put forth.

2ND READ ORD RE: AMENDING ARTICLE 190 (SECTION 190.02) OF THE CITY CODE REGARDING ATTENDANCE REQUIREMENTS

Second Reading of an Ordinance: AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 190 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED, BY AMENDING, MODIFYING AND RE-ENACTING SECTION 190.02 REGARDING ATTENDANCE REQUIREMENTS.

Motion by Councilman Polan, seconded by Councilman Kent, to bring this ordinance to the floor. The motion carried unanimously.

Councilman Polan stated that it has been the view of many members of Council as well as the Mayor to enact an ordinance that follows the dictates of the City Charter which requires a minimum attendance standard for members of municipal boards and commissions. It will require a 40% attendance requirement over the course of a calendar year. It will also provide that each board make an annual report to Council addressing the attendance of their respective members for the prior year.

Motion by Councilman Kent, seconded by Councilman Ellis, to postpone the ordinance until October 26, 1998. The motion carried nine (9) yeas; zero (0) nays; two (2) absent - Bobersky, Maass.

2ND READ ORD RE: AMEND ZONING ORDINANCE BY ZONING TO B-1 FROM R-4 PROPERTY LOCATED ON THE SW CORNER OF ADAMS AVENUE AND 9TH STREET, WEST

Second Reading of an Ordinance: AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF HUNTINGTON, WEST VIRGINIA, 1960, AND THE ZONE MAP ATTACHED THERETO AS A PART THEREOF, BY ZONING TO B-1 LOCAL BUSINESS FROM R-4 TWO-FAMILY RESIDENTIAL PROPERTY LOCATED ON THE SOUTHWEST CORNER OF ADAMS AVENUE AND 9TH STREET, WEST, PARCELS 365-367 TAX MAP 27.

Motion by Councilman Bailey, seconded by Councilman Kent, to bring this ordinance to the floor. The motion carried unanimously.

Mayor Dean stated that this issue had been before the Planning Commission and was recommended for adoption. The petitioner, Mr.John Garton, wishes to move his insurance office and construct a new building.

Motion by Councilman Kent, seconded by Councilman Bailey, to postpone the ordinance until October 26, 1998. The motion carried ten (10) yeas; zero (0) nays; one (1) absent - Maass.

2ND READ ORD RE: AMEND ZONING ORDINANCE BY ZONING TO B-1 FROM R-4 PROPERTY LOCATED ON THE SW CORNER OF ADAMS AVENUE AND 9TH STREET, WEST

Second Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING MAYOR JEAN DEAN, CHAIRMAN OF THE HUNTINGTON SANITARY BOARD, TO ENTER INTO A CONTRACT TO PROVIDE A REPLACEMENT SANITARY MANHOLE FOR THE HUNTINGTON INDUSTRIAL PARK.

Motion by Councilman Kent, seconded by Councilmember Neely, to bring this ordinance to the floor. The motion carried unanimously.

Mayor Dean stated there is a manhole at the industrial park which is critical to the 7th Street sewer trunkline as well as to the center itself. The low bid was in the amount of $68,900, submitted by Famco, Inc. of Huntington, WV. This will be a reimbursable item partly from the Huntington Industrial Center, CDBG funds (assigned to the center) and partly from a state grant.

Motion by Councilman Kent, seconded by Councilman Ellis, to postpone the ordinance until October 26, 1998. The motion carried ten (10) yeas; zero (0) nays; one (1) absent - Maass.

✓ 2ND READ ORD RE: ORDINANCE SETTING FORTH SEWER RATES AND RELATED CHARGES FOR SEWERAGE CUSTOMERS IN HUNTINGTON

Second Reading of an Ordinance re: AN ORDINANCE SETTING FORTH SEWER RATES, DISCONNECTION CHARGES, RECONNECTION CHARGE AND LATE PAYMENT PENALTY FOR SERVICES TO CUSTOMERS OF THE SEWERAGE SYSTEM OF THE CITY OF HUNTINGTON.

Motion by Councilman Bobersky, seconded by Councilman Kent, to bring this ordinance to the floor. The motion carried unanimously.

The sponsor, Councilman Bobersky, stated this proposed incremental rate increase will occur over a three-year period. The first year will bring about a 42% increase; in the following two years there will be slight increase which will equal a 65% increase. It is obvious the operating revenues of the Sanitary Board have been flat over seven years; the costs have increased, the sewer system is deteriorating and there is no money available for repair. Something must be done.

Mayor Dean explained that she serves as chair of the Sanitary Board, adding that both the executive director of the board and the two board members were present for questions.

Chairman Patterson asked the executive director, Mr.Robert Trocin, to step forward.

Councilman Bailey asked Mr. Trocin how much the board pays the water company to collect the sewer fees each month.

Mr. Trocin said that when he became the director the amount was $1.25 per month, per customer. Considering that excessive, he was able to get the fee reduced to 79 cents per month. He noted he had looked at the possibility of the board doing this in-house. He visited the Sanitary Board in Charleston, WV, since that board does its own billing. He learned their cost is in excess of 79 cents.

Councilman Bailey asked the amount paid to the water company each year. He asked if it could be done in-house.

Mr. Trocin said it is approximately $17,000 per month. To provide the service would require new equipment and it could not be done for 79 cents per month.

Mr. Bailey asked if the city did not have the right to purchase the water company.

Mayor Dean answered that when the franchise agreement came up for renewal, the section that aallowed the city to take over the water company was eliminated. That option is no longer available.

Mr. Bailey asked if there were any provisions in the proposed rate increase to help people on fixed incomes, handicapped citizens, etc.

In response Mr. Trocin said there are 2,183 customers who pay the minimum. He found these customers to be, for the most part, retired. Therefore, the fees for those on fixed incomes are not being raised from $2.00 per month.

Councilman Kent asked for confirmation that the proposed rates will take care of the repayment for the cost of bonding three of the major projects, the Guyandotte force main, the SCADA system and the chlorination system.

Mr. Trocin said that was true.

Councilman Kent asked if the rates would be sufficient, over time, to do all the other projects, such as the Orchard Avenue project, the Hal Greer extension, the Four Pole pump station upgrade, the Harveytown upgrade, etc.

Mr. Trocin said it would enable the board to start those projects. He explained that the board has obtained CDBG funding for the Orchard Avenue project. Grants will be sought for other projects, if possible.

Dr. Kent said it appeared there would be a high probability the other projects would be undertaken.

On another issue, Dr. Kent asked Mr. Trocin if he had received a copy of the October 5 decision of the Public Service Commission. He asked if all of the compliants levied against the Sanitary Board were consolidated into that report.

2ND READ ORD RE: ORDINANCE SETTING FORT SEWER RATES AND RELATI CHARGES FOR SEWERAGE CUSTOMERS IN HUNTINGTON - CONT.

Mr. Trocin said all were consolidated in that one report.

Dr. Kent read, from the report, into the record:

"For the reasons stated above, all allegations contained in these consolidated complaints involving the installation and operation of the sewer project will be dismissed as unsubstantiated by the complainants or as satisfied by the defendents."

Hearing Mr. Trocin's agreement with what was read, Dr. Kent said that would mean the problems were solved where the problems existed or there was no substantiation for the problems. The issues that have been raised so many times have now been resolved by the Public Service Commission.

Mr. Trocin said that was correct.

Chairman Patterson noted the report has not gone before the Public Service Commission. What was read was a report of hearings that took place.

Mr. Trocin said the Administrative Law Judge had made the decision and it would now go to the PSC for final action.

Councilman Ritter said the Administrative Law Judge also said the Mayor had broken WV State Code 16-13-3 by not having approval of the governing body to start the Inwood-Shockey project.

Mayor Dean said that had not been mentioned in the report just read.

Mr. Ritter said that what he was referring to was a case now in Judge Cummings' court.

Mayor Dean said she did not believe that statement to be accurate.

Mr. Ritter said there is a case in Judge Cummings' court pertaining to WV State Code 16-13-3.

Mayor Dean said she believed his statement was to the effect that she had done something that was not correct.

Mr. Ritter read from the Public Service Commission'a report, June 25, 1997, wherein the Administrative Law Judge said:

> "The Sanitary Board has apparently violated 16-13-3 in not obtaining City Council's approval prior to the awarding of the construction contract."

Mr. Trocin interrupted to say that he felt it should be clarified that this issue was found to be unsubstantiated and was dismissed by the judge in the case being discussed.

Mayor Dean pointed out he had read "the Sanitary Board" was not in compliance. She noted that whether that was correct or incorrect, it did not say "the Mayor."

Mr. Trocin said that Judge Cummings has dismissed the case on two other separate occasions.

Continuing, Councilman Ritter asked about the figures provided to Council to arrive at an average rate.

Mr. Trocin said they had taken the individual units, the residential, industrial, etc. and found their average usage and multiplied it by the amount of the increase that would apply to them. It would apply according to the volume of use. The major users of water are the industrial, commercial users. They represent 54%; the remaining dollars are generated from the combination of two other groups. Those are the out-of-city (for which the board does processing) residents and those within the city.

Councilman Ritter said he was extremely confused about the amount of the rate increase, the average. He asked Mr. Trocin to look at the figures under the word "domestic." These would be the people paying the bills.

Mr. Trocin explained that the "domestic" users are those who use the system; that word does not refer to a household. He then distributed information to Council for further clarification.

Mr. Ritter asked if the following figures were correct, 2,000 people would be charged $2.00, 4,600 would be charged $2.22, 14,718 would be charged $3.78. This would total $845,000. Who would pay the remaining $2,000,000?

In response, Mr. Trocin said the industrial and outside-of-the-city users would pay that.

Councilman Bobersky asked Mr. Trocin to confirm the following:

1. The rates, in the first year, for the first 200 cubic feet rate will go from $1.75 to $2.49. (74 cents increase)

2. The next 19,700 cubic feet will go from $1.20 to $1.71. (51 cents increase)

3. At the next point 980.000 cubic feet will go from 91 cents to $1.30. (39 cents increase)

4. Up to 3,000,000 cubic feet will go from 62 cents to 88 cents.

2ND READ ORD RE: ORDINANCE SETTING FORTH SEWER RATES AND RELATED CHARGES FOR SEWERAGE CUSTOMERS IN HUNTINGTON -CONT.

Mr. Bobersky commented that before his children moved away from his home his cubic feet usage was anywhere from 360 to 660 cubic feet. Translated into gallons, 660 cubic feet would be approximately 4500 gallons. The current rate on that is $8.85. The increase on that, for the average user, would be $12.60 after the rate increase, in the first year. That would be a $3.75 per month increase. Based on there being 2,183 customers on fixed incomes, their fee would be $2.00. Over the three-year period there would be approximately a $5.75 increase for an average user.

Mr. Trocin confirmed Mr. Bobersky's statements to be true.

On another issue, Mr. Bobersky asked Mr. Trocin to explain how the Sanitary Board is operated. He had received calls from constituents who asked that this be explained.

Mr. Trocin said the state statute clearly says the Sanitary Board is a separate entity from the city. It is a municipal utility. The Mayor, by virtue of being the mayor, is chair of the board. There are two other members, Mr. L. D. Riddle and Mr. Charles Webb. There are many needs, each day. A request from the operating department goes to the purchasing director. After being approved by the purchasing director, purchases up to $4,999 are forwarded to the executive director and the board for approval. Purchases of $5,000 and over are advertised and forwarded to the board for approval. If any are in excess of $24,999 they are forwarded to City Council for approval. All invoices are reviewed and approved by the board before being paid.

Councilman Ritter said he was still confused; he thought the numbers provided were different. One sheet shows 22,000 domestic users. On another sheet, it says there are 21,500 domestic users.

Chairman Patterson suggested that Mr. Trocin further review the figures and provide an explanation.

Councilman Cline said he had arrived at a figure of 892, as a difference; he wondered if the city did not have 892 businesses. That would be the answer.

Mr. Trocin said he would look more into this and find the answer.

Chairman Patterson asked if the Sanitary Board has a contingency plan, if the board finds itself to be out of monies in January.

Mr. Trocin said the board has dealt with the issue and has advised that no money be spent at all, at this point, unliess it is a dire emergency.

Councilman Polan asked what "don't spend any money" meant, in terms of staffing.

Mr. Trocin said that no one will be replaced if anyone should resign, etc. There is a need to have, in place, a safety director. Staffing levels have been going down over the past three years.

Mr. Polan asked for an explanation of that statement.

Mr. Trocin said there were 68 or 69 employees at the beginning of the year and the number is now down to 65.

Mayor Dean asked that Mr. L. D. Riddle, board member, address City Council.

Mr. Riddle stated that he and Mr. Charles Webb had been appointed to the board in February. Since that time they had reviewed every expenditure, looked at the staff, inspected the sewage treatment plant, met with employees, etc. During the fiscal year 1997 the board spent $846,000 more than its revenues. During this past fiscal year it spent $1,252,000 more than its revenues. At practically every board meeting money is transferred from the emergency construction fund account to pay normal operating expenses. There are three major projects on the drawing board at the present time. There is an erosion problem in the east end of the city, along the river, at the foot of 24th Street. There are 800' of sewer main in danger of failing. Even with federal funds it would still cost the city $150,000. The normal operation of the sewage system, for just this year, will cost at least $5,000,000. The board will only take in $4,400,000. The rate increase is absolutely necessary. Speaking about those on "fixed incomes," Mr. Riddle believed everyone's income goes up, somewhat, each year. A 65% rate increase is just that. If a citizen pays $10 as a sewer fee this month, the increase will raise it to $16.50.

Councilman Kent said the 65% rate increase would not be for everyone. The people who are using only the minimum will not see an increase. For the people using only a moderate amount, there will not be a 65% increase. It will be for the people using a significant amount, the major portion being the business and the industrial community.

Councilman Ritter asked if the mandated projects would amount to $7,000,000. The bonding for that amount will be approximately $500,000 annually. He asked if that were correct.

Mr. Riddle said the money will be borrowed and repaid over a period of years.

Mr. Ritter said the increase would generate $3,000,000; why could not there be a 25% increase, which would mean a million dollars annually.

Mr. Riddle said the money will be spread over the operations of the board. There will be increases in salaries, etc. There are, also, unexpected problems. For example, no one expected the problem with the river bank at 24th Street.

Mr. Ritter asked about the surplus funds as shown on information provided to Council. In 1993 there was a surplus of $263,000; in 1994 there was a surplus [illegible]

2ND READ ORD RE: ORDINANCE SETTING FORT SEWER RATES AND RELATE CHARGES FOR SEWERAGE CUSTOMERS IN HUNTINGTON -CONT.

Mr. Riddle said he was not familiar with that information.

Chairman Patterson said that would be another matter for Mr. Trocin to answer.

Councilman Ellis said the problem at the river has nothing to do with the city being at fault. This has resulted from the Corps of Engineers raising the level of the river.

Mr. Riddle said the Corps never raises the level of the river. The problem would be due to upstream storms. The Corps' intent is to keep the flood level down.

Councilman Ritter expressed his appreciation for Mr. Riddle's interest and comments.

Councilman Bailey asked if a portion of the increase would be used for raises for the employees.

Mr. Riddle said, over a period of time, that would have to be addressed.

Mayor Dean stated the contract with the local union, at the treatment plant, was opened for negotiations prior to October, 1997. However, due to the financial situation there has been no conclusion to the negotiations. They are due to receive some kind of a consideration, according to their contract.

Mr. Bailey said he had no problem with raises; however, he merely wanted it clarified that part of the monies would be used for this.

Councilman Cline asked that the City Clerk enter into the record, Mr. Riddle's report. He, too, thanked both members for their work on the board.

The report is as follows:

"You appointed Mr. Charles Webb. Certified Public Accountant, and me as members of the Huntington Sanitary Board in February, 1998. We have observed the performance of the Staff, inspected the Sewage Treatment facilities and met with sanitary department employees at several job sites. We have attended seminars to learn techniques of municipal operations. We review every expense of the Sanitary Board to insure an efficient operation.

During fiscal year '97, the Sanitary Board spent $846,232 more than its revenues. During the fiscal year ending June, 1998, the board had a net loss of $1,252,366. We have routinely transferred funds from the emergency construction savings account to meet normal operation expenses. User fees are not keeping pace with expenses and the savings accounts will be depleted by January, 1999.

Three major construction projects are in the plans and specifications state, i.e., Pump Station Telemetry System, Guyandotte Force Main Replacement,and Treatment Plant Disinfection/Odor Control. Engineering estimates for these three projects exceeds 3.7 million dollars. The sludge incinerator has just been repaired and environmental testing is underway at the treatment plant. Erosion along the Ohio River at East 24th Street has endangered 800 feet of sewer main. We have requested federal funds to assist in repairs, but the Sanitary Board's share for this municipal sewage system will cost more than five million dollars this fiscal year, 1999. The current sewer service charges will provide only $4.4 million. The West Virginia Division of Environmental Protection representatives have indicated their patience is wearing thin concerning our delays in moving ahead with their mandated improvements.

The report of the Public Service Commission dated October 5, 1998, indicates the investigations, newspaper stories, court hearings and complaints about the Sanitary Board are without foundation. It is requested you take the necessary measures to increase the Sanitary Board revenues, as soon as possible."

Mr. Charles Webb, Sanitary Board member, referred to the document Mr. Ritter addressed with respect to a surplus. The excess would be the surplus of funds available for debt service versus the funds that are needed for debt service. He assured Council that any questions from members could and would be answered. One question that has come up, repeatedly, is "where did the $10,000,000 go?" In reviewing the past five years, he saw that on June 30, 1993, in both operation funds and restricted funds the board had, available, just under $10,000,000. Of that $9,400,000 was restricted. At the end of 1998 there was $4,300,000. During the five-year period the board brought in approximately $5,000,000; this was used from operations funds to pay for capital improvements. In addition to this the board reduced debt, $2,400,000. There is now approximately $4,300,000 left. No entity can be operated without some cash, month to month. Of that money $1,400,000 is required to be placed in the municipal bond fund for debt. The $2,400,000 is to be used for capital improvement items.

Referring to the June 30, 1998, financial statement, Dr. Kent asked if he had any reason to coubt the reported net loss in 1997 of $846,000. In 1998 the loss was $1,252,336.

Mr. Webb said the actual cash will fluctuate since there are changes, each day. Equipment, personnel cannot be replaced based on this. What has been said is that unless it is absolutely necessary to keep the sanitary sewers working, don't spend any money. Even with a rate increase this must be followed.

Councilman Ritter thanked Mr. Webb for his efforts. He asked if it would be possible to have provided, for Council, the amount of money spent at the treatment plant and an explanation of its use.

2ND READ ORD RE: ORDINANCE SETTING FORTH SEWER RATES AND RELATED CHARGES FOR SEWERAGE CUSTOMERS IN HUNTINGTON - CONT.

Mr. Webb said that information should be available. Referring to a list showing various expenses, Mr. Webb explained monies could be spent for anything, from the annual renovation of the furnace to the purchase of a calculator.

Mr. Ritter asked for a copy of that list.

Mr. Webb advised he would provide that information.

Councilman Bobersky asked Mr. Webb if he had looked at the past audits of the Sanitary Board. If so, had he seen the recommendation that there be a rate increase.

Mr. Webb answered that he had seen the audits and he had seen the recommendations for an increase.

Councilman Cline asked if Mr. Webb had compared Huntington's rates with any other cities.

Mr. Webb replied this had not been done.

Mr. Cline said he had been provided with a number of rates, e.g., his daughter who lives in Jacksonville, Florida, must pay seven times the amount of her water bill, for the sewer rate fee. In Marietta, Ohio, the sewer rates are more than the water bills. He asked if Mr. Webb thought the proposed increase would be enough for what needs to be accomplished.

Mr. Webb answered that he did not think it would be; the board will still be on a very tight string. He added that he would not be willing to spend money for materials for new subdivisions to be annexed into the city. The board simply does not have the money to do that; however, the city cannot grow unless it has new growth in terms of subdivisions, etc.

Mr. Cline asked if a new business were to come to town and it required a sewer line, could the city do it?

Mr. Webb responded that the Sanitary Board could not do it because there is no money.

Councilman Polan said he remembered reading that the Sanitary Board in Charleston is considering an increase. He asked if this is still under review or has it been done.

Mr. Trocin said he thought it was still under review.

Mr. Polan asked him to provide that information, with respect to the range of their increase, etc. He asked if their current rates were above Huntington's rate.

Mr. Trocin said he would check into the matter and provide an answer.

✓ The chair opened the floor to the public at this point.

Miss Hazel Parker, 1115 22nd Street, said she did not feel the present ordinance was the proper vehicle for getting a sewer rate increase. She wondered if an incremental increase would be legal.

Mayor Dean said it was her understanding that any incremental increase for utilities is perfectly legal.

Miss Parker suggested that the cubic feet be converted into gallons. This would be a lot easier for the public to comprehend. There had been a lot of talk about Huntington being so much lower than other cities - that is wonderful; however, it should have nothing to do with the rate increase since this is to be based on "need."

Mr. Larry Tucker, 356 Highland Street, stated that even though Council has all the facts, the public does not have those facts. The public should be given an answer about the funds that have been discussed, over the past few years, with respect to the $10,000,000" the board had, which is no longer there. Accountability is important to the citizens.

Mr. Tom McCallister, 336 W. 5th Avenue, asked if anyone had read the June 22, 1998, report regarding the Inwood Shockey project. The report stated that the Mayor and the Sanitary Board were in violation of state law. There are surplus funds, over four years, of $2,500,000.

Mr. Arley Johnson, 1111 12th Avenue, a former Council member, expressed his concerns over a 65% rate increase. He recalled a point in time when the board reputedly had $14,000,000 in reserve. This money was placed in different accounts, some in interest-bearing accounts. He had asked the question as to why the board was not spending some of that money to repair and replace the sewer system. He recalled there was a list of five - ten important items that were top priority items. These didn't appear to get done. He supposed the city lost some businesses and the revenues began to decrease. He also questioned why the problems of water and sewage backing up into residents' homes was never addressed and corrected. He was not sure there should be a rate increase until these problems are solved. He asked if City Council or the governing body has taken any action against Chester Environmental, the former consulting engineering firm.

Mr. Patterson said he thought that the Sanitary Board has indicated that they are looking into that matter.

Mr. Johnson said that in 1991 and 1992 he was chairman of Council. Mayor Nelson at the time wanted to do the Inwood/Shockey project. He had not understood that, since it was not on the priority list. He had suggested that before a rate increase was proposed

monies needed to be spent on the priority projects. Why did the Sanitary Board take it upon itself to spend two or three million dollars on a project that is still not a top priority project? He concluded that the majority of the citizens don't fully understand the magnitude of a 65% increase.

2ND READ ORD RE: ORDINANCE SETTING FORTH SEWER RATES AND RELATED CHARGES FOR SEWERAGE CUSTOMERS IN HUNTINGTON - CONT.

Councilman Bailey said that he had requested the amount paid to attorneys, by the Sanitary Board. One of the attorneys is Robert Schaub who is handling litigation against Chester Engineers.

Mr. Johnson said "If nothing was done back then we need to clear Chester and put that behind us. The lack of credibility is a serious lack because there has been so much bad information, or lack of information or hidden information coming from the Sanitary Board from the number of years I was on Council and the subsequent years after that and the public needs to fully understand."

Mr. Bob LeTendre, 2095 Miller Road, referred to the statement made earlier by Dr. Kent with reference to all of the claims, etc. to the Public Service Commission. It had been said that all of the problems had either been solved or the claims were unsubstantiated. Mr. LeTendre said the complaint to which he had referred was a separate one and had nothing to do with the claims going forward with the Public Service Commission. After two days in one hearing, the administrative law judge ruled that the Sanitary Board apparently did violate WV State Code 16-13-3. There is still a suit in Judge Cummings' court. Had that specific code (16-13-3) not been violated, 16-13-5 was violated since it states an ordinance should have been passed. There was never an ordinance for the Inwood Shockey project.

Councilman Bobersky looking at copies of documents, from the PSC, said he was confused about the different cases. He asked which one was still pending.

Mr. LeTendre answered that what he was reading was not actually the major case. That is yet to be heard.

Mr. Monty Fulton, 65 Grand Boulevard, said that since he had served on the task force he had learned that Huntington is at the lowest rate in the state. That would be fine if there were no problems. He noted there is a public service district, (Wayne County) within a few miles, that is largely rural. It had a rate increase the first of the year that is larger than the city's base rate. It is a relatively new system, 10 years old. It is unfortunate there have been problems with the board; however, that needs to be set aside in order for the city to move forward and do what must be done.

> Motion by Councilman Kent, seconded by Councilman Bobersky, to postpone the ordinance until the next regularly scheduled meeting. The motion carried nine (9) yeas; zero (0) nays; two (2) absent - Jackson, Maass)

GOOD & WELFARE

GOOD & WELFARE

Councilman Kent advised that he had received several favorable comments about the paving on Washington Boulevard and Woodland Drive.

Councilman Bobersky was appreciative of the work done on Green Oak Drive.

Councilman Bailey said that between Washington and Virginia Avenues there is a street (Lee Street) that is being heavily used by parents driving their children to the new school. Cars are speeding and there are a number of children walking on the street. He asked if there could be a "no speeding" sign erected.

Councilman Ritter asked about the report from the committee appointed to check into the appointments to the various boards and commissions.

Chairman Patterson advised there had been a meeting and believed there would be another one.

Mr. Ritter commented that he had looked at the book containing the information about the boards and commissions. He learned there were, sometimes, the same people on some of the boards. Since some of the boards vote on spending large amounts of money and because some members do not always attend the meetings he believed this was not a good practice.

Mrs. Mattie Moore, 822 15th Street, expressed her concerns about the proposed rate increase. There are a number of places in the Fairfield West community, where sewage backs up into the basements. There are also areas in the streets that flood, after hard storms. The city looked at the water and sewage backing up into residents' homes and the people were told "that's your problem." She felt these problems should be corrected before the rates are increased.

Mr. Paul Dempsey, 1648 14th Avenue, said that on October 2, 1998, the lights he had complained about at the past Council Meeting were turned off. Additionally, the parking lot was shut down and the pothole in front of his home had been filled and repaired. Everyone in the neighborhood was very grateful and most appreciative.

Mr. Tom McCallister, 336 W. 5th Avenue, referred to a letter in 1976 from a former attorney general. In the letter which was in response to a question from Parkersburg, WV, the attorney general ruled that the governing body appoints people to boards and commissions, under the strong mayor form of government. On another issue, Mr. McCallister asked the name of the present consulting engineer for the Sanitary Board.

GOOD & WELFARE - CONT.

Chairman Patterson asked Mayor Dean if there were a consulting engineer at the present time for the board.

Mayor Dean answered there is not one at the present time.

Mr. McCallister asked if Woolpert Engineering is serving in that capacity for the board.

Chairman Patterson asked Mr. McCallister to explain why he was asking the question.

Mr. McCallister said that in Fayetteville, WV, there is a court case lodged against Woolpert Engineering.

Mrs. Mary Anderson, 1423 Grove Street, applauded all who took part in the Unite Rally. It was extremely successful.

Mr. Bob LeTendre, 2095 Miller Road, said that the Northern Wayne district, referred to earlier, is getting ready to go into receivership. This has happened due to grinder pumps having been installed.

Hearing no other business to come before Council the Chairman adjourned the meeting at 10:40 p.m.

LARRY D. PATTERSON, CHAIRPERSON

ANN C. SHAYE, CITY CLERK

A Regular Meeting of Huntington City Council was held on the 26th day of October, 1998, at 7:30 p.m., in City Hall Council Chambers with Chairperson Larry D. Patterson, presiding.

INVOCATION AND PLEDGE

INVOCATION AND PLEDGE

The Invocation was given by Chairperson Patterson.

The Pledge of Allegiance to the Flag was led by Councilmember Jackson

ROLL CALL

ROLL CALL

The following members of Council were present for this Meeting:

Larry D. Patterson, Chairperson
Bob Bailey
A. F. Bobersky
Philip Cline
Burlen W. Ellis
Frances Jackson
Calvin Kent
Renee Maass
Mary Neely
Chuck Polan
James Ritter

Also present were: Mayor Jean Dean
Mrs. Jendonnae Houdyschell, City Attorney
Mrs. Ann C. Shaye, City Clerk

SYNOPSIS

SYNOPSIS

Motion by Councilman Ellis, seconded by Councilmember Neely, to approve the Synopsis of the last regular meeting, as submitted. Motion carried unanimously.

REPORTS OF THE MAYOR

REPORTS OF THE MAYOR

Mayor Dean, noting the length of the agenda, advised that she had no special reports.

MOVE AGENDA ITEMS

Motion by Councilmember Neely, seconded by Councilman Kent, to move items 12 and 13 forward on the agenda. No vote was taken at this time.

Chairman Patterson noted the items would become 4(a) and 4(b).

The motion carried ten (10) yeas; one (1) nay - Ritter.

1ST READ ORD RE: LEASE OF PUBLIC SAFETY FACILITY AND CIVIC ARENA

First Reading of an Ordinance re: AN ORDINANCE WITH RESPECT TO THE LEASE FROM THE HUNTINGTON MUNICIPAL DEVELOPMENT AUTHORITY OF A PUBLIC SAFETY FACILITY AND A CIVIC ARENA.

Mayor Dean explained the purpose of the ordinance would be to combine the financing for the Civic Arena, which was approved last year, with the financing for the Public Safety Facility. It will reduce the payments by receiving a lower interest rate. She deferred to the bond counsel, Mr. Lee Hill.

Mr. Lee Hill, Jackson & Kelly Law Firm, stated that last August Council approved the improvements for the Civic Arena. The financing went through and at the same time there were plans to finance the public safety facility. In September of last year, Council approved the lease of the facility. In the interim it was determined that it would be better financially for the city if the two leases and the two financings were combined. This ordinance would be a consolidation of the two.

Councilman Kent asked how much money would be saved.

Mr. David Harrington, Director of Administration and Finance, said while he did not have a fixed dollar amount he could address the issue of rates. At the time the Civic Arena bond was done, on a variable rate basis, that was the lowest rate available. Since that time long-term fixed rates have come down so that it is now less expensive to borrow on a long-term basis rather than by short-term variable rates.

Councilman Kent asked that the exact figures be provided for the next Council meeting.

THIS ORDINANCE WAS ADVERTISED.

Resolution re: A RESOLUTION OF COUNCIL APPOINTING MEMBERS OF THE HUNTINGTON MUNICIPAL ECONOMIC DEVELOPMENT AUTHORITY.

RESOLUTION RE: APPOINTING MEMBERS OF HUNTINGTON MUNICIPAL ECONOMIC DEVELOPMENT AUTHORITY

FULL TEXT OF THIS RESOLUTION MAY BE FOUND ON PAGES 14 AND 15 OF THESE MINUTES

Motion by Councilmember Neely, seconded by Councilman Kent, to adopt this Resolution. No vote taken at this time.

In explanation, Mayor Dean said in order that there be absolutely no question when it is time for the sale of the bonds, it is wished that Council adopt this resolution. This will legalize the appointment of the members of the Authority.

Councilman Ritter said he did not remember interviewing any of the candidates. He had spoken to Dawn Warfield in the Attorney General's office. He learned that in most cities in West Virginia the mayor is a voting member of the Council. However, in Huntington, the Mayor is not a voting member of Council and therefore Council is the governing body. He referred to two boards on which there are two city employees. Both of these boards are responsible for spending millions of dollars. He did not think this was fair nor did it look good to the public.

Mayor Dean said that one of the city employees referred to was not a city employee at the time of the appointment. If there are concerns it should be remembered that all of these issues come to Council for final approval. She said that once the opinion from the Attorney General's office is received a decision can then be made. However, it could be some time before the opinion is received. She did not want to see the projects involved drawn to a halt. She felt all of the members of the authority to be citizens of great integrity.

Councilman Ellis said it is clear that Council appoints the members based on the West Virginia State Code. He stated he could not support it based on that law.

Mayor Dean pointed out that in the resolution that appointed the current authority members the words in the resolution were very clear that Council appointed the members to the authority. These members, with the exception of two persons, are the same people.

Councilman Ellis said he still felt the names should come from City Council.

Councilman Kent said he found this to be a semantic difference. Every appointment, every recommendation from the Mayor has to come before Council. To him that would be the governing body "appointing." If a Council member would not sponsor the appointment or if the Mayor's recommendation were not upheld by the Council then the nomination would die. This is how the City Attorney interpreted the question.

Chairman Patterson commented that when he became a member of Council, he had to relinquish his seat on some of the city boards. Those boards, however, did not expend any monies.

Councilman Polan said the authority has acted in a most responsible manner; however, he questioned if all of the members have met the 40% attendance standard.

Mayor Dean said that in the memorandum sent to Council a few weeks ago it was noted there was, she believed, at least one member who did not meet the 40% requirement.

Councilman Polan said it appeared that she did not view that as a serious flaw.

Mayor Dean said she did not, since it has not presented a problem. Now that it has been brought to her attention she would more seriously question whether the individuals wished to be on the board.

Mr. Polan asked if she felt there should be no concern at this particular juncture.

Mayor Dean said she did not feel it that important. With all of the questions that have been raised etc., the opinion from the Attorney General should be reviewed first. All of the issues could then be resolved at one time.

Mr. Polan asked, specifically, what Council was waiting to hear from the Attorney General's office.

The City Attorney, Jendonnae Houdyschell, said the specific request was for the Attorney General to ascertain who, exactly, the governing body is with a strong mayor form of government, under the city's charter.

Councilman Cline advised that he is one of the members of the Development Authority and has been unable to attend 40% of the meetings due to work commitments out of town. Specific meeting times have now been scheduled and most members have said they could be present at those meetings. If Council would want to reappoint him he asked that his address and telephone number, as they now appear, be changed.

Councilman Ritter recalled that, according to state code, Council made the appointments of the two members who now serve on the Sanitary Board. They were interviewed and appointed by Council.

Councilman Cline said the members were not interviewed.

Mayor Dean added that the reason Council did appoint the two new members was the result of a compromise agreement.

Councilmember Neely said the reason no interviews were conducted was the fact there were only two who were willing to accept the appointments.

Councilman Polan asked that Mr. Lee Hill answer the question as to why the resolution is worded to say that Council is appointing the members.

RESOLUTION RE: APPOINTING MEMBERS OF HUNTINGTON MUNICIPAL ECONOMIC DEVELOPMENT AUTHORITY - CONT.

FULL TEXT OF THIS RESOLUTION MAY BE FOUND ON PAGES 14 AND 15 OF THESE MINUTES

Mr. Lee Hill, bond counsel, said the purpose is to make sure that no issue arises as to whether or not the Development Authority is properly constituted. The resolution provides that for purposes of this board that Council is going to appoint the current members to fulfill their terms. The reason it is being presented before Council receives the ruling from the Attorney General's office is a practical one. If the financing is to go forward the authority will have to meet and adopt an ordinance to put in effect the financing. If the board is not properly constituted the bond counsel would not sign an opinion that the bonds have been properly issued. The sooner the question can be resolved, the sooner the financing can be kept at a forward moving pace.

Councilman Polan said it would seem he had some question as to whether the board is currently constituted.

Mr. Hill said his firm is in the position of having to sign an opinion that $7,000,000 in bonds are being properly issued. It is the firm's opinion that the board is properly constituted; however, the issue will have to be disclosed in the public market. This matter could have an adverse affect on the pricing of the bonds. It would cost the city more money until this is resolved. His firm will not give their opinion because if their opinion were to be wrong then the firm would be responsible for the $7,000,000.

Mr. Tom McCallister, 336 W. 5th Avenue, said that both Councilman Cline and Dr. Wade Gilley should not be allowed to serve any longer due to the attendance requirement. A resolution is not valid; WEst Virginia State Code 8-11-3 says there must be an ordinance. He suggested the resolution be tabled until an opinion is received. Council should make the appointments.

Councilman Ellis said he had nothing against any member of the board but he did believe the law should be followed. Therefore, he would vote against the resolution.

Chairman Patterson said he had no problem with any of the members, either; however, he did have a problem with city employees sitting on the board and being responsible for expending monies.

Mayor Dean said a number of projects have been accomplished with the Huntington Municipal Development Authority. The appointments have never been questioned before. She thought it very strange that this would come up now when some members are opposed to the law enforcement building. If the contractor cannot be paid the work will stop.

Council needs to proceed with this; if it is proven to be incorrect when the Attorney General's opinion is received she would then accept that and Council would make the appointments. To do this in the middle of ongoing projects is not a good practice.

Councilman Bobersky said that he had spoken with several local attorneys who told him that if the name is brought to Council and a Councilmember sponsors the person and votes for that person then Council appoints the person. He felt Council is working within the law.

Councilman Bailey said he was looking at WV State Code 8-11-3, and it does say an ordinance should be used.

The City Attorney, Jendonnae Houdyschell, read from Chapter 8 outlining actions requiring an ordinance:

> "Levying taxes that provide for the collection of fees of any kind.
>
> Requiring a license to do business.
>
> Relating to offenses and penalties.
>
> Authorizing issuance of bonds and other forms of indebtedness.
>
> Providing for a public improvement.
>
> Providing for the purchase of private property by the municipality.
>
> Granting franchises to public utilities.
>
> Providing for a contractual or other agreement with another jurisdiction and
>
> Realting to such other matters as the charter may require."

Mrs. Houdyschell said she did not see anything relating to the appointing of members to a board that would require that this be done by ordinance. She added that the resolution had been modeled after the resolution adopted September 25, 1995 when the authority was reactivated.

Councilmember Neely said she would have to agree with Mr. Ritter about a city employee sitting on a board. She felt there were a number of citizens who would be willing to fill the positions.

Mayor Dean said the city employee in question was appointed before she became Mayor. She saw no reason to remove him; however, she would take what Mrs. Neely said under consideration. She felt this matter should be thoroughly investigated and a decision arrived at along with the Attorney General's opinion. It is not something that should be changed in midstream of a project.

Councilman Ritter said both the Huntington Municipal Development Authority and the Huntington Urban Renewal Authority spend monies. He noted that Mr. David Harrington and Mr. Robert Trocin are on both boards and arealso city employees. Mr. Phil Emmons, Mrs. Vicki Shaffer, Mr. Charles Spurlock and Mr. Ron Smith are also on both boards

RESOLUTION RE: APPOINTING MEMBERS OF HUNTINGTON MUNICIPAL ECONOMIC DEVELOPMENT AUTHORITY - CONT.

FULL TEXT OF THIS RESOLUTION MAY BE FOUND ON PAGES 14 AND 15 OF THESE MINUTES

Mayor Dean asked Mr. Ritter when he had ever submitted a citizen's name.

Mr. Ritter answered that he had suggested Mr. Terry Purdue at an earlier date.

Councilman Kent said it seemed strange to him that this procedure had been followed since 1995 and all appointees have been brought to Council. No one has ever raised the question until recently as to whether this is legal. He felt it had never been questioned because it was fairly obvious that it is within the law. If the Council had objected to city employees sitting on boards it should have been questioned at that time.

Chairman Patterson said he could only question an issue when he became aware of it.

Councilman Cline said he had checked with his attorney who assured him that the members had been properly appointed by City Council.

Councilmember Neely said the employee she referred to earlier had been appointed before she became a member of Council.

Councilmember Maass asked what would happen if the resolution failed. Would contractors, workers go unpaid?

Mayor Dean answered that this is what would take place.

Mrs. Maass asked how long they might have to wait.

Mayor Dean said that the contractors were moving very quickly and she was sure they expected to be paid in an equally speedy fashion. She added that she felt, very frankly, this was directed by those who are opposed to the law enforcement building.

Councilman Polan asked if the Huntington Municipal Development Authority had issued any interim debt thus far, in advance of the sale of the bond instruments.

Mayor Dean deferred to Councilman Cline who serves as the chair of that authority.

Councilman Cline said that any monies the authority has expended or has been asked to expend has always come before Council for approval.

Mr. Polan said he believed Council had approved the $4,000,000.

Mr. Cline advised that this had been done, along with Council's approval of the facility which would mean Council did approve the expenditures.

Mr. Polan asked if there has been any interim borrowing that will be repaid when the bond issue is sold.

Mr. Cline said he was not aware of any; however, he suggested Mr. David Harrington be asked that question.

Mr. David Harrington, Director of Administration and Finance, explained that the board voted to borrow monies, on an interim basis. The reason was to see that the project stayed on track so the exterior work could be completed before the end of the building season. Otherwise, the building could not be closed in, in order to continue working through the winter.

Mr. Polan asked the amount of money borrowed.

Mr. Harrington said the board authorized the borrowing of up to $1,000,000. He believed the actual amount borrowed, to date, is under $500,000.

Mr. Polan asked if that were the money being used to pay the contractors on site.

Mr. Harrington said that was true.

Mr. Polan asked when additional interim financing would be necessary.

Mr. Harrington replied that the contractors submit invoices on a monthly basis. Additional funds will be drawn down during the month fo November. He added that if this resolution were adopted the closing for the bonds would be early to mid-December.

Mr. Polan said he did not recall being informed when the Development Authority made the decision to actually borrow money. He supposed the authority did not have to advise Council, but he felt it to be a good practice.

Mr. Harrington said he thought minutes had been provided to Council; however, if they have not been, he assured Council they would be in the future.

> Motion by Councilmember Jackson, seconded by Councilman Ellis, to table this resolution until an opinion is received from the Attorney General's office. The motion to table failed six (6) nays; five (5) yeas - Bailey, Ellis, Jackson, Patterson, Ritter.

Mr. Tom McCallister, 336 W.5th Avenue, said he did not feel Councilman Cline should have voted since he is a member of the authority. Referring to what the city attorney had read with reference to actions that require an ordinance, he pointed out that she had read "for public improvement." The law enforcement building and the Civic Arena would fall under that category.

Miss Hazel Parker, 1115 22nd Street, said there had been a mention of the "timing" of the opposition to the resolution. She recalled having called this to someone's attention

RESOLUTION RE: APPOINTING MEMBERS OF HUNTINGTON MUNICIPAL ECONOMIC DEVELOPMENT AUTHORITY - CONT.

The resolution was adopted six (6) yeas; five (5) nays - Bailey, Ellis, Jackson, Patterson, Ritter.

2ND READ ORD RE: AMENDING ARTICLE 190 (SECTION 190.02) OF THE CITY CODE REGARDING ATTENDANCE REQUIREMENTS

Second Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 190 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED, BY AMENDING, MODIFYING AND RE-ENACTING SECTION 190.02 REGARDING ATTENDANCE REQUIREMENTS. (Postponed)

Motion by Councilman Polan, seconded by Councilman Bobersky, to adopt this ordinance. No vote was taken at this time.

Chairman Patterson deferred to the sponsor, Councilman Polan.

Councilman Polan commented that he had spoken about the issue previously and actually had nothing new to add.

Councilman Kent said at the previous meeting several amendments were proposed and the City Attorney was asked to prepare and incorporate those amendments into a new ordinance. He explained that one amendment would change the attendance requirement to a 40% requirement, another would set the beginning date and the third change would have an annual report submitted to the Mayor and City Council.

Motion by Councilman Kent, seconded by Councilman Polan, to amend in accordance with these changes. The motion to amend carried eleven (11) yeas; zero (0) nays.

Chairman Patterson asked if the amendments would constitute a material change.

The City Attorney advised what had been voted upon would not constitute a material change.

Motion to adopt this Ordinance carried eleven (11) yeas; zero (0) nays.

2ND READ ORD RE: AMEND ZONING ORDINANCE BY ZONING TO B-1 FROM R-4 PROPERTY LOCATED ON THE SW CORNER OF ADAMS AVENUE AND 9TH STREET, WEST

Second Reading of an Ordinance re: AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF HUNTINGTON, WEST VIRGINIA, 1960, AND THE ZONE MAP ATTACHED THERETO AS A PART THEREOF, BY ZONING TO B-1 LOCAL BUSINESS FROM R-4 TWO-FAMILY RESIDENTIAL PROPERTY LOCATED ON THE SOUTHWEST CORNER OF ADAMS AVENUE AND 9TH STREET, WEST, PARCELS 365-367 TAX MAP 27. (Postponed)

Motion by Councilman Bailey, seconded by Councilman Ellis, to adopt this Ordinance. No vote was taken at this time.

Mayor Dean stated that the approval of this ordinance will permit the construction of an insurance office at the corner of Adams Avenue and 9th Street, West. She advised that the current owner of the insurance company, Mr. Jon Garton, was present for any questions.

Councilmember Neely asked Mr. Garton how many employees he would have.

Mr. Jon Garton, a State Farm Insurance agent, answered that he will have two employees.

Mr. David Hazelett, 1747 Madison Avenue, supported the ordinance by saying he thought the building would be an enhancement to that area. Since Adams Avenue leads into our city he thought the addition of another business on that avenue would be more pleasing to motorists than seeing houses in disrepair.

Chairman Patterson said he still had concerns about rezoning from residential into business. In this particular case he felt Mr. Garton would construct an insurance office; however, there is nothing at the present time, for future cases, that ensures the petitioner will carry out the original intent for the rezoning. In his community he recalled an example. A parcel was rezoned to B-1 but the petitioner did not carry out the intended plans. This has left a parcel in the midst of a residential area that has been rezoned to B-1.

Councilman Cline said he agreed; however, in his neighborhood garages were constructed in front yards because residents did not want them extending over the back of the lot. After it has been done, there is no recourse.

Councilman Bailey said in this particular area there are already three businesses; he felt this would be an asset.

Chairman Patterson said he did not mean to imply that Mr. Garton would not fulfill his intent; he merely wanted to reiterate what he felt was a continuing problem.

Mr. Jon Garton said he appreciated the chair's concern. He assured Council that construction would begin in the spring.

Motion to adopt this Ordinance carried eleven (11) yeas; zero (0) nays.

Second Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING MAYOR JEAN DEAN, CHAIRMAN OF THE HUNTINGTON SANITARY BOARD, TO ENTER INTO A CONTRACT TO PROVIDE A REPLACEMENT SANITARY MANHOLE FOR THE HUNTINGTON INDUSTRIAL PARK. (Postponed)

2ND READ ORD RE: AUTHORIZING CONTRACT FOR REPLACEMENT OF SANITARY MANHOLE FOR HUNTINGTON INDUSTRIAL PARK

Motion by Councilman Kent, seconded by Councilmember Neely, to adopt this Ordinance. No vote was taken at this time.

Mayor Dean explained the low bid submitted was $68,900, submitted by Famco, Inc. of Huntington, WV. This will be financed partly from the Huntington Industrial Center, CDBG funds (assigned to the center) and partly from a state grant.

Councilman Cline asked for a ruling by the chair. He explained that he owns part of a concrete company that has done business with the company before. However, he had no idea if his company would be furnishing concrete for this project. Would he be allowed to vote on the ordinance?

Chairman Patterson deferred to the city attorney.

Mrs. Jendonnae Houdyschell, City Attorney, said that generally the conflict arises if there is a pecuniary interest in something that is being voted upon. Since Mr. Cline indicated that he did not know if his company would supply the concrete she did not feel there would be a conflict; however, he could excuse himself from voting if there might be a monetary interest.

Councilman Cline asked if that would mean, in the future, if a member might "think something could happen" that they would not be permitted to vote.

Chairman Patterson said that would be up to the individual Councilmember. He said the city attorney had given him an option.

Councilman Polan urged Mr. Cline to vote since he did not want to see a precedent set where Council members would not vote, based on the ability to predict the future.

Mr. Cline read from the Charter, 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 of performance of such contract."

After reading this, Mr. Cline said he called this to Council's attention since he knew his company had supplied Famco with concrete in the past.

Councilman Polan said at this time it would be purely speculative. This should not be a standard for Council in that there would be no method of predicting events that have not yet occurred.

Mayor Dean pointed out that the Sanitary Board's contract is with Famco, Inc. The board does not contract with any of the subcontractors. A supplier of concrete would be a subcontractor.

Hearing that, Mr. Cline advised that he would vote on the issue.

Mr. Tom McCallister, 336 W. 5th Avenue, asked if Mr. Cline had ever supplied the city with concrete. He stated that he had seen one of his concrete trucks pouring concrete on 8th Street.

Councilman Cline said he wished to categorically deny that he had done any business, through Monumental Concrete, with the city. He noted that he had gone over every invoice of his company. There was never one to the City of Huntington.

Mr. David Harrington, Director of Administration and Finance, said he had spoken with Mr. McCallister earlier about the potential conflict of interest issue. At that time, Mr. McCallister brought up the 8th Street issue. He told Mr. McCallister that 8th Street is a state highway and the contract that was performed was through the state. Therefore, there was no conflict of interest.

Motion to adopt the Ordinance carried eleven (11) yeas; zero (0) nays.

✓ Second Reading of an Ordinance re: AN ORDINANCE SETTING FORTH SEWER RATES, DISCONNECION CHARGE, RECONNECTION CHARGE AND LATE PAYMENT PENALTY FOR SERVICES TO CUSTOMERS OF THE SEWERAGE SYSTEM OF THE CITY OF HUNTINGTON. (Postponed)

2ND READ ORD RE: ORDINANCE SETTING FORTH SEWER RATES AND RELATED CHARGES FOR SEWERAGE CUSTOMERS IN HUNTINGTON

Motion by Councilman Bobersky, seconded by Councilman Kent, to adopt this Ordinance. No vote was taken at this time.

Chairman Patterson deferred to the sponsor, Mr. Bobersky.

Councilman Bobersky siad that he had received numerous phone calls since the last meeting. He found there to be many misconceptions. Hoping to clear up these misconceptions, Mr. Bobersky explained the following:

2ND READ ORD RE: ORDINANCE SETTING FORTH SEWER RATES AND RELATED CHARGES FOR SEWERAGE CUSTOMERS IN HUNTINGTON - CONT.

1. For the first 300 cubic feet, the rate will go from $1.75 to $2.49. (74 cents increase)

2. For the next 100 cubic feet, above the 300 cubic feet, the rate will go from $1.20 to $1.71. (51 cents increase)

Further, if a household would use 300 cubic feet, the first year, the rate would increase $2.22 per month. If a household would use 400 cubic feet the rate increase would be $2.73 per month. For 500 cubic feet the rate increase would be $3.24 per month and for 600 cubic feet the rate increase would be $3.75 per month. Some citizens believed there could be an $11.00 per month increase. He wanted people to know this was not true.

On another issue, he had been asked if he felt there was a good accounting of the $10,000,000 and how it had been spent. Based on documents he had reviewed, he learned there were improvements which cost approximately $5,000,000. A study conducted showed that operating revenues had remained flat for many years and the operating costs had increased 15%. He felt there was a good accounting of the monies. In 1995 and 1996 the audits included recommendations that the rates should be raised. The Public Service Commission had also suggested an increase. He hoped this would help clarify the questions asked to him.

Mayor Dean said that in all of the discussions about the rate increase, two questions have continued to be asked:

1. Where did all the Sanitary Board money go?

2. Why do we need a rate increase?

In answer to the first question, Mayor Dean explained that six months before she took office the Huntington Sanitary Board placed $6,579,726 in an investment account. For several years the board used the interest to supplement its operating expenses and to keep the low sewer rates Huntington has had since 1984. She felt it important not to confuse the $6,579,726 with the monies the board has to pay to the State Municipal Bond Commission for the retirement of the bonds which financed the construction of the waste-water treatment plant. Those funds are restricted by law. Time after time people have included the bond monies, asking about the $10,000,000 and where did it go"? This is not what happened. The board drew down on the interest from the $6,579,726 to supplement the low sewer rates. Now, people ask where that money is. That money has been used to provide sewer line extensions, the Pleasant Valley properties, the Seneca Hills subdivisions, the new Huntington High School; it has been used for major sewer line repairs such as those in Harveytown, the 7th Street trunk line, the temporary stabilization of the Guyandotte force main. It has also been used for improvements and repairs at the many ejector stations, the sewer lift stations and the pumping stations. None of these items is done cheaply. In fiscal years 1995-1997 an average of 1.339 million dollars annually was spent on labor and materials. The sewer rate enacted in 1984 did not amount to sufficient dollars to make the repairs and still cover the daily operation of the treatment plant. She felt this could be equated to a savings account. If one's paycheck has not been sufficient to cover the cost of one's needs then the savings account is used. When that is depleted there must be an additional source of income. That is the condition in which the board now finds itself.

In response to the second question, the increase is needed because the investment account has been used up and it can no longer be used. In the past five years the board has ceased to rely upon a firm, at high hourly rates, to maintain and direct its daily operation. It has hired an executive director to do that, at an annual savings of several hundred thousand dollars. The board has brought its accounting procedures in-house and has reduced its billing costs by over 60%. Staffing levels have been reduced to a minimum. It has done all it can do to be cost efficient. It must now rely on the understanding of the public and the good sense of Council in order to continue to operate.

Councilman Bailey commented that in voting for this, Council will be voting on three items: (1. the sewer rate increase, (2. the municipal surcharge increase, (3. the city tax increase. He pointed out that the water company has applied for a rate increase and he felt it would be granted. This will be a burden to those on fixed incomes. While it may be needed, he could not vote for it.

Councilman Ritter said he had been called by a citizen prior to the meeting to ask if Amendment One were voted in, would that be double-dipping.

Mayor Dean said that Amendment One will provide for new economic development activities, not for the repair and meaintenance of existing sewers. It must be for a new project that will bring in new property taxes.

Councilman Kent confirmed that to be true. For new developments, such as the Business and Technology Park, the city might receive monies.

Councilman Ritter said that with a 65% increase it would generate $3,000,000. He asked why not 20% per year. He had also heard the chlorination system is good until 2002, so there would be only two mandated projects.

Mayor Dean deferred to Mr. Bob Trocin, the executive director of the Sanitary Board.

Mr. Trocin said the amount of the increase will be somewhat in excess of $2,000,000. That money is dedicated to, primarily, covering expenses that are in excess of $1,200,000. The remainder of the dollars are to be spent on capital improvements. He did not know where he had heard the chlorination system was good until 2002. The state had mandated all three projects. The projects are in the range of $2,500,000 each.

2ND READ ORD RE: ORDINANCE SETTING FORTH SEWER RATES AND RELATED CHARGES FOR SEWERAGE CUSTOMERS IN HUNTINGTON - CONT.

Mr. Ritter said the force main had been mandated in 1994; why was it not done then? The Mayor had just said there was $6,000,000 at that time. Why wasn't some of that used?

Mr. Trocin said he could not answer that since he was not here then. He only knew that the Department of Environmental Protection has said to do it.

Mr. Ritter said he had heard about the chlorination system from Councilman Ellis. Additionally, the Inwood Shockey project was done at almost $4,000,000 without Council's approval. That was not a priority.

Councilman Ellis said that in December of this past year, a report had come from the state which said the chlorination system was good to 2002. The following month a report came from the state to the Sanitary Board which said the system was no longer good. That did not make sense to him.

Mr. Trocin said the report he had received said the existing chlorination system would be good to 2002; however, that system is not adequate to do the job currently required under the Department of Environmental Protection. Additions must be made to the system.

Mr. Ellis said that should have been told to Council originally. If the system is good until then, wait until then.

Mr. Trocin said there are two separate systems - one is the existing system and the other is an additional system put upon the board by the DEP.

Chairman Patterson asked if the report that Mr. Ellis mentioned came from the DEP. And if so, did the additional requirement come from the DEP?

Mr. Trocin answered "yes."

Councilman Ellis said that two weeks ago it was mentioned on the Council floor that everyone, even those on fixed incomes, gets an increase every year, even if a small one. He received a call from a former school teacher who said she had been receiving pension checks for eight years. Her check had not gone up even one penny in those years. Those on social security checks have received a small increase, 1.3%. He felt the projects should be done as needed and if the treatment plant could wait until 2002, then wait until then.

Councilman Cline recalled that Council appointed two members of the Sanitary Board. These two members, along with the chair, have said there must be a rate increase. At the last meeting he had asked one of the board members if this would be enough. He had answered that he doubted if it would be. The city must have a sewer system that works.

There might be a burden for some people, but all must face burdens at one time or another. If this isn't done, the system will become inoperable. If new industry doesn't come into the city the city will not grow; it cannot happen without sewers.

Councilmember Maass echoed Mr. Cline's comments. She had received letters and calls and some have not been in support of the increase. However, the city must provide this service for citizens. The infrastructure must be improved.

Councilman Polan said this was the most agonizing issue he has had to face since becoming a member of City Council. After reviewing records of the Sanitary Board, listening to innumerable discussions, etc. he had learned that there is much more involved than just the sanitary sewers. All capital needs, such as storm sewers, curbs, street paving, etc. have suffered gross neglect over the years. The time has come to face the issue and take action. Regardless of whether this ordinance is adopted or whether it fails he hoped that Council would work with the Mayor to find ways to extract monies from both Community Development Block Grant funds and the General Fund and see that they are spent on capital improvements.

Councilman Ritter said he had talked with the plant manager at BASF earlier in the day. He had asked him what the plant's sewer rate is. The answer was a quarter of a million dollars. A 65% increase would be quite an increase.

Miss Hazel Parker, 1115 22nd Street, said she had asked at another meeting if it were legal to include three years in one ordinance. She wondered if there was an answer.

Chairman Patterson said it is legal.

Mr. David Hazelett, 1747 Madison Avenue, suggested a flat fee rather than the proposed method. He also felt that those on fixed incomes would not be impacted as much as those who have large families. The citizens do not understand what "cubic feet" means; there needs to be a more simple way of explaining the usage. He asked if the rate increase helps to give the employees a raise. He knew some of the employees and he did not feel they were getting fair wages for the work they do. He also wondered if more employees would be hired.

Mayor Dean answered that it is not anticipated that new employees will be hired. An increase in pay will have to be addressed since it has been over a year since their contract called for a reopening of wage issues. There have been several meetings and the union has been most understanding. However, there will have to be a resolution to the situation.

Chairman Patterson asked Mr. Trocin if he had any method to discuss the rate increase in terms of gallons, as opposed to cubic feet.

2ND READ ORD RE: ORDINANCE SETTING FORTH SEWER RATES AND RELATED CHARGES FOR SEWERAGE CUSTOMERS IN HUNTINGTON - CONT.

Mr. Trocin said the best way to approach the problem is to consider what an average family uses in terms of gallons. The average family uses 4500 gallons per month. This results in an $8.85 charge for the board. Additionally, there are 2,183 customers who use the minimum, a 500-gallon range per month. The minimum rate will remain the same.

Mrs. Nancy Donahoe, 6339 Aracoma Road, said she was representing the Tri-State Rental Properties Association. She explained she owns the Grace Apartments and pays a commercial rate. Her rate will increase from $35 - $40 per month. She hoped the ordinance would not be adopted.

Councilman Bobersky asked Mrs. Donahoe how long she had owned the apartments and if she had raised the rent during that time.

Mrs. Donahoe said she had owned them since 1984 and had raised her rent during that time. She did not know how many times.

Councilman Ritter asked if she had raised the rent 65%.

Mrs. Donahoe answered "no."

Miss Diana Arthur, 1219 Jefferson Avenue, hoped there would be a method of performing certain tasks, e.g., billing in-house and audits by someone in City Hall. She felt this would save a lot of money. There are many, many people who are on fixed incomes who also have large medical bills. This raise will affect many people.

Mrs. Clara Bowman, 924 Jackson Avenue, said a lady who lives across the street has a husband who is quite ill; their water bill is $75 each month. She felt there were many others in similar situations. She hoped this ordinance would not be adopted.

Mr. Tom McCallister, 336 W. 5th Avenue, to protest various actions of the city, said he would soon be circulating a petition which will require the city to conduct a special election. The citizens will have an opportunity to vote to reframe the City Charter and elect a new Charter board.

Mrs. Mary Anderson, 1423 Grove Street, explained that she had attended a board meeting of the League of Women Voters and this organization wishes to support the proposed rate increase. This, they felt, will be more cost effective than to have to make costly repairs in the future.

Mr. Frank "Matt" Matthews, III, 828 11th Avenue,said he knew this would be an extremely difficult vote. He explained that he had spoken with a good friend, Richard Jemiola, who now lives in Virginia. The former Colonel with the Huntington District Corps of Engineers reminded him of the time he was in ROTC at Marshall University. They had been taught to be very decisive, confident in their decisions and to use extreme prudence. Matt hoped council Members would use good judgment and not let any political agendas influence the vote. He also hoped members would seriously consider the impact of their vote for the future of the City of Huntington.

Mr. Gray Hampton, 1207 Kanawha Terrace, said he had over many years depended upon the city to care for his needs, i.e., to provide police, fire protection as well as sanitary sewers. He did not feel there is much of a choice. He had worked with citizens on fixed incomes; he hoped there would ge a way to help these people. However, he felt it to be extremely important to take action before it is too late.

Chairman Patterson, bringing the discussion to a close, reiterated former comments that this issue has been extremely difficult for Council members. He urged all members to consider the issue carefully.

✓ Motion to adopt this Ordinance carried seven (7) yeas; four (4) nays - Bailey, Ellis, Jackson, Ritter.

Chairman Patterson at this point called for a 10-minute recess (at 9:55).

Reconvening at 10:05 p.m., Chairman Patterson called for item no. 9 on the agenda. He noted that Councilmember Maass, who was not feeling well, left the Chambers.

1ST READ ORD RE: AMENDING ARTICLE 190.03 REGARDING ATTENDANCE REQUIREMENTS

First Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 190 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED, BY AMENDING, MODIFYING AND RE-ENACTING SECTION 190.03 REGARDING ATTENDANCE REQUIREMENTS.

Motion by Councilman Ellis, the sponsor, seconded by Councilman Ritter, to amend the ordinance to read, under paragraph (b), "No individual except those elected officials shall be permitted to serve on two or more boards, agencies or commissions that have the ability to incur debt.

Mayor Dean asked which agencies or boards could actually incur any debts.

Mr. Ellis answered that the Huntington Municipal Development Authority and the Huntington Urban Renewal Authority both incur debts. He believed there were enough citizens who would be willing to become members of the various boards rather than to keep appointing the same people.

Councilman Cline asked if this would not constitute discriminatory practices. This would be limiting who could serve on the boards. There are people who have expertise in

Councilman Kent said he felt that on certain boards there should not be multiple memberships; however, the approach to this is too broad.

1ST READ ORD RE: AMENDING ARTICLE 190.0: REGARDING ATTENDANCE REQUIREMENTS - CONT.

The motion to amend carried nine (9) yeas; one (1) nay - Cline; one (1) absent - Maass.

Councilman Kent said he felt this was too broad for the intended purpose and he saw no relevance to paragraph (a). He felt there is a problem with two boards -- that issue should be addressed.

Mayor Dean asked that the city attorney confirm that paragraph (a) is already in the Charter.

Mrs. Jendonnae Houdyschell said that was true; however, she had included it since if someone were looking for "eligibility" he or she would find both provisions together.

Mayor Dean pointed out that she has never been unwilling to listen to suggestions for appointees from Council members. She felt this situation could have been resolved in another manner.

Councilman Ellis said this had nothing to do with the Mayor, on a personal basis. He merely felt this would take care of any problems in the future.

Councilman Cline reiterated his former comments about certain individuals who have expertise in specific areas. He recalled it having been difficult to find an engineer who was willing to serve on the Sanitary Board. What if there were a requirement for an engineer, accountant, etc. to serve on more than one board and there were few engineers, accountants, etc. who were willing to serve.

Councilmember Neely said that Mayor Dean had asked for recommendations and one of the people she had recommended was on the agenda for appointment at this meeting.

Councilman Ellis agreed that the Mayor had asked for recommendations but he still felt there was an entire city from which to select and the membership should not be limited to a few people.

Councilman Ritter said he had never seen it advertised that the city is looking for citizens to serve. The public should be made aware of the need. He did not think the same people should sit on the same boards, especially those that spend millions of dollars.

Mayor Dean said she hoped it would be made clear that this issue is not under discussion because it is felt there is a lack of integrity with certain individuals on the boards.

Mr. Ritter said "absolutely not."

THIS ORDINANCE WAS ADVERTISED.

First Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR THE ANNUAL REQUIREMENT OF SODIUM CHLORIDE (ROCK SALT) FOR THE CITY OF HUNTINGTON.

1ST READ ORD RE: AUTHORIZING CONTRACT FOR ANNUAL REQUIREMENT OF ROCK SALT.

Mayor Dean deferred to the Purchasing Director, Mr. Darryl Miller.

Mr. Miller explained that the low bid was submitted by Central Salt of Overland Park, Kansas, in the amount of $31.64/ton. Salt will be purchased, as needed. Last year the city purchased 302 tons at a cost of $10,011.

Councilmember Neely asked how much salt was left over from last year.

Mr. Miller answered that the city has approximately 100 tons from last winter.

THIS ORDINANCE WAS ADVERTISED.

First Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING MAYOR JEAN DEAN TO ENTER INTO AN AGREEMENT FOR ADDITIONAL ENGINEERING SERVICES FOR THE ORCHARD AVENUE SEWER EXTENSION PROJECT.

1ST READ ORD RE: AUTHORIZING MAYOR TO ENTER INTO AN AGREEMENT FOR ADDITIONA ENGINEERING SERVICES FOR ORCHARD AVENUE SEWER EXTENSION PROJECT

Mayor Dean stated that this will be a Community Development project for the sewer extension. Engineering firms were interviewed, after advertisements were placed. L. Robert Kimball & Associates was the firm selected.

Councilman Cline asked what funds will be used.

Mayor Dean explained that while it is a Sanitary Board project, the funding will come from CDBG funds.

Councilmember Neely said she was extremely pleased to see this since the sewer extension is definitely needed.

Councilman Polan asked if this project were competitively bid.

Mayor Dean replied that it was not competitively bid since that is not required for engineering and architectural services. It was done in compliance with Chapter 5 (g) of the State Code whereby advertisements are placed, the firms which apply are interviewed, one is selected and the fee is negotiated. If this cannot be accomplished with the first choice, then the Sanitary Board would move down to the second choice.

1ST READ ORD RE: AUTHORIZING MAYOR TO ENTER INTO AN AGREEMENT FOR ADDITIONAL ENGINEERING SERVICES FOR ORCHARD AVENUE SEWER EXTENSION PROJECT - CONT.

Mr. Polan asked how many bids were received.

The executive director of the board, Mr. Bob Trocin, said there were responses from five firms. Three of those were interviewed.

Mr. Polan asked if L. Robert Kimball has an office in West Virginia.

The Public Works Director, George McClennen, advised there is an office of L. Robert Kimball in Charleston, WV.

Mr. Polan asked if there were any engineering firms in West Virginia capable of doing this kind of work. He asked how the project was advertised.

Mr. Trocin said there were two advertisements in newspapers of general circulation. There were five responses.

THIS ORDINANCE WAS ADVERTISED.

WAIVE THE RULES

WAIVE THE RULES

Motion by Councilman Bobersky, seconded by Councilman Kent, to Waive the Rules in order to hear an additional item, an ordinance authorizing the Mayor to enter into an agreement between the City and the Tri-State Transit Authority.

The motion carried ten (10) yeas; zero (0) nays; one (1) absent - Maass.

1ST READ ORD RE: AUTHORIZING MAYOR TO ENTER INTO AN AGREEMENT BETWEEN THE CITY AND THE TRI-STATE TRANSIT AUTHORITY.

First Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF HUNTINGTON AND THE TRI-STATE TRANSIT AUTHORITY.

Mayor Dean, referring to the intermodal facility to be developed on the Superblock, explained that the Tri-State Transit Authority will be receiving federal highway administration funds. Since the City, the Parking Board, HURA and the developer will be involved as well, this agreement allows the City to work with the Transit Authority.

Chairman Patterson asked why Council needed to hear the item this evening.

Mayor Dean said the City must move along quickly with the project; she believed the engineering was already underway.

Councilman Polan, looking at the agreement, asked from what source the city will find its matching 20%.

Mayor Dean answered that the state will provide that money.

Mr. Polan asked if that will require legislative appropriation.

Mayor Dean said she believed it would be coming through the Department of Highways' budget.

Mr. Polan, considering the remote possibility that this might not happen, asked what the city would then do.

Mayor Dean replied it would not come from the General Fund and if that were to happen (which she did not feel would take place) there would have to be a contingency plan.

Mr. Polan asked if there were a contingency plan.

Mayor Dean said there was not one, at this point.

Referring to another section of the agreement, Mr. Polan asked if the agreement covered the construction, design and engineering.

Mayor Dean advised that, in a sense, it does; however, this is merely the agreement between the City and the Transit Authority to work together.

Mr. Polan asked if there were a threshold, above which Council would review the expenditures. Or, would this be the only time Council would be considering this matter?

Mayor Dean deferred to the director of the Authority, Mrs. Vicki Shaffer.

Mrs. Shaffer, in response to Councilman Polan's question, said she felt the issue would be coming back to Council. She believed that since there is a local share of funds that it would have to return to Council. The Transit Authority is the grant recipient and the board would then award contracts for construction. These awards will be subject to approval by the review team, which involves the city departments. City Council is not directly involved, however, in the review team.

Mayor Dean expressed her opinion that the $6,000,000 coming from the state would come to the city. Therefore, it would come to Council for the acceptance of those monies. Continuing, Mayor Dean explained that any construction contract in excess of $5,000 from the General Fund or from CDBG funds would return to Council. However, with reference to this issue, the questions posed have not been discussed. The city will have to abide by the regulations of the FTA.

Mr. Polan asked if, aside from those regulations, there would be a requirement for Council approval. Or would Council approve the matter initially and the different boards, review teams, etc. make the decisions on spending funds.

1ST READ ORD RE: AUTHORIZING MAYOR TO ENTER INTO AGREEMENT BETWEEN THE CITY AND THE TRI-STATE TRANSIT AUTHORITY - CONT.

Mayor Dean said she was not saying that since the issue had not been discussed.

Mrs. Shaffer said the agreement says that the contracts will be awarded by the TTA board because that board has all the liability for the expenditure of the funds.

The City Attorney pointed out that the agreement does say that any and all commitments by the city shall be subject to the approval of Council before becoming an obligation of the city.

Mrs. Shaffer assured Mr. Polan that the Transit Authority would not spend federal funds in advance of a local share.

Councilman Cline felt this to be a good idea; however, he wanted it known that the individuals serving on the involved boards already serve on other boards.

Councilman Kent asked for clarification from Mrs. Shaffer. He asked for confirmation that if the state would not provide the city with its share that the city would not be obligated to find the money, from another source.

Mrs. Shaffer said that was correct.

Councilman Ritter said the agreement also contained a statement which said that if there were any excess costs the city would be responsible. He asked if it were anticipated there would be some excess costs.

Mrs. Shaffer said this was merely a method to make clear that if there were any additions to the facility, not funded by the federal monies, the costs would be the city's responsibility.

Mr. Ritter asked what was wrong with the present facility on 4th Avenue.

Mrs. Shaffer said there is nothing wrong with it; however, there are plans for the Greyhound station to be used as a coordinating center for all of the services provided for the senior citizens and those who are handicapped.

THIS ORDINANCE WAS ADVERTISED.

WAIVE THE RULES

WAIVE THE RULES

Motion by Councilman Kent, seconded by Councilmember Neely, to waive the rules to hear an ordinance which considers renaming the 500 and 600 block of Elm Street.

The motion to waive the rules carried ten (10) yeas; zero (0) nays; one (1) absent - Maass.

First Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AND THE MAYOR RENAMING THE 500 AND 600 BLOCK OF ELM STREET WITHIN THE CITY OF HUNTINGTON TO JOHN MARSHALL DRIVE.

1ST READ ORD RE: RENAMING 500 AND 600 BLOCK OF ELM STREET AS JOHN MARSHALL DRIVE.

The sponsor, Dr, Kent, explained that after the unveiling of the statue of John Marshall there was a suggestion that Elm Street be renamed John Marshall Drive since the statue now stands at the end of Elm Street.

Mayor Dean said the request had come from the university, adding that the statue is quite remarkable.

The City Attorney said the ordinance had been drafted in haste and as a result there appeared to be a few mistakes that should be, by a motion to amend, corrected.

Motion by Councilman Kent, seconded by Councilmember Neely, to have certified copies sent to the U. S. Post Office, the Department of Highways, Marshall University, and members of John Marshall's family; additionally the word "resolution," where it appears, shall be changed to "ordinance."

The motion carried ten (10) yeas; zero (0) nays; one (1) absent - Maass.

THIS ORDINANCE WAS ADVERTISED.

WAIVE THE RULES

WAIVE THE RULES

Motion by Councilman Bobersky, seconded by Councilman Kent, to waive the rules to hear another item concerning an agreement with Burgess & Niple, engineers and architects for services at the Huntington Business and Technology Park.

This item was on the agenda as a resolution. It should have been an ordinance; therefore the rules needed to be suspended in order to do this.

The motion carried ten (1) yeas; zero (0) nays; one (1) absent - Maass.

1ST READ ORD RE: AUTHORIZING MAYOR TO ENTER INTO AGREEMENT WITH BURGESS & NIPLE FOR ENGINEERING AND ARCHITECTURAL SERVICES

First Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH BURGESS & NIPLE, LIMITED, ENGINEERS AND ARCHITECTS, FOR ENGINEERING AND ARCHITECTURAL SERVICES AT THE HUNTINGTON BUSINESS AND TECHNOLOGY PARK.

Mayor Dean deferred to Mrs. Judy Rose, Department of Development, for an explanation.

Mrs. Rose explained that this 95-acre tract of land is at the intersection of Route 10 and I-64. This site will become a business park, as an entry-way into the city. The contract will permit the city to move forward with a full engineering design. After advertising for engineering services, 10 responses were received. Four firms were interviewed, and the recommendation was to award the contract to Burgess & Niple.

Councilman Polan said the agreement refers to an amount to be shared with the Huntington Area Development Council.

Mrs. Rose said there is a joint endeavor with HADCO, similar to what took place with the Huntington Industrial Center. The Council has agreed to share in the engineering costs, up to $70,000. The city will put its money in first and HADCO will add its money after January 1999.

Councilman Polan asked if the city's share is already contained in the Huntington Municipal Development Authority's budget.

Mayor Dean said the money is in the city's General Fund budget.

Councilman Kent asked, for the record, if the drainage problems will be thoroughly investigated. There are many people who are concerned about the runoff into Four Pole Creek.

Mayor Dean confirmed that this will take place. One of the prime concerns is the flood control. If it would be determined there are problems, the city would not proceed with the project. She did, however, feel after discussions with the Corps of Engineers that it can be controlled.

Councilman Polan asked if there is a contractual relationship and in what amount.

Mayor Dean said there has not been a contract let at this point.

THIS ORDINANCE WAS ADVERTISED.

RESOLUTION RE: APPROVING SALE OF LAND AT THE HUNTINGTON INDUSTRIAL CENTER

Resolution re: A RESOLUTION OF COUNCIL APPROVING THE SALE BY THE HUNTINGTON DEVELOPMENT AUTHORITY OF LAND AT THE HUNTINGTON INDUSTRIAL CENTER.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that the Council does hereby APPROVE the sale by the Huntington Municipal Development Authority of land at the Huntington Industrial Center. A copy of the Contract of Sale by and between the Huntington Municipal Development Authority and The Arbor Investment Company is attached hereto and made a part of this Resolution.

Motion made by Councilman Kent, seconded by Councilmember Neely, to adopt this resolution. No vote was taken at this time.

Mayor Dean stated that the Arbor Investment Company of Georgia wishes to construct an assisted living facility on slightly less than three acres of land to the south of the Huntington Industrial Center. She noted that Mr. Parker Ward has been working with the company. This resolution will approve the purchase of the land for $400,000.

Councilman Ritter asked if it had been before the Board of Zoning Appeals.

Mayor Dean said that after this is approved it will go before the Planning Commission and then, if approved, before the zoning board for rezoning.

Mr. Parker Ward, 232 11th Avenue, explained that the front section of the facility will be on the Memorial Boulevard side. The entrance will be from the West 7th Street side since the park property must be maintained.

Councilman Bobersky asked for confirmation of the purchase price, $400,000, and the number of rooms.

Mr. Ward said the price is correct and there will be 63 residential suites, consisting of either one or two bedrooms. There will be a restaurant, beauty parlor, recreation facilities, etc. It will employ approximately 50-60 people.

Councilman Polan asked for a profile of the residents and what the monthly fee would be.

Mr. Ward said this will accommodate people who have planned for their retirement years, and the monthly rent will be approximately $2,500 to $3,000. There is no money required to move in. He noted the company has been very successful with 14 facilities, around the country.

Mr. Polan said this appeared to be a little less cost-wise than a skilled nursing home. He also asked if there were any third-party reimbursement.

Mr. Ward said there are skilled people to assist individuals, and they, in turn, work with the family to make the right decisions to move the person to the next skilled facility. There is no third-party reimbursement.

Mr. Polan questioned if there were many people in the community who could afford this type of facility.

RESOLUTION RE: APPROVING SALE OF LAND AT THE HUNTINGTON INDUSTRIAL CENTER - CONT.

Mr. Ward said studies have been conducted, and it appears that there are people who can afford this.

Mr. Polan asked who negotiated the price.

Mr. Ward said the management of HADCO was approached and over several months they provided an asking price. He then, as a realtor, along with HADCO conducted some studies to come up with a fair market price. That offer was submitted, a counter price was made and the purchasers accepted the counter price.

Councilman Ritter said he wished to make sure a resolution was the correct vehicle for this issue.

Mayor Dean said this is actually approving an action of the Huntington Municipal Development Authority.

Motion to adopt this resolution carried ten (10) yeas; zero (0) nays; one (1) absent - Maass.

Resolution re: A RESOLUTION OF COUNCIL AND THE MAYOR RECOMMENDING AND SUPPORTING RENAMING THE HUNTINGTON CABELL WAYNE ANIMAL CONTROL SHELTER TO THE HUNTINGTON CABELL WAYNE ANIMAL CONTROL SHELTER PATRICIA F. THOMAS CENTER.

RESOLUTION RE: RENAMING H-C-W ANIMAL CONTROL SHELTER FOR PATRICIA F. THOMAS

WHEREAS, the Council and the Mayor wish to pay tribute to Patricia F. Thomas for her twenty-seven (27) years of dedicated service to the citizens of the City of Huntington, Cabell County and Wayne County as the Director of the Huntington-Cabell-Wayne Animal Control Shelter; and

WHEREAS, the Council and the Mayor are desirous of recognizing Patricia F. Thomas for her diligent efforts, loyalty to the patrons of the Animal Control Shelter and kindness, compassion and love for the animals at the Animal Control Shelter; and

WHEREAS, the Council and the Mayor recommend and support renaming the Huntington-Cabell-Wayne Animal Control Shelter in honor of Patricia F. Thomas for her dedication to the City of Huntington and her commitment and hard work to provide the City of Huntington with a quality animal control shelter.

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 do hereby RECOMMEND and SUPPORT that the Huntington-Cabell-Wayne Animal Control Shelter be renamed as the "Huntington-Cabell-Wayne Animal Control Shelter patricia F. Thomas Center."

BE IT FURTHER RESOLVED that, upon the adoption of this resolution by the Council and its approval by the Mayor that a certified copy of this Resolution be sent to the President of the Cabell County Commission, the President of the Wayne County Commission and the Huntington-Cabell-Wayne Animal Control Shelter Board for further action upon the same.

Motion by Councilman Bailey, seconded by Councilman Polan, to adopt this Resolution. No vote taken at this time.

Mayor Dean advised that Mrs. Thomas, the director of the shelter, will retire at the end of this month. Both Cabell and Wayne counties have passed resolutions supporting renaming the shelter in honor of Mrs. Thomas.

Councilman Polan said he thought this to be an excellent idea; however, he had never heard of her referred to as "Patricia." He had always known her as "Pat." Had anyone asked her which she preferred?

Mayor Dean, understanding his comments, said the other two entities had adopted similar resolutions and she did not know if they had contacted Pat to ask her which she preferred.

Motion to adopt this resolution carried ten (10) yeas; zero (0) nays; one (1) absent - Maass.

Full text of resolution concerning appointing members of the Huntington Municipal Economic Development Authority. Records of discussion and adoption of this resolution appear on pages 2-5 of these minutes:

RESOLUTION RE: APPOINTING MEMBERS OF HUNTINGTON MUNICIPAI ECONOMIC DEVELOPMENT AUTHORITY - FULL TEXT

WHEREAS, by Resolution adopted by the Council of the City of Huntington on September 25, 1995, the Huntington Municipal Economic Development Authority was reactivated and initial appointments made thereto, and

WHEREAS, since the initial appointment of members as their relative terms expired, members have been appointed or re-appointed through the "confirmation of appointment" process at various times including, but not limited to, November 25, 1996, September 22, 1997, February 23, 1998 and September 14, 1998; and

WHEREAS, an issue has arisen as to the validity of these appointments inasmuch as they were appointed under the "conformation of appointment" process: appointed by the Mayor and confirmed by the Council; and

RESOLUTION RE: APPOINTING MEMBERS OF HUNTINGTON MUNICIPAL DEVELOPMENT AUTHORITY - FULL TEXT CONT.

WHEREAS, it was the intention of the City Council by confirming the appointments of these members to the Huntington Municipal Economic Development Authority to appoint members to this body; and

WHEREAS, it is the desire of the Council to eliminate any and all concerns raised due to the manner in which appointments have been made to the Huntington Municipal Economic Development Authority,

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that this Council does hereby APPOINT, upon the Mayor's recommendation, the following persons to the Huntington Municipal Economic Development Authority to continue to serve for the terms under which they are currently serving:

Business Representatives:

Huey Perry
West Virginia Building
910 Fourth Avenue
Huntington, West Virginia 25701
(304) 522-3577
Appointed: November 25, 1996
Expiration: November 25, 1999

Vicki Shaffer
Tri-State Transit Authority
Post Office Box 7965
Huntington, West Virginia 25779
(304) 529-6094
Appointed: September 25, 1995
Expiration: September 14, 2001

Ron Smith
Chili Willi's Mexican Cantina
841 Fourth Avenue
Huntington, West Virginia 25701
(304) 529-4857
Appointed: September 22, 1997
Expiration: September 22, 2000

Industry Representatives:

Phil Emmons
1314 12th Street
Huntington, West Virginia 25701
(304) 523-2272
Appointed: November 25, 1996
Expiration: November 25, 1999

Bob Trocin
103 Whitaker Boulevard
Huntington, West Virginia 25703
(304) 525-1907
Appointed: September 25, 1995
Expiration: September 14, 2001

Labor Representatives:

Charles A. Spurlock
3714 Third Avenue
Huntington, West Virginia 25702
(304) 523-8125
Appointed: November 25, 1996
Expiration: November 25, 1999

Sherman Nicholas
2905 Winters Road
Huntington, West Virginia 25702
(304) 525-7886
Appointed: September 22, 1997
Expiration: September 22, 2000

City Council Representative:

Phil Cline
11 Parkway Drive
Huntington, West Virginia 25704
(304) 525-8339 (home) (800) 283-2479 (work)
Appointed: September 22, 1997
Expiration: September 22, 2000

Additional Representatives:

Mayor Jean Dean
The City of Huntington
Post Office Box 1659
Huntington, West Virginia 25717-1659
(304) 696-4496
Appointed: September 22, 1997
Expiration: September 22, 2000

David L. Harrington, Jr.
The City of Huntington
Post Office Box 1659
Huntington, West Virginia 25717-1659
(304) 696-4496
Appointed: September 25, 1995
Expiration: September 14, 2001

John Speer
706 Ridgwood Road
Huntington, West Virginia 25701
(304) 525-2244 (home) (304) 525-4357 (work)
Appointed: February 23, 1998
Expiration: November 25, 1999

Dr. J. Wade Gilley
1040 Thirteenth Avenue
Huntington, West Virginia
(304) 529-7956 (home) (304) 696-2300 (wk)
Appointed: September 25, 1995
Expiration: September 14, 2001

W. Don Smith
58 Mayfair Way
Huntington, West Virginia 25701
(304) 523-9122 (home) (304) 526-2052 (work)
Appointed: September 25, 1995
Expiration: October 13, 2000

Confirmation of Appointment to: HUNTINGTON PLANNING COMMISSION

CONFIRMATION OF APPT. TO HUNTINGTON PLANNING COMMISSION

Motion by Councilman Ritter, seconded by Councilmember Jackson, to confirm the appointment of Richard Thompson to a three-year term. No vote was taken at this time.

Mayor Dean said a term of office is expiring on the commission. Before making the appointment, she noted that she reviewed the address of each member. She learned that one member lives in Altizer, one in Guyandotte, two in Fairfield West and four in the Southside. Finding none from Westmoreland she specially sought someone from that section of town. She added that, in view of the recent discussions, she had also learned that the appointments are made by the administrative body and Council confirms the appointment.

Councilman Cline said he would highly recommend the appointment; however, he pointed out that Mr. Thompson also sits on the Airport Authority.

Motion to confirm Mr. Thompson carried ten (10) yeas; zero (0) nays; one (1) absent - Maass.

Confirmation of Appointment to: HUNTINGTON HUMAN RELATIONS COMMISSION

CONFIRMATION OF APPT. TO HUNTINGTON HUMAN RELATIONS COMMISSION

Motion by Councilmember Neely, seconded by Councilman Bailey, to confirm the appointment of Mrs. Sharon Neff Hampton to a three year term. No vote was taken at this time.

Mayor Dean stated that Mrs. Hampton was suggested to her by Councilmember Neely. She advised the appointments are made by the administration and confirmed by City Council.

Motion to confirm Mrs. Hampton's appointment carried ten (10) yeas; zero (0) nays; one (1) absent - Maass.

Confirmation of Appointment to: BOARD OF PLUMBING EXAMINERS

Motion by Councilman Ellis, seconded by Councilman Kent, to confirm the appointment of Mr. Edgar Holstein to a two-year term. No vote was taken at this time.

Mayor Dean pointed out that the Mayor makes the appointments to this board with the approval of Council. Mr. Holstein will be serving his second term.

Councilman Polan asked if Mr. Holstein would meet the 40% requirement.

Councilman Ellis said Mr. Holstein attends all the meetings.

Councilman Cline asked if this appointment required plumbing experience, and if so did Mr. Holstein have that experience.

Mayor Dean explained that the board is comprised of one master plumber, one journeyman plumber and one resident member. Mr. Holstein is the latter.

Councilman Ellis commented that Mr. Holstein has read the code book, has discussed the issues extensively and is well read on the matters.

Motion to confirm Mr. Holstein's appointment carried ten (10) yeas; zero (0) nays; one (1) absent - Maass.

GOOD & WELFARE

GOOD & WELFARE

Councilman Bobersky said he had received several phone calls to thank the city for having paved streets in Guyandotte.

Mayor Dean commented that she was happy to see this done and had received expressions of appreciation from other citizens as well. She mused as to what might be done if there were a street and/or infrastructure levy.

Councilman Ritter said he attended a service at Reverend Harper's church in Guyandotte for all candidates and that it was a good experience. He then invited everyone to a soccer game on Tuesday between Cabell Midland High School and St. Joe High School.

Mrs. Mattie Moore, 822 15th Street, asked if the turn signal lights could be returned to the traffic signal light on 9th Avenue and Hal Greer Boulevard. She also asked that a tree be removed on the corner of Primrose Avenue and 15th Street. It is a safety hazard. And finally there are a number of trees on 8th Avenue as one enters it from 15th Street. These trees are obstructing the view of motoriests and are very dangerous. They should either be removed or trimmed extensively.

Hearing no other business to come before Council, the Chairman adjourned the meeting at 11:40 p.m.

LARRY D. PATTERSON, CHAIRPERSON

AFFIDAVIT OF PUBLICATION

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

I, Linda Waddell 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 843 was duly published in

The Herald-Dispatch

one time, once a week for 2 successive weeks, commencing with its issue of the 25 day of May, 19 99, and ending with the issue of the 1 day of June, 19 99, and was posted at the EAST DOOR OF THE CABELL COUNTY COURTHOUSE on the 25 day of May, 19 99: that said legal advertisement was published on the following dates: May 25 and June 1, 1999; that the cost of publishing said annexed advertisement as aforesaid was 169.32; 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 that 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.

Linda Waddell

Taken, subscribed and sworn to before me in my said county this 3rd day of June, 19 99.

My commission expires 1-24-2000

OFFICIAL SEAL
Notary Public, State of West Virginia
RUTH A. ADKINS
Rt. 1 Box 70-A
West Hamlin, WV 25571
My Commission Expires January 24, 2000

Ruth Adkins

25

Notary Public
Cabell County
West Virginia

NOTICE

THE CITY OF HUNTINGTON
NOTICE OF PUBLIC HEARING ON
SEWER REVENUE
BOND ORDINANCE

A public hearing will be held on the following-entitled Ordinance at a regular meeting of the Council of The City of Huntington (the "City") to be held on June 14, 1999, at 7:30 p.m., in the Council chambers at the Huntington City Hall, 800 Fifth Avenue, Huntington, West Virginia, and at such hearing any person interested may appear before the Council and present protests, and all protests and suggestions shall be heard by the Council and it shall then take such actions as it shall deem in the premises upon an Ordinance entitled:

ORDINANCE AUTHORIZING THE ACQUISTION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF HUNTINGTON AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $2,1000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1999 (WEST VIRGINIA SRF PROGRAM): PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

The above-entitled Ordinance was adopted by the Council on May 24, 1999.

The above-quoted title of the Ordinance describes generally the contents thereof and the purposes of the Bonds contemplated thereby. The City contemplates the issuance of the Bonds described in said Ordinance. The proceeds of the Bonds will be used to provide permanent financing of the costs of acquistion and construction of additions, betterments and improvements to the existing public sewerage facilities of the City. The Bonds are payable solely from revenues to be derived from the ownership and operation of the sewerage system of the City. No taxes may at any time be levied for the payment of the Bonds or the interest thereon.

A certified copy of the above-entitled Ordinance is on file with the Council at the office of the City Clerk of the City for review by interested parties during regular office hours.

Following said public hearing, the Council intends to enact said Ordinance upon final reading.

Dated: May 25, 1999.
s/s JEAN DEAN
Mayor

LH-843 5-25-99
6-1-99

S Y N O P S I S
HUNTINGTON CITY COUNCIL
May 10, 1999

The May 10, 1999 Huntington City Council meeting convened at 7:30 p.m. with Chairman Patterson presiding.

The Invocation was given by Councilman Kent and the Pledge of Allegiance was led by Councilman Bobersky.

All members of Council were present. Mayor Dean was out of the city. Mr. David Harrington, Acting Mayor, served in the Mayor's stead. Mrs. Jendonnae Houdyschell, City Attorney and Ann Shaye, City Clerk were also present.

Councilman Kent made a motion to approve the synopsis as submitted; seconded by Councilman Bailey.

The synopsis was approved by unanimous consent.

Mr. Harrington distributed the financial statement for the Huntington Sanitary Board for the period ending February 28, 1999.

Second Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 1211 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED, REGARDING THE PROPERTY MAINTENANCE CODE.

Councilman Ellis made a motion for adoption; seconded by Councilman Cline.

Mr. Harrington explained that this was simply to correct an error that was made when the code was adopted some months ago. Three sections were inadvertently omitted. This will correct that.

The ordinance was adopted. (10 yeas; 0 nays)

Second Reading of an Ordinance re: AN ORDINANCE OF COUNCIL PROVIDING THAT THE GEOGRAPHICAL AREA INCLUDED IN THE LIMITS OF THE CITY OF HUNTINGTON BY MINOR BOUNDARY ADJUSTMENT BY ORDER OF THE COUNTY COMMISSION OF CABELL COUNTY, WEST VIRGINIA, ENTERED ON THE 6TH DAY OF APRIL, 1999, SAID AREA BEING CERTAIN REAL PROPERTY OWNED BY CHRISTOPHER DAVID HUTCHINSON AND PEGGY JEAN HUTCHINSON, LOCATED IN HUNTINGTON-GUYANDOTTE DISTRICT, CABELL COUNTY, WEST VIRGINIA, BE REMOVED FROM MUNICIPAL ELECTION DISTRICT 31 IN THE CITY OF HUNTINGTON.

Councilman Bobersky made a motion for adoption; seconded by Councilmember Jackson.

Mr. Harrington stated that this will be the final act on property that was de-annexed. This will remove it from the election district into which it was placed.

The ordinance was adopted. (10 yeas; 0 nays)

Second Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING MAYOR JEAN DEAN TO ENTER INTO A CONTRACT FOR THE PURCHASE OF ONE VEHICLE MOUNTED SEWER TELEVISION AND GROUTING SYSTEM FOR THE HUNTINGTON SANITARY BOARD.

Councilmember Maass made a motion to adopt; seconded by Councilman Bobersky.

Mr. Harrington advised that the adoption of this ordinance will permit the award of a contract to Cues, Inc. from Orlando, Florida in the amount of $197,587.

The ordinance was adopted. (10 yeas; 0 nays)

Second Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE CORPS OF ENGINEERS TO COVER THE HUNTINGTON SANITARY BOARD'S SHARE OF THE 25TH STREET RIVER BANK STABILIZATION PROJECT.

Councilman Ellis made a motion to adopt; seconded by Councilman Kent.

Mr. Harrington explained that the City will work with the Corps of Engineers on this project. He advised the director of the Sanitary Board, Mr. Robert Trocin, was present for any questions.

Councilman Kent asked when the project would be completed.

Mr. Robert Trocin answered that it will be completed in September of this year.

The ordinance was adopted. (10 yeas; 0 nays)

Second Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO CONTRACTS TO FURNISH THE CITY OF HUNTINGTON WITH PERSONAL COMPUTERS AND RELATED PERIPHERAL EQUIPMENT.

Councilmember Jackson made a motion to adopt; seconded by Councilman Bobersky.

Mr. Harrington stated that this will permit the award of a contract to Dell Computer Corporation in an amount

not-to-exceed $50,000 over the next year. The price under the state contract was more expensive.

The ordinance was adopted. (10 yeas; 0 nays)

Second of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE HUNTINGTON MUNICIPAL PARKING BOARD TO CONSTRUCT, ESTABLISH AND ACQUIRE PROPERTY FOR THE DEVELOPMENT OF A NEW PARKING LOT TO BE LOCATED IN THE 800 BLOCK OF 5 1/2 ALLEY.

Chairman Patterson advised that due to a "mix-up" at the newspaper, the ordinance was not advertised properly. Because of this the ordinance will be postponed until the next scheduled meeting. However, there will be discussion about the issue.

Councilman Kent made a motion to adopt; seconded by Councilman Bobersky.

Mrs. Mary Hodges, 540 N. Inwood Drive, stated that she has owned, since 1976, a building at 819-821 Sixth Avenue. This is across the avenue from the proposed parking lot. About four years ago, Mrs. Hodges explained she was having many problems with the building, e.g., the windows were being broken out, debris was being scattered around the building. In an attempt to improve the conditions, she purchased a building on the north side of Sixth Avenue which had been a bar, operating into the early hours of the morning. The day of the closing she went to City Hall in an endeavor to purchase the property where the sign shop is located. Her intent was to clear it, construct a parking lot for the public. She was told there was not a satisfactory location for the sign shop to move to. Further, she has kept in touch since 1995 because the city's building has caused many problems for her. The roof is flat on the shop and caused drainage into her building, after a hard rain. To resolve this, she paid for a drain that was installed across the sign shop in order to redirect the water. She did not feel the parcel (no. 160 on the map) is needed for the proposed parking lot. She hoped Council would exercise good judgment.

Councilman Ritter asked when she had attempted to purchase parcel no. 161.

Mrs. Hodges replied on July 22, 1995. Since then she has talked with Mayor Dean and Mr. Harrington on many different occasions.

Councilman Kent asked if she would still be interested in acquiring the property and putting in a parking lot on her own.

Mrs. Hodges answered "yes sir, I would."

Councilmember Maass asked where her parking lot was located.

Mrs. Hodges said it is located at 823 Sixth Avenue, on the south side of Sixth Avenue.

Councilman Polan asked if she paid property taxes on her property as well as the city B&O taxes.

Mrs. Hodges said that she does.

Miss Hazel Parker, 1115 22nd Street, asked if the property Mrs. Hodges would like to purchase belongs to the City of Huntington.

Chairman Patterson answered that it does.

Miss Parker said she believed that in such a case it must be by public auction so that all citizens have an opportunity. Will there be an auction?

Mr. Harrington explained the plan within the ordinance provides for the purchase of property, not for the sale of property.

Councilman Ritter asked the appraised value of parcel no. 161.

Mr. Harrington answered that disclosing the amount might hamper the negotiations.

Mr. Wilburn Bias, Lesage, WV, said he owns parcel no. 158 on the map. He asked "what is going on?" He said no one has told him anything, adding that an appraiser had been on his property about four or five months ago. He asked for a copy of the appraisal and was told he could not have it. Mr. Bias said he felt, that since he had entered his property without any letter, permission to do so, etc., he should be provided with a copy of the appraisal.

Mr. Harrington said appraisals belong to the party who has paid for the appraisal.

Mr. Bias said "no they don't - not when you appraise it without giving me a letter. The court says I can get it."

Mr. Harrington said he would be happy to speak with him after the meeting.

Councilman Bailey asked if he had ever had his property appraised.

Mr. Bias stated that he had and that his appraisal was higher.

Councilman Polan asked if he had said that no one had approached him, from the city, to talk about his property.

Mr. Bias answered "no sir, the only person that has ever talked to me is John Hankins, the lawyer."

Mr. Polan asked if Mr. Hankins was representing himself.

Mr. Bias said he was representing himself, not the city or the parking board.

Mr. Polan asked if he had not heard anything from the Huntington Municipal Parking Authority.

Mr. Bias said "no sir, I have not."

Mr. Polan asked who the appraiser indicated he was representing, the parking authority?

Mr. Bias said "yes, I turned him away once and he come back a week later."

Mr. Polan said he would ask the same question of Mrs. Hodges when given the opportunity.

Chairman Patterson asked Mrs. Hodges to return to the microphone.

Councilman Polan asked her if anyone from the municipal parking authority had discussed with her the possible acquisition of her property.

Mrs. Mary Hodges, 540 N. Inwood Drive, replied "no sir, but Mr. Hankins has contacted me."

Mr. Polan commented that it appeared she was getting her information in the same manner Council was, from the newspaper.

Mrs. Hodges answered that she was, and from the street talk, "everyone in town knows what is going on, except me."

Councilman Kent made a motion to postpone the ordinance until the next scheduled meeting of City Council, May 24; seconded by Councilman Bobersky.

The motion to postpone carried. (10 yeas; 0 nays)

Second Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING SECTION 373.12 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED.

Councilman Bobersky made a motion for adoption; seconded by Councilman Polan.

Councilman Bobersky advised that this, hopefully, would be the last step in revising the ordinance. The most recent revision

was due to a situation with rollerbladers using playground equipment. This will now be prohibited.

The ordinance was adopted. (9 yeas; 1 nay - Cline)

First Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH THE HUNTINGTON CIVIC ARENA WITH REPLACEMENT SEAT CUSHIONS AND BACKS.

Mr. Harrington advised that the enactment of this will provide for the reupholstering of the seat cushions and backs on the existing convention chairs. The chairs are approximately 20 years old. The low bid was received from Custom Upholstering in Huntington at a price of $48,000. The employees will dismantle the seats, send them out for reupholstering and then reattach them when they are returned.

This ordinance will be advertised.

✓ First Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF HUNTINGTON AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $2,100,000 IN THE AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1999 (WEST VIRGINIA SRF PROGRAM), PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS, AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS, APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS, AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

Mr. Harrington said this with will approve entering into funding, through the state's revolving loan fund, for the Guyandotte force main project.

Councilman Ellis wanted it in the record that this is a mandated project.

This ordinance will be advertised.

Resolution re: A RESOLUTION OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH WILLIAM W. JOHNSON.

Chairman Patterson noted that no vote will be taken since this involves a lease agreement and therefore requires that the resolution be placed in the newspaper for legal advertisement.

Mr. Harrington explained that Mr. Johnson has recently purchased the property abutting this section of city property.

He would like to renew the lease a former owner, Terminix, had in place.

Councilman Ellis asked for confirmation as to the proposed use of the property.

This resolution will be advertised.

Resolution re: A RESOLUTION OF COUNCIL AUTHORIZING THE HUNTINGTON MUNICIPAL PARKING BOARD TO ENTER INTO A CONTRACT WITH ARCHITECT EDWARD TUCKER ALONG WITH CO-ARCHITECT WALKER PARKING CONSULTANTS, TO COMPLETE A FEASIBILITY STUDY ON MULTILEVEL PARKING STRUCTURES LOCATED IN THE 800 BLOCK OF FIFTH AVENUE AND THE 800 BLOCK OF SIXTH AVENUE, WITHIN THE CITY OF HUNTINGTON

Councilman Cline made a motion to adopt; seconded by Councilman Bobersky.

Mr. Harrington advised this has resulted from efforts of the parking authority, the Cabell County Public Library and a local professional services firm. The city owns the annex next door to City Hall; the library owns the parking lot between the annex and the library. The firm would like to construct a new three to four story building. They are interested in the front of the parcels along 5th Avenue. The city is interested in exploring the possibility of a multi-level parking deck. In order to determine the feasibility it has been recommended that a feasibility study be conducted. The selected architects will look at this site along with the site on Sixth Avenue. The amount is $35,200.

Councilman Kent asked how this would relate to the other study that would ultimately lead to a bond issue which will include repairing the existing parking facility across from the Civic Arena.

Mr. Harrington explained that the selection committee recommended to the parking board that one of the other firms (RAMP Engineering) be awarded the design renovations on the existing parking garage.

Dr. Kent asked if the plan would be to issue a bond to repair the existing facility and to build the two new facilities.

Mr. Harrington said that if one or more facilities are deemed feasible as a result of the study and a bond issue were to be issued then it would include the costs of renovating the existing garage and also refinancing the balance of the debt on the garage. If the study would indicate it would not be feasible then other alternatives would be sought to pay for repairs to the existing garage.

Dr. Kent asked why it has been proposed to acquire the land on Sixth Avenue before the study is done.

Mr. Harrington said the land-banking is the result of a feasibility study that was completed in December, 1995. The consultant recommended that as lots became available they should be acquired. It did not talk about eminent domain or forced sales. This ordinance does not talk of that; it only addresses negotiated purchases.

Dr. Kent said it appeared to him that the ordinance that was postponed provided not only for the acquisition of land but the building of parking lots as well.

Mr. Harrington said it was talking about surface parking lots. This study will address the feasibility of a garage.

Dr. Kent asked for confirmation that it would not be the expectation that there will be immediate construction of either of the two structures.

Mr. Harrington said that if it is found to be feasible, with respect to the one on 5th Avenue, that the city would want to move forward rather quickly. There is still a lot to be determined about the one on Sixth Avenue, in terms of building a structure.

Dr. Kent asked if the annex and the lot next to City Hall would be put up for auction.

Mr. Harrington said if the parking authority would own the garage then it would be an in-house sale.

Dr. Kent asked if the portion that a professional services firm would occupy would be done by competitive bidding.

Mr. Harrington said there are two options. The city could go through the Development Authority and negotiate a market rate sale or put it out to bid.

Dr. Kent said that would be based on an appraisal of the property (market rate sale) and it would allow only one possible bidder through the Development Authority. It would also require Council's approval.

Mr. Harrington confirmed that to be the case.

Councilman Ellis said that based upon all of the questions, with respect to the Sixth Avenue project, he felt it should be postponed until decisions are made about Sixth Avenue. And, according to what he had heard earlier in the meeting, the people were not interested in selling their property.

Mr. Ellis made a motion to postpone the resolution until the next meeting and after the vote on the 6th Avenue property; seconded by Councilmember Jackson.

Mr. Harrington pointed out that the fee for this service is $35,500 and without the Sixth Avenue site being studied the fee goes down to $31,200. The Sixth Avenue is not a major component. In terms of getting the Sixth Avenue property studied at a reduced rate seemed wise.

Councilman Cline said it appeared to him that both studies should be done now since if one is done now and then it is determined to do another one later the cost will be much higher. The studies are needed regardless of whether or not the projects are done. The study may also say that the project on Sixth Avenue is not feasible.

The motion to postpone carried. (5 yeas; 4 nays - Bobersky, Cline, Maass, Patterson; 1 abstention - Polan)

Resolution re: A RESOLUTION OF COUNCIL AUTHORIZING THE HUNTINGTON MUNICIPAL PARKING BOARD TO PURCHASE PROPERTY FROM ROBSON PRICHARD BUILDING, INC., AND PHOENIX PARK CORPORATION LOCATED AT THE NORTH SIDE OF SIXTH AVENUE BETWEEN EIGHTH AND NINTH STREET WITHIN THE CITY OF HUNTINGTON.

Councilman Kent made a motion to adopt; seconded by Councilman Bobersky.

Chairman Patterson advised that since this issue relates to the ordinance that was postponed, this resolution should also be postponed.

Councilman Kent made a motion to postpone until the next regularly scheduled meeting of City Council; seconded by Councilman Bobersky.

The resolution was postponed. (9 yeas; 0 nays; 1 abstention - Polan)

Appointment to: URBAN FORESTRY ADVISORY COMMITTEE

Councilman Bailey made a motion to appoint Mr. Andrew Borden; seconded by Councilman Ellis.

Mr. Harrington explained that Mr. Borden is a landscape architect for the Huntington District Corps of Engineers and serves as chair of the Public Improvement and Streetscape Committee for Huntington Main Street.

Mr. Borden was appointed by unanimous consent (10 yeas; 0 nays)

GOOD & WELFARE

Councilman Polan asked for an update on the proposed sale of the building in which the police department is currently located.

Mr. Harrington said he had spoken with the legal counsel for Level I Fasteners and learned the city should have a closing date by the end of this week.

Mr. Polan asked what he thought the outside date for the closing might be.

Mr. Harrington said he could not speculate on that.

Mr. Polan said he felt there had been an inordinate amount of time involved since the agreement was entered into and he was not sure there was an end in sight. He asked if there would be any way to expedite the activity.

Mr. Harrington answered that if there were not a date by the end of the week he would be looking at alternative courses of action.

Mr. Polan asked if the company was current on the rent.

Mr. Harrington said it was.

Mr. Polan asked if they had caught up with the back rent.

Mr. Harrington replied that they had, according to the terms of the purchase agreement.

Mr. Polan said that would roll all the back rent into the closing.

Mr. Harrington confirmed that to be the case.

That would mean, Mr. Polan said, that until they close they would never be current on the rent.

Mr. Harrington said that would be a logical assumption.

Mr. Polan's closing remark was "well, I wish you luck"!

Councilman Bailey welcomed Mr. George Malott, former Councilman and Mayor who was sitting in the audience.

Mr. Bailey also advised that the Public Service Commission in Charleston, WV is now in charge of the city's cable t.v. system. Speaking to the viewing audience he explained that those citizens with complaints should now call Charleston.

On another issue, Mr. Bailey noted that in the proposed renovations that will take place in the former Huntington Hig

School there will be, among other provisions, an area for skateboarders.

Councilman Kent asked if anyone could give him an update on the parking lots by Cabell Huntington Hospital.

Councilmember Maass said she had driven by the hospital on Sunday evening and she saw one of the lots in question. There were poles and tape that had been put up to mark off the nearest row of parking spaces to the fence which abuts the property-- where there was an issue about a 25' setback.

Councilman Kent asked if the permit has ever been permitted for that lot and were proper procedures followed.

Chairman Patterson advised there was quite a long discussion at the most recent planning commission meeting. It was determined the 25' setback must be in place. It was approved.

Dr. Kent asked if there were any other determinations with respect to the other lots.

Mr. Harrington said that to the best of his knowledge any deficiencies pointed out have been corrected.

Councilman Polan asked that Mr. Harrington be more specific on any other remedial action that has been taken.

Mr. Harrington responded by saying that as the city becomes aware of problems they are addressed. While he did not have the specific lots, etc., with him at this meeting he was sure the Public Works Director would be happy to provide that information.

Councilman Polan said he would like that information.

Dr. Kent said that he, too, would like very specific information, i.e., a breakdown on each lot.

Dr. Kent, on another issue, asked what needed to be done to get the Four Pole Task Force into operation in terms of meetings, etc.

Mr. Harrington said that since it was a resolution of Council he believed it would be Council's responsibility.

Councilman Ellis said he had received a call from a lady who lives in the 900 block of Jackson Avenue. She wanted to thank the city for having removed a tree that she had called about many times. On another matter, he said he had received a call about two trees that appeared ready to fall into Four Pole Creek which would cause a problem with obstructing the flow in the creek.

Councilman Ritter asked if B&O taxes are received from the gambling machines in the city.

Mr. Harrington said he was not aware of any legalized gambling in the city. All vending machines are liable for B&O taxes.

Mr. Ritter said that young people are playing these machines and he asked that someone investigate it.

Mr. Charles Masters, 4610 Magazine Avenue, asked when there would be a resolution in support of the city contributing $100,000 toward the proposed new fire school. The department is very important to the city and all efforts should be made to help. He pointed out cameras had been purchased for use in the department. He also asked, on another matter, for the names and addresses of the individuals who have cut down trees throughout the city; he wanted to thank the people. He asked how many trees had been cut down.

Councilmember Maass commented that she felt the public should know that the cameras, to which Mr. Masters referred, are thermal imaging cameras which allow the firemen to enter smoke-filled, heat-filled buildings in order to locate people who may be in the building.

Mr. Mike Hines, 2788 Cedar Grove Court, invited the Mayor and City Council to the Memorial Day Parade to be held on May 22. There will be a stage at 10th Street and 4th Avenue. Mr. Joe Manchin will be the guest speaker.

Mr. George Malott, Hotel Frederick, addressed Council with his concerns about the lack of response on the morning the 5th Street Bridge was named for Congressman Nick J. Rahall. He questioned why more of the citizens were not in attendance since this should have been "for the people." He believed it had not been well publicized and was amazed since the Congressman has accomplished so much for the city and surrounding areas.

Miss Hazel Parker, 1115 22nd Street, said she recalled that the lease agreement with Level I Fasteners does have a specific month noted as to when the sale is to take place.

On another matter, Miss Parker asked if a city employee would have the right to speak on behalf of a citizens' group if the group had not authorized this.

Chairman Patterson said he did not feel there would be any legal right, although he had no idea of the situation.

Mr. Harrington said he would be happy to speak with her after the meeting.

Mr. D. Everett Fullerton, 1657 14th Avenue, asked why Cabell Huntington Hospital is not doing what they are suppose to do. The hospital sent Everett Black, with a set of plans, to his home to discuss them. At the end of the discussion, Mr. Black agreed to return to the hospital and talk with them. The plans are so far "out of whack" that it isn't funny. The hospital keeps cheating as much as they are allowed.

Councilman Bobersky asked if a compliance officer shouldn't handle the situation.

Mr. Fullerton said he had talked with compliance officers who had intimated that the city is afraid of the hospital.

Mr. Harrington interrupted to say that the city employees, to his knowledge, are not afraid of the hospital. When items are pointed out the city has taken action and has endeavored to enforce the code.

Councilman Kent, referring to his request for an update on the parking lots, asked that the issues Mr. Fullerton had just addressed be included in that update.

Mr. Charles Masters, 4610 Magazine Avenue, said that he would like his answers to his former questions about the tree crew given to him in writing. He also asked about the status of the Piedmont Road property in front of the Highway Inn.

Councilman Ritter responded that he had sent two memoranda and had received a response that the ground was too wet at one point and that the city may not have any responsibility insofar as that property is involved.

Hearing no other business to come before Council the Chairman adjourned the meeting at 9:00 p.m.

S Y N O P S I S
HUNTINGTON CITY COUNCIL
May 24, 1999

The May 24, 1999 Huntington City Council meeting convened at 7:30 p.m. with Chairman Patterson presiding.

The Invocation was given by Councilman Kent and the Pledge of Allegiance was led by Councilman Bailey.

All members of Council were present. Also present were Mayor Jean Dean, Mrs. Jendonnae Houdyschell, City Attorney and Ann Shaye, City Clerk.

Councilman Ritter made a motion to approve the synopsis as submitted; seconded by Councilman B. W. Ellis.

The synopsis was approved by unanimous consent.

Mayor Dean distributed the financial statement from the Huntington Sanitary Board for the period ending March 31, 1999. As these were being distributed, Mayor Dean thanked everyone who participated in the Memorial Day Parade which took place on May 29th. She felt this would become an annual event; one that the city could be very proud of. Continuing, she told about an event that had taken place, earlier in the day, at the Kellogg Elementary School. Governor Underwood and Senator Plymale were present for the dedication of a computer lab for children in grades K-5. She commented that the entire project had been done without any government contributions. Parents, teachers, and companies donated funds. Mr. Marshall Reynolds, for whom the computer lab is to be named, made a considerable contribution. Mr. Reynolds attended the school as a young child.

Second Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH THE HUNTINGTON CIVIC ARENA WITH REPLACEMENT SEAT CUSHIONS AND BACKS.

Councilman Polan made a motion to adopt; seconded by Councilman Bobersky.

Mayor Dean explained that in order to repair the seats and backs of 2400 of the folding chairs at the Civic Arena the city requested and received bids for this work. The low bid was received from Custom Upholstering in Huntington in an amount not-to-exceed $48,000. This is part of the ongoing renovations at the Civic Arena.

The ordinance was adopted. (10 yeas; 0 nays)

Second Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF HUNTINGTON AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $2,100,000 IN THE AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1999 (WEST VIRGINIA SRF PROGRAM), PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS, AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS, APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS, AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

Councilmember Maass made a motion to adopt; seconded by Councilman Bobersky.

Mayor Dean advised that this will be the second reading of the bond ordinance that will enable the city to acquire the funds to make the repairs to the Guyandotte force main. This is a mandated repair project. She noted it would also have a third reading.

The City Attorney, Jendonnae Houdyschell, confirmed that to be the case, indicating that Council would vote on the issue at this meeting. The third reading will take place at the next Council meeting.

Councilman Polan asked the amount of the construction contract.

Mr. Robert Trocin, Executive Director of the Sanitary Board, answered that the amount is $1,072,082.

Mr. Polan commented that the total project is approximately twice that amount.

Mr. Trocin said the total project, with the contingency of $696,000, is twice the amount.

Mr. Polan asked why there would be a contingency amount in excess of $600,000.

Mr. Trocin explained that there is a concern about the river crossing that is involved with the project. Since there are "unknowns" until the project is started, it seems prudent to have a contingency of this size.

Councilman Ritter asked how the estimate was arrived at if no one is sure of what the unknowns are.

Mr. Trocin answered that the calculating is done on a per foot basis. The existing sewer line was tested and it did not test well.

Mr. Ritter said he had learned that erosion had caused a lot of the problems. He wondered why the state or federal government could not help with the project, in terms of funding.

Mr. Trocin replied that the reason the force main fell into the river was due to the pool level of the river being raised. In view of that, he had gone to the Corps of Engineers with a request that they be responsible for repairing it. After many discussions he found that the Corps will not accept that responsibility.

Councilman Kent asked how this would correspond to the new revenue requirements of the board.

Mr. Trocin said the bids came in lower than anticipated, approximately $500,000 lower than what had been anticipated when the the budgeting was being prepared.

Councilman Kent asked for confirmation that bonds would not be issued for what is not required, e.g., if the contingency money was not needed.

Mr. Trocin said that would be the case.

Mr. Tom McCallister, 336 W. 5th Avenue, said that in the West Virginia Constitution there are prohibitions about municipalities issuing bonds. An issue of this kind is to be before the citizens in a referendum.

The ordinance was adopted. (9 yeas; 1 nay - Polan)

Second Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE HUNTINGTON MUNICIPAL PARKING BOARD TO CONSTRUCT, ESTABLISH AND ACQUIRE PROPERTY FOR THE DEVELOPMENT OF A NEW PARKING LOT TO BE LOCATED IN THE 800 BLOCK OF 5 1/2 ALLEY. (Postponed)

Councilman Kent made a motion to adopt; seconded by Councilmember Maass.

To explain this ordinance Mayor Dean advised that she would also speak to items 12 and 13 on the agenda. All relate to parking in the 800 block of 6th Avenue. She called attention to a study that was made for the parking board at the end of 1995. The firm was commissioned to study the Superblock area as well as the public safety building area. A small portion of the study, she felt, would be germane to this issue. She read into the record as follows:

"Other Study Factors

During the phases of this study it became apparent that other portions of the central business district either adjacent to or nearby the service areas of the Superblock and the public safety building should be addressed as part of the study. Most notably, the government center which includes the federal, county and municipal facilities appears to be supported by parking facilities which are operating at or near practical capacity. This situation will be exacerbated when other buildings in this service area, such as the Chafin Building, are restored to full occupancy. It may even be said that a lack of adequate parking support in this vicinity will limit the potential for future increased occupancy rates."

Continuing, Mayor Dean pointed out that at that time the Chafin Building was essentially empty. At one time it was offered to the City of Huntington; however, the city was unable to undertake its development. The Chafin Building has since been purchased and restored. The two occupants of the building, Arch Coal Company and Guaranty Bank & Trust Company, are able to use a parking lot. However, that lot will only service the present occupancy and would not be sufficient for any future occupants nor any of the businesses in that general area. She noted this ordinance only refers to surface parking. Item no. 12 is a feasibility study that will determine whether or not there is a need for a multi-level parking structure in that area. Item no. 13 refers to the purchase of the properties that will be needed to accomplish what is a present need so that other companies can locate in this area of downtown. Additionally, had there not been a parking facility on 8th Street and 3rd Avenue it would have been doubtful that the various and numerous telemarketing companies would have located in the downtown area. At the last Council meeting there had been discussion about the purchase of the properties on the north side of the 800 block of 6th Avenue. There have been at least three individuals who would like to purchase the property on which the city's sign shop is located. She wanted it made clear that the city cannot sell a piece of property; it must be done by auction. Finally, with respect to Councilman Kent's question that had come up in the work session, she stated that the city will commit to the fact that 25% of the parking will be for hourly parking.

Councilman Kent said that although he had asked a number of questions in the work session he would still like those questions and answers made a part of the record.

Dr. Kent's questions and answers are as follows:

"Please supply me with the following information regarding the proposed ordinances/resolutions related to the parking lots/garages:

What properties, if any, does the city intend to acquire along North 6th Avenue? Who owns those properties indicated above? (Which lots are to be developed now and which will be developed in the future?) On which of the properties indicated above does the City now have an option or other agreement to purchase whether formal or informal? Which other owners have been contacted about the potential sale of their property? Is it the intent of the City to develop these lots as a single project or on a piecemeal basis?

How will the "up to $750,000" be spent? What is for land acquisition and what is for surfacing? How much of the $750,000 is needed for the projects which will be undertaken now and how much for projects which are not now on a definite time table for completion? Why should the amount for which there are no definite plans be approved now, rather than waiting until those plans for development are firm and then requesting the authorization?

What is the current financial status of the Parking Board? What are the Board's reserves? What is its annual cash flow? What is its anticipated surplus for the upcoming year and what has been its surplus for the past five years?

How will the spending of the "up to $750,000" affect the capacity of the Parking Board to finance a bond issue? As I understand it, the spaces under question will be rented at "market rates" which will probably not cover the full costs associated with the acquisition and development of the lots. This would mean that the projects would in effect be "subsidized" by revenues from other lots and meters. If this is so it will reduce the capacity of the Parking Board to carry additional debt. I understand that a bond issue may be necessary to pay for the 5th Avenue project and repairs to the 8th Street facility. What is the impact of this reduced financial ability associated with the subsidy to the 6th Avenue project on the future bonding capacity of the Parking Board?

If the Parking Board has a surplus which they can use for this project why has not at least some of the "up to $750,000" been used to repair the 8th Street facility?

What will be the downside in delaying this project until the feasibility study is completed? Do we know what the full financial requirements for the Parking Board will be if a bond issue for the projects which have been discussed will be?

I find myself in a dilemma. My first reaction on anything which brings more parking to the City is positive. Yet I

wonder how well this project has been thought out and what the degree of urgency is for us to move forward until we have the entire picture of parking needs and costs for the downtown area.

I will be out of town all next week. I will have the City Clerk fax to me your response."

The answers were as follows:

"The properties that the City wants to 'land bank' are located along both Sixth Avenue and potentially along Eighth Street. These properties are denoted in the attachment. (Note: the attachment can be seen in the City Clerk's office) They include Parcels 147, 148 and 149 along Eighth Street, owned by insurance agent Mike Webb whose practice is on Parcel 147 and who rents out 148 and 149 for parking. Along Sixth Avenue are Parcels 157, 158, 159 and 160. Parcel 161 is owned by the City. Parcel 160 is owned by Churchill and Mary Hodges. Parcel 159 is owned by John Hankins, Parcel 158 is owned by Bias Blueprint and Parcel 157 is owned either by John Hankins or an entity controlled by him.

All of these parcels combined have the potential to be the footprint for a future multi-level parking facility. Our primary intention is to negotiate the purchases of Parcels 158, 159, 160 and 161, creating contiguous parking and the most efficient parking layout. Parcels 148, 149 and 157 are currently used for parking, so it would be redundant to acquire them at this point. They may be acquired if it is determined that a multi-level facility is appropriate for this area. The City has an option to purchase Parcel 159 from John Hankins at the appraised value of $150,000. The City owns Parcel 161, making it available once an alternative location for the Sign Shop is found. John Hankins had previously negotiated with Bias Blueprint and purchased the lot that they formerly owned (Parcel 157) and he was negotiating the purchase of Parcel 158. Mr. Hankins has also spoken with the Hodges regarding Parcel 160. We are still in negotiation and will continue to negotiate with both property owners. We understand that Mr. Bias has already purchased a piece of land elsewhere and is considering building a new facility. We have had preliminary conversations with Mrs. Hodges and are seeking a method of transfer that would minimize any tax implications. It is our goal to come to a mutually beneficial negotiation with all of the property owners.

The City's intent would be to develop Parcels 158, 159, 160 and 161 as a surface parking lot. If we cannot acquire all of these lots then we will acquire as much as we can and develop those areas.

The project cost of $750,000 would probably be divided as follows: approximately 80% for land acquisition and 20% for

surfacing and demolition. It is estimated that less than $600,000 would be used to acquire Parcels 158, 159, 160 and 161. The ordinance before City Council in no way creates a financial limitation or ceiling (either minimum or maximum); this $750,000 figure is simply an estimate. The actual cost would have to be approved by Council on an individual basis. Therefore, until each parcel is independently appraised, we cannot determine a precise figure. We are not seeking approval for anything for which there are no firm plans. We will approve it as each parcel is brought before Council.

Attached with this memorandum is information regarding the financial status of the Parking Board. (Note: this information can be seen in the City Clerk's office).

There was a misunderstanding at the last meeting regarding market rates and covering costs. One example would be Parcel 159, a 60' frontage full depth to the alley, for which the Parking Board has an option to purchase. This parcel would generate 44 parking spaces and the leased revenue (monthly parking/hourly parking) generates more parking per space. If there are 44 spaces rented for $30 per month we would have a monthly payment of $1,320. If our acquisition cost was $150,000 and if our cost of capital is 6%, the recovery of that acquisition cost would be a 14 year recovery. That does not include operating costs of which there will be some. It is apparent, at least by this illustration, that surface parking can be developed in such a manner that it will be profitable as it will bring a viable return to the Parking Authority. The Parking Authority has determined it can afford to go forward with the land banking program because it should, by taking its available cash reserves and buying land that generates revenue, be able to substitute the interest income it was formerly receiving for those dollars. In this way they put their dollars to work providing parking, which is part of their mission, rather than investing it in securities, which is not necessarily part of the mission of the Parking Board. This should not affect the Authority's ability to be bonded, as it should not deteriorate from their cash flow.

To address the question of the surplus not being used on the Eighth Street facility, by using these dollars to land bank you continue to receive income, making repairs to the garage does not necessarily generate new income. In fact, it may be necessary to use cash reserves to make these repairs if the Fifth Avenue project is not found to be feasible and a new bond is not pursued. This will be determined as a result of the feasibility study.

The downside in delaying this land banking project, until the feasibility study is completed, is that there exists current demand for these spaces. Some of the demand is imminent and some of it affects potential development. Failing to move forward, even for 60 to 90 days, could put potential new

tenancy in this area in jeopardy. It is incumbent upon the city to maintain the momentum that has been established for economic development and revitalization of our downtown. We would be remiss in our duties as public custodians if we were the reason for the redevelopment having failed.

As was mentioned in earlier meetings, parking is an infrastructure issue. For example, up until 3 years ago the existing parking garage which was built over 20 years ago, had an average occupancy of 30%. However, due to the fact that it was there, someone had the foresight to plan and develop it. The garage is now operating at near 80% capacity on the weekdays and was the prime reason we were able to recruit over 1,000 telemarketing jobs into downtown Huntington. If we had not had the parking availability, those jobs would not be in our downtown. This further exemplifies the need to build to capacity and this is a determining infrastructure issue if we are going to see our downtown redeveloped. Parking is no different than providing sewer, water and other utilities.

This project has been in the planning stages since the report by RAMP Engineering in December of 1995. In August of 1997 the Municipal Parking board adopted a resolution to pursue the land banking and acquire land. It was not until the beginning of 1999 when we were ready to actually acquire property that it was discovered that the entire project needed the Council's approval. When our City Attorney brought this to our attention, the ordinance currently under consideration was drafted in that effort. This project has been delayed in that the recommendation to move forward was made over 3 1/2 years ago. Now that real economic activity is happening in this area, we feel that further delay could jeopardize some of that activity. We must move with the market; unnecessary bureaucratic delays will stifle future economic development."

Dr. Kent pointed out that he felt the project should be developed as a whole, not acquiring the parcels piecemeal. He noted that his original concern about this issue had arisen from a constituent having contacted him about the deteriorating condition of the parking garage across from the Civic Arena. He had not understood why there was money for this project and not monies available to repair the existing parking facility. While he said he would vote for this ordinance he reiterated his feelings about not repairing the existing parking garage.

Chairman Patterson said it was his understanding there would be meters placed on the lot and then a study would be conducted to determine what monthly leasing was needed. If that would be the case, how long would it be metered before going to monthly parking?

Mayor Dean said she believed he was referring to a statement made by the director of the board, Yvonne Ball. Mayor Dean then deferred to Mrs. Ball.

Mrs. Ball explained that on the lot behind Love's Hardware and on the one next to Glenn's Sporting Goods a multi-space parking meter was installed. It took over a year to determine the board was not getting as much money from hourly customers as it would have been from monthly customers. This will be done on the 6th Avenue lot until it is determined which method will generate more revenue.

Chairman Patterson asked if it might be left as a metered lot for a week and then go to monthly parking? He felt there should be a more specific time frame. He did not want to see meters for citizens and then suddenly have them removed since the public should be permitted to park there.

Mrs. Ball said the feasibility study will show what is needed.

Chairman Patterson asked what would happen if the study showed that no metered parking was feasible.

Mrs. Ball said it will begin as a metered hourly parking lot. If the public does not take advantage of that, after a reasonable period of time it will go to monthly parking.

Mayor Dean reaffirmed the agreement that the city would commit to 25% of available parking being made into hourly parking.

Councilman Polan asked if it were the intent of the board to demolish the improvements on the parcels as they were purchased or wait until all four parcels are acquired.

Mrs. Ball said the intention would be to demolish any improvements, as needed, to create large enough parking lanes and a drive-through.

Mr. Polan asked if the parcel under consideration, and its structure, will be demolished immediately.

Mrs. Ball said it will be demolished immediately to create 44 parking spaces.

Mr. Polan asked if the Huntington Municipal Parking Authority were exempt from property taxes.

Mrs. Ball said the board is exempt.

Mr. Polan asked if the board pays any taxes whatsoever.

Mayor Dean said that, for example, when the City Hall Annex was occupied that the city offices were exempt from property

taxes. However, other entities that rented from the City did pay taxes.

Mr. Polan asked if the parking authority would be paying property taxes on the four parcels that will be developed.

Mayor Dean answered that if precedent were to be believed then she felt that property taxes would not be paid.

Mr. Polan asked if that would also be true about paying B&O taxes on their revenues.

Mayor Dean advised that this would be the case.

Mr. Polan asked what the four parcels are now yielding in property taxes, B&O taxes, and municipal service fees.

Mayor Dean said the B&O taxes would be restricted information; however, the other figures could be obtained.

Mr. Polan said it might be of interest to learn what the city and the county are giving up, in the aggregate, on the four parcels as consideration is being given to placing the parcels into a non-paying tax position.

Mayor Dean said one of the parcels is already owned by the city and would not, therefore, be paying taxes.

Mr. Polan asked if anyone had looked at what the three parcels are generating in taxes.

Mayor Dean said she did not have that information.

Mr. Polan asked if that information would not be pertinent to Council making a decision.

Mayor Dean replied that only Council could answer that.

Continuing the dialogue, Mr. Polan then asked if that would not be a question of interest to her administration.

In response, Mayor Dean stated that what is of interest to her administration is to provide parking in order to further economic development in downtown Huntington.

Councilman Bobersky recalled that when CSX was an occupant of the Chafin Building that the largest problem was parking. He felt one of Huntington's biggest problems is that of parking. Without that, the businesses will not come nor will the people.

Mayor Dean pointed out that there had been a story in the newspaper about United Airlines and its proposed new office building on land close to Barboursville. The reason this

company did not select downtown Huntington, after looking at the city, was the lack of parking.

Councilman Cline said that he would vote for the ordinance, adding that he wanted it known that he does own a parking garage in downtown Huntington. The garage is full. However, he felt more parking was needed if the city expects to attract more businesses.

Councilman Ritter said he still had problems with the city using public monies to build parking lots. He remembered that Mrs. Mary Hodges had appeared at the last Council meeting to say that she was willing to purchase the sign shop and use that land, in conjunction with her own property in that area, to make public parking.

Mr. Tom McCallister, 336 W. 5th Avenue, said it is not the responsibility of the city to provide parking for people who work in the city. He felt the person who renovated the Chafin Building should be commended; however, he did not think the Administration or Council should offer him parking. He recalled that the Chafin Building did not even have a fire escape and at one point the state fire marshal was going to condemn the building. Referring to the WV State Constitution, he said it prohibited co-venturing. If only 25% of the spaces are for the public, then obviously there will be some co-venturing with someone who owns a building known as the Chafin Building. He asked the chair "is that what you would think that might be?"

Chairman Patterson said that hadn't really been determined as...

Interrupting the chair, Mr. McCallister then said ""will it be real close to the Chafin Building, like 'spit out the window and you'll get in the lot' - there really isn't any question about what's going on here. But I tell you what, the same prohibition that you swore to uphold in your oath of office, I think it's 14:14 of the City Charter to uphold the Constitution of the State of West Virginia. It's in Article 10 again to say those prohibitions are there that there shall not be any co-venturing between a private entity and a governmental entity. Of course, we will not talk of some of the idiotic things that some of the people have been into in the past. That doesn't mean to say that's on your conscience; your conscience is to uphold what you swore to do. Before you do that, I don't think there is any urgency that the Chafin Building is going to leave on us any time soon. Why don't you just explore what Councilman Polan asked you about, the dollars. I know that some of those buildings would be tremendous in cost as to the fire service fee. Ask the Board of Education, they suffered terribly because of that."

Mayor Dean said "I want to make something abundantly clear. All of this parking is for your use by the public. The determination is the percentage as to which is hourly and which is monthly. And I think that Dr. Kent and every member of Council understands what we are saying here."

Reverend Joseph Evans, pastor of the First Baptist Church located at 801 Sixth Avenue, said he had been hearing a lot about putting parking lots across from his church. He added that his church had not been invited to participate in any of the process. He explained that his church had been trying to gain parking for his own church parking lot. They had not been able to do that. He asked how this had all happened since he was across the street and had not even been told the property was for sale.

Mayor Dean said she could only respond with reference to the property owned by the city. The city's property is not for sale. At the present time the city is not in a position to relocate the sign shop which is on the property. Once the city is in such a position then the city will look to conveying the property to the parking board.

Councilman Bobersky said that 25% of the parking across from Mr. Evans' church will be for public use. He added that he knew that in other areas where he had lived that on Sundays the owners of such lots permitted parishioners of churches to park there, at no cost. He suggested that Mr. Evans might work with the parking board on such an arrangement.

Reverend Evans said that he thought that was a good idea and he appreciated it; however, he reiterated his former statement that "somehow we were not in the process and we were not able to gain information to make bids on the property." He added that he felt something was wrong and that Council knew that; however, it might be too late to do anything about it. He concluded by saying that "all of us are not asleep and some of us know what has occurred and want you to know that I know and about 250 other people also know that."

Mr. Charles Masters, 4610 Magazine Avenue, commented that he thought the city should have free parking for citizens. This is what would bring new growth to the city.

The ordinance was adopted. (7 yeas; 2 nays - Jackson, Ritter; 1 abstention - Polan)

First Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH THE HUNTINGTON HUMAN RELATIONS COMMISSION WITH LEGAL SERVICES FOR THE NEXT THREE (3) YEARS.

Mayor Dean said this will provide legal services for the Human Relations Commission for the next three years at the total

price of $22,500. Previously the contract has been let for one year only. This is an increase over previous fees - a total increase, over three years, of $3,000. The firm approved by the commission is the firm of Marsteller & Hayes.

Chairman Patterson asked how many bids were received.

The director of the Human Relations Commission, Mrs. Sally Lind, said only one bid had been received.

Chairman Patterson asked if it had been properly advertised, to which Mrs. Lind responded that it had been.

Councilman Cline asked what percentage of an increase, over last year, this would be.

Mrs. Lind said that the last year's amount totaled $6,700. This year will be $7,500, but the contract is for three years.

This ordinance will be advertised.

First 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 NEW PAYROLL SOFTWARE MODULE.

Mayor Dean stated that two proposals were received to provide the city with the software needed for the payroll program. The low bid was received from New World Systems, Troy, Michigan in the amount of $65,700.

Councilman Kent asked if this would also provide an annual review and update of the software.

The Director of Data Processing, Brian O'Neill, advised that it will.

Councilman Polan asked if the city has ever considered privatizing the payroll function.

Mayor Dean said that to her knowledge, no consideration has been given to that.

Mr. Polan asked if this program would be strictly geared toward the payroll or would it be part of a comprehensive human resources program.

Mr. O'Neill answered that it will include a human resources program.

This ordinance will be advertised.

First Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF HUNTINGTON TO EXECUTE A DEED TO CONVEY THE OLD HUNTINGTON HIGH SCHOOL

PROPERTY TO THE HUNTINGTON MUNICIPAL DEVELOPMENT AUTHORITY AND TO AUTHORIZE THE HUNTINGTON MUNICIPAL DEVELOPMENT AUTHORITY TO EXECUTE A DEED TO CONVEY THE OLD HUNTINGTON HIGH SCHOOL PROPERTY TO THE HOUSING DEVELOPMENT CORPORATION.

Mayor Dean explained that for quite some time the city has been working with different entities in order to come to a successful program for the reuse and readaptation of the former Huntington High School on 8th Street. It has been determined that there will be a combination of uses in the building. This will include YMCA facilities and the Arts Council. Also, primary housing will be planned and brought into being by the Housing Authority and the Housing Development Corporation.

Councilman Polan asked for an explanation as to who the Housing Development Corporation is.

Mayor Dean said that while she did not have that information with her she felt the Director of Development and Planning could provide that information.

Mrs. Cathy Burns explained that the Housing Development Corporation is a private not-for-profit corporation that is affiliated with the Huntington Housing Authority.

Mr. Polan asked if it would require any support from the City's general fund.

Mayor Dean answered that it would not.

Mr. Polan congratulated the Mayor on finding a way to develop what he had believed to be a white elephant. He admitted that he never thought that would happen, but was very glad to see what has taken place.

Councilman Bobersky said he, too, was very excited about the revitalization of the former school. He felt it would be an outstanding addition to the city.

Mayor Dean said that the only way this had come about was by the cooperation of many people. The Southside Neighborhood Association, the different groups that make up the Arts Council, the YMCA, the Housing Authority, and her own staff all joined together to bring this project to fulfillment.

Councilman Kent asked how the project will be financed.

Mrs. Cathy Burns, Director of Development and Planning, answered that the projected cost for the housing (42 units) is approximately 4.4 million dollars. It is anticipated that 1.1 million dollars of equity can be raised from low-income housing tax credits. It is also anticipated that $700,000 of equity can be raised from historic tax credits. Empowerment

Zone monies, in the amount of $250,000, will be earmarked for this project, in the form of a loan. Another aspect might be a Section 108 loan.

Councilman Kent said that all of the financing for the housing project would not actually be in hand at this point.

Mrs. Burns said that is correct. The transfer of the property is very important because the application for the low income housing tax credit is due the end of June. Twenty-five points, in the rating criteria, will be gained if the developer can show site control. The goal is to maximize the points. Currently out of a possible 1,000 points the city falls within the 800 point range.

Dr. Kent asked what would happen to the property if the funds are not raised.

Mrs. Burns said a reversionary clause has been included which will allow two years to gain the low income tax credits. The cycle occurs every June. If, for some reason, the Housing Development Corporation would not get the tax credits this year the clause will allow them to apply again next year. If, at that point, they could not secure the funding then the HMDA could take the property back.

Mayor Dean pointed out that the proposed housing is for seniors and since most people's income decreases as they retire this will allow the city to apply for the low income housing credits.

Councilman Ritter recalled that when new sites for the police station were being considered that the ZMM architectural firm had called attention to the asbestos in the building. He wondered if asbestos removal would contribute to the 4.4 million dollar figure.

Mrs. Burns said that she did not have a breakdown of the figures with her but could provide that information to him.

Councilman Polan said it appeared that the cost of developing the rental units equates to approximately $100,000 per unit. He asked if that were correct.

Mrs. Burns said the hard construction cost for the units themselves is approximately $3,000,000. The manner in which the tax credits are structured permits that all legal costs, the developer fee, the architectural costs, all studies, etc. be included to count toward the housing tax credits. Realistic numbers must be provided; however, those numbers are driven up to maximize the equity.

Mr. Polan said it would then be somewhere between $75,000 and $100,000 per unit.

Mrs. Burns advised that when the West Virginia Housing Development Fund reviews this it will automatically place a cap on what can be spent, per unit. They allow $42,891 per unit. They will extract the soft costs, etc.

Mr. Polan asked for clarification on the term "allow."

Mrs. Burns answered that there is quite a long list that must be met to qualify for the tax credits. They will allow a maximum of $42,891 - that figure is not raised for two bedroom units; it is per unit.

Councilman Cline asked if the school will be restored to its original architectural design.

Mrs. Burns stated that in order to receive the historic tax credits it must be done according to their standards. There will be some exterior changes, primarily with the windows. The full length windows will be returned to the building.

This ordinance will be advertised.

Councilman Kent made a motion to waive the rules in order to hear another item, an ordinance; seconded by Councilman Ellis.

The motion carried. (9 yeas; 1 nay - Bailey)

First Reading of an Ordinance re: AN ORDINANCE OF COUNCIL GRANTING CONSENT TO THE TRANSFER OF CONTROL OF THE CABLE TELEVISION FRANCHISE FROM CENTURY HUNTINGTON COMPANY, NOW CENTURY COMMUNICATIONS CORP., TO ADELPHIA COMMUNICATIONS CORP.

Mayor Dean stated that the Century Communications Corporation has been acquired by the Adelphia Communications Corporation. The purpose of this ordinance will permit the transfer of the franchise agreement to the new entity, Adelphia.

Councilman Bailey commented that for some months there have been many concerns with the company in that at any time it wants to raise the rates, it does so without concern for the citizens, such as the elderly in our city who are on fixed incomes. Unfortunately, the former Council granted the company a 15 year franchise. He asked that Council soundly defeat the ordinance at the next meeting. This would mean the city and the company would have to return to the bargaining table. He did not think the agreement should be transferred without a great deal of thought; it should be renegotiated.

Councilman Kent asked that the City Attorney provide Council with a more clear definition of the phrase, in the franchise agreement, that says that Council cannot "unreasonably withhold the consent to the transfer." He asked the legal grounds on which it could exercise its right since he did not want to see Council involved in a long court suit that the

city was destined to lose. He felt this should be an opportunity to renegotiate at least part of this agreement, to get some modifications that would be in the public's best interest.

The City Attorney, Jendonnae Houdyschell, explained that she would like the request in written form. She noted there were representatives from the company present, adding that she had been advised that they would like the word "subsequent," in paragraph four, be changed to "prior" and in the last paragraph the word "resolution" be changed to the word "ordinance."

Councilman Cline made a motion to change the word "subsequent," in paragraph four, to "prior" and in the last paragraph the word "resolution" be changed to the word "ordinance." This was seconded by Councilman Kent.

Mr. Tom McCallister, 336 W. 5th Avenue, asked why the word "resolution" was there in the first place. He had seen the newspaper which stated the issue was to be in the form of a resolution, adding that it should have been an ordinance.

The motion to amend carried. (10 yeas; 0 nays)

Councilman Ritter said if anything was "unreasonable" it would have been things that the company had failed to do, such as proper grounding of the lines at people's homes, failure to make an effort to help the senior citizens, etc.

Councilman Polan asked Mayor Dean if one of her staff could develop some information for Council's review with respect to the rate history, since the franchise agreement has been in effect, in addition to any changes in the programming that accompanied the rate changes.

Mayor Dean said she was sure the rates changes could be made available; however, she was not sure about the programming.

Councilman Cline asked that the representatives present explain something about the Adelphia Corporation, who owns them, where they are located, etc.

Mr. T. J. Obrokta, attorney with the law firm of Jenkins Fenstermaker, explained that Adelphia Corporation is a family owned cable provider that operates close to Philadelphia, Pennsylvania. Their closest system to Huntington is in the northern panhandle of the state.

Councilman Cline asked if the corporation is publicly traded and under what stock exchange.

Mr. Obrokta said that it is, but he was not sure of the stock exchange.

Mr. Cline asked if there is another one in West Virginia.

Mr. Obrokta answered that there is not another Adelphia as such.

Mr. Cline asked the connection with At Home.

Mr. Dick Fairbanks, general manager of Century Communications, said there is a partnership between Century Communications and the company At Home. He was not sure of the principals of the company. They provide the portal to the internet and all of the high speed internet access. Huntington is the first city in West Virginia to carry the service.

Mr. Cline asked if Century Communications owns cable systems in other cities and if so, how many.

Mr. Fairbanks replied that it does, in about 75 cities.

Mr. Cline asked if this would be the only one that has been sold to Adelphia.

Mr. Fairbanks replied that the entire company has been sold to Adelphia.

Mr. Cline asked if Council could see any of the other agreements that Century or Adelphia has with other cities.

Mr. Fairbanks said he would check into the matter to see what he could do; however, he commented that they are usually standard in the general information.

Mr. Cline said he would like to know if, in other cities, the company is obligated to appear before the appropriate body before increasing rates.

Mr. Fairbanks advised that rate regulation is controlled by the Federal Communications Commission. They have pre-empted local control of rates. The FCC still regulates the bottom tier of basic cable television service.

Mr. Cline asked for confirmation that Century can charge what it wishes to, over and above the bottom tier. He also asked if he was aware of what Huntington residents are paying with respect to other cities in West Virginia.

Mr. Fairbanks confirmed that the company's charges for the other tiers do not have to be cleared by the FCC. As far as comparing services it would be difficult since there are different services, etc.

Mr. Cline said he did not have any complaint with the service but his concern would be that rates get raised without much concern for those citizens on fixed incomes.

Councilman Bailey asked if negotiations started in March of this year.

Mr. Fairbanks said he did not know.

Mr. Bailey asked if the rates were raised in May and if so was the public advised of this.

Mr. Fairbanks said they were and that each customer had received a notice of that, 30 days in advance.

Mr. Bailey asked if the City Council's phone number had been removed from Century's billing statements.

Mr. Fairbanks said he had requested the number be removed and that their number be placed on the statements. He assured Mr. Bailey that Council's phone number had not been deliberately placed on the statement.

Mr. Bailey asked if the residents in a senior citizens home would have to pay individually for their service.

Mr. Fairbanks said if the home pays a flat fee to the cable company then the individual residents would not have to pay for the service.

Councilman Kent asked if it would be possible to receive, with respect to the franchise in Huntington, information to see what the company's return on investment is.

Mr. Fairbanks answered that this kind of information would have to come from someone much higher on the corporate ladder than himself. He pointed out that he was representing Century Communications and not Adelphia Corporation and that the request to transfer the agreement was coming from Adelphia.

Dr. Kent asked that he attempt to obtain that information for City Council members.

Mr. Fairbanks said he would ask but could not promise that he would get it.

Councilman Ellis said he had received many questions about the problems with channel 19. He was told that the response from Century Cable was not helpful.

Mr. Fairbanks said the problem is that channel 19 is used by a lot of communication services, such as beeper services, taxi cab services. If there is a wind storm or if a squirrel has chewed on a cable, etc. then the resulting problem occurs on channel 19. It is very difficult to find the problems with this particular channel.

Councilmember Maass asked if there were any way for the company to work with Rudder Communications. She explained that she works for St. Mary's Hospital in the marketing department and the hospital advertises through Rudder. There is a problem with the modulation of the sound.

Mr. Fairbanks said he had talked with Rudder himself but would talk with them again.

Councilman Polan said he recalled he had heard him say something earlier with respect to the FCC regulating rates. He asked that he address that once more.

Mr. Fairbanks said that until just recently the federal government regulated any basic tiers. Under a sunset law this expired in March. The FCC still retains regulation at the most basic level of service.

Mr. Polan asked what the charge for that service is in Huntington.

Mr. Fairbanks advised that the city does not have that service. The lowest level in Huntington, which has some 40 channels, is still regulated under the FCC formulas. The regulation of basic rates by the FCC is if the local franchising entity has requested permission to certify to regulate rates. If they do that then that is the formula that must be followed by the cable operator. It is provided by the FCC and goes to the franchise authority for their verification.

Mr. Polan said he did not ever remember seeing a review of rates.

Mr. Fairbanks advised that was due to the fact Huntington had never certified to regulate the rates.

Mr. Polan asked if that would be at the city's discretion.

Mr. Fairbanks answered that it would be; however, since the law has expired he was not sure that would now be the case. Additionally, with the new legislation that places cable regulation under the Public Service Commission, it will be looking at that.

Mr. Polan asked if the company wanted to raise rates would it be obliged to file for a rate increase that is reviewed by the FCC.

Mr. Fairbanks explained that it would not unless the franchising authority had certified to regulate, which would mean that the city would want to review any procedures before it is done. However, the city did not choose to do that.

Councilman Bobersky asked if he knew the number of years in most franchise agreements.

Mr. Fairbanks said that 15 years is usually a standard number.

Councilman Ritter asked if the city's fee is also increased as the cable rates are increased.

Mr. Fairbanks answered that it is.

This ordinance will be advertised.

Resolution re: A RESOLUTION OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH WILLIAM W. JOHNSON. (Second Reading)

Councilman Bailey made a motion to adopt; seconded by Councilmember Maass.

Mayor Dean stated that this concerns a small piece of property in the vicinity of 4th Street and 7th Avenue. The adjacent property has changed ownership and Mr. Johnson has requested that he be permitted to lease the property as had been the case with the former owner. The previous fee was $100 annually. This has been increased to $250.

The resolution was adopted. (9 yeas; 0 nays; 1 absent from the Chambers at the time of the voting - Polan)

Resolution re: A RESOLUTION OF COUNCIL AUTHORIZING THE HUNTINGTON MUNICIPAL PARKING BOARD TO ENTER INTO A CONTRACT WITH ARCHITECT EDWARD TUCKER ALONG WITH CO-ARCHITECT WALKER PARKING CONSULTANTS TO COMPLETE A FEASIBILITY STUDY ON MULTI-LEVEL PARKING STRUCTURES LOCATED IN THE 800 BLOCK OF FIFTH AVENUE AND THE 800 BLOCK OF SIXTH AVENUE, WITHIN THE CITY OF HUNTINGTON. (Postponed)

Councilman Cline made a motion to adopt; seconded by Councilman Kent.

In explanation, Mayor Dean advised that this will permit the parking board to hire the appropriate people in order that a feasibility study be conducted. The study will show whether or not multi-level parking structures are needed in this area.

Councilman Kent asked if this study would be completed before the surface lots are done.

Mayor Dean said she believed the study would be completed within 60 days; therefore, she did not feel any action would be taken until the study was completed.

Councilman Ritter said that when Council was provided with material relative to this matter, he saw Mr. Keith Dean's name

listed as an architect. He asked if this would be a conflict of interest.

Mayor Dean asked that she be shown where his name appeared.

Chairman Patterson said it was listed under the costs, the hourly rates for the architects.

Mayor Dean advised that her husband, Keith Dean, did not any longer own the architectural firm. She added that since she would not be casting a vote she did not feel there would be any conflict of interest. She deferred to the City Attorney.

Mrs. Jendonnae Houdyschell, City Attorney, answered that unless one receives economic benefit from an issue there is no conflict of interest. She recalled that in one of the work sessions this issue had been raised and that those present were told his name had been inadvertently placed on the list. Mr. Dean will not be participating in this project; therefore, there would be no conflict of interest.

Mayor Dean said that her husband has retired from the active practice of architecture and for that reason she was surprised to see his name listed. Since she had not been present at the last Council meeting she was not aware of it.

Mr. Tom McCallister, 336 W. 5th Avenue, commented as follows: "That in this comedy of errors, since that they keep changing, you know, the Keith Dean thing and what have you -- doesn't that give you some reason to be real skeptical. I mean the same thing happened with another building that was involved there and contrary to what the Mayor says and contrary to what she says, it's still there isn't it? Let's see here, there is a chance in this chamber that things get removed, like 14 on the agenda. It's like this lady was speaking about, you're saying a first reading of an ordinance. You guys do things here, like disappearance of ink, things of this nature. But I'm really seriously concerned about Keith Dean's name that keeps popping up in different areas, with ZMM. That's not the first time this has happened. I've got a real, real, real problem with that happening and her explanation didn't get it as far as I am concerned and hers didn't either. He quit, she's not going to get any money from it, who knows? Don't you find it really interesting? Obviously, you do because you discussed it at your work session. Of course we were not able to hear what you said there. And you know if it is a matter of conflict of interest, according to the City Charter she's out the door. Is that right or wrong?"

Chairman Patterson asked Mr. McCallister "what is your point?"

Mr. McCallister answered "the point is that I am asking you a question, as chairman of Council, should there be a conflict of interest that she didn't allow you to know about and it

goes on and she didn't announce it, she's out the door. Is that correct, according to the Charter?"

Chairman Patterson answered "I think we crossed that bridge."

Mr. McCallister "you bet we have, but you guys kinda' wiggled in and out of it at times about one of the past Council members that used to sit in that chair. Not the lady that sat there but the guy before her. You know, when he was involved in conflict was caught dead-to-rights. You guys said 'well, it didn't really count in this case.' There was other times, but I think you might take a good close look at that. We have a real problem with relying on chief administrators since we have one in Washington that lies through his teeth. And you know, I am not suggesting this one does. But I'm a little skeptical."

Councilman Ritter said "I apologize for not being at that meeting. I was not at that work session and I apologize."

Mayor Dean, pausing, then said "And I would simply like to say, Mr. Chairman, that I may be a public official about whom Mr. McCallister may say, apparently without my having any recourse. But the 'Keith Dean' who is listed here, who happens to be my husband is a private individual who will probably find Mr. McCallister's comments to be slanderous."

The resolution was adopted. (7 yeas; 2 nays - Jackson, Ritter; 1 abstention - Polan)

From the audience, Mr. Tom McCallister said, with reference to Councilman Polan abstaining, "that's a Charter violation, Mr. Chairman. No abstentions."

Resolution re: A RESOLUTION OF COUNCIL AUTHORIZING THE HUNTINGTON MUNICIPAL PARKING BOARD TO PURCHASE PROPERTY FROM ROBSON PRICHARD BUILDING, INC., AND PHOENIX PARK CORPORATION LOCATED AT THE NORTH SIDE OF SIXTH AVENUE BETWEEN EIGHTH AND NINTH STREET WITHIN THE CITY OF HUNTINGTON. (Postponed)

Councilman Kent made a motion to adopt; seconded by Councilman Cline.

Mayor Dean stated this would be the third item included in those she spoke about at the beginning of the meeting.

Councilman Polan asked the estimated cost of the demolition for this parcel.

Mayor Dean replied that demolition costs vary greatly and at this point she did not have an estimate.

Councilman Cline commented that he had just read in the Rules of City Council, Section 17 - Method of Voting - "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 of general law. If there is a conflict of interest, it must be stated before voting begins."

Councilman Polan said that he felt that some people might view the issues as his having a conflict with the parking issues that have come before Council on this agenda. He explained that on this issue the conflict would arise between economic interests of relatives of his and the proximity of the 6th Avenue properties to be acquired and their impact upon those economic interests. And also, potentially with regard to one of the prospective developers of the 5th Avenue garage. He deferred to the judgment of the chairman.

Chairman Patterson accepted Mr. Polan's explanation as to his abstaining.

The resolution was adopted (8 yeas; 2 nays - Jackson, Ritter; 1 abstention - Polan)

GOOD & WELFARE

Councilman Cline remarked that he had read from the Rules of Council in order that the issue be clarified and that it not come up again in other matters. He added that he had meant nothing personally with respect to Mr. Polan.

Councilman Bobersky advised that the same basic information was also in the City Charter, Section 14.10.

Councilman Bailey said he wished to thank Mr. Mike Hines for having organized an excellent Memorial Day Parade.

On another matter, Mr. Bailey asked how many applications had been submitted to fill the vacant Council seat in District 4.

Chairman Patterson advised there had only been one application and that a special call meeting had been scheduled for June 1 to make that appointment.

Councilman Kent announced that one of the city's employees had received a nice honor. Mrs. Judy Rose was awarded, for the State of West Virginia, the Small Business Administration's Financial Advocate of the Year.

Dr. Will Edwards, 521 7th Avenue, said he was present to once again represent his mother who lives at 208 Chestnut Street. After having appeared before Council a month and a half ago, he felt it necessary to come again to appeal what he had been told about the storm drain problem in his mother's back yard. He recalled that he was told there was no record of an easement but that he would be told something with a week or

so. Not having heard, he explained that he then researched the matter and found that there was an easement.

Mayor Dean said she had not been present at the meeting to which Dr. Edwards referred; however, in checking with the Public Works Director she was told that once the televising equipment (recently approved for the Sanitary Board's use) is in operation the city will then know the best method to use in repairing the problem.

Councilman Kent said that another constituent in his district had called and is in the same position. She was told, two years ago, that the problem of a collapsed sewer line would be solved. Now she has been told it is not the city's problem but her problem, since no easement can be found. Unfortunately, she does not have any young sons who can search the records to find this out. He did not feel this is the way the citizens should be treated.

Councilmember Maass said she had driven out that way recently and had smelled quite an odor of raw sewage. She asked if that was coming from Dr. Edwards' mother's home.

Dr. Edwards said that odor was coming from across the street. He remarked that it was obvious that area, in which a number of senior citizens reside, is not getting the service that other areas receive.

Mr. Tom McCallister, 336 W. 5th Avenue, referred to the proposed Business and Technology Park on Route 10. He said there have been no permits issued for the work in progress.

Chairman Patterson asked Mayor Dean if she had an explanation.

Mayor Dean answered that a permit is not required to place a bull dozer in the area. No building is taking place.

Mr. McCallister said the bull dozer is pushing dirt into the flood way. There are federal laws that govern the matter. He said there had been tests conducted on the land, for another proposal, that showed the soil would not even support a sidewalk.

Councilman Kent said he had been told by the Department of Development that the work being done, the core drilling, is necessary as part of the permitting process. The equipment there is in compliance with all necessary statutes and regulations of the state. This action is required by the state before any further work can be done. There is no violation.

Mr. McCallister said the Corps of Engineers would not agree with that. The permits required for working in a flood zone have not been secured.

Councilman Bailey asked if Mr. McCallister might know where he could get a copy of the 100 year flood plain report.

Mr. McCallister said there was a voluminous record, at the Court House, of the studies that were conducted previously on this property. He urged him to go to the Court House and make a request.

Mr. David Lee, 5610 Poplar Drive, Catlettsburg, Kentucky introduced himself as the event coordinator for the upcoming Summerfest 1999. He said there will be a return of the jet ski races which he believed would favorably impact the city. He presented Mayor Dean with a shirt advertising the event. The races will be televised by ESPN. He noted that any donations from the city would be welcome since many expenses will be incurred in order to provide these activities.

Mr. Ray Williams, 1811 Kite Avenue, showed Council members pictures of Kite Avenue that indicated the need for resurfacing. He said he had checked and had learned that Kite Avenue, in that area, qualifies for Empowerment Zone funding. Kite Avenue had last been paved in 1972. He presented Council with a petition requesting the work. He noted that there is also an alley, that is used daily, that runs up next to Kite Avenue. It is in terrible condition as well.

Mayor Dean remembered that she had been visited by a gentleman, during one of the Wednesday afternoon open houses, about this matter. She had requested that the area be researched to see if it was in the Empowerment Zone and had learned that it is. She advised this would be considered.

Hearing no other business to come before Council the Chairman adjourned the meeting at 10:20 p.m.

S Y N O P S I S
HUNTINGTON CITY COUNCIL
June 14, 1999

The June 14, 1999 Huntington City Council meeting convened at 7:30 p.m. with Chairman Patterson presiding.

The Invocation was given by Councilmember Maass and the Pledge of Allegiance was led by Councilmember Neely.

All members of Council were present with the exception of Councilman Kent who was out of the city. Also present were Mayor Jean Dean, Mrs. Jendonnae Houdyschell, City Attorney and Ann Shaye, City Clerk.

Councilmember Neely made a motion to approve the synopsis as submitted; seconded by Councilman B. W. Ellis.

The synopsis was approved by unanimous consent.

Mayor Dean distributed the financial statement from the Huntington Sanitary Board for the period ending April 30, 1999. Mayor Dean also distributed the minutes of the Huntington Sanitary Board for May 6, 1999.

✓ Third Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF HUNTINGTON AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $2,100,000 IN THE AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1999 (WEST VIRGINIA SRF PROGRAM), PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS, AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS, APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS, AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

Councilmember Maass made a motion to adopt; seconded by Councilman Bobersky.

Mayor Dean explained the improvement referred to is the Guyandotte force main construction project. This was approved by Council at the last Council meeting; however, by law it is required that there be a third reading. This is considered the public hearing.

26C

Councilman Ritter asked for confirmation that this ordinance and item no. 16 on the agenda (a supplemental resolution) would be addressing the same issue.

Mayor Dean confirmed that to be the case, adding that both are required prior to the issuance of the bonds.

Mr. Tom McCallister, 336 W. 5th Avenue, said that according to Article 10 of the West Virginia Constitution, this matter (a bond issue) should be put forth to the public in a referendum. Otherwise, it will be illegal.

The chairman pointed out this question had been posed to City Council, at past meetings, and subsequent to that it was learned the procedure is legal.

✓ The ordinance was adopted. (9 yeas; 1 nay- Polan; 1 absent - Kent)

Second Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FURNISH THE HUNTINGTON HUMAN RELATIONS COMMISSION WITH LEGAL SERVICES FOR THE NEXT THREE (3) YEARS.

Councilman Bailey made a motion to withdraw the item from the agenda; seconded by Councilmember Neely.

Chairman Patterson asked the city attorney if a motion should first be made to bring it to the floor, and then a motion to withdraw.

The City Attorney, Jendonnae Houdyschell, advised this would be the proper procedure.

Both Councilmembers Bailey and Neely withdrew their motions.

Councilman Bailey made a motion to adopt; seconded by Councilmember Neely. (No vote was taken on this motion)

Chairman Patterson asked the director of the Huntington Human Relations Commission to step forward for any questions.

Chairman Patterson recalled that Mrs. Lind had called him earlier in the evening about the advertising procedure. He asked that she explain what had taken place.

Mrs. Sally Lind, Director of the Commission, said she had provided the chair with the procedure that should be followed in order to advertise for bids. However, she had learned that the commission's computer operator had failed to advertise this in three newspapers. She had only submitted the legal advertisement to one newspaper.

Chairman Patterson asked if the requirement were that it be sent to three newspapers.

Mrs. Lind replied that the requirement stipulates that it be advertised in two newspapers. It was only advertised in one.

Mayor Dean asked what procedure requires that it be advertised in one, two or three newspapers.

Mrs. Lind answered that it falls under the city's purchasing procedures.

Councilman Bailey made a motion to withdraw the ordinance from the agenda; seconded by Councilmember Neely.

The motion to withdraw carried. (10 yeas; 0 nays; 1 absent - Kent)

Second 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 NEW PAYROLL SOFTWARE MODULE.

Councilman Ritter made a motion to adopt; seconded by Councilmember Jackson.

Mayor Dean explained that two proposals were received; the low bidder was New World Systems, Troy Michigan in the amount of $65,700. She deferred to the Director of Data Processing, Brian O'Neill for any questions.

Chairman Patterson asked Mr. O'Neill what "bells and whistles" the system had for $65,700.

Mr. O'Neill explained it also has a human resources module. He stated it will contain insurance information for human resources and also payroll information.

The ordinance was adopted. (10 yeas; 0 nays; 1 absent - Kent)

Second Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF HUNTINGTON TO EXECUTE A DEED TO CONVEY THE OLD HUNTINGTON HIGH SCHOOL PROPERTY TO THE HUNTINGTON MUNICIPAL DEVELOPMENT AUTHORITY AND TO AUTHORIZE THE HUNTINGTON MUNICIPAL DEVELOPMENT AUTHORITY TO EXECUTE A DEED TO CONVEY THE OLD HUNTINGTON HIGH SCHOOL PROPERTY TO THE HOUSING DEVELOPMENT CORPORATION.

Councilman Bobersky made a motion to adopt; seconded by Councilmember Neely.

Mayor Dean stated that this would be the next step taken in order to rehabilitate and reuse the former Huntington High School building. The current owner will convey it to the Huntington Municipal Development Authority who will, in turn,

convey it to the Housing Development Corporation. This will permit use of the building for residential apartments for seniors, for use by the YMCA and also for use by the Arts Resources of the Tri-State.

Councilmember Neely asked the Director of the Huntington Housing Authority if there were a completion date.

Mr. Bill Dotson, 6891 Stringtown Road, Barboursville, WV answered that the plan is to submit a tax credit application to the West Virginia Housing Development Fund at the end of this month. That, coupled with a loan from the city and investment money from the Housing Development Corporation and monies from a bank will allow them to begin the project in October, 1999 and complete it by October of next year. They will hopefully lease up the units by January, 2001.

Councilman Polan asked for further information with reference to the loan from the city.

Mr. Dotson replied that he has asked the city to commit to a Section 108 loan, CDBG funds. The city would borrow monies from the federal government and then loan those monies to them, which will be a long term loan.

Mr. Polan asked the amount of the loan and the terms.

Mr. Dotson answered that it is $1,650,000. It will be a 40 year term at 3%.

Mr. Polan asked if the source of the revenue will be CDBG funds.

Mr. Dotson said that would not be the case. The manner in which this will be paid back will come from rental income on the apartments and the leased space.

Mr. Polan asked if the loan proceeds would come from the CDBG funds on hand.

Mr. Dotson answered "no."

Mayor Dean stated that the Section 108 loans are totally separate from the CDBG funds. The city acts as the pass-through agency. Further, if Mr. Polan wished she would be happy for Mr. Harrington to answer any questions.

Mr. David Harrington, Director of Administration and Finance, stated that the Section 108 program has been around for many years but has not been used, locally, until just recently. The first loan was $2,000,000 and was used to purchase the Huntington Industrial Center. The federal government makes available to entitlement communities up to three times their annual entitlement in the form of a Section 108 loan. The

loan proceeds can be used for housing and economic development purposes. The city is the intermediary and relends for profit or non-profit projects. The projects have to stand for the credit as the primary source of repayment. However, the city must pledge its CDBG entitlement monies as a secondary guarantee. If the project were to default the city would repay it out of a portion of their CDBG entitlement funds over the life of the loan.

Mr. Polan asked if the loan must be repaid or would it be a grant to the city, the payments for which would then go into a revolving loan fund of some type.

Mr. Harrington advised it must be repaid, e.g., the city has already paid down a portion of the loan that was used for the Huntington Industrial Center.

Councilman Bobersky asked when the YMCA would begin renovations.

Mr. Dotson said he knew they wanted to begin rehabilitating a portion of the structure this summer and hoped to have the day-care program operating by September.

Councilman Cline asked the size of the apartments and the amount of rent that will be charged.

Mr. Dotson answered that there will be 31 one-bedroom units and the size will be approximately 650 square feet. There will be 11 two-bedroom units and their size will be 950 square feet. The amount to be charged, for the one-bedroom units, will be $354 per month. This includes utilities. The two-bedroom units will rent for $437 and this will include the utilities.

Councilmember Neely commented that she was happy to see this project go forward since she knew of the need for elderly housing.

Mr. Dotson remarked that without the city's help in this undertaking it would have not been possible. He commended the Mayor and her staff for having contributed toward the success of the project.

Councilman Polan asked the cost of the total project.

Mr. Dotson answered it would be $4,448,514, which will include the housing project and the leased space.

Mr. Polan said it appeared this would result in an average of approximately $100,000 per unit. He added that it was difficult for him to understand why these apartments would cost so much.

Mr. Dotson said that, actually, one would be looking at $3,355,128 in hard costs. There would be another $200,000 for architectural fees, adding that if Mr. Polan wished he could review all of the cost breakdowns. The bottom line is that the soft costs total to quite a bit of money, in order to develop the project.

Mr. Polan said then it would come to approximately $85,000 per unit of hard costs.

Mr. Dotson responded by saying "it's an old building and there's a lot of rehab that needs to be done."

Mr. Polan asked what that would be, per square foot.

Mr. Dotson answered that he did not have that information with him.

Mr. Polan asked how long an elderly applicant for housing would have to wait.

Mr. Dotson said it would be approximately two months.

Mr. Polan asked the number of elderly units the Housing Authority maintains.

Mr. Dotson replied that the number would be approximately 585 units.

Mr. Polan asked what type of units will be constructed, across the street, from the former high school.

Mr. Dotson said those will be constructed with federal funds, commonly referred to as 202 money. There will be 20 units. They will be similar in nature.

Councilman Cline asked if the chair had not worked toward completing such a project in another section of the city and if this one would compare, in nature, to it.

Chairman Patterson responded by saying it was the same kind of a project that Mr. Dotson is now in the process of undertaking.

Mr. Tom McCallister, 336 W. 5th Avenue, asked if Council remembered that there was a school board levy, some time ago, to build two high schools and rehabilitate the old schools into middle schools. The citizens will not be finished paying for that until 2006. He believed the city had received the building in exchange for the the school board's delinquency in fire service fees, etc. He recalled that both West Junior High School and Cammack Elementary School were both to have been situated in the former Huntington High School building. He asked for confirmation that this would return to Council,

since there would need to be an ordinance in order to apply for the loan.

Chairman Patterson asked Mayor Dean if that would be the case.

In response, Mayor Dean said she believed it would go through the Huntington Municipal Development Authority.

The Director of Administration and Finance, David Harrington, explained that he believed the Section 108 loan for the Huntington Industrial Center did come before Council. This would be the same type of situation.

Mr. D. Everett Fullerton, 1657 14th Avenue, asked what would happen if the funds are not there to complete the proposed project.

Chairman Patterson stated that there is a reversionary clause which states that if this would not be completed within two years, the ownership of the building will revert to the city.

The ordinance was adopted. (10 yeas; 0 nays; 1 absent - Kent)

Second Reading of an Ordinance re: AN ORDINANCE OF COUNCIL GRANTING CONSENT TO THE TRANSFER OF CONTROL OF THE CABLE TELEVISION FRANCHISE FROM CENTURY HUNTINGTON COMPANY, NOW CENTURY COMMUNICATIONS CORP., TO ADELPHIA COMMUNICATIONS CORP.

Councilman Cline made a motion to adopt; seconded by Councilmember Maass.

Mayor Dean stated that the Century Communications Corporation has been purchased by the Adelphia Communications Corporation. The city is required to transfer the franchise agreement to the new owner.

Councilman Bailey asked that one of the attorneys for Century Communications step forward. He asked the attorney the amount of the sale price.

Mr. Jack Jenkins, legal counsel for Century Communications said the amount is approximately 5 billion dollars.

Councilmember Maass asked how many systems that would include.

Mr. Jenkins answered that Century Communications has about 1,600,000 customers. Adelphia is about four to five times as large as Century and will have almost 5,000,000 customers. It will be the fifth largest cable system in the United States. Mr. Jenkins pointed out that in 1992 the city made a promise to Century Cable that if the company wanted to sell the system the city would agree to transferring the franchise agreement. He said Adelphia is very well regarded and hoped Council would permit the transfer to go through. He added that he had heard

comments about the rates that Century charges; however, he explained that the FCC regulates the rates for basic cable.

Councilman Bailey asked that he be permitted to bring out some facts about the situation. If Council would vote "no" on this ordinance he did not feel that would be an unreasonable action since Council does not set the rates. Referring to rates, he noted that in 1979 the rates per month were $7.23 per month. Since 1993 the rates have been raised six times. In 1993 the rates were $21.95 for 33 channels. At the present time, the basic cable rate is $40.48 with no premium channels included. He pointed out that in the franchise agreement it refers to the West Virginia Cable Advisory Board which no longer exists. It also states that the city shall regulate basic cable service rates to ensure they are just and reasonable both to the public and the cable operator. He believed that since the advisory board no longer exists that the company should have to come to Council about the rates. In December, 1993 Council adopted a resolution which stated it would be the rate regulator for cable television in this city. Since the resolution was adopted it has never been enforced. One stipulation in the agreement was that Century could not raise the rates unless their services were improved. He maintained this has never happened since City Council's office receives numerous complaints about the company.

Councilmember Neely agreed with Mr. Bailey. She explained she had asked why the rates in Huntington are a lot more than in other cities in West Virginia. The answer she received had to do with the different zones in the state. However, she said she did have a problem with the rates since there are many senior citizens in the city whose main source of entertainment is television. These people are, for the most part, on fixed incomes. Additionally, the cable system in Huntington has a monopoly since there is absolutely no competition. She could not vote for it in good conscience.

Councilman Bobersky commented that all Council is voting on is to transfer the franchise agreement to the new company. It has nothing to do with regulating the rates.

Councilman Ritter said he had heard the term "unreasonable" used in connection with Council not authorizing the transfer. He continued by saying he had seen an example of what could be termed an "unreasonable" situation this past weekend. His mother-in-law, who is on a very low fixed income, had to cancel her cable service because she can no longer afford it after the rates were raised. He understood this ordinance had nothing to do with the rates, but he felt that if Council would not adopt it that, in itself, would make a statement. He could not vote for it.

Councilman Ellis said that he had received several phone calls about the company. He explained to the people that Council

has no jurisdiction over the rates; this would be to simply transfer the franchise agreement. He suggested that citizens write or call the FCC and lodge their complaints.

Councilmember Maass pointed out that the city places itself in quite a situation if Council does not approve the transfer, in terms of lost revenue for Century Cable. She did not feel there was any justified reason not to approve the transfer.

Councilman Bailey asked that his recommendations be made part of the official record of this meeting. Mr. Bailey's recommendations were as follows:

1. Council should vote "no" on the transfer and let the company take the city to court. Let a judge and jury decide the issue.

2. The city attorney should be asked to file the proper documents with the FCC to let City Council become the rate regulator for the cable companies in Huntington. He said the City of Morgantown, WV made application to the FCC and was granted that authority.

3. When the authority is granted to the city, based on the city attorney having made application to the FCC, then a cable advisory board should be put in place to oversee the issue. The members of the board would report to the Mayor and City Council.

4. The rates for senior citizens, those on fixed incomes, and the handicapped be immediately cut by 33% in order for the company to show good intent.

Mr. Tom McCallister, 336 W. 5th Avenue, said that while Century Cable had taken care of grounding their lines for many customers they had failed to take care of all of the customers. Even those that were grounded were not in compliance with the BOCA Code. Would not this be considered "unreasonable"?

Mr. Marvin Fuller, 1438 Harvey Road, said he well remembered when the former Council agreed to a 15 year franchise agreement. He felt there should be some means of protecting the citizens. He did not feel that half the programs are worth viewing.

Mr. D. Everett Fullerton, 1657 14th Avenue, said he had read in the paper that Adelphia now has a cable system very close to Huntington. The people in that city are very upset since the rates have been raised.

The ordinance was adopted. (6 yeas; 4 nays - Bailey, Jackson, Neely, Ritter; one absent - Kent)

First 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 DOWNTOWN HUNTINGTON SIDEWALK IMPROVEMENT PROJECT.

Mayor Dean stated this will be second phase of the downtown improvement project. The north side of the 800 block of 3rd Avenue has already been completed. This will take care of the south side of the 800 block of 3rd Avenue. Two proposals were received and the low proposal was submitted by B&L Contractors, Inc. from Ashland, Kentucky in the amount of $63,923.

Councilman Cline asked that it be recorded that he will be abstaining when the issue is on the next Council agenda. He advised that he rents to the company and hoped he would be able to furnish the concrete.

This ordinance will be advertised.

First Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 507 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED REGARDING UNLAWFUL NOISES BY DOGS AND/OR CATS.

Mayor Dean explained this had come at the request of the Animal Control Shelter who would like to be able to issue the proper citations when complaints are received about excessive noise.

This ordinance will be advertised.

First Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO FINANCE THE LEASE-PURCHASE OF VARIOUS VEHICLES AND EQUIPMENT FOR THE CITY OF HUNTINGTON.

Mayor Dean deferred to the Finance Director, Glenn White.

Mr. White explained that this will authorize the Mayor to enter into an agreement for a master lease-purchase contract to finance equipment, vehicle purchases over the next three years.

This ordinance will be advertised.

First Reading of an Ordinance re: AN ORDINANCE OF COUNCIL PROVIDING THAT THE GEOGRAPHICAL AREA INCLUDED IN THE LIMITS OF THE CITY OF HUNTINGTON BY MINOR BOUNDARY ADJUSTMENT BY ORDER OF THE COUNTY COMMISSION OF CABELL COUNTY, WEST VIRGINIA, ENTERED ON THE 18TH DAY OF MAY, 1999, SAID AREA BEING A PORTION OF STATE ROUTE 10 AND MOUNT UNION ROAD, LOCATED IN GUYANDOTTE DISTRICT, CABELL COUNTY, WEST VIRGINIA, BE MADE A

PART OF MUNICIPAL ELECTION DISTRICT 14 IN THE CITY OF HUNTINGTON.

Mayor Dean explained that the city recently annexed a portion of the roadway and the new subdivision known as Summit Ridge. Following approval by the Cabell County Commission the city is required to place it in one of the municipal election districts.

This ordinance will be advertised.

First Reading of an Ordinance re: AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO PROVIDE THE HUNTINGTON SANITARY BOARD WITH ENGINEERING SERVICES TO MEET THE REQUIREMENTS OF THE CITY OF HUNTINGTON SANITARY BOARD SCOPE OF SERVICES FOR THE HAL GREER BOULEVARD/STATE ROUTE 10 FACILITIES PLANNING STUDY.

Mayor Dean stated that following the appropriate advertising and interviewing requirements the Huntington Sanitary Board had voted and it is now before Council, for approval. This will allow the award of an agreement with L. Robert Kimball & Associates, Inc. The firm is located in Moon Township, Pennsylvania and the amount of the award is $63,500.

This ordinance will be advertised.

First 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 R-5 MULTI-FAMILY RESIDENTIAL FROM R-2 SINGLE-FAMILY RESIDENTIAL PROPERTIES LOCATE AT 1333 AND 1336 MEMORIAL BOULEVARD, PARCELS 224-225, TAX MAP 26.

Mayor Dean said this item had been before the Planning Commission and is being forwarded to Council with a favorable recommendation. It concerns an area known as Harrison Avenue.

This ordinance will be advertised.

✓ Resolution re: SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1999 (WEST VIRGINIA SRF PROGRAM), OF THE CITY OF HUNTINGTON; RATIFYING AND APPROVING A LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

Councilman Cline made a motion to adopt; seconded by Councilman Bobersky.

Mayor Dean explained that the ordinance, just adopted by Council and relating to the Guyandotte force main, also requires this supplemental resolution to be approved.

Mr. Tom McCallister, 336 W. 5th Avenue, said that according to state law this should have been an ordinance.

The chair deferred to the city attorney.

Mrs. Jendonnae Houdyschell, City Attorney, advised that this is simply a supplemental resolution to the bond ordinance that received three readings, and was just adopted by Council. It sets the principal amount, maturity date, pertinent items, etc.

✓ The resolution was adopted. (9 yeas; 1 nay - Bailey; 1 absent - Kent)

Resolution re: A RESOLUTION OF COUNCIL AUTHORIZING PARTICIPATION OF THE CITY OF HUNTINGTON IN THE CABELL-HUNTINGTON-WAYNE HOUSING CONSORTIUM.

Councilmember Neely made a motion to adopt; seconded by Councilman Cline.

Mayor Dean stated this is a continuation of the housing consortium that the city has entered into before with Cabell and Wayne Counties. She noted that Mr. Bill Toney, the director of the program for the city, was present for any questions. She explained the city receives, in round figures, $314,000; Wayne County, $244,000; Cabell County, $204,000.

Chairman Patterson asked if this would mean the city is following the same program as before.

Mr. Bill Toney, director of the program, stated there are no changes in the program guidelines. There has been one change in the contract which states that HUD now requires that all parties involved sign the agreement. There are nine (9) participants.

Chairman Patterson asked how the signing procedure is progressing.

Mr. Toney answered that with the exception of the City of Ceredo all participants have either signed the agreement or will very shortly. He explained he felt the officials in Ceredo had misunderstood the request in some way, but felt there would be no problem.

Chairman Patterson asked what would be the effect if Ceredo would choose not to sign the agreement.

Mr. Toney stated it would decrease Wayne County's allocation.

The resolution was adopted. (10 yeas; 0 nays; 1 absent - Kent)

Resolution re: A RESOLUTION OF COUNCIL AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH THE GREATER HUNTINGTON PARK AND RECREATION DISTRICT.

Mayor Dean explained the enactment of the lease agreement will permit the park board to continue the walking path, in Ritter Park, underneath the 8th Street bridge. This will provide a safer pathway for those walking, jogging, etc. since the people will no longer have to cross 8th Street. The Public Works Director has worked with the park board to ensure a suitable attachment to the bridge.

Mr. Jim McClelland, Director of the Greater Huntington Park and Recreation District, 117 Edison Drive, advised that he had plans with him that he would be happy to present, but would wait until the second reading if Council would prefer.

Chairman Patterson suggested that he wait until the second reading.

Councilman Bailey asked why the city would not prepare lease agreements as ordinances rather than resolutions.

The City Attorney, Jendonnae Houdyschell, answered that state law provides that lease agreements can be done by resolutions but there must be two readings. The city has, traditionally, prepared lease agreements by resolution.

Mr. Tom McCallister, 336 W. 5th Avenue, commended the park board for this improvement. He felt it would greatly benefit all those who use Ritter Park.

Councilman Bobersky commented that for 14 years he has dodged traffic on 8th Street, as he jogged, and has always wondered why the park board had not considered a path under the bridge. He, too, thought it was an excellent idea.

This resolution will be advertised.

Resolution re: A RESOLUTION FOR THE REVISION OF THE FISCAL YEAR 1998-1999 GENERAL FUND BUDGET.

Councilman Ellis made a motion to adopt; seconded by Councilmember Neely.

Mayor Dean deferred to the finance director for explanation.

Mr. Glenn White, Finance Director, advised that this is the final revision to the General Fund budget for fiscal year 1998-1999. This ensures that all line items have sufficient appropriations to close out the year. In this revision the B&O tax revenue estimate is being increased by approximately

$1,000,000. The other revenue source being adjusted is the state grant line, by an additional $97,000. Of that, $95,000 is in the form of ESG grant monies and the additional $2,000 will go to the Midsummer Nights grant. He noted that the majority of the adjustments center around the group insurance. The city is proposing that approximately $900,000 be contributed, from the General Fund, to the self-insurance fund. This will, essentially, eliminate a short fall that has accrued in the fund and bring it back to a break-even point at the end of the year. There are also additional funds in the City Clerk's line to provide for the part-time employee who worked for the Assistant City Clerk while she was on sick leave. The monies are also appropriated for the first payment of the pumper truck that was originally purchased with CDBG funds. The city is purchasing the truck so it can be relocated to another area in the city. That truck has been replaced with a new truck, purchased with CDBG funds.

Councilman Polan asked if there were any sort of a reserve fund that would handle any incurred, but not reported claims.

Mr. White said that at this point in time, the city would not have such a fund. However, the city was very close a few years but with the increase in the prescriptions, etc. it has not been possible.

Mr. Polan asked if there is any data on what the figure is at the end of each year, with or without reserves?

Mr. White said that he would not know, at the end of June, what the claims' run-off would be. Blue Cross is very prompt in processing the claims and submitting them to the city; however, the problem would be that there are claims that no one would have any knowledge of at that particular time.

Mr. Polan asked if the annual audit would estimate those numbers.

Mr. White answered "no."

Mr. Polan said he recalled being told about a committee that is reviewing the health insurance program which will, at some point, submit recommendations.

Mr. White said there is such a committee composed of representatives from each bargaining unit, City Council and the Administration. The charge of the committee is to look at all of the insurance programs and the available alternatives.

Mr. Polan asked when the committee would make its recommendations.

Mr. White felt it would be within 30-60 days.

Councilman Cline remarked that he had seen, with reference to Mr. Polan's question about carry-over claims, in his experience with companies that normally there is a two to three month number of claims that are carried over.

The resolution was adopted. (10 yeas; 0 nays; 1 absent - Kent)

GOOD & WELFARE

Councilmember Neely expressed her appreciation for everyone who supported her reappointment to City Council. This would include Mayor Dean, Council members, the citizens in her district. She was happy to be back!

Councilman Polan asked for an update on the progress of the sale of the city's building to Level I Fasteners.

Mayor Dean replied that it is to be before the Huntington Municipal Development Authority this Wednesday, June 16. Following that the actual transaction is expected to take place within the following two weeks.

Councilman Ritter asked if there had been any recent information as to when the equipment will be placed in the wastewater treatment plant to cut down on the odor that comes from the plant. He recalled there was some sort of equipment that had special lights which kill bacteria.

Mayor Dean replied that the project is being engineered at the present time; however, she was not sure of the completion date.

Mr. Tom McCallister, 336 W. 5th Avenue, thanked the city for the fire department's outstanding work in containing a fire and saving a home that belonged to a friend of his. He added that he would not be returning to these meetings for quite some time since he would be directing all his time toward being elected to City Council from District 2.

Mr. Marvin Fuller, 1438 Harvey Road, complimented City Council and the Mayor for the progress that has taken place in the city.

Mr. Steve Long, 2855 Washington Boulevard, said he had returned to Council to once again ask for the city's help in repairing a collapsed sewer line that has been there for over two years. He said he had been to Council two months ago and since no action has been taken, he was back again. He thanked Councilmember Jackson for her efforts to get the job done, adding that he had been notified a contract would be awarded. He also noted that he had called the Public Works Director, George McClennen, for over a year and that Mr. McClennen has never returned his calls. Regardless of that, there is a very large hole in his yard which is forcing children to walk in the road. He said it is a storm drain that has collapsed and

he was advised it is the city's responsibility. His patio is also sinking into the hole. He explained that he was not actually mad at anyone, but simply wanted the problem corrected since it continues to be a dangerous situation, especially with children walking so close to it. He left with the statement that he was still optimistic that the city would fulfill its responsibility.

Councilman Bailey asked Mayor Dean if she would make a special effort to see that Mr. McClennen would go look at the situation.

Mayor Dean advised that as soon as she received a copy of the synopsis from the City Clerk, with the pertinent information, she would inquire of Mr. McClennen to see what the situation actually is.

Councilman Polan said he believed the hole in the yard and the necessary repairs would be one issue; however, he hoped Mayor Dean would look into the issue as to whether or not Mr. McClennen has refused to discuss the issue with Mr. Long. He would like to know if the allegation were true since he would hope that a citizen of the city, whether they were ultimately told "yes" or "no" would not have to try, unsuccessfully, for 30 months to get into see a municipal employee.

In response, Mayor Dean said she had not heard Mr. Long say he was actually denied an opportunity to talk about it. He said he was not able to see him. Mr. McClennen is very much a "hands-on" public works director. He does not simply sit behind his desk all day. He is frequently out doing exactly what his job requires -- looking at various projects to see that the jobs are being done and done correctly.

Mr. Long asked to reiterate his feelings that he has no personal vendetta. He had spoken with Mr. McClennen, by phone, sometime last year and public works' employees had been there to assess the situation. At that time, Mr. McClennen verbally promised him the work would be completed by the end of June, 1998. He told him it had been budgeted. He was not proposing any undue scrutiny against any employee; he simply wanted the situation rectified.

Councilmember Jackson asked Mr. Long if he did not, in fact, receive a letter stating that bids were going out for the job.

Mr. Long said he had received such a letter and two years ago he was told the job was beyond the scope of the city and would, therefore, have to be contracted out. However, that was two years ago.

Mr. D. Everett Fullerton, 1657 14th Avenue, said Cabell Huntington Hospital had finally taken down the street lights that had been hanging over the parking lots -- with the

exception of the ones hanging next to Paul Dempsey's house. He could see no reason for this, other than harassment of the Dempseys. He recalled he had also requested that the "no parking" signs, on the east side of Elm Street, be taken down since the street is so narrow. He had received a letter which said it was being investigated. He was also hopeful that citizens would stop parking in "no parking" zones and along 14th Avenue which is clearly posted "two hour parking only." Cars are parking there all day long.

Hearing no other business to come before Council the Chairman adjourned the meeting at 9:25 p.m.

STEPTOE & JOHNSON
ATTORNEYS AT LAW
BANK ONE CENTER
SIXTH FLOOR
P. O. BOX 2190
CLARKSBURG, W. VA. 26302-2190
(304) 624-8000
FACSIMILE (304) 624-8183

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

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

126 EAST BURKE STREET
P. O. BOX 2629
MARTINSBURG, W. VA. 25402-2629
(304) 263-6991
FACSIMILE (304) 262-3541

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

THE RIVERS OFFICE PARK
200 STAR AVENUE, SUITE 220
P. O. BOX 628
PARKERSBURG, W. VA. 26102-0628
(304) 422-6463
FACSIMILE (304) 422-6462

ALAN B. MOLLOHAN INNOVATION CENTER
1000 TECHNOLOGY DRIVE
SUITE 2210
FAIRMONT, W. VA. 26554-8824
(304) 368-8000
FACSIMILE (304) 368-8413

WRITER'S DIRECT DIAL NUMBER

June 22, 1999

The City of Huntington
Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Internal Revenue Service
Internal Revenue Service Center
Philadelphia, Pennsylvania 19255

Ladies and Gentlemen:

Enclosed herewith is a completed and executed Internal Revenue Service Form 8038-G and a file copy thereof with regard to the above-captioned issue. Please file the original form in the appropriate Internal Revenue Service records and return the copy marked in red as the "File Copy" to me (after acknowledging receipt of the same) in the enclosed self-addressed, stamped envelope. Thank you for your attention to this matter.

Very truly yours,

Francesca Tan

Francesca Tan

FT/jmg
Enclosures
Copy of letter with enclosure to:
Mayor Jean Dean
Samme L. Gee, Esquire
8038.LTR
435500/98001

CL526905.2

Form **8038-G** (Rev. May 1995) Department of the Treasury Internal Revenue Service

Information Return for Tax-Exempt Governmental Obligations

▶ Under Internal Revenue Code section 149(e)

▶ See separate instructions.

(Note: *Use Form 8038-GC if the issue price is under $100,000.*)

OMB No. 1545-0720

Part I Reporting Authority — If Amended Return, check here ▶ ☐

Issuer's name: THE CITY OF HUNTINGTON

2 Issuer's employer identification number: 55 6000187

3 Number and street (or P.O. box if mail is not delivered to street address): 800 Fifth Avenue — Room/suite:

4 Report number: G19 99 - 1

5 City, town, or post office, state, and ZIP code: Huntington, WV 25717

6 Date of issue: 6/22/99

7 Name of issue: The City of Huntington Sewer Revenue Bonds, Series 1999 (WV SRF Program)

8 CUSIP number: None

Part II Type of Issue (check applicable box(es) and enter the issue price)

9	☐ Education (attach schedule–see instructions)	9	$
10	☐ Health and hospital (attach schedule–see instructions)	10	
11	☐ Transportation	11	
12	☐ Public safety	12	
13	☒ Environment (including sewage bonds)	13	$2,083,550
14	☐ Housing	14	
15	☐ Utilities	15	
16	☐ Other. Describe (see instructions) ▶	16	
17	If obligations are tax or other revenue anticipation bonds, check box ▶ ☐		
18	If obligations are in the form of a lease or installment sale, check box ▶ ☐		

Part III Description of Obligations

	(a) Maturity date	(b) Interest rate	(c) Issue price	(d) Stated redemption price at maturity	(e) Weighted average maturity	(f) Yield	(g) Net interest cost
19 Final maturity	6/1/2020	2.000 %	$31,505	$31,505			
20 Entire issue			$2,083,550	$2,083,550	11.730 years	2.007 %	2.000 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

21	Proceeds used for accrued interest		21	-0-
22	Issue price of entire issue (enter amount from line 20, column (c))		22	$2,083,550
23	Proceeds used for bond issuance costs (including underwriters' discount)	23 $16,500		
24	Proceeds used for credit enhancement	24 -0-		
25	Proceeds allocated to reasonably required reserve or replacement fund	25 -0-		
26	Proceeds used to currently refund prior issues	26 -0-		
27	Proceeds used to advance refund prior issues	27 -0-		
28	Total (add lines 23 through 27)		28	$16,500
29	Nonrefunding proceeds of the issue (subtract line 28 from line 22 and enter amount here)		29	$2,067,050

Part V Description of Refunded Bonds (Complete this part only for refunding bonds.) N/A

30 Enter the remaining weighted average maturity of the bonds to be currently refunded ▶ _____ years

31 Enter the remaining weighted average maturity of the bonds to be advance refunded ▶ _____ years

32 Enter the last date on which the refunded bonds will be called ▶ _____

33 Enter the date(s) the refunded bonds were issued ▶

Part VI Miscellaneous

34	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	34	-0-
35	Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(i)(III) (small issuer exception)	35	-0-
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)	36a	-0-
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	-0-

b If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▶ ☐ and enter the name of the issuer ▶ _____ and the date of the issue ▶ _____

38 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ▶ ☐

39 If the issuer has identified a hedge, check box ▶ ☐

Please Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Jean Dean — Signature of issuer's authorized representative — Date: 6/22/99

Jean Dean, Mayor — Type or print name and title

For Paperwork Reduction Act Notice, see page 1 of the instructions.

Cat. No. 63773S Form 8038-G (Rev. 5-95)

Printed on recycled paper

WV MUNICIPAL BOND COMMISSION
812 Quarrier Street
Suite 300
Charleston, WV 25301
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: June 22, 1999

(See Reverse for Instructions)

ISSUE: The City of Huntington Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program)

ADDRESS: 800 Fifth Avenue, Huntington, WV 25717 COUNTY: Cabell

PURPOSE OF ISSUE: New Money: X
Refunding: _____

REFUNDS ISSUE(S) DATED: _____

ISSUE DATE: June 22, 1999

CLOSING DATE: June 22, 1999

ISSUE AMOUNT: $2,083,550

RATE: 2%; Administrative Fee: 1%

1ST DEBT SERVICE DUE: 9/1/2000

1ST PRINCIPAL DUE: 9/1/2000

1ST DEBT SERVICE AMOUNT: $31,663.75

PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: Steptoe & Johnson
Contact Person: Vincent A. Collins, Esq.
Phone: 624-8161

UNDERWRITERS COUNSEL: Jackson & Kelly
Contact Person: Samme L. Gee, Esq.
Phone: 340-1318

CLOSING BANK: Bank One
Contact Person: Daniel Mooney
Phone: 526-4200

ESCROW TRUSTEE: _____
Contact Person: _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT
Contact Person: Robert Trocin
Position: Director of Sanitary Board
Phone: 696-4437

OTHER: WV Division of Environmental Protection
Contact Person: Rosalie Brodersen
Function: Branch Chief
Phone: 558-0637

DEPOSITS TO MBC AT CLOSE:
By: ____ Wire
____ Check

____ Accrued Interest: $____
____ Capitalized Interest: $____
____ Reserve Account: $____
____ Other: _____ $____

REFUNDS & TRANSFERS BY MBC AT CLOSE
By: ____ Wire
____ Check
____ IGT

____ To Escrow Trustee: $____
____ To Issuer $____
____ To Cons. Invest. Fund $____
____ To Other: _____ $____

NOTES: _____

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED: _____
TRANSFERS REQUIRED: _____

CL537192.1

THE CITY OF HUNTINGTON

Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

Bank One, West Virginia, National Association, in Huntington, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Ordinance of The City of Huntington (the "Issuer") enacted by the Issuer on June 14, 1999, and a Supplemental Resolution of the Issuer adopted by the Issuer on June 14, 1999 (collectively, the "Bond Legislation"), authorizing issuance of the Issuer's Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), dated June 22, 1999, in the aggregate principal amount of $2,083,550 (the "Bonds"), and agrees to serve as Depository Bank in connection with the Bonds, all as set forth in the Bond Legislation.

WITNESS my signature on this 22nd day of June, 1999.

BANK ONE, WEST VIRGINIA,
NATIONAL ASSOCIATION

Vice President

05/11/99
435500/98001

CL526908.2

THE CITY OF HUNTINGTON

Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

ACCEPTANCE OF DUTIES AS REGISTRAR

ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association, in Charleston, West Virginia, hereby accepts appointment as Registrar in connection with The City of Huntington Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), dated June 22, 1999, in the aggregate principal amount of $2,083,550 (the "Bonds"), and agrees to perform all duties of Registrar in connection with the Bonds, all as set forth in the Bond Legislation authorizing issuance of the Bonds.

WITNESS my signature on this 22nd day of June, 1999.

ONE VALLEY BANK, NATIONAL
ASSOCIATION

Charlotte S Morgan

Assistant Vice President

05/11/99
435500/98001

CL526909.2

THE CITY OF HUNTINGTON

Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

CERTIFICATE OF REGISTRATION OF BONDS

ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association, in Charleston, West Virginia, as Registrar under the Bond Legislation and Registrar's Agreement providing for the above-captioned Bonds of The City of Huntington (the "Issuer"), hereby certifies that on the date hereof, the single, fully registered Sewer Revenue Bond, Series 1999 (West Virginia SRF Program), of the Issuer, dated June 22, 1999, in the principal amount of $2,083,550, numbered R-1, was registered as to principal and interest in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of One Valley Bank, National Association, as Registrar.

WITNESS my signature on this 22nd day of June, 1999.

ONE VALLEY BANK, NATIONAL
ASSOCIATION

Charlotte S Morgan

Assistant Vice President

05/11/99
435500/98001

CL526910.2

THE CITY OF HUNTINGTON

Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 22nd day of June, 1999, by and between THE CITY OF HUNTINGTON, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and ONE VALLEY BANK, NATIONAL ASSOCIATION, Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its $2,083,550 principal amount of Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), in fully registered form (the "Bonds"), pursuant to a Bond Ordinance of the Issuer duly enacted June 14, 1999, and a Supplemental Resolution of the Issuer duly adopted June 14, 1999 (collectively, the "Bond Legislation");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Bond Legislation, a copy of which is attached as EXHIBIT A hereto and incorporated herein by reference;

WHEREAS, the Bond Legislation provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Bond Legislation and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Bond Legislation and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Bond Legislation, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exemption of interest on the Bonds from federal income taxation, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar the compensation for services rendered as provided in the annexed schedule.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Bond Legislation with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Bond Legislation, the terms of the Bond Legislation shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Bond Legislation will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER: The City of Huntington
800 Fifth Avenue
Huntington, West Virginia 25717
Attention: Mayor

REGISTRAR: One Valley Bank, National Association
Post Office Box 1793
One Valley Square
Charleston, West Virginia 25326
Attention: Corporate Trust Department

8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Bond Legislation.

IN WITNESS WHEREOF, the parties hereto have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

THE CITY OF HUNTINGTON

Jean Dean

Mayor

ONE VALLEY BANK, NATIONAL ASSOCIATION

Charlotte L. Morgan

Assistant Vice President

04/30/99
435500/98001

EXHIBIT A

Bond Legislation included in bond transcript as Documents No. 1 and No. 2

Invoice

ONE VALLEY BANK

HONORABLE JEAN DEAN, MAYOR
CITY OF HUNTINGTON
800 FIFTH AVENUE
P O BOX 1659
HUNTINGTON WV 25717

DATE JUNE 22, 1999

UNITS	ITEM DESCRIPTION	TOTAL
	THE CITY OF HUNTINGTON SEWER REVENUE BONDS, SERIES 1999 A (WV SRF PROGRAM)	
	ONE TIME FEE FOR SERVICES AS REGISTRAR AND AUTHENTICATING AGENT.....	$250.00

869

SEND REMITTANCE TO: One Valley Bank
One Financial Place - 6th Floor
One Valley Square
P.O. Box 1793
Charleston, WV 25326

ATTN: CHARLOTTE S MORGAN

*CONFORMED COP

THE CITY OF HUNTINGTON, WEST VIRGINIA

SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1993

BOND ORDINANCE

Table of Contents

RECITALS 1

ARTICLE I
DEFINITIONS; STATUTORY AUTHORITY; FINDINGS

Section 1.01	Definitions	3
Section 1.02	Authority for this Ordinance	20
Section 1.03	Findings	20
Section 1.04	Ordinance Constitutes Contract	22

ARTICLE II
AUTHORIZATION OF REFUNDING

Section 2.01	Authorization of Refunding	23

ARTICLE III
THE BONDS

Section 3.01	Form and Payment of Bonds	24
Section 3.02	Execution of Bonds	24
Section 3.03	Authentication and Registration	25
Section 3.04	Negotiability and Registration	25
Section 3.05	Bonds Mutilated, Destroyed, Stolen or Lost	26
Section 3.06	Term Bonds	27
Section 3.07	Notice of Redemption	28
Section 3.08	Persons Treated as Owners	30
Section 3.09	Temporary Bonds	30
Section 3.10	Series 1993 Bonds	31
Section 3.11	Book Entry System for Series 1993 Bonds	33
Section 3.12	Delivery of Series 1993 Bonds	35
Section 3.13	Form of Series 1993 Bonds	35
Section 3.14	Disposition of Proceeds of Series 1993 Bonds	36

*Reflects supplemental and amendatory provisions set forth in Supplemental Resolution adopted November 3, 1993.

ARTICLE IV
SYSTEM REVENUES; FUNDS AND ACCOUNTS

Section 4.01	Establishment of Funds and Accounts with Depository Bank	37
Section 4.02	Establishment of Funds and Accounts with Bond Commission	37
Section 4.03	System Revenues and Application Thereof	37

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

Section 5.01	Investments	42
Section 5.02	Arbitrage	43
Section 5.03	Tax Certificate and Rebate	43

ARTICLE VI
ADDITIONAL COVENANTS OF THE ISSUER

Section 6.01	Covenants Binding and Irrevocable	45
Section 6.02	Bonds not to be Indebtedness of the Issuer	45
Section 6.03	Bonds Secured by Pledge of Net Revenues and Moneys in Sinking Fund	45
Section 6.04	Rates	45
Section 6.05	Operation and Maintenance	46
Section 6.06	Sale of the System	46
Section 6.07	Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances	47
Section 6.08	Additional Parity Bonds	48
Section 6.09	Insurance and Bonds	50
Section 6.10	Services Rendered to the Board or Issuer	51
Section 6.11	Enforcement of Collections	52
Section 6.12	No Competing Franchise	52
Section 6.13	Books and Records	52
Section 6.14	Operating Budget	53
Section 6.15	Mandatory Connections	54
Section 6.16	Tax Covenants	54
Section 6.17	Covenants Regarding the Municipal Bond Insurance Policy	55

ARTICLE VII
DEFAULTS AND REMEDIES

Section 7.01	Events of Default	64
Section 7.02	Enforcement	64
Section 7.03	Appointment of Receiver	65
Section 7.04	Restoration of Issuer and Bondholder	66

ARTICLE VIII
REGISTRAR AND PAYING AGENT

Section 8.01	Appointment of Registrar	67
Section 8.02	Responsibilities of Registrar	67
Section 8.03	Evidence on Which Registrar May Act	67
Section 8.04	Compensation and Expenses	67
Section 8.05	Certain Permitted Acts	67
Section 8.06	Resignation of Registrar	68
Section 8.07	Removal	68
Section 8.08	Appointment of Successor	68
Section 8.09	Transfer of Rights and Property to Successor	69
Section 8.10	Merger or Consolidation	69
Section 8.11	Adoption of Authentication	69
Section 8.12	Paying Agent	69

ARTICLE IX
DEFEASANCE; DISCHARGE OF PLEDGE OF ORDINANCE

Section 9.01	Defeasance; Discharge of Pledge of Ordinance	71

ARTICLE X
MISCELLANEOUS

Section 10.01	Amendment of Ordinance	73
Section 10.02	Evidence of Signatures of Bondholders and Ownership of Bonds	73
Section 10.03	Preservation and Inspection of Documents	74
Section 10.04	Cancellation of Bonds	74
Section 10.05	Failure to Present Bonds	74
Section 10.06	Notices, Demands and Requests	75
Section 10.07	No Personal Liability	76
Section 10.08	Law Applicable	76
Section 10.09	Parties Interested Herein	76
Section 10.10	Severability of Invalid Provisions	77
Section 10.11	Table of Contents and Headings	77
Section 10.12	Conflicting Provisions Repealed	77

Section 10.13 Procedure on Enactment of Ordinance; Public Hearing 77

SIGNATURES 78
CERTIFICATION 79
EXHIBIT A - BOND FORM 80

THE CITY OF HUNTINGTON, WEST VIRGINIA

AN ORDINANCE AUTHORIZING THE REFUNDING OF THE CITY'S SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1987; THE ISSUANCE OF SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1993, OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN $9,500,000 THE PROCEEDS OF WHICH, TOGETHER WITH OTHER FUNDS OF THE CITY, SHALL BE EXPENDED FOR SUCH REFUNDING AND TO PAY COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT AND OTHER DOCUMENTS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS.

WHEREAS, The City of Huntington, West Virginia (the "Issuer") presently owns and operates through its sanitary board (the "Board") a municipal sewage treatment and collection system (the "System") and has heretofore financed and 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 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 is presently outstanding (the "Prior Bonds");

WHEREAS, the Prior Bonds were issued pursuant to an ordinance of the Issuer enacted by the city council of the Issuer on February 23, 1987, as amended and supplemented by a supplemental resolution adopted by the city council of the Issuer on March 9, 1987 (such ordinance, as so amended and supplemented, herein called the "Prior Ordinance");

WHEREAS, the Issuer has determined and hereby determines that it is in the best interest of the residents of The City of Huntington and the users of the System to advance refund the Prior Bonds as hereinafter set forth;

WHEREAS, under the provisions of Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), the Issuer is

authorized and empowered to issue refunding revenue bonds to refund, pay or discharge all or any part of the outstanding Prior Bonds;

WHEREAS, the Issuer is advised that present value debt service savings and additional borrowing capacity will be realized as a result of the refunding of the Prior Bonds;

WHEREAS, the Issuer has determined and hereby determines that it would therefore be to the benefit of the Issuer and its residents to refund the Prior Bonds to their first redemption date, being August 1, 1997, in the manner set forth herein with proceeds of the issuance of a series of bonds to be designated "The City of Huntington Sewerage System Refunding Revenue Bonds, Series 1993" (the "Series 1993 Bonds"), in the maximum aggregate principal amount of $9,500,000, and other moneys of the Issuer, such Series 1993 Bonds to be secured by and payable from the Net Revenues (as hereinafter defined) of the System, and containing such other terms and provisions as are hereinafter provided;

WHEREAS, the Issuer now desires to authorize the refunding of the Prior Bonds as aforesaid, and to provide for the financing thereof by the issuance of the Series 1993 Bonds as hereinafter provided;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HUNTINGTON HEREBY ORDAINS:

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 1993 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" shall mean The City of Huntington Sanitary Board, or any successor thereto.

"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 Board, and shall initially mean Steptoe & Johnson, Clarksburg, West Virginia.

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

"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 1993 Bonds, shall initially mean Financial Security Assurance Inc., a New York stock insurance company, or any successor thereto.

"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 Dated Date in each year and ending on the day prior to the anniversary date of the Dated Date in the following year.

"Bonds" means, collectively, the Series 1993 Bonds, and any additional parity Bonds hereafter issued within the terms, restrictions and conditions contained herein.

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

"Certificate of Authentication and Registration" means the Certificate of Authentication and Registration on the Series 1993 Bonds, in substantially the form set forth in EXHIBIT A hereto.

"City" or "Issuer" means The City of Huntington, a municipal corporation of the State of West Virginia, in Cabell County thereof, and, where appropriate, the Council, the Board and any successor thereto.

"Closing Date" means the date upon which there is an exchange of the 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.

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

"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 Prior Bonds, interest accruing or to accrue thereon, redemption premiums, premiums for municipal bond insurance and reserve account insurance, letter of credit fees, expenses for fiscal or other agents, legal expenses and any other costs or expenses necessary, incidental,

desirable or appurtenant to the issuance of the Bonds and the refunding of the Prior Bonds.

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

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

"Dated Date" means November 1, 1993.

"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 created by Section 4.01 hereof.

"DTC-eligible" means, with respect to the Series 1993 Bonds, meeting the qualifications prescribed by the Depository Trust Company, New York, New York.

"Escrow Agreement" means the agreement to be entered into between the Issuer, the Bond Commission and the Escrow Trustee, providing for the defeasance and ultimate payment of the Prior Bonds, the deposit therein of proceeds of the Series 1993 Bonds, the disposition of moneys in the various funds and accounts under the Prior Ordinance and other matters in connection therewith, the form of which shall be approved by the Supplemental Resolution.

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

"Escrow Trustee" means the escrow trustee under the Escrow Agreement, which shall be appointed pursuant to a resolution supplemental hereto.

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

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

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

"Government Obligations" means direct and general obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury), or obligations that are unconditionally guaranteed as to principal and interest by the United States of America, including (in the case of direct and general obligations of the United States of America) evidences of ownership of proportionate interests in future interest and principal payments of such obligations; provided that, investments in such proportionate interests shall be limited to circumstances wherein (a) a bank or trust company acts as custodian and holds the underlying United States obligations; (b) the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor of the underlying United States obligations; and (c) the underlying United States obligations are held in a special account separate from the custodian's general assets, and are not available to satisfy any claim of the custodian, any person claiming through the custodian, or any person to whom the custodian may be obligated.

"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).

"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 Bond Year.

"Mayor" means the Mayor of the Issuer.

"Municipal Bond Insurance Policy" means the municipal bond insurance policy issued by the Bond Insurer simultaneously with the

delivery of the Series 1993 Bonds, insuring the timely payment of the principal of and interest on all or any of the Series 1993 Bonds in accordance with the terms thereof.

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

"Nonpurpose Investment" means any investment property which is acquired with the gross proceeds of the Bonds and is not acquired in order to carry out the governmental purpose of the Bonds.

"Net Revenues" means Gross Revenues less Operating Expenses.

"Operating Expenses," unless qualified, means the current expenses, paid or accrued, of repair, operation and maintenance of the System, and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses (other than those capitalized as part of the costs of 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 Prior Bonds or 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 Raymond James & Associates, Inc., St. Petersburg, Florida, as the purchasers of the Series 1993 Bonds directly from the Issuer, or, if the Issuer and such Original Purchaser do not agree to the purchase of the Series 1993 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 1993 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 1993 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 1993 Bonds.

"Outstanding," when used with reference to Bonds or Prior Bonds and as of any particular date, describes all Bonds or Prior Bonds theretofore and thereupon being 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 Registrar and any other paying agent for the Bonds which may be appointed by a resolution supplemental hereto, all in accordance with Section 8.12 hereof.

"Prior Bonds" shall have the meaning set forth in the premises hereof, and shall include the coupons appertaining thereto, if any.

"Prior Ordinance" 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.

"Purchase Price," for the purpose of computation of the Yield of the Bonds, has the same meaning as the term "issue price" in Sections 1273(b) and 1274 of the Code, and, in general, means the initial offering price of the Bonds to the public (not including bond houses and brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers) at which price a substantial amount of the Bonds of each maturity is sold or, if the Bonds are privately placed, the price paid by the first buyer of the Bonds or the acquisition cost of the first buyer. "Purchase Price," for

purposes of computing Yield of Nonpurpose Investments, means the fair market value of the Nonpurpose Investments on the date of use of Gross Proceeds of the Bonds for acquisition thereof, or if later, on the date that Investment Property constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the Bonds.

"Qualified Investments" means and includes the following:

1. (a) Direct obligations (other than an obligation subject to variation in principal repayment) of the United States of America ("United States Treasury Obligations"), (b) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by the United States of America, (c) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by any agency or instrumentality of the United States of America when such obligations are backed by the full faith and credit of the United States of America, or (d) evidences of ownership of proportionate interests in future interest and principal payments on obligations described above 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 government obligations are not available to any person claiming through the custodian or to whom the custodian may be obligated.

2. Federal Housing Administration debentures.

3. The listed obligations of government sponsored agencies which are <u>not</u> backed by the full faith and credit of the United States of America:

-Federal Home Loan Mortgage Corporation (FHLMC)

Participation certificates (excluded are stripped mortgage securities which are purchased at prices exceeding their principal amounts)

Senior Debt obligations

-Farm Credit Banks (formerly: Federal Land Banks, Federal Intermediate Credit Banks and Banks for Cooperatives)

Consolidated system-wide bonds and notes

-Federal Home Loan Banks (FHL Banks)

Consolidated debt obligations

-Federal National Mortgage Association (FNMA)

Senior debt obligations

Mortgage-backed securities (excluded are stripped mortgage securities which are purchased at prices exceeding their principal amounts)

-Student Loan Marketing Association (SLMA)

Senior debt obligations (excluded are securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date)

-Financing Corporation (FICO)

Debt obligations

-Resolution Funding Corporation (REFCORP)

Debt obligations

4. Unsecured certificates of deposit, time deposits, and bankers' acceptances (having maturities of not more than 30 days) of any bank the short-term obligations of which are rated 'A-1' or better by S&P.

5. Deposits the aggregate amount of which are fully insured by the Federal Deposit Insurance Corporation (FDIC), in banks which have capital and surplus of at least $5 million.

6. Commercial paper (having original maturities of not more than 270 days) rated 'A-1+' by S&P and 'Prime-1' by Moody's.

7. Money market funds rated 'AAm' or 'AAm-G' by S&P, or better.

8. "State Obligations," which means:

A. Direct general obligations of any state of the United States of America or any subdivision or agency thereof to which is pledged the full faith and credit of a state the unsecured general obligation debt of which is rated 'A3' by Moody's <u>and</u> 'A' by S&P, or better, or any obligation fully and unconditionally guaranteed by any state, subdivision or agency whose unsecured general obligation debt is so rated.

B. Direct general short-term obligations of any state agency or subdivision or agency thereof described in (A) above and rated 'A-1+' by S&P and 'Prime-1' by Moody's.

C. Special Revenue Bonds (as defined in the United States Bankruptcy Code) of any state, state agency or subdivision described in (A) above and rated 'AA' or better by S&P and 'Aa' or better by Moody's.

9. Pre-refunded municipal obligations rated "AAA" by Standard & Poor's Corporation and "Aaa" by Moody's Investors Service meeting the following requirements:

A. the municipal obligations are (1) not subject to redemption prior to maturity or (2) the trustee for the municipal obligations has been given irrevocable instructions concerning their call and redemption and the issuer of the municipal obligations has covenanted not to redeem such municipal obligations other than as set forth in such instructions;

B. the municipal obligations are secured by cash or United States Treasury Obligations which may be applied only to payment of the principal of, interest and premium on such municipal obligations;

C. the principal of and interest on the United States Treasury Obligations (plus any cash in the escrow) has been

verified by the report of independent certified public accountants to be sufficient to pay in full all principal of, interest, and premium, if any, due and to become due on the municipal obligations ("Verification");

D. the cash or United States Treasury Obligations serving as security for the municipal obligations are held by an escrow agent or trustee in trust for owners of the municipal obligations;

E. no substitution of a United States Treasury Obligation shall be permitted except with another United States Treasury Obligation and upon delivery of a new Verification; and

F. the cash or United States Treasury Obligations are not available to satisfy any other claims, including those by or against the trustee or escrow agent.

10. Repurchase agreements:

A. With any domestic bank the long term debt of which is rated 'AA' or better by S&P (so long as an opinion is rendered that the repurchase agreement is a "repurchase agreement" and a "qualified financial contract" as defined in the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") and that such bank is subject to FIRREA), or any foreign bank the long term debt of which is rated at least 'AA' by S&P and 'AAA' by S&P and at least 'Aa' by Moody's; provided the term of such repurchase agreement is for one year or less.

B. With (1) any broker-dealer with "retail customers" which has, or the parent company of which has, long-term debt rated at least 'AA' by S&P and 'Aa' by Moody's, which broker-dealer

falls under the jurisdiction of the Securities Investors Protection Corporation (SIPC); or (2) any other entity approved by Financial Security, provided that:

a. The market value of the collateral is maintained (i) for United States Treasury Securities at the levels shown below under "Collateral Levels for United States Treasury Obligations" and (ii) for other collateral, at levels acceptable to Financial Security;

b. Failure to maintain the requisite collateral percentage will require the Issuer to liquidate the collateral.

c. The Issuer, the Paying Agent or a third party acting solely as agent therefor (the "Holder of the Collateral") has possession of the collateral or the collateral has been transferred to the Holder of the Collateral in accordance with applicable state and federal laws (other than by means of entries on the transferor's books);

d. The repurchase agreement shall state and an opinion of counsel shall be rendered that the Holder of the Collateral has a perfected first priority security interest in the collateral, any substituted collateral and all proceeds thereof (in the case of bearer securities, this means the

Holder of the Collateral is in possession);

e. The transferor represents that the collateral is free and clear of any third-party liens or claims;

f. An opinion is rendered that the repurchase agreement is a "repurchase agreement" as defined in the United States Bankruptcy Code and, if the provider is a bank, that such bank is subject to FIRREA and the repurchase agreement is a "qualified financial contract" as defined in FIRREA;

g. There is or will be a written agreement governing every repurchase transaction;

h. The Issuer represents that it has no knowledge of any fraud involved in the repurchase transaction; and

i. The Issuer receives the opinion of counsel (which opinion shall be addressed to the Issuer and the Bond Insurer) that such repurchase agreement is legal, valid, binding and enforceable upon the provider in accordance with its terms.

11. Investment agreements with (A) a domestic bank the long-term debt of which is rated at least 'AA' by S&P and 'Aa' by Moody's (so long as an opinion is rendered that the bank is subject to FIRREA); or (B) a foreign bank the long-term debt of which is rated 'AAA' by S&P and at least "Aa' by Moody's, or at least 'AA' by S&P and

'Aaa' by Moody's; provided, that, by the terms of the investment agreement:

(1) interest payments are to be made at times and in amounts as necessary to pay debt service (or, if the investment agreement is for the construction fund, construction draws) on the Bonds;

(2) the invested funds are available for withdrawal without penalty or premium, at any time upon not more than seven days' prior notice (which notice may be amended or withdrawn at any time prior to the specified withdrawal date); *provided that the Ordinance specifically requires* the Issuer to give notice in accordance with the terms of the investment agreement so as to receive funds thereunder with no penalty or premium paid;

(3) the investment agreement shall state that is the unconditional and general obligation of, and is not subordinated to any other obligation of, the provider thereof;

(4) a fixed guaranteed rate of interest is to be paid on invested funds and all future deposits, if any, required to be made to restore the amount of such funds to the level specified under the Ordinance;

(5) the term of the investment agreement does not exceed seven years or such longer term as shall be approved by the Bond Insurer;

(6) the Issuer receives the opinion of domestic counsel (which opinion shall be addressed to the Issuer and the Bond Insurer) that such investment agreement is legal, valid, binding and enforceable upon the provider in accordance with its terms and of foreign counsel (if applicable) in form and substance acceptable;

(7) the investment agreement shall provide that if during its term

(a) the provider's rating by either S&P or Moody's falls below 'AA'

or 'Aa,' respectively, or, with respect to a foreign bank, below the ratings of such provider at the delivery date of the investment agreement, the provider must, at the direction of the Issuer (who shall give such direction if so directed by the Bond Insurer), within 10 days of receipt of such direction, either (i) collateralize the investment agreement by delivering or transferring in accordance with applicable state and federal laws (other than by means of entries on the provider's books) to the Issuer, the Paying Agent or a third party acting solely as agent therefor (the "Holder of the Collateral") United States Treasury Obligations which are free and clear of any third-party liens or claims at the Collateral Levels set forth below; or (ii) repay the principal of and accrued but unpaid interest on the investment, and

(b) the provider's rating by either Moody's or S&P is withdrawn or suspended or falls below 'A,' or, with respect to a foreign bank, below "AA" or "Aa" by S&P or Moody's, as appropriate, the provider must, at the direction of the Issuer (who shall give such direction if so directed by the Bond Insurer), within 10 days of receipt of such direction, repay the principal of and accrued but unpaid interest on the investment, in either case with no penalty or premium to the Issuer; and

(8) The investment agreement shall state and an opinion of counsel shall be rendered that the Holder of the Collateral has a perfected first priority security interest in the collateral, any substituted collateral and all proceeds thereof (in the case of bearer securities, this means the Holder of the Collateral is in possession);

(9) the investment agreement must provide that if during its term

(a) the provider shall default in its payment obligations, the provider's obligations under the investment agreement shall, at the direction of the Issuer (who shall give such direction if so directed by the Bond Insurer), be accelerated and amounts invested and accrued but unpaid interest thereon shall be repaid to the Issuer or Paying Agent, as appropriate, and

(b) the provider shall become insolvent, not pay its debts as they become due, be declared or petition to be declared bankrupt, etc. ("event of insolvency"), the provider's obligations shall automatically be accelerated and amounts invested and accrued but unpaid interest thereon shall be repaid to the Issuer or Paying Agent, as appropriate.

12. Any State-administered pool investment fund in which the Issuer is statutorily permitted or required to invest.

13. Subject to the prior written approval of the Bond Insurer, such other obligations as shall be permitted to be legal investments of the Issuer by the laws of the State.

COLLATERAL LEVELS FOR UNITED STATES TREASURY OBLIGATIONS

	Remaining maturity				
	1 year or less	5 years or less	10 years or less	15 years or less	30 years or less
Frequency of valuation					
Daily	102	105	106	108	114
Weekly	103	111	112	114	120
Monthly	105	117	120	125	133
Quarterly	107	120	130	133	140

VALUATION REQUIREMENTS:

(1) On each valuation date the Issuer, the Paying Agent, or the custodian who shall confirm to the Issuer and the Paying Agent, shall, at the cost of the provider, value the market value (exclusive of accrued interest) of the collateral, which market value will be an amount equal to the requisite collateral percentage times the principal amount of the investment and unpaid accrued interest thereon that is being secured;

(2) In the event the collateral level is below its collateral percentage on a valuation date, such percentage shall be restored within the following restoration periods: one business day for daily valuations, two business days for weekly and monthly valuations, and one month for quarterly valuations. [The use of different restoration periods affect the requisite collateral percentage.];

(3) The Issuer shall terminate the repurchase agreement or investment agreement, as appropriate, upon a failure to maintain the requisite collateral percentage after the restoration period and, if not paid by the counterparty in federal funds against transfer of the collateral, liquidate the collateral.

(f) The prior written consent of the Bond Insurer shall be a condition precedent to the deposit of any credit instrument provided in lieu of a cash deposit into the Reserve Account.

"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.

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

"Redemption Account" means the Redemption Account created in the Sinking Fund 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.

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

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

"Reserve Account" means the Reserve Account created in the Sinking Fund by Section 4.02 hereof.

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

"Revenue Fund" means the Revenue Fund created by Section 4.01 hereof.

"Series 1993 Bonds" means the Sewerage System Refunding Revenue Bonds, Series 1993, of the Issuer, originally authorized to be issued pursuant to this Ordinance and the Supplemental Resolution.

"Sinking Fund" means the Sinking Fund created by Section 4.02 hereof.

"Supplemental Resolution" means any ordinance or resolution amendatory hereof or supplemental hereto and, when preceded by the article "the," refers specifically to the Supplemental Resolution 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 1993 Bonds and authorizing the sale of the Series 1993 Bonds to the *Original Purchaser; provided, that any* provision intended to be included in the Supplemental Resolution and not so included may be contained in any other Supplemental Resolution.

"System" means, collectively, the complete existing municipal sewage treatment and collection system of the City, consisting of a sewage treatment plant, collection and transportation lines, lift stations, pumps and all appurtenant facilities, now owned by the Issuer or any integral part thereof, and all other facilities necessary, appropriate, useful, convenient or incidental in connection with or to a municipal sewage treatment and collection system, and shall include any additions, betterments and improvements thereto hereafter acquired or constructed for said sewage treatment and collection system from any sources whatsoever, both within and without the Issuer.

"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 of the State of West Virginia, in Cabell County of said State.

B. The Issuer now owns and operates, through the Board, the System, the acquisition and construction of which has been financed and refinanced in part by the proceeds of the Prior Bonds which are currently outstanding in the aggregate principal amount of $7,130,000 and other bonds which have either been refunded and defeased by the Prior Bonds or are no longer Outstanding.

C. The Issuer derives revenues from the System which are pledged for payment of the Prior Bonds. Except for such pledge thereof to secure and pay the Prior Bonds, said revenues are not pledged or encumbered in any manner.

D. The Issuer intends to issue the Series 1993 Bonds and to pledge for payment thereof, the Net Revenues of the System.

E. 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 Prior Bonds, to provide for the repair, maintenance and operation of the System, the payment of interest upon all bonds issued pursuant to the Act and to create a sinking fund, as hereinafter provided, to pay the principal thereof as and when it becomes due and reasonable reserves therefor, to provide an adequate depreciation fund, as hereinafter provided, and to make all other payments provided for in this Ordinance.

F. Based upon the assumed principal amount, maturity schedule and interest rates for the Series 1993 Bonds presented to the Issuer by the Original Purchaser, and after making allowance for the use of cash on hand of the Issuer, the Series 1993 Bonds show a net present value debt service savings to the Issuer after deducting all expenses of the refunding and the costs of issuing the Series 1993 Bonds.

G. It is in the best interest of the Issuer, and the inhabitants thereof, that the Issuer issue the Series 1993 Bonds and secure the Series 1993 Bonds by a pledge and assignment of the Net Revenues derived from the operation of the System, the moneys in the Reserve Account, unexpended proceeds of the Series 1993 Bonds and as further set forth herein.

H. The Series 1993 Bonds and the Certificate of Authentication and Registration to be endorsed thereon are to be in substantially the forms set forth in EXHIBIT A - BOND FORM attached hereto and incorporated herein by reference, with necessary and appropriate variations, omissions and insertions as permitted or required by this Ordinance or a Supplemental Resolution or as deemed necessary by the Registrar or the Issuer.

I. All things necessary to make the Series 1993 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 1993 Bonds, will be timely done and duly performed.

J. The enactment of this Ordinance, and the execution and issuance of the Series 1993 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

Section 2.01. Authorization of Refunding. All Prior Bonds Outstanding as of the date of issuance of the Series 1993 Bonds in the aggregate principal amount of $7,130,000 are hereby ordered to be refunded pursuant to the terms of the Escrow Agreement, and the pledge of Net Revenues in favor of the Holders of such refunded Prior Bonds imposed by the Prior Ordinance, the moneys in the funds and accounts created by the Prior Ordinance and any other funds pledged by the Prior Ordinance thereto are hereby ordered terminated, discharged and released upon the payment into the Escrow Fund from the proceeds of the Series 1993 Bonds, together with other moneys available therefor, of the following: (a) if required by the Escrow Agreement, an amount equal to the fiscal and paying agent charges and the Escrow Trustee charges to become due and payable in connection with the Prior Bonds and (b) an amount which will be simultaneously invested in Government Obligations bearing interest and having maturities sufficient, together with certain cash which may also be deposited, to provide for the payment of the principal of and interest on such Prior Bonds as the same become due, to the respective serial maturity dates thereof, but in no event beyond the first date upon which the entire aggregate amount of the Prior Bonds shall be redeemed, being August 1, 1997, all as set forth in the Escrow Agreement. Contemporaneously with the deposit of such Series 1993 Bond proceeds into the Escrow Fund, the amounts on deposit in the sinking fund, including the reserve account therein, and all other funds and accounts created and maintained on behalf of the Prior Bonds shall be deposited in the Escrow Fund, the Reserve Account or such other fund or account as shall be set forth in the Escrow Agreement, and invested as provided in the Escrow Agreement and this Ordinance.

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 1993 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. 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 or her manual or facsimile signature, 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 Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Ordinance unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in EXHIBIT A attached hereto and incorporated herein by reference with respect to the Series 1993 Bonds, shall have been duly manually executed by the Registrar. Any such manually executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Ordinance. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Registrar if signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

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

So long as any of the Bonds remains Outstanding, the Registrar shall keep and maintain books for the registration and transfer of the Bonds. 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 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 12 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, 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.

In addition to the foregoing notice, further notice as set out below shall be given by the Registrar, at the instruction of the Issuer, but no defect in said further notice nor any failure to give

all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as above prescribed.

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

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

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

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. Series 1993 Bonds. For the purposes of refunding all of the Outstanding Prior Bonds of the Issuer, funding the Reserve Account and paying costs in connection therewith, there shall be issued the Series 1993 Bonds of the Issuer, in an aggregate principal amount of $7,100,000. Said Series 1993 Bonds shall be designated "Sewerage System Refunding Revenue Bonds, Series 1993" and shall be issued in fully registered form, in the denomination of $5,000 or any integral multiple thereof for any year of maturity, not exceeding the aggregate principal amount of Series 1993 Bonds maturing in the year of maturity for which the denomination is to be specified. The Series 1993 Bonds shall be numbered from R-1 consecutively upward. The Series 1993 Bonds shall be dated November 1, 1993, upon original issuance, shall bear interest payable semiannually on May 1 and November 1 of each year, commencing May 1, 1994, and shall mature on November 1 in years as follows:

Year (Nov. 1)	Amount	Interest Rate	Price
1994	$ 360,000	2.700%	100%
1995	360,000	3.100	100
1996	75,000	3.300	100
1997	75,000	3.600	100
1998	80,000	3.800	100
1999	80,000	4.000	100
2000	90,000	4.100	100
2001	90,000	4.200	100
2002	100,000	4.300	99.630
2003	100,000	4.400	99.202
2004	105,000	4.600	99.572
2005	105,000	4.700	99.096
2006	110,000	4.875	99.286
2007	115,000	5.000	99.007
2018	2,520,000	5.250	97.286
2023	2,735,000	5.375	97.500
TOTAL	$7,100,000		

The Series 1993 Bonds shall not be subject to optional redemption prior to November 1, 2003. The Series 1993 Bonds maturing

on or after November 1, 2004, shall be redeemable prior to their stated dates of maturity at the option of the Issuer on or after November 1, 2003, in whole at any time or in part on any interest payment date, in such order of maturity as may be determined by the Issuer and by lot within a maturity, at the respective redemption prices (expressed as percentages of the principal amounts to be redeemed) set forth below, plus interest accrued to the date fixed for redemption:

Period During Which Redeemed	Redemption Price
November 1, 2003 to October 31, 2004	102%
November 1, 2004 to October 31, 2005	101
November 1, 2005 and thereafter	100

The Series 1993 Bonds maturing November 1, 2018 and 2023 (the "Term Bonds") shall be subject to mandatory sinking fund redemption prior to maturity in part by random selection as may be determined by the Registrar, on November 1 of the years and in accordance with the following mandatory redemption schedule, at a redemption price equal to the principal amount thereof, plus interest accrued to the date fixed for redemption, without premium:

SERIES 1993 BONDS MATURING NOVEMBER 1, 2018

Year (November 1)	Amount
2008	$125,000
2009	130,000
2010	140,000
2011	140,000
2012	150,000
2013	160,000
2014	170,000
2015	175,000
2016	420,000
2017	445,000
2018	465,000 *

* By maturity

SERIES 1993 BONDS MATURING NOVEMBER 1, 2023

Year (November 1)	Amount
2019	$490,000
2020	520,000
2021	545,000
2022	575,000
2023	605,000 *

* By maturity

If a Series 1993 Bond is called for redemption in part, the Series 1993 Bond shall be renumbered and exchanged for a Series 1993 Bond of the amount then outstanding, without charge to the Bondholder.

Section 3.11. Book Entry System for Series 1993 Bonds. A. The Series 1993 Bonds shall initially be issued in the form of one fully-registered bond for the aggregate principal amount of the Series 1993 Bonds of each maturity, registered in the name of CEDE & CO., as nominee of DTC. Except as provided in paragraph E below, all of the Series 1993 Bonds shall be registered in the registration books kept by the Registrar in the name of CEDE & CO., as nominee of DTC; provided that if DTC shall request that the Series 1993 Bonds be registered in the name of a different nominee, the Registrar shall exchange all or any portion of the Series 1993 Bonds registered in the name of such nominee or nominees. No person other than DTC or its nominee shall be entitled to receive from the Issuer or the Registrar either a Series 1993 Bond or any other evidence of ownership of the Series 1993 Bonds, or any right to receive any payment in respect thereof unless DTC or its nominee shall transfer record ownership of all or any portion of the Series 1993 Bonds on the registration books maintained by the Registrar, in connection with discontinuing the book entry system as provided in paragraph E below.

B. At or prior to settlement for the Series 1993 Bonds, the Issuer and the Registrar shall execute or signify their approval of a representation letter addressed to DTC in a form satisfactory to DTC (the "Representation Letter"). Any successor Registrar shall, in its written acceptance of its duties under this Ordinance, agree to take any actions necessary from time to time to comply with the requirements of the Representation Letter.

C. So long as the Series 1993 Bonds or any portion thereof are registered in the name of DTC or any nominee thereof, all payments of the principal or Redemption Price of or interest on such Series 1993 Bonds shall be made to DTC or its nominee at the addresses set forth in the Representation Letter in New York Clearing House or equivalent next day funds on the dates provided for such payments to be made to any Bondholder under this Ordinance. Each such payment to DTC or its nominee shall be valid and effective to fully discharge all liability of the Issuer and the Registrar with respect to the principal or Redemption Price of or interest on the Series 1993 Bonds to the extent of the sum or sums so paid. In the event of the redemption of less than all of the Series 1993 Bonds Outstanding of any maturity, the Registrar shall not require surrender by DTC of the Series 1993 Bonds so redeemed, but DTC may return such Series 1993 Bonds and make an appropriate notation on the Series 1993 Bond certificate as to the amount of such partial redemption; provided that DTC shall deliver to the Registrar, upon request, a written confirmation of such partial redemption. The records maintained by the Registrar shall be conclusive as to the amount of the Series 1993 Bonds of such maturity which have been redeemed.

D. The Issuer, the Paying Agent and the Registrar may treat DTC as the sole and exclusive owner of the Series 1993 Bonds registered in its name or the name of its nominee for the purposes of payment of the principal or Redemption Price of or interest on the Series 1993 Bonds, selecting the Series 1993 Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Bondholders under this Ordinance, registering the transfer of Series 1993 Bonds, obtaining any consent or other action to be taken by Bondholders and for all other purposes whatsoever; and neither the Issuer nor the Registrar shall be affected by any notice to the contrary. Neither the Issuer nor the Registrar shall have any responsibility or obligation to any direct or indirect participant in DTC, any person claiming a beneficial ownership interest in the Series 1993 Bonds under or through DTC or any such participant, or any other person which is not shown on the registration books of the Registrar as being a Bondholder with respect to (i) the Series 1993 Bonds, (ii) the accuracy of any records maintained by DTC or any such participant, (iii) the payment by DTC or any such participant of any amount in respect of the principal or Redemption Price of or interest on the Series 1993 Bonds, (iv) any notice which is permitted or required to be given to Bondholders under this Ordinance, (v) the selection by DTC or any such participant of any person to receive payment in the event of a partial redemption of the Series 1993 Bonds or (vi) any consent given or other action taken by DTC as Bondholder.

E. The book entry system for registration of the ownership of the Series 1993 Bonds may be discontinued at any time if either: (i) DTC determines to resign as securities depository for the Series 1993 Bonds; or (ii) the Issuer determines that continuation of the system of book entry transfers through DTC (or through a successor securities depository) is not in the best interest of the beneficial owners of the Series 1993 Bonds. In either of such events (unless in the case described in clause (ii) above, the Issuer appoints a successor securities depository), the Series 1993 Bonds shall be delivered in registered certificate form to such persons, and in such maturities and principal amounts, as may be designated by DTC, but without any liability on the part of the Issuer or the Registrar for the accuracy of such designation. Whenever DTC requests the Issuer and the Registrar to do so, the Issuer and the Registrar shall cooperate with DTC in taking appropriate action after reasonable notice to arrange for another securities depository to maintain custody of certificates evidencing the Series 1993 Bonds.

Section 3.12. Delivery of Series 1993 Bonds. The Issuer shall execute and deliver the Series 1993 Bonds to the Registrar, and the Registrar shall authenticate, register and deliver the Series 1993 Bonds to the Original Purchaser upon receipt of the documents set forth below:

(A) A list of the names in which the Series 1993 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 1993 Bonds to the Original Purchaser;

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

(D) The unqualified approving opinion upon the Series 1993 Bonds by Bond Counsel.

Section 3.13. Form of Series 1993 Bonds. The definitive Series 1993 Bonds shall be in substantially the form set forth in EXHIBIT A - BOND FORM attached hereto and incorporated herein by reference, with such necessary and appropriate omissions, insertions and variations as are approved by those officers executing such Series 1993 Bonds on behalf of the Issuer and execution thereof by such officers shall constitute conclusive evidence of such approval,

and the definitive Series 1993 Bonds shall have the form of the opinion of Steptoe & Johnson, as Bond Counsel, attached thereto or printed on the reverse thereof.

Section 3.14. Disposition of Proceeds of Series 1993 Bonds. Upon the issuance and delivery of the Series 1993 Bonds, the Issuer shall forthwith deposit the proceeds thereof as follows:

A. All interest accrued on the Series 1993 Bonds from the date thereof to the date of delivery thereof shall be deposited in the Sinking Fund and applied to payment of interest on the Series 1993 Bonds at the first interest payment date.

B. The amount of the Series 1993 Bond proceeds which, together with other moneys or securities deposited therein and the earnings thereon, shall be sufficient to accomplish the refunding and defeasance of the Prior Bonds (which amount shall be set forth in the Escrow Agreement) shall be deposited in the Escrow Fund.

C. The amount of Series 1993 Bond Proceeds equal to the Reserve Account Requirement shall be remitted to the Bond Commission for deposit in the Reserve Account, provided that, to the extent the Reserve Account Requirement is satisfied in whole or in part from proceeds of any fund or account established pursuant to the Prior Ordinance, Series 1993 Bond Proceeds shall be deposited in the Reserve Account only to the extent needed to satisfy the balance of the Reserve Account Requirement.

D. The balance of the proceeds of the Series 1993 Bonds shall be deposited with the Depository Bank in the Series 1993 Bonds Costs of Issuance Fund and shall be drawn out, used and applied by the Issuer solely to pay costs of issuance of the Series 1993 Bonds and miscellaneous costs of refunding the Prior 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, such unapplied proceeds shall be transferred by the Issuer to the Series 1993 Bonds Redemption Account established in Section 4.01 hereof. 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 1993 Bonds from which such proceeds are derived.

ARTICLE IV

SYSTEM REVENUES; FUNDS AND ACCOUNTS

Section 4.01. Establishment of Funds and Accounts with Depository Bank. Pursuant to this Article IV, the following special funds are created with, 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;

(2) Depreciation Fund;

(3) Costs of Issuance Fund; and

(4) Rebate Fund.

Section 4.02. Establishment of Funds and Accounts with Bond Commission. Pursuant to this Article IV, the following special fund and accounts are hereby established with and shall be held by the Bond Commission:

(1) Sinking Fund;

(a) Within the Sinking Fund:

(i) Reserve Account; and

(ii) Redemption Account.

Section 4.03. System Revenues and Application Thereof. So long as any of the Bonds shall be Outstanding and unpaid, the 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, from the moneys remaining in the Revenue Fund, on the first day of each month, beginning on the first day of that month which is 6 months prior to the first interest payment date on the Series 1993 Bonds, apportion and set apart out of the Revenue Fund and remit to the Bond Commission, for deposit in the Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on said Bonds on the next ensuing semiannual interest payment date, provided, that in the event the period to elapse between the date of such initial deposit in the Sinking Fund and the next ensuing semiannual interest payment date is less than or greater than 6 months, then such monthly payments shall be increased or decreased proportionately to provide, 1 month prior to the next ensuing semiannual interest payment date, the required amount of interest coming due on such date, and provided further, that the initial amount required to be transferred from the Revenue Fund and deposited in the Sinking Fund shall be reduced by the amount of accrued interest on the Series 1993 Bonds deposited therein and subsequent amounts required to be transferred from the Revenue Fund and deposited in the Sinking Fund shall be reduced by the amount of any earnings credited to the Sinking Fund.

The Issuer shall also apportion and set apart out of the Revenue Fund and remit to the Bond Commission for deposit in the Sinking Fund, and in the Redemption Account therein in the case of Term Bonds which are to be redeemed, on the first day of each month, beginning on the first day of that month which is 12 months prior to the first principal payment or mandatory redemption date of the Bonds, a sum equal to 1/12th of the amount of principal which will mature or be redeemed and become due on the Bonds on the next ensuing principal payment or mandatory redemption date, provided, that in the event the period to elapse between the date of such initial deposit in the Sinking Fund and the next ensuing principal payment or mandatory redemption date is less than or greater than 12 months, then such monthly payments shall be increased or decreased proportionately to provide, one month prior to the next ensuing principal payment date or mandatory redemption date, the required amount of principal coming due on such date, and provided further, that the amount of such deposits shall be reduced by the amount of any earnings credited to the Sinking Fund and not previously credited pursuant to the preceding paragraph.

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

the same shall become due, whether by maturity or redemption prior to maturity. Pending such use, such moneys shall be invested in accordance with Article V.

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

As and when additional Bonds ranking on a parity with the Series 1993 Bonds are issued, provision shall be made for additional payments into the Sinking Fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at or before maturity in accordance with the provisions hereof.

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

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

(3) Thereafter, from the moneys remaining in the Revenue Fund, the Issuer shall next, each month, apply such moneys, to the full extent necessary, for deposit into the Reserve Account, as a result of a decrease in value of the Reserve Account below the Reserve Account Requirement or any withdrawal from the Reserve Account, beginning with the

first full calendar month following the date on which (i) the valuation of investments in the Reserve Account results in a determination that the amount of moneys and the value of the Qualified Investments deposited to the credit of the Reserve Account is less than the Reserve Account Requirement, or (ii) any amount is withdrawn from the Reserve Account for deposit into the Sinking Fund. To the extent Net Revenues and any other legally available funds are available therefor, the amount so deposited shall be used to restore the amount of moneys on deposit in the Reserve Account to an amount equal to the Reserve Account Requirement to the full extent that such Net Revenues are available; provided, that no payments shall be required to be made into the Reserve Account whenever and as long as the amount deposited therein shall be equal to the Reserve Account Requirement.

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

(4) Thereafter, from the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month commencing with the first month in which interest shall be payable from the Revenue Fund, transfer to the Depreciation Fund a sum equal to not less than 2 1/2% of the Gross Revenues each month, exclusive of any payments for the account of the Reserve Account in the Sinking Fund.

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:

(a) To make up any deficiency in the Reserve Account (so that the amount on deposit therein is at least equal to the Reserve Account Requirement), or to reimburse in whole or in part any issuer of a Reserve Account Letter of Credit in the event of a draw thereon;

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

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

(d) Upon resolution of the Board and the Issuer, moneys in the Depreciation Fund in excess of $1,000,000 may be transferred by the Issuer to the Redemption Account and used for optional redemption or for purchase of Bonds. In the event of purchase of Bonds, the Issuer may direct the purchase of Bonds offered for sale at the lowest price below the redemption price of such Bonds.

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

B. The Bond Commission is hereby designated as the fiscal agent for the administration of the Sinking Fund created hereunder, and all amounts required for said Sinking Fund shall be remitted to the Bond Commission from said Revenue Fund and from the proceeds of the sale of the Bonds, 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.

C. The moneys on deposit in the Revenue Fund and the Depreciation Fund in excess of the sum insured by the FDIC shall at all times be secured, to the full extent thereof in excess of such insured sum, by Government Obligations or by other Qualified Investments as shall be eligible as security for deposits of municipal funds under the laws of the State.

ARTICLE V

INVESTMENTS; NON-ARBITRAGE; REBATES OF EXCESS INVESTMENT EARNINGS

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 Reserve Account shall mature or be subject to retirement at the option of the holder within not more than 5 years from the date of such investment.

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

(C) In computing the amount in any fund or account, Qualified Investments shall be valued at the lower of the cost or the market price, exclusive of accrued interest. Valuation of all funds and accounts shall occur annually,

except in the event of a withdrawal from the Reserve Account, whereupon it shall be valued immediately after such withdrawal. If amounts on deposit in the Reserve Account shall, at any time, be less than the applicable Reserve Requirement, the applicable Bond Insurer shall be notified immediately of such deficiency, and such deficiency shall be made up from the first available Net Revenues after required deposits to the 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 the Sinking Fund may be invested by the Bond Commission in the West Virginia "consolidated fund" managed by the West Virginia State Board of Investments pursuant to Chapter 12, Article 6 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 Bonds of each series in such manner and to such extent as may be necessary, so that such 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 such Bonds will be and remain excluded from gross income for Federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 5.03. Tax Certificate and Rebate. A. The 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 1993 Bonds as may be necessary in order to fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of this Ordinance.

B. The 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 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.

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 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 Bonds, as hereinafter provided in this Article VI. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said Bonds, the Note, or the interest thereon, are Outstanding and unpaid.

Section 6.02. Bonds not to be Indebtedness of the Issuer. The Bonds shall not be or constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness but shall be payable solely from the Net Revenues of the System, the moneys in the Sinking Fund and all accounts therein, the unexpended proceeds of the Bonds or moneys in a construction fund, if any, all as herein provided. No Holder or Holders of any Bonds issued hereunder shall ever have the right to compel the exercise of the taxing power of the Issuer to pay said Bonds or the interest thereon.

Section 6.03. Bonds Secured by Pledge of Net Revenues and Moneys in Sinking Fund. The payment of the debt service of all of the Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System and all moneys and securities in the Sinking Fund, including the Reserve Account therein, to the extent necessary to make the payments required under Section 4.03. The Net Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bonds herein authorized, and to make the payments into the Sinking Fund, all moneys and securities in the Sinking Fund, including the Reserve Account therein, and all other payments provided for in this Ordinance, are hereby irrevocably pledged in the manner provided in this Ordinance to the payment of the principal of and interest on the Bonds herein authorized as the same become due and for the other purposes provided in this Ordinance.

Section 6.04. Rates. Prior to the issuance of the Series 1993 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 make the prescribed payments into the funds and accounts created hereunder. Such schedule or schedules of rates and charges shall be revised from time to time, whenever necessary, so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule or schedules of rates or charges from time to time in effect shall be sufficient to produce Net Revenues equal to not less than the sum of (i) 120% 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 Account 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.

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

Section 6.05. 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 Revenues of said System in the manner provided in this Ordinance.

Section 6.06. Sale of the System. The System may be sold, mortgaged, leased or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to defease the pledge created by this Ordinance as provided by Section 9.01. The proceeds from such sale, mortgage, lease or other disposition of the System shall be immediately remitted to Bond Commission for deposit in the Sinking Fund, and otherwise as prescribed by Section 9.01. Any balance remaining after such

defeasance shall be remitted to the 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 Board 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 Board shall, in writing, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Board 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 Board shall first, in writing, determine with the written approval of the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Council may then, if it be so advised, by resolution duly adopted, approve and concur in such finding and authorize such sale, lease or other disposition of such property 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 Redemption 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 6.07. 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 6.08 hereof, payable from the Revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from the 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 6.08. Additional Parity Bonds. No additional parity Bonds, as in this section defined, payable out of the Revenues of the System shall be issued after the issuance of any Bonds pursuant to this Ordinance, except under the conditions and in the manner herein provided.

No such additional parity Bonds shall be issued except for the purpose of financing the costs of the construction of additions, betterments or improvements to the System, 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 Fiscal Year 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 Series 1993 Bonds then Outstanding;

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

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

The "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 the increased Net Revenues to be available as a result of existing additional customers required by law to be served by the System upon completion of the facilities to be financed with the proceeds of any 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 1993 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 1993 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.

No additional parity Bonds shall be valid unless authenticated pursuant to Section 3.03. Prior to such authentication, registration, if applicable, and delivery, the Registrar shall receive those documents prescribed by Section 3.12 with respect to the Series 1993 Bonds, modified as deemed necessary by the Registrar to reflect the issuance of such additional parity Bonds.

The term "additional parity Bonds," as used in this section, shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien on the Revenues of the System of which is subject to the prior and superior lien of the Bonds on such Revenues. Any such subordinate bonds, notes, certificates or other obligations shall be payable from the Net Revenues remaining after all payments required to be made pursuant to Section 4.03(1), (2), (3) and (4) have first been paid. The Issuer shall not issue any

obligations whatsoever payable from the Revenues of the System, or any part thereof, which rank prior to or equally, as to lien and source of and security for payment from such Revenues, with the Bonds except in the manner and under the conditions provided in this section.

No additional parity Bonds, as in this section defined, shall be issued at any time, however, unless all of the payments into the respective funds and accounts provided for in this Ordinance on account of the Bonds then Outstanding (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.

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

Section 6.09. Insurance and Bonds. The Issuer hereby covenants and agrees, that so long as the Bonds remain Outstanding, the Issuer or the Board 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 event of any damage to or destruction of any portion of the System, the Board will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damages or destroyed portion. The Board will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Board and the Issuer during construction of the Project in the full insurable value thereof.

B. PUBLIC LIABILITY INSURANCE, with limits of not less than is customarily carried by municipalities of equivalent size with respect to works and properties similar to the System to protect the Issuer and the Board from claims for bodily injury and/or death and 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 and the Board from claims arising out of operation or

ownership of motor vehicles of or for the System, provided that, the Board, with the review of an insurance consultant and the concurrence of the Issuer, may elect to self-insure. If the Issuer determines in good faith that any required insurance is not commercially available at a reasonable cost with reasonable terms, it shall engage an insurance consultant to verify the determination and to make recommendations regarding the types, amounts and provisions of any such insurance that should be purchased or funded by the Issuer, taking into consideration the costs and practices of other municipal water and sewer systems of similar size and type in the State to the extent that such information is available. The Issuer may, upon resolution adopted in good faith and upon the recommendations of the insurance consultant, adopt alternate or supplemental risk management programs which the Issuer determines to be reasonable, including the right to self-insure and participate in captive insurance companies.

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 Board and such payment bonds will be filed with the Clerk of the County Commission of Cabell County 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 Board having custody of the Revenues or of any other funds of the System, in an amount at least equal to the total funds in the custody of any such person at any one time.

Section 6.10. Services Rendered to the Board or Issuer. The Board will not render or cause to be rendered any free services of any nature by its System; and, in the event the Board, 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 Board, the Issuer and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the Board or 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 6.11. Enforcement of Collections. The Issuer or the Board 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 and any services and facilities of the City's waterworks system, to all delinquent users of services and facilities of the System and will not restore such services of the System (or waterworks system) until all billing for charges for the services and facilities of the System, plus reasonable interest penalty charges for the restoration of service, has been fully paid.

Section 6.12. No Competing Franchise. To the extent legally allowable, neither the Issuer nor the Board will grant or cause, consent to or allow the granting of any franchise or permit to any person, firm, corporation or body, or agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 6.13. Books and Records. The Board will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Board or the City, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds shall have the right at all reasonable times to inspect the System, and all parts

thereof, and all records, accounts and data of the Board 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 Board. 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 Board. The Board 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 Board shall be reported to such agent of the Board as it shall direct.

The Issuer or the Board shall file with the Original Purchaser and any Bond Insurer, and shall mail to any Bondholder requesting the same, an annual report within 30 days following the date of receipt of the final audit containing a balance sheet, statement of revenues, expenses, and changes in retained earnings, and statement of cash flows, as prescribed by generally accepted accounting principles.

The Issuer or the Board 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, 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 or the Board 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 6.14. Operating Budget. The Board shall annually, at least 45 days preceding the beginning of each Fiscal Year, or at such earlier date required by 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 Board 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 6.15. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the City, and in order to assure the rendering harmless of sewage and waterborne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building and every such owner, tenant or occupant shall, after a 30 day notice of the availability of sewerage services of the System, pay the rates and charges established therefor.

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

Section 6.16. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. PRIVATE BUSINESS USE LIMITATION. The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the

Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) in the event that both (A) in excess of 5% of the Net Proceeds of the Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the System, or if the 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 Bonds or $5,000,000 are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be 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 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 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 6.17. Covenants Regarding the Municipal Bond Insurance Policy. The Issuer has obtained a Municipal Bond Insurance Policy for the Series 1993 Bonds. As a condition to issuance of such Municipal Bond Insurance Policy, certain additional covenants of the Issuer are required by the Bond Insurer as a condition to insuring the

Series 1993 Bonds. These additional covenants are set forth in full in the Supplemental Resolution, shall apply to the Series 1993 Bonds and any other Bonds which may be insured by such Bond Insurer, and shall be controlling in the event any other provisions of this Ordinance may be in conflict therewith. Such additional covenants are also set forth in full in this conformed copy of the Ordinance as follows:

(a) In the event the maturity of the Series 1993 Bonds is accelerated, the Bond Insurer may elect, in its sole discretion, to pay accelerated principal and interest accrued or accreted, as applicable, 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 Bond Insurer's obligations under the Policy shall be fully discharged.

(b) The Bond Insurer shall be deemed to be the <u>sole</u> holder of the Series 1993 Bonds insured by it 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 Series 1993 Bonds insured by it are entitled to take pursuant to Article VII of the Ordinance (pertaining to defaults and remedies).

(c) Copies of any modification or amendment to the Ordinance shall be sent to Standard & Poor's Corporation and Moody's Investors Service, Inc. at least 15 days prior to the effective date thereof.

(d) Rights of the Bond Insurer to direct or consent to Issuer or Bondholder actions under the Ordinance shall be suspended during any period in which the Bond Insurer is in default in its payment obligations under the Policy (except to the extent of amounts previously paid by the Bond Insurer and due and owing to the Bond Insurer) and shall be of no force or effect in the event the Policy is no longer in effect or the Bond Insurer asserts that the Policy is not in effect or the Bond Insurer shall have provided written notice that it waives such rights.

(e) In determining whether a payment default has occurred, no effect shall be given to payments made under the Policy.

(f) The Bond Insurer shall, to the extent it makes any payment of principal of or interest on the Series 1993 Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Policy.

(g) The Bond Insurer shall have the right to advance any payment required to be made by the Issuer in order to prevent an event of default under this Ordinance and the Paying Agent shall be required to accept such advance. The Issuer shall be required to reimburse the Bond Insurer for any such advance.

(h) The rights granted to the Bond Insurer under the Ordinance to request, consent to or direct any action are rights granted to the Bond Insurer in consideration of its issuance of the Policy. Any exercise by the Bond Insurer of such rights is merely an exercise of the Bond Insurer's contractual rights and shall not be construed or deemed to be taken for the benefit or on behalf of the Bondholders nor does such action evidence any position of the Bond Insurer, positive or negative, as to whether Bondholders consent is required in addition to consent of the Bond Insurer.

(i) Only (1) cash, (2) non-callable direct obligations of the United States of America, or (3) pre-refunded municipal obligation rated "AAA" and "Aaa" by S&P and Moody's, respectively (or any combination thereof) shall be authorized to be used to effect defeasance of the Series 1993 Bonds unless the Bond Insurer otherwise approves. Such obligations shall constitute "Defeasance Obligations." In the event of an advance refunding (i) the Issuer shall cause to be delivered, on the deposit date and upon any reinvestment of the defeasance amount, a report of an independent firm of nationally recognized certified public accountants "(Accountant") verifying the sufficiency of the escrow established to pay the Series 1993 Bonds in full on the maturity date or earlier redemption thereof ("Verification"), (ii) the escrow agreement shall provide that no (A) substitution of a Defeasance Obligation shall be permitted except with another Defeasance Obligation and upon delivery of a new Verification and (B) reinvestment of a Defeasance Obligation shall be permitted except as contemplated by the original Verification or upon delivery of a new Verification, and (iii) there shall be delivered an opinion of nationally recognized bond counsel to the effect that the Series 1993 Bonds are no longer "Outstanding" under the Ordinance; each Verification and defeasance opinion shall be addressed to the Issuer, the Paying Agent and the

Bond Insurer. Series 1993 Bonds shall be deemed "Outstanding" under the Ordinance unless and until they are in fact paid and retired or the above criteria is met.

(j) Amounts paid by the Bond Insurer under the Policy shall not be deemed paid for purposes of the Ordinance and 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 Bond Insurer have been paid in full.

(k) The notice address of the Bond Insurer is: Financial Security Assurance Inc., 350 Park Avenue, New York, New York 10022-6022, Attention: Managing Director - Surveillance.

(l) The Bond Insurer shall be included as a third party beneficiary to the Ordinance.

(m) The Bond Insurer shall be provided with the following information:

(i) upon delivery of the annual audited financial statements of the Issuer, a certificate of the chief financial officer of the Issuer stating that, to the best of such individual's knowledge following reasonable inquiry, no Event of Default (or any event which, once all notice or grace periods have passed, would constitute an Event of Default) has occurred, or if an Event of Default has occurred, specifying the nature thereof and, if the Issuer has a right to cure pursuant to Section 7.04 of the Ordinance, stating in reasonable detail the steps, if any, being taken by the Issuer to cure such Event of Default;

(ii) Official Statement, if any, prepared in connection with the issuance of additional bonds within 30 days after the bond sale;

(iii) Notice of any draw upon, or deficiency due to market fluctuation in the amount on deposit in, the Reserve Account within two Business Days after knowledge thereof other than (i) withdrawals of amounts in excess of the Reserve Account Requirement and (ii) withdrawals

in connection with a refunding of the Series 1993 Bonds;

(iv) Notice of the redemption of any of the Series 1993 Bonds, including the principal amount, maturities and CUSIP numbers thereof;

(v) Notice of the resignation or removal of the Paying Agent and the appointment of, and acceptance of duties by, any successor thereto;

(vi) A full original transcript of all proceedings relating to the execution of any amendment or supplement to the Ordinance; and

(vii) Such additional information as the Bond Insurer from time to time may reasonably request.

(n) Claims Upon the Policy and Payments by and to the Bond Insurer.

(A) If, on the third Business Day prior to the related scheduled interest payment date or principal payment date or the date to which Bond maturity has been accelerated *("Payment Date") there is* not on deposit with the Paying Agent, after making all transfers and deposits required under this Ordinance, moneys sufficient to pay the principal of and interest on the Series 1993 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 Series 1993 Bonds due on such Payment Date, the Paying Agent shall make a claim under the Policy and give notice to the Bond 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 Series 1993 Bonds and the amount required to pay principal of the Series 1993 Bonds, confirmed in writing to the Bond Insurer and the Insurer's Fiscal Agent by 12:00 noon, New York City time, on such second Business Day.

(B) All amounts paid by the Bond Insurer pursuant to (A) above, shall be deposited by the Paying Agent in a special fund hereby established and designated the "Policy Payments Account." Any funds remaining in the Policy Payments Account following a Payment Date shall promptly be remitted to the Bond Insurer.

(C) The Paying Agent shall keep a complete and accurate record of all funds deposited by the Bond Insurer into the Policy Payments Account and the allocation of such funds to payment of interest on and principal paid in respect of any Bond. The Bond Insurer shall have the right to inspect such records at reasonable times upon one Business Day's prior notice to the Paying Agent.

(D) Subject to and conditioned upon payment of any interest or principal with respect to the Series 1993 Bonds by or on behalf of the Bond Insurer, each Bondholder, by its purchase of Series 1993 Bonds, hereby assigns to the Bond Insurer, but only to the extent of all payments made by the Bond Insurer, all rights to the payment of interest or principal on the Series 1993 Bonds, including, without limitation, any amounts due to the Bondholders in respect of securities law violations arising from the offer and sale of the Series 1993 Bonds, which are then due for payment. The Bond Insurer may exercise any option, vote, right, power or the like with respect to Series 1993 Bonds to the extent it has made a principal payment pursuant to the Policy. The foregoing assignment is in addition to, and not in limitation of, rights of subrogation otherwise available to the Bond Insurer in respect of such payments. The Paying Agent shall take such action and deliver such instruments as may be reasonably requested or required by the Bond Insurer to effectuate the purpose or provisions of this clause (E).

(E) The Paying Agent shall promptly notify the Bond Insurer of either of the following as to which it has actual knowledge: (i) 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") and (ii) the making of any claim in connection with any insolvency proceeding seeking the avoidance as a preferential transfer (a "Preference Claim") of any payment of principal of, or interest on, the Series 1993 Bonds.

Each Bondholder, by its purchase of Series 1993 Bonds, and the Paying Agent hereby agrees that the Bond Insurer may at any time during the continuation of an insolvency proceeding direct all matters relating to such insolvency proceeding, including, without limitation, (i) all matters relating to any Preference Claim, (ii) the direction of any appeal of any order relating to any Preference Claim and (iii) the posting of any surety, supersedeas or performance bond pending any such appeal. In addition, and without limitation of the foregoing, the Bond Insurer shall be subrogated to the rights of the Paying Agent and each Bondholder in any insolvency proceeding to the extent it is subrogated pursuant to the Policy, including, without limitation, any rights of any party to an adversary proceeding action

with respect to any court order issued in connection with any such Insolvency Proceeding.

(G) The Issuer hereby agrees to pay or reimburse the Bond Insurer any and all charges, fees, costs and expenses which the Bond Insurer may reasonably pay or incur, including, but not limited to, fees and expenses of attorneys, accountants, consultants and auditors and reasonable costs of investigations, in connection with (i) the administration, enforcement, defense or preservation of any rights in respect of the Ordinance including defending, monitoring or participating in any litigation or proceeding (including any bankruptcy proceeding in respect of the Issuer or any affiliate thereof) relating to the Ordinance, any party to the Ordinance or the transaction contemplated by the Related Documents (the "Transaction"), (ii) the pursuit of any remedies under the Ordinance or (iii) any amendment, waiver or other action with respect to, or related to, the Ordinance whether or not executed or completed; costs and expenses shall include a reasonable allocation of compensation and overhead attributable to time of employees of the Bond Insurer spent in connection with the actions described above; and the Bond 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.

(H) In addition to any and all rights of reimbursement, subrogation and any other rights pursuant hereto or under law or in equity, the Issuer agrees to pay or reimburse the Bond Insurer any and all charges, fees, costs, claims, losses, liabilities (including penalties), judgments, demands, damages, and expenses which the Bond Insurer or its officers, directors, shareholders, employees, agents and each Person, if any, who controls the Bond Insurer within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act may reasonably pay or incur, including, but not limited to, fees and expenses of attorneys, accountants, consultants an auditors and reasonable costs of investigations, of any nature in connection with, in respect of or relating to the transactions contemplated by the Ordinance by reason of:

(i) any omission or action (other than of or by the Bond Insurer) in connection with the offering, issuance, sale, remarketing or delivery of the Series 1993 Bonds;

(ii) the negligence, bad faith, willful misconduct, misfeasance, malfeasance or theft committed by any director, officer, employee or agent of the Issuer in connection with any transaction arising from or relating to the Ordinance;

(iii) the violation by the Issuer of any law, rule or regulation, or any judgment, order or decree applicable to it;

(iv) the breach by the Issuer of any representation, warranty or covenant under the Ordinance or the occurrence, in respect of the Issuer, under the Ordinance of any "event of default" or any event which, with the giving of notice or lapse of time or both, would constitute any "event of default"; or

(v) any untrue statement or alleged untrue statement of a material fact contained in any Official Statement or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such claims arise out of or are based upon any untrue statement or omission in information included in an Official Statement and furnished by the Bond Insurer in writing expressly for use therein.

(I) The Issuer shall pay to the Bond Insurer interest on any and all amounts as are paid under the Policy and as are otherwise due to the Bond Insurer from the date paid by the Bond Insurer until payment thereof in full at the Late Payment Rate. "Late Payment Rate" shall mean a per annum rate equal to the lower of (i) three percent above the interest rate the Morgan Guaranty Trust Company of New York ("Morgan") publicly announces from time to time as its prime lending rate ("Prime Rate"), such interest rate to change on the effective date of each change in the announced Prime Rate and (ii) the maximum interest rate permitted to be paid by the Issuer under applicable law; provided that with respect to payments paid to and received by the Bond Insurer pursuant to its subrogation rights under the Ordinance the amount of the Series 1993 Bonds interest rate shall be subtracted from the Late Payment Rate. In the event Morgan ceases to announce its Prime Rate, the Prime Rate shall be the prime rate of such national bank as the Bond Insurer shall designate.

(J) Payments required to be made to the Bond Insurer shall be payable solely from the Net Revenues. The obligations set forth in (G)-(I) above shall survive discharge or termination of the Related Documents.

(K) The Bond Insurer shall be entitled to pay principal or interest on the Series 1993 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 Bond Insurance Policy) and any amounts due on the Series 1993 Bonds as a result of acceleration of the maturity

thereof in accordance with this Ordinance, whether or not the Bond Insurer has received a Notice (as defined in the Bond Insurance Policy) of Nonpayment or a claim upon the Bond Insurance Policy.

(L) Notice of the optional or extraordinary redemption of Series 1993 Bonds, other than any notice that refers to Series 1993 Bonds that are to be redeemed from proceeds of a refunding bond issue or from amounts to be provided by the Bond Insurer in its discretion, may be given only if sufficient funds have been deposited with the Paying Agent to pay the applicable redemption price of the Series 1993 Bonds to be redeemed.

ARTICLE VII

DEFAULTS AND REMEDIES

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

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

(B) If default occurs in the 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; 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 7.02. Enforcement. Upon the happening and continuance of any Event of Default, 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 7.03. 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 7.04. 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 AND PAYING AGENT

Section 8.01. Appointment of Registrar. The Registrar for the Series 1993 Bonds shall be appointed pursuant to the Supplemental Resolution. The Issuer is hereby authorized and directed to enter into an agreement with the Registrar, the substantial form of which agreement is to be approved by Supplemental Resolution.

Section 8.02. Responsibilities of Registrar. The recitals of fact in the Bonds shall be taken as statements of the Issuer, and the Registrar shall not be responsible for their accuracy. The Registrar shall not be deemed to make any representation as to, and shall not incur any liability on account of, the validity of the execution of any Bonds by the Issuer. Notwithstanding the foregoing, the Registrar shall be responsible for any representation in its Certificate of Authentication on the Bonds. The Registrar and any successor thereto shall agree to perform all the duties and responsibilities spelled out in this Ordinance and any other duties and responsibilities incident thereto, all as provided by said agreement described in Section 8.01.

Section 8.03. Evidence on Which Registrar May Act. Except as otherwise provided by Section 10.02, the Registrar shall be protected in acting upon any notice, resolution, request, consent, order, certificate, opinion or other document believed by it to be genuine and to have been signed or presented by the proper party or parties. Whenever the Registrar shall deem it necessary or desirable that a fact or matter be proved or established prior to taking or suffering any action, such fact or matter, unless other evidence is specifically prescribed, may be deemed to be conclusively proved and established by a certificate of an Authorized Officer of the Issuer, but in its discretion the Registrar may instead accept other evidence of such fact or matter.

Section 8.04. Compensation and Expenses. The Issuer shall pay to the Registrar from time to time reasonable compensation for all services, including the transfer of registration of Bonds, the first exchange of Bonds and the exchange of Bonds in the event of partial redemption, incurred in the performance of its duties hereunder.

Section 8.05. Certain Permitted Acts. The Registrar may become the owner of or may deal in 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. The Registrar shall also serve as the Paying Agent. The Registrar's acceptance of the duties and responsibilities of the Registrar expressed in Section 8.02 shall also include the trusts and the duties of Paying Agent. Any alternate Paying Agent must be a bank, trust company or national banking association authorized to perform the duties imposed upon it by this Ordinance. Such alternate Paying Agent shall signify its acceptance of the duties and obligations imposed upon it pursuant hereto by executing and delivering to the 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, as such term is limited by the provisions in Section 1.01 hereof or such additional securities as shall be set forth in the Supplemental Resolution.

ARTICLE X

MISCELLANEOUS

Section 10.01. Amendment of Ordinance. Prior to issuance of the Series 1993 Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 1993 Bonds, 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 acknowledgements of deeds to be recorded in the jurisdiction in which he purports to act that the person signing such instrument acknowledged to him the execution thereof, or by the affidavit of a witness of such execution, duly sworn to before such a notary public or other officer or (ii) by the certificate, which need not be

acknowledged or verified, of an officer of a bank, 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

Bank One, West Virginia, Charleston,
National Association
Capitol and Virginia Streets
P. O. Box 1113
Charleston, West Virginia 25324
Attention: Trust Officer

DEPOSITORY BANK

Bank One, West Virginia, Huntington,
National Association
P. O. Box 179
Huntington, West Virginia 257066-0179
Attention: Trust Officer

ORIGINAL PURCHASER

Raymond James & Associates, Inc.
The Raymond James Financial Center
880 Carillon Parkway
P. O. Box 12749
St. Petersburg, Florida 33733-2749
Attention: Public Finance Department

BOND INSURER

Financial Security Assurance Inc.
350 Park Avenue
New York, New York 10022-6022
Attention: Managing Director - Surveillance

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.

Section 10.13. Procedure on Enactment of Ordinance; Public Hearing. Upon adoption of this Ordinance, the Clerk is hereby authorized and directed to have an abstract of this Ordinance, which abstract has been determined by the Council of the Issuer 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 at the public hearing to be had at a public meeting of Council on the 12th day of October, 1993, 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.

This Ordinance shall become effective following public hearing hereon in accordance with the Act.

First Reading:	September 13, 1993
Second Reading:	September 27, 1993
Effective following Public Hearing held on:	October 12, 1993

[SEAL]

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AND CORRECT AS TO FORM:

By _____
City Attorney

CERTIFICATION

Certified a true, correct and complete copy of an Ordinance duly enacted by the City Council of THE CITY OF HUNTINGTON at a regular meeting of the City Council held at 7:30 p.m., on October 12, 1993, 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 18th day of November, 1993.

[SEAL]

City Clerk

EXHIBIT A - BOND FORM

No. R-_____ $_____

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF HUNTINGTON (WEST VIRGINIA)
SEWERAGE SYSTEM REFUNDING REVENUE BOND,
SERIES 1993

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF HUNTINGTON (West Virginia), a municipal corporation organized and existing under the laws of the State of West Virginia (the "Issuer"), 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 Issuer 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, 1993 (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 Issuer 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 corporate trust 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) Sewerage System Refunding Revenue Bonds, Series 1993" (the "Bonds"), of like tenor and effect, except as to number, denomination, date of maturity and interest rate, dated _____ 1, 1993, the proceeds of which are to be used, together with other funds of the Issuer, to refund in full The City of Huntington Sewerage System Refunding Revenue Bonds, Series 1987, of the Issuer outstanding in the aggregate principal amount of $_____ (the "Prior Bonds"), which Prior Bonds were issued to finance and refinance the cost of construction of certain additions, betterments and improvements to the sewerage system of the Issuer. The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), and an ordinance duly enacted by the City Council of the Issuer on _____, 1993, and supplemented by a supplemental resolution adopted by said Council on _____, 1993 (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 are additionally secured, but only to the extent described in the Statement of Insurance printed on the Bonds, by a policy of municipal bond insurance issued by [Name of Bond Insurer].

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 at any time and in part on any Interest Payment Date, as directed by the Issuer, 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

In the event of any redemption of less than all outstanding Bonds, Bonds shall be selected for redemption by lot or in such other manner deemed appropriate by the Paying Agent. 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 Net Revenues (as defined in the Ordinance) to be derived from the operation of the System, all moneys in the Sinking Fund established under the Ordinance, and the unexpended proceeds of the Bonds, and the Issuer hereby and in the Ordinance pledges such revenues and moneys to such payment. Said Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose and to make the other payments required by the Ordinance. This Bond does not constitute an indebtedness of the 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 Sinking Fund and said unexpended Bond proceeds. 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 produce revenues net of such operating expenses equal to at least _____% of the maximum annual amount required to pay the interest and principal as the same become due and accomplish retirement of all obligations for the payment of which such revenues have or shall have been pledged, charged or otherwise encumbered and to make any required payments into the Reserve Account. Such required payments on behalf of the principal of and interest on the Bonds shall constitute a first charge upon all the revenues of the System. The 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 refund the Prior Bonds and pay all costs in connection therewith and 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 said 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 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 within-described 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, as defined on the reverse hereof, and the statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

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

[SEAL]

(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, 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

STATEMENT OF INSURANCE

[Language to be Provided by Bond Insurer]

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.

11/29/93
HUNTC.II1
43550/93001

THE CITY OF HUNTINGTON
(WEST VIRGINIA)

$7,100,000
Sewerage System
Refunding Revenue Bonds, Series 1993

SUPPLEMENTAL RESOLUTION PROVIDING AS TO AMOUNT, MATURITIES, INTEREST RATES, REDEMPTION PROVISIONS, PURCHASE PRICE AND OTHER DETAILS AS TO THE SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1993, OF THE CITY; AUTHORIZING AND APPROVING A BOND PURCHASE AGREEMENT, A REGISTRAR AND PAYING AGENT'S AGREEMENT, AN ESCROW AGREEMENT, AN OFFICIAL STATEMENT AND OTHER INSTRUMENTS RELATING TO THE BONDS; APPOINTING A REGISTRAR, PAYING AGENT, ESCROW TRUSTEE AND DEPOSITORY BANK; IMPLEMENTING PROVISIONS REQUIRED AS A CONDITION TO OBTAINING A MUNICIPAL BOND INSURANCE POLICY; DESIGNATING THE BONDS AS "BANK QUALIFIED OBLIGATIONS" AND MAKING OTHER PROVISIONS AS TO THE BONDS AND THE REFUNDING.

WHEREAS, The City of Huntington (the "Issuer"), in the Counties of Cabell and Wayne, State of West Virginia, is a municipal corporation of said State, the governing body of which is its Council;

WHEREAS, this Council duly enacted on October 12, 1993, an ordinance (the "Ordinance") entitled:

AN ORDINANCE AUTHORIZING THE REFUNDING OF THE CITY'S SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1987; THE ISSUANCE OF SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1993, OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN $9,500,000 THE PROCEEDS OF WHICH, TOGETHER WITH OTHER FUNDS OF THE CITY, SHALL BE EXPENDED FOR SUCH REFUNDING AND TO PAY COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT AND OTHER DOCUMENTS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS.

WHEREAS, the Ordinance provided for the issuance of the Issuer's Sewerage System Refunding Revenue Bonds, Series 1993 (the "Series 1993 Bonds"), in an aggregate principal amount not to exceed $9,500,000 for the purpose of refunding the Issuer's outstanding Sewerage System Refunding Revenue Bonds, Series 1987 (the "Prior Bonds"), all in accordance with Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended (the "Act");

WHEREAS, the Ordinance provided that the exact principal amount of the Series 1993 Bonds to be sold and the maturities, interest rates, redemption provisions and the price of the Bonds should be established, that a Paying Agent, Escrow Trustee, Registrar and Depository Bank be designated, that an Escrow Agreement and Registrar and Paying Agent's Agreement be approved, that Qualified Investments be set forth, that additional covenants of the Issuer relating to the Municipal Bond Insurance Policy and that any amendments required in order to obtain the Municipal Bond Insurance Policy be set forth and that other matters pertaining to the Series 1993 Bonds be provided for by resolution of this Council supplemental to and amendatory of the Ordinance upon receipt of a Bond Purchase Agreement acceptable to this Council;

WHEREAS, the Series 1993 Bonds are proposed to be purchased by Raymond James & Associates, Inc. (the "Original Purchaser"), pursuant to a Bond Purchase Agreement dated the date of adoption hereof (the "Purchase Agreement");

WHEREAS, the Issuer has obtained a commitment for a Municipal Bond Insurance Policy from Financial Security Assurance Inc. (the "Bond Insurer") and has determined that it is advantageous for the Issuer to obtain such Municipal Bond Insurance Policy and provide herein for certain matters required by the Bond Insurer as a condition to issuing the Municipal Bond Insurance Policy;

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

WHEREAS, this Council deems it essential and desirable that this Resolution be adopted and that the Purchase Agreement, the Escrow Agreement and the Registrar and Paying Agent's Agreement hereinafter provided for be entered into by the Issuer, that the Official

Statement relating to the Series 1993 Bonds, hereinafter described, be approved, that the price of the Series 1993 Bonds, the maturity dates and amounts, the redemption provisions, the interest rates, and the exact principal amount of the Series 1993 Bonds be fixed hereby in the manner stated herein, that provisions required by the Bond Insurer as a condition to issuing its Municipal Bond Insurance Policy and amendments to the Ordinance required as a condition to obtaining the same and that other matters relating to the Series 1993 Bonds be herein provided for, all in accordance with said Ordinance;

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

Section 1. Pursuant to the Ordinance and the Act, this Resolution is adopted and there are hereby authorized and ordered to be issued the Series 1993 Bonds in the aggregate principal amount of $7,100,000. The Series 1993 Bonds shall be dated November 1, 1993, upon original issuance, shall bear interest payable semiannually on May 1 and November 1 of each year, commencing May 1, 1994, and shall mature on November 1 in years as follows:

Year (Nov. 1)	Amount	Interest Rate	Price
1994	$ 360,000	2.700%	100%
1995	360,000	3.100	100
1996	75,000	3.300	100
1997	75,000	3.600	100
1998	80,000	3.800	100
1999	80,000	4.000	100
2000	90,000	4.100	100
2001	90,000	4.200	100
2002	100,000	4.300	99.630
2003	100,000	4.400	99.202
2004	105,000	4.600	99.572
2005	105,000	4.700	99.096
2006	110,000	4.875	99.286
2007	115,000	5.000	99.007
2018	2,520,000	5.250	97.286
2023	2,735,000	5.375	97.500
TOTAL	$7,100,000		

Section 2. The Series 1993 Bonds shall not be subject to optional redemption prior to November 1, 2003. The Series 1993 Bonds

maturing on or after November 1, 2004, shall be redeemable prior to their stated dates of maturity at the option of the Issuer on or after November 1, 2003, in whole at any time or in part on any interest payment date, in such order of maturity as may be determined by the Issuer and by lot within a maturity, at the respective redemption prices (expressed as percentages of the principal amounts to be redeemed) set forth below, plus interest accrued to the date fixed for redemption:

Period During Which Redeemed	Redemption Price
November 1, 2003 to October 31, 2004	102%
November 1, 2004 to October 31, 2005	101
November 1, 2005 and thereafter	100

Section 3. The Series 1993 Bonds maturing November 1, 2018 and 2023 (the "Term Bonds") shall be subject to mandatory sinking fund redemption prior to maturity in part by random selection as may be determined by the Registrar, on November 1 of the years and in accordance with the following mandatory redemption schedule, at a redemption price equal to the principal amount thereof, plus interest accrued to the date fixed for redemption, without premium:

SERIES 1993 BONDS MATURING NOVEMBER 1, 2018

Year (November 1)	Amount
2008	$125,000
2009	130,000
2010	140,000
2011	140,000
2012	150,000
2013	160,000
2014	170,000
2015	175,000
2016	420,000
2017	445,000
2018	465,000 *

* By maturity

SERIES 1993 BONDS MATURING NOVEMBER 1, 2023

Year (November 1)	Amount
2019	$490,000
2020	520,000
2021	545,000
2022	575,000
2023	605,000 *

* By maturity

If a Series 1993 Bond is called for redemption in part, the Series 1993 Bond shall be renumbered and exchanged for a Series 1993 Bond of the amount then outstanding, without charge to the Bondholder.

All other provisions relating to the Series 1993 Bonds shall be as provided in the Ordinance, and the Series 1993 Bonds shall be in substantially the form provided in the Ordinance.

Section 4. The Purchase Agreement between the Original Purchaser and the Issuer, substantially in the form submitted to this meeting, and the execution and delivery (in multiple counterparts) by the Mayor and the sealing and attestation by the City Clerk on this day of the Purchase Agreement on behalf of the Issuer are hereby authorized, approved and directed. The Mayor shall execute and deliver the Purchase Agreement with such changes, insertions and omissions as may be approved by the Mayor. Execution of the Purchase Agreement by the Mayor shall be conclusive evidence of any approval required by this Section. The price of the Series 1993 Bonds, pursuant to the Purchase Agreement, shall be $6,874,745.25 representing the principal amount of $7,100,000, less Underwriter's discount of $83,993 and original issue discount of $141,261.75, plus interest accrued from the date of the Series 1993 Bonds to their date of delivery. The Series 1993 Bonds are expected to be delivered on or about November 18, 1993.

Section 5. The Escrow Agreement by and among the Issuer, the West Virginia Municipal Bond Commission and the Escrow Trustee designated herein, to be dated as of the date of delivery of the Series 1993 Bonds, substantially in the form submitted to this meeting shall be and the same is hereby approved. The Mayor shall execute and deliver the Escrow Agreement with such changes, insertions and omissions as may be approved by the Mayor and the City Clerk is hereby

authorized and directed to affix the seal of the Issuer thereto and to attest the seal. Execution of the Escrow Agreement by the Mayor shall be conclusive evidence of any approval required by this Section.

Section 6. The Official Statement dated November 3, 1993, to be substantially in the form of the Preliminary Official Statement described below (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 distribution by the Original Purchaser of the Preliminary Official Statement dated October 29, 1993 (which is a "deemed final" official statement in accordance with SEC Rule 15c2-12), substantially in the form submitted to this meeting is hereby ratified and approved. 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 7. The Registrar and Paying Agent's Agreement to be dated as of the date of delivery of the Series 1993 Bonds, by and between the Issuer and the Registrar/Paying Agent 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 and Paying Agent's Agreement with such changes, insertions and omissions as may be approved by the Mayor. The execution of the Registrar and Paying Agent's Agreement by the Mayor shall be conclusive evidence of any approval required by this Section.

Section 8. The Issuer does hereby determine that the Municipal Bond Insurance Policy offered by the Bond Insurer will result in an interest cost savings for the Issuer in excess of the premium to be paid by the Issuer for such Municipal Bond Insurance Policy, and accordingly ratifies the acceptance of the Commitment for Municipal Bond Insurance (the "Commitment"), dated October 22, 1993. The execution by the Mayor and delivery of the Commitment to the Bond Insurer is hereby ratified and approved.

Section 9. Pursuant to the Commitment, and, as permitted by Section 10.01 of the Ordinance, the following covenants and provisions which are required by the Bond Insurer as a condition precedent to issuance of its Municipal Bond Insurance Policy are hereby set forth, such covenants and provisions to be supplemental to and amendatory of, and controlling (notwithstanding anything to the contrary set forth in the Ordinance) with respect to the Ordinance and applicable to the Series 1993 Bonds:

(a) "Municipal Bond Insurance Policy" or "Policy" shall mean the municipal bond insurance policy issued by the Bond Insurer guaranteeing the scheduled payment of principal of and interest on the Series 1993 Bonds.

(b) "Bond Insurer" shall mean Financial Security Assurance Inc., a New York stock insurance company, or any successor thereto.

(c) Notice of the optional or extraordinary redemption of Series 1993 Bonds, other than any notice that refers to Series 1993 Bonds that are to be redeemed from proceeds of a refunding bond issue or from amounts to be provided by the Bond Insurer in its discretion, may be given only if sufficient funds have been deposited with the Paying Agent to pay the applicable redemption price of the Series 1993 Bonds to be redeemed.

(d) Upon the occurrence and continuance of an Event of Default which would require the Bond Insurer to make payments under the Policy, the Bond Insurer and its designated agent shall be provided with access to inspect and copy the registration books of the Issuer.

(e) "Qualified Investments" shall mean:

1. (a) Direct obligations (other than an obligation subject to variation in principal repayment) of the United States of America ("United States Treasury Obligations"), (b) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by the United States of America, (c) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by any agency or instrumentality of the United States of America when such obligations are backed by the full faith and credit of the United States of America, or (d) evidences of ownership of proportionate interests in future interest and principal payments on obligations described above 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 government obligations are not available to any person

claiming through the custodian or to whom the custodian may be obligated.

2. Federal Housing Administration debentures.

3. The listed obligations of government sponsored agencies which are not backed by the full faith and credit of the United States of America:

- Federal Home Loan Mortgage Corporation (FHLMC)
  - Participation certificates (excluded are stripped mortgage securities which are purchased at prices exceeding their principal amounts)
  - Senior Debt obligations
- Farm Credit Banks (formerly: Federal Land Banks, Federal Intermediate Credit Banks and Banks for Cooperatives)
  - Consolidated system-wide bonds and notes
- Federal Home Loan Banks (FHL Banks)
  - Consolidated debt obligations
- Federal National Mortgage Association (FNMA)
  - Senior debt obligations
  - Mortgage-backed securities (excluded are stripped mortgage securities which are purchased at prices exceeding their principal amounts)
- Student Loan Marketing Association (SLMA)
  - Senior debt obligations (excluded are securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date)
- Financing Corporation (FICO)
  - Debt obligations
- Resolution Funding Corporation (REFCORP)
  - Debt obligations

4. Unsecured certificates of deposit, time deposits, and bankers' acceptances (having

maturities of not more than 30 days) of any bank the short-term obligations of which are rated 'A-1' or better by S&P.

5. Deposits the aggregate amount of which are fully insured by the Federal Deposit Insurance Corporation (FDIC), in banks which have capital and surplus of at least $5 million.

6. Commercial paper (having original maturities of not more than 270 days) rated 'A-1+' by S&P and 'Prime-1' by Moody's.

7. Money market funds rated 'AAm' or 'AAm-G' by S&P, or better.

8. "State Obligations," which means:

A. Direct general obligations of any state of the United States of America or any subdivision or agency thereof to which is pledged the full faith and credit of a state the unsecured general obligation debt of which is rated 'A3' by Moody's <u>and</u> 'A' by S&P, or better, or any obligation fully and unconditionally guaranteed by any state, subdivision or agency whose unsecured general obligation debt is so rated.

B. Direct general short-term obligations of any state agency or subdivision or agency thereof described in (A) above and rated 'A-1+' by S&P and 'Prime-1' by Moody's.

C. Special Revenue Bonds (as defined in the United States Bankruptcy Code) of any state, state agency or subdivision described in (A) above and rated 'AA' or better by S&P and 'Aa' or better by Moody's.

9. Pre-refunded municipal obligations rated "AAA" by Standard & Poor's Corporation and "Aaa" by Moody's Investors Service meeting the following requirements:

A. the municipal obligations are (1) not subject to redemption prior to maturity or (2) the trustee for the

municipal obligations has been given irrevocable instructions concerning their call and redemption and the issuer of the municipal obligations has covenanted not to redeem such municipal obligations other than as set forth in such instructions;

B. the municipal obligations are secured by cash or United States Treasury Obligations which may be applied only to payment of the principal of, interest and premium on such municipal obligations;

C. the principal of and interest on the United States Treasury Obligations (plus any cash in the escrow) has been verified by the report of independent certified public accountants to be sufficient to pay in full all principal of, interest, and premium, if any, due and to become due on the municipal obligations ("Verification");

D. the cash or United States Treasury Obligations serving as security for the municipal obligations are held by an escrow agent or trustee in trust for owners of the municipal obligations;

E. no substitution of a United States Treasury Obligation shall be permitted except with another United States Treasury Obligation and upon delivery of a new Verification; and

F. the cash or United States Treasury Obligations are not available to satisfy any other claims, including those by or against the trustee or escrow agent.

10. Repurchase agreements:

A. With any domestic bank the long term debt of which is rated 'AA' or better by S&P (so long as an opinion is

rendered that the repurchase agreement is a "repurchase agreement" and a "qualified financial contract" as defined in the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") and that such bank is subject to FIRREA), or any foreign bank the long term debt of which is rated at least 'AA' by S&P and 'AAA' by S&P and at least 'Aa' by Moody's; provided the term of such repurchase agreement is for one year or less.

B. With (1) any broker-dealer with "retail customers" which has, or the parent company of which has, long-term debt rated at least 'AA' by S&P and 'Aa' by Moody's, which broker-dealer falls under the jurisdiction of the Securities Investors Protection Corporation (SIPC); or (2) any other entity approved by Financial Security, provided that:

a. The market value of the collateral is maintained (i) for United States Treasury Securities at the levels shown below under "Collateral Levels for United States Treasury Obligations" and (ii) for other collateral, at levels acceptable to Financial Security;

b. Failure to maintain the requisite collateral percentage will require the Issuer to liquidate the collateral.

c. The Issuer, the Paying Agent or a third party acting solely as agent therefor (the "Holder of the Collateral") has possession of the collateral or the collateral

has been transferred to the Holder of the Collateral in accordance with applicable state and federal laws (other than by means of entries on the transferor's books);

d. The repurchase agreement shall state and an opinion of counsel shall be rendered that the Holder of the Collateral has a perfected first priority security interest in the collateral, any substituted collateral and all proceeds thereof (in the case of bearer securities, this means the Holder of the Collateral is in possession);

e. The transferor represents that the collateral is free and clear of any third-party liens or claims;

f. An opinion is rendered that the repurchase agreement is a "repurchase agreement" as defined in the United States Bankruptcy Code and, if the provider is a bank, that such bank is subject to FIRREA and the repurchase agreement is a "qualified financial contract" as defined in FIRREA;

g. There is or will be a written agreement governing every repurchase transaction;

h. The Issuer represents that it has no knowledge of any fraud involved in the repurchase transaction; and

i. The Issuer receives the opinion of counsel (which opinion shall be addressed to the Issuer and the Bond Insurer) that such repurchase agreement is legal, valid, binding and enforceable upon the provider in accordance with its terms.

11. Investment agreements with (A) a domestic bank the long-term debt of which is rated at least 'AA' by S&P and 'Aa' by Moody's (so long as an opinion is rendered that the bank is subject to FIRREA); or (B) a foreign bank the long-term debt of which is rated 'AAA' by S&P and at least "Aa' by Moody's, or at least 'AA' by S&P and 'Aaa' by Moody's; provided, that, by the terms of the investment agreement:

(1) interest payments are to be made at times and in amounts as necessary to pay debt service (or, if the investment agreement is for the construction fund, construction draws) on the Bonds;

(2) the invested funds are available for withdrawal without penalty or premium, at any time upon not more than seven days' prior notice (which notice may be amended or withdrawn at any time prior to the specified withdrawal date); provided that the Ordinance specifically requires the Issuer to give notice in accordance with the terms of the investment agreement so as to receive funds thereunder with no penalty or premium paid;

(3) the investment agreement shall state that is the unconditional and general obligation of, and is not subordinated to any other obligation of, the provider thereof;

(4) a fixed guaranteed rate of interest is to be paid on invested funds and all future deposits, if any, required to be made to restore the amount of such funds to the level specified under the Ordinance;

(5) the term of the investment agreement does not exceed seven years or such longer term as shall be approved by the Bond Insurer;

(6) the Issuer receives the opinion of domestic counsel (which opinion shall be addressed to the Issuer and the Bond Insurer) that such investment agreement is legal, valid, binding and enforceable upon the provider in accordance with its terms and of foreign counsel (if applicable) in form and substance acceptable;

(7) the investment agreement shall provide that if during its term

(a) the provider's rating by either S&P or Moody's falls below 'AA' or 'Aa,' respectively, or, with respect to a foreign bank, below the ratings of such provider at the delivery date of the investment agreement, the provider must, at the direction of the Issuer (who shall give such direction if so directed by the Bond Insurer), within 10 days of receipt of such direction, either (i) collateralize the investment agreement by delivering or transferring in accordance with applicable state and federal laws (other than by means of entries on the provider's books) to the Issuer, the Paying Agent or a third party acting solely as agent therefor (the "Holder of the Collateral") United States Treasury Obligations which are free and clear of any third-party liens or claims at the Collateral Levels set forth below; or (ii) repay the principal of and accrued but unpaid interest on the investment, and

(b) the provider's rating by either Moody's or S&P is withdrawn or suspended or falls below 'A,' or, with respect to a foreign bank, below "AA" or "Aa" by S&P or Moody's, as appropriate, the provider must, at the direction of the Issuer (who shall give

such direction if so directed by the Bond Insurer), within 10 days of receipt of such direction, repay the principal of and accrued but unpaid interest on the investment, in either case with no penalty or premium to the Issuer; and

(8) The investment agreement shall state and an opinion of counsel shall be rendered that the Holder of the Collateral has a perfected first priority security interest in the collateral, any substituted collateral and all proceeds thereof (in the case of bearer securities, this means the Holder of the Collateral is in possession);

(9) the investment agreement must provide that if during its term

(a) the provider shall default in its payment obligations, the provider's obligations under the investment agreement shall, at the direction of the Issuer (who shall give such direction if so directed by the Bond Insurer), be accelerated and amounts invested and accrued but unpaid interest thereon shall be repaid to the Issuer or Paying Agent, as appropriate, and

(b) the provider shall become insolvent, not pay its debts as they become due, be declared or petition to be declared bankrupt, etc. ("event of insolvency"), the provider's obligations shall automatically be accelerated and amounts invested and accrued but unpaid interest thereon shall be repaid to the Issuer or Paying Agent, as appropriate.

12. Any State-administered pool investment fund in which the Issuer is statutorily permitted or required to invest.

13. Subject to the prior written approval of the Bond Insurer, such other obligations as shall be permitted to be legal investments of the Issuer by the laws of the State.

COLLATERAL LEVELS FOR UNITED STATES TREASURY OBLIGATIONS

	Remaining maturity				
	1 year or less	5 years or less	10 years or less	15 years or less	30 years or less
Frequency of valuation					
Daily	102	105	106	108	114
Weekly	103	111	112	114	120
Monthly	105	117	120	125	133
Quarterly	107	120	130	133	140

VALUATION REQUIREMENTS:

(1) On each valuation date the Issuer, the Paying Agent, or the custodian who shall confirm to the Issuer and the Paying Agent, shall, at the cost of the provider, value the market value (exclusive of accrued interest) of the collateral, which market value will be an amount equal to the requisite collateral percentage times the principal amount of the investment and unpaid accrued interest thereon that is being secured;

(2) In the event the collateral level is below its collateral percentage on a valuation date, such percentage shall be restored within the following restoration periods: one business day for daily valuations, two business days for weekly and monthly valuations, and one month for quarterly valuations. [The use of different restoration periods affect the requisite collateral percentage.];

(3) The Issuer shall terminate the repurchase agreement or investment agreement, as appropriate, upon a failure to maintain the requisite collateral percentage after the restoration period and, if not paid by the counterparty in federal funds against transfer of the collateral, liquidate the collateral.

(f) The prior written consent of the Bond Insurer shall be a condition precedent to the deposit of any credit instrument provided in lieu of a cash deposit into the Reserve Account.

(g) In the event the maturity of the Series 1993 Bonds is accelerated, the Bond Insurer may elect, in its sole discretion, to pay accelerated principal and interest accrued or accreted, as applicable, 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 Bond Insurer's obligations under the Policy shall be fully discharged.

(h) The Bond Insurer shall be deemed to be the sole holder of the Series 1993 Bonds insured by it 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 Series 1993 Bonds insured by it are entitled to take pursuant to Article VII of the Ordinance (pertaining to defaults and remedies).

(i) Copies of any modification or amendment to the Ordinance shall be sent to Standard & Poor's Corporation and Moody's Investors Service, Inc. at least 15 days prior to the effective date thereof.

(j) Rights of the Bond Insurer to direct or consent to Issuer or Bondholder actions under the Ordinance shall be suspended during any period in which the Bond Insurer is in default in its payment obligations under the Policy (except to the extent of amounts previously paid by the Bond Insurer and due and owing to the Bond Insurer) and shall be of no force or effect in the event the Policy is no longer in effect or the Bond Insurer asserts that the Policy is not in effect or the Bond Insurer shall have provided written notice that it waives such rights.

(k) In determining whether a payment default has occurred, no effect shall be given to payments made under the Policy.

(l) The Bond Insurer shall, to the extent it makes any payment of principal of or interest on the Series 1993 Bonds, become subrogated to the

rights of the recipients of such payments in accordance with the terms of the Policy.

(m) The Bond Insurer shall have the right to advance any payment required to be made by the Issuer in order to prevent an event of default under this Ordinance and the Paying Agent shall be required to accept such advance. The Issuer shall be required to reimburse the Bond Insurer for any such advance.

(n) The rights granted to the Bond Insurer under the Ordinance to request, consent to or direct any action are rights granted to the Bond Insurer in consideration of its issuance of the Policy. Any exercise by the Bond Insurer of such rights is merely an exercise of the Bond Insurer's contractual rights and shall not be construed or deemed to be taken for the benefit or on behalf of the Bondholders nor does such action evidence any position of the Bond Insurer, positive or negative, as to whether Bondholders consent is required in addition to consent of the Bond Insurer.

(o) Only (1) cash, (2) non-callable direct obligations of the United States of America, or (3) pre-refunded municipal obligation rated "AAA" and "Aaa" by S&P and Moody's, respectively (or any combination thereof) shall be authorized to be used to effect defeasance of the Series 1993 Bonds unless the Bond Insurer otherwise approves. Such obligations shall constitute "Defeasance Obligations." In the event of an advance refunding (i) the Issuer shall cause to be delivered, on the deposit date and upon any reinvestment of the defeasance amount, a report of an independent firm of nationally recognized certified public accountants "(Accountant") verifying the sufficiency of the escrow established to pay the Series 1993 Bonds in full on the maturity date or earlier redemption thereof ("Verification"), (ii) the escrow agreement shall provide that no (A) substitution of a Defeasance Obligation shall be permitted except with another Defeasance Obligation and upon delivery of a new Verification and (B) reinvestment of a Defeasance Obligation shall

be permitted except as contemplated by the original Verification or upon delivery of a new Verification, and (iii) there shall be delivered an opinion of nationally recognized bond counsel to the effect that the Series 1993 Bonds are no longer "Outstanding" under the Ordinance; each Verification and defeasance opinion shall be addressed to the Issuer, the Paying Agent and the Bond Insurer. Series 1993 Bonds shall be deemed "Outstanding" under the Ordinance unless and until they are in fact paid and retired or the above criteria is met.

(p) Amounts paid by the Bond Insurer under the Policy shall not be deemed paid for purposes of the Ordinance and 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 Bond Insurer have been paid in full.

(q) The notice address of the Bond Insurer is: Financial Security Assurance Inc., 350 Park Avenue, New York, New York 10022-6022, Attention: Managing Director - Surveillance.

(r) The Bond Insurer shall be included as a third party beneficiary to the Ordinance.

(s) The Bond Insurer shall be provided with the following information:

> (i) upon delivery of the annual audited financial statements of the Issuer, a certificate of the chief financial officer of the Issuer stating that, to the best of such individual's knowledge following reasonable inquiry, no Event of Default (or any event which, once all notice or grace periods have passed, would constitute an Event of Default) has occurred, or if an Event of Default has occurred, specifying the nature thereof and, if the Issuer has a right to cure pursuant to Section 7.04 of the Ordinance, stating in reasonable detail the steps,

if any, being taken by the Issuer to cure such Event of Default;

(ii) Official Statement, if any, prepared in connection with the issuance of additional bonds within 30 days after the bond sale;

(iii) Notice of any draw upon, or deficiency due to market fluctuation in the amount on deposit in, the Reserve Account within two Business Days after knowledge thereof other than (i) withdrawals of amounts in excess of the Reserve Account Requirement and (ii) withdrawals in connection with a refunding of the Series 1993 Bonds;

(iv) Notice of the redemption of any of the Series 1993 Bonds, including the principal amount, maturities and CUSIP numbers thereof;

(v) Notice of the resignation or removal of the Paying Agent and the appointment of, and acceptance of duties by, any successor thereto;

(vi) A full original transcript of all proceedings relating to the execution of any amendment or supplement to the Ordinance; and

(vii) Such additional information as the Bond Insurer from time to time may reasonably request.

(t) Claims Upon the Policy and Payments by and to the Bond Insurer.

(A) If, on the third Business Day prior to the related scheduled interest payment date or principal payment date or the date to which Bond maturity has been accelerated ("Payment Date") there is not on deposit with the Paying Agent, after making all transfers and deposits required under this Ordinance, moneys sufficient to pay the principal of and interest on the Series 1993

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 Series 1993 Bonds due on such Payment Date, the Paying Agent shall make a claim under the Policy and give notice to the Bond 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 Series 1993 Bonds and the amount required to pay principal of the Series 1993 Bonds, confirmed in writing to the Bond Insurer and the Insurer's Fiscal Agent by 12:00 noon, New York City time, on such second Business Day.

(C) All amounts paid by the Bond Insurer pursuant to (A) above, shall be deposited by the Paying Agent in a special fund hereby established and designated the "Policy Payments Account." Any funds remaining in the Policy Payments Account following a Payment Date shall promptly be remitted to the Bond Insurer.

(D) The Paying Agent shall keep a complete and accurate record of all funds deposited by the Bond Insurer into the Policy Payments Account and the allocation of such funds to payment of interest on and principal paid in respect of any Bond. The Bond Insurer shall have the right to inspect such records at reasonable times upon one Business Day's prior notice to the Paying Agent.

(E) Subject to and conditioned upon payment of any interest or principal with respect to the Series 1993 Bonds by or on behalf of the Bond Insurer, each Bondholder, by its purchase of Series 1993 Bonds, hereby assigns to the Bond Insurer, but only to the extent of all payments made by the Bond Insurer, all rights to the payment of interest or principal on the Series 1993 Bonds, including, without limitation,

any amounts due to the Bondholders in respect of securities law violations arising from the offer and sale of the Series 1993 Bonds, which are then due for payment. The Bond Insurer may exercise any option, vote, right, power or the like with respect to Series 1993 Bonds to the extent it has made a principal payment pursuant to the Policy. The foregoing assignment is in addition to, and not in limitation of, rights of subrogation otherwise available to the Bond Insurer in respect of such payments. The Paying Agent shall take such action and deliver such instruments as may be reasonably requested or required by the Bond Insurer to effectuate the purpose or provisions of this clause (E).

(F) The Paying Agent shall promptly notify the Bond Insurer of either of the following as to which it has actual knowledge: (i) 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") and (ii) the making of any claim in connection with any insolvency proceeding seeking the avoidance as a preferential transfer (a "Preference Claim") of any payment of principal of, or interest on, the Series 1993 Bonds.

Each Bondholder, by its purchase of Series 1993 Bonds, and the Paying Agent hereby agrees that the Bond Insurer may at any time during the continuation of an insolvency proceeding direct all matters relating to such insolvency proceeding, including, without limitation, (i) all matters relating to any Preference Claim, (ii) the direction of any appeal of any order relating to any Preference Claim and (iii) the posting of any surety, supersedeas or performance bond pending any such appeal. In addition, and without limitation of the foregoing, the Bond Insurer shall be subrogated to the rights of the Paying Agent and each Bondholder in any insolvency proceeding to the extent it is subrogated pursuant to the Policy, including, without limitation, any rights of any party to an adversary proceeding action with respect to any

court order issued in connection with any such Insolvency Proceeding.

(G) The Issuer hereby agrees to pay or reimburse the Bond Insurer any and all charges, fees, costs and expenses which the Bond Insurer may reasonably pay or incur, including, but not limited to, fees and expenses of attorneys, accountants, consultants and auditors and reasonable costs of investigations, in connection with (i) the administration, enforcement, defense or preservation of any rights in respect of the Ordinance including defending, monitoring or participating in any litigation or proceeding (including any bankruptcy proceeding in respect of the Issuer or any affiliate thereof) relating to the Ordinance, any party to the Ordinance or the transaction contemplated by the Related Documents (the "Transaction"), (ii) the pursuit of any remedies under the Ordinance or (iii) any amendment, waiver or other action with respect to, or related to, the Ordinance whether or not executed or completed; costs and expenses shall include a reasonable allocation of compensation and overhead attributable to time of employees of the Bond Insurer spent in connection with the actions described above; and the Bond 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.

(H) In addition to any and all rights of reimbursement, subrogation and any other rights pursuant hereto or under law or in equity, the Issuer agrees to pay or reimburse the Bond Insurer any and all charges, fees, costs, claims, losses, liabilities (including penalties), judgments, demands, damages, and expenses which the Bond Insurer or its officers, directors, shareholders, employees, agents and each Person, if any, who controls the Bond Insurer within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act may reasonably pay or incur, including, but not limited to, fees and expenses of attorneys, accountants, consultants an auditors and reasonable costs of investigations, of any nature in connection with, in respect of or relating to

the transactions contemplated by the Ordinance by reason of:

(i) any omission or action (other than of or by the Bond Insurer) in connection with the offering, issuance, sale, remarketing or delivery of the Series 1993 Bonds;

(ii) the negligence, bad faith, willful misconduct, misfeasance, malfeasance or theft committed by any director, officer, employee or agent of the Issuer in connection with any transaction arising from or relating to the Ordinance;

(iii) the violation by the Issuer of any law, rule or regulation, or any judgment, order or decree applicable to it;

(iv) the breach by the Issuer of any representation, warranty or covenant under the Ordinance or the occurrence, in respect of the Issuer, under the Ordinance of any "event of default" or any event which, with the giving of notice or lapse of time or both, would constitute any "event of default"; or

(v) any untrue statement or alleged untrue statement of a material fact contained in any Official Statement or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such claims arise out of or are based upon any untrue statement or omission in information included in an Official Statement and furnished by the Bond Insurer in writing expressly for use therein.

(I) The Issuer shall pay to the Bond Insurer interest on any and all amounts as are paid under the Policy and as are otherwise due to the Bond Insurer from the date paid by the Bond Insurer until payment thereof in full at the Late Payment Rate. "Late Payment Rate" shall mean a per annum rate equal to the lower of (i) three percent above the interest rate the Morgan Guaranty Trust Company of New York ("Morgan") publicly announces from time to time as its prime lending rate ("Prime Rate"), such interest rate to change on the effective date of each change in the announced Prime Rate and (ii) the maximum interest rate permitted to be paid by the Issuer under applicable law; provided that with respect to payments paid to and received by the Bond Insurer pursuant to its subrogation rights under the Ordinance the amount of the Series 1993 Bonds interest rate shall be subtracted from the Late Payment Rate. In the event Morgan ceases to announce its Prime Rate, the Prime Rate shall be the prime rate of such national bank as the Bond Insurer shall designate.

(J) Payments required to be made to the Bond Insurer shall be payable solely from the Net Revenues. The obligations set forth in (G)-(I) above shall survive discharge or termination of the Related Documents.

(K) The Bond Insurer shall be entitled to pay principal or interest on the Series 1993 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 Bond Insurance Policy) and any amounts due on the Series 1993 Bonds as a result of acceleration of the maturity thereof in accordance with this Ordinance, whether or not the Bond Insurer has received a Notice (as defined in the Bond Insurance Policy) of Nonpayment or a claim upon the Bond Insurance Policy.

(u) Section 1.01 of the Ordinance (Definitions) is hereby amended with respect to the terms "Bond Year," "Dated Date," "Maximum Annual Debt Service" and "Reserve Account Requirement" to read as follows:

"Bond Year" means the 12 month period beginning on the anniversary of the Dated Date in each year and ending on the day prior to the anniversary date of the Dated Date in the following Year.

"Dated Date" means November 1, 1993.

"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 Bond Year.

"Reserve Account Requirement" means, as of any date of calculation, the maximum amount of Debt Service that will come due on the Bonds in the then current or any succeeding Bond 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.

(v) Section 6.08 of the Ordinance is hereby amended to read as follows:

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

No such additional parity Bonds shall be issued except for the purpose of financing the costs of the construction of additions, betterments or improvements to the System, 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 Fiscal Year 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 Series 1993 Bonds then Outstanding;

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

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

The "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 the increased Net Revenues to be available as a result of existing additional customers required by law to be served by the System upon completion of the facilities to be financed with the proceeds of any 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 1993 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 1993 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.

No additional parity Bonds shall be valid unless authenticated pursuant to Section 3.03. Prior to such authentication, registration, if applicable, and delivery, the Registrar shall receive those documents prescribed by Section 3.12 with respect to the Series 1993 Bonds, modified as deemed necessary by the Registrar to reflect the issuance of such additional parity Bonds.

The term "additional parity Bonds," as used in this section, shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien on the Revenues of the System of which is subject to the prior and superior lien of the Bonds on such Revenues. Any such subordinate bonds, notes, certificates or other obligations shall be payable from the Net Revenues remaining after all payments required to be made pursuant to Section 4.03(1), (2), (3) and (4) have first been paid. The Issuer shall not issue any obligations whatsoever payable from the Revenues of the System, or any part thereof, which rank prior to or equally, as to lien and

source of and security for payment from such Revenues, with the Bonds except in the manner and under the conditions provided in this section.

No additional parity Bonds, as in this section defined, shall be issued at any time, however, unless all of the payments into the respective funds and accounts provided for in this Ordinance on account of the Bonds then Outstanding (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.

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

Section 10. The Issuer does hereby appoint and designate Bank One, West Virginia, Charleston, National Association, Charleston, West Virginia, for the purpose of serving in the capacities of Registrar, Paying Agent and Escrow Trustee.

Section 11. The Issuer does hereby appoint and designate Bank One, West Virginia, Huntington, National Association, Huntington, West Virginia, for the purpose of serving in the capacity of Depository Bank.

Section 12. The firm of Ernst & Young, Birmingham, Alabama, is hereby engaged for the purpose of verifying yield and sufficiency of the Escrow Fund.

Section 13. The firm of Smith Cochran & Hicks, Certified Public Accountants, Charleston, West Virginia, is hereby engaged for the purpose of calculating rebatable arbitrage on the proceeds of the Prior Bonds.

Section 14. The notice addresses for the Registrar, Paying Agent, Depository Bank and Bond Insurer shall be as follows:

REGISTRAR AND PAYING AGENT

Bank One, West Virginia, Charleston,
National Association
Capitol and Virginia Streets
P. O. Box 1113
Charleston, West Virginia 25324
Attention: Trust Officer

DEPOSITORY BANK

Bank One, West Virginia, Huntington,
National Association
P. O. Box 179
Huntington, West Virginia 25706-0179
Attention: Trust Officer

BOND INSURER

Financial Security Assurance Inc.
350 Park Avenue
New York, New York 10022-6022
Attention: Managing Director - Surveillance

Section 15. Based upon the actual principal amount, maturity schedule and interest rates for the Series 1993 Bonds, as set forth in Paragraph (1) hereof, it is hereby determined that the Series 1993 Bonds show a net savings to the Issuer after deducting all expenses of the refunding. Prior to delivery of the Series 1993 Bonds, the Issuer shall have obtained from Ernst & Young or such other independent certified public accountant acceptable to the Mayor a certification that the amount of savings stated to be achieved by the refunding shall in fact be correct, based upon their review, comparison and analysis of the net interest cost in dollars of the Series 1993 Bonds and the net interest cost in dollars of the Prior Bonds. The Mayor is hereby authorized and directed to employ Ernest & Young or such another independent certified public accountant satisfactory to Bond Counsel to supply the certification required herein and to take other actions required in connection with the refunding.

Section 16. Under the provisions of the Act, and as provided in the Ordinance and the Series 1993 Bonds, the Series 1993 Bonds and the interest thereon do not constitute indebtedness of the Issuer within the meaning of any constitutional or statutory

provisions or limitations, but shall be payable solely from the revenues derived from the operation of the sewerage system of the Issuer, the Series 1993 Bonds Reserve Account and the Depreciation Fund established by the Ordinance and neither the credit nor the taxing power of the Issuer is pledged for, and no tax shall ever be levied for, payment of the Series 1993 Bonds and the interest thereon.

Section 17. The Issuer and all subordinate entities do not reasonably expect to issue more than $10,000,000 of tax-exempt obligations during the calendar year 1993 and the Issuer hereby designates the Series 1993 Bonds as "qualified tax-exempt obligations," as defined in Section 265(b) of the Internal Revenue Code of 1986, as amended.

Section 18. The Mayor and the City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Series 1993 Bond issue, hereby and by the Ordinance approved and provided for, including, if needed, subscription forms for the purchase of United States Government Securities, a Depository Trust Company Letter of Representations and any forms or documents necessary to qualify the Series 1993 Bonds for sale under the "Blue Sky Laws" of any state, to the end that the Series 1993 Bonds may be delivered at the earliest practical date to the Original Purchaser, pursuant to the Purchase Agreement.

Section 19. The Escrow Trustee is hereby instructed to purchase from Raymond James & Associates, Inc. the Government Securities listed on Exhibit B to the Purchase Agreement or Substitute Securities in accordance with the provisions of the Purchase Agreement.

Section 20. The Mayor is hereby authorized and directed to transfer the balance in the Construction Trust Fund created for the Prior Bonds to the Escrow Fund. The Mayor is hereby authorized and directed to transfer from the Sinking Fund and Reserve Fund, created for the Prior Bonds, and held by the West Virginia Municipal Bond Commission the amounts set forth in the Escrow Agreement. Any balances in excess of the amount required to be deposited in the Escrow Fund shall be deposited in a special construction fund (the "Special Construction Fund"). Moneys held in the Special Construction Fund shall be utilized by the Sanitary Board for capital construction projects within the next three years.

Section 21. This Resolution shall be effective immediately.

Adopted this 3rd day of November, 1993.

[SEAL]

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

CERTIFICATION

Certified a true, correct and complete copy of a Supplemental Resolution duly adopted by the City Council of THE CITY OF HUNTINGTON at a special meeting of the City Council held at 5:00 p.m., on November 3, 1993, pursuant to proper notice, at which meeting a quorum was present and acting throughout.

Dated this 18th day of November, 1993.

[SEAL]

City Clerk

11/16/93
HUNTJ.K5
43550/93001

CONFORMED COPY

Reflects redesignation set forth in the
Supplemental Resolution adopted November 10, 1997

Inwood Drive Project

THE CITY OF HUNTINGTON

SEWER REVENUE BONDS, SERIES 1997
(WEST VIRGINIA SRF PROGRAM)

BOND ORDINANCE

Table of Contents

Subject **Page**

ARTICLE I
STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01	Authority for this Ordinance	1
Section 1.02	Findings	1
Section 1.03	Bond Legislation Constitutes Contract	4
Section 1.04	Definitions	4

ARTICLE II
AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01	Authorization of Acquisition and Construction of the Project	19

34A

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

Section 3.01	Authorization of Bonds	20
Section 3.02	Terms of Bonds	20
Section 3.03	Execution of Bonds	21
Section 3.04	Authentication and Registration	21
Section 3.05	Negotiability, Transfer and Registration	21
Section 3.06	Bonds Mutilated, Destroyed, Stolen or Lost	22
Section 3.07	Bonds not to be Indebtedness of the Issuer	22
Section 3.08	Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds	22
Section 3.09	Delivery of Bonds	23
Section 3.10	Form of Bonds	23
	FORM OF BOND	24
Section 3.11	Sale of Bonds; Approval and Ratification of Execution of Loan Agreement	32
Section 3.12	"Amended Schedule A" Filing	32

ARTICLE IV

[RESERVED] 33

ARTICLE V
FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01	Establishment of Funds and Accounts with Depository Bank	34
Section 5.02	Establishment of Funds and Accounts with Commission	34
Section 5.03	System Revenues; Flow of Funds	34

ARTICLE VI
BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01	Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds	40
Section 6.02	Disbursements From the Bond Construction Trust Fund	40

ARTICLE VII
ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01	General Covenants of the Issuer	42
Section 7.02	Bonds not to be Indebtedness of the Issuer	42
Section 7.03	Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds	42

Section 7.04	Rates	42
Section 7.05	Sale of the System	43
Section 7.06	Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances	44
Section 7.07	Additional Parity Bonds	45
Section 7.08	Books; Records and Facilities	47
Section 7.09	Securities Law Compliance	49
Section 7.10	Operating Budget; Audit and Monthly Financial Report	49
Section 7.11	Engineering Services and Operating Personnel	49
Section 7.12	No Competing Franchise	50
Section 7.13	Enforcement of Collections	50
Section 7.14	No Free Services	51
Section 7.15	Insurance and Construction Bonds	51
Section 7.16	Mandatory Connections	53
Section 7.17	Completion of Project; Permits and Orders	54
Section 7.18	Compliance with Loan Agreement and Law	54
Section 7.19	Tax Covenants	54

ARTICLE VIII
INVESTMENT OF FUNDS; NON ARBITRAGE

Section 8.01	Investments	56
Section 8.02	Arbitrage and Tax Exemption	57
Section 8.03	Small Issuer Exemption from Rebate of Excess Investment Earnings to the United States	57

ARTICLE IX
DEFAULT AND REMEDIES

Section 9.01	Events of Default	60
Section 9.02	Remedies	60
Section 9.03	Appointment of Receiver	60

ARTICLE X
DEFEASANCE

Section 10.01	Defeasance of Bonds	63

ARTICLE XI
MISCELLANEOUS

Section 11.01	Amendment or Modification of Bond Legislation	64
Section 11.02	Bond Legislation Constitutes Contract	64
Section 11.03	Severability of Invalid Provisions	64
Section 11.04	Headings, Etc.	64

Section 11.05	Conflicting Provisions Repealed; Prior Ordinance	64
Section 11.06	Covenant of Due Procedure, Etc.	65
Section 11.07	Effective Date	65
Section 11.08	Statutory Notice and Public Hearing	65
	SIGNATURES	66
	CERTIFICATION	67
	EXHIBIT A	68

THE CITY OF HUNTINGTON

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF HUNTINGTON AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $4,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1997 (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

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

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

A. The City of Huntington (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Cabell and Wayne Counties of said State.

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

of the Issuer that there be constructed certain additions, betterments and improvements for the existing public sewerage system of the Issuer, consisting of acquisition and construction of gravity and pressure sanitary sewerage lines, grinder pumps, manholes and other sewerage facilities to service the Inwood Drive, Shockey Drive, McCoy Road, Ridgewood Road, Miller Road and other areas, together with all appurtenant facilities (collectively, the "Project"), which constitute properties for the collection and transportation of liquid or solid wastes, sewage or industrial wastes (the existing public sewerage system of the Issuer, the Project and any further additions thereto or extensions thereof are herein called the "System") at an estimated cost of $4,000,000 in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the City Clerk of the Issuer.

C. The Issuer intends to permanently finance a portion of such costs of acquisition and construction of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority (the "Authority"), in connection with the West Virginia Water Pollution Control Revolving Fund program (the "SRF Program"), pursuant to the Act, in order to take advantage of the favorable terms available to the Issuer under the SRF Program.

D. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds, Series 1997 (West Virginia SRF Program), in the total aggregate principal amount of not more than $4,000,000 (the "Series 1997 Bonds"), initially to be represented by a single bond, to permanently finance a portion of costs of acquisition and construction of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor and eligible under the SRF Program; interest upon the Series 1997 Bonds prior to and during construction or acquisition and for a period not exceeding 6 months after completion of construction of the Project; amounts which may be deposited in the Series 1997 Bonds Reserve Account (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority, including the SRF Administrative Fee (as hereinafter defined), discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 1997 Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof, provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 1997 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

E. The period of usefulness of the System after completion of the Project is not less than 20 years.

F. It is in the best interests of the Issuer that its Series 1997 Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement (the "Loan Agreement") by and among the Issuer, the Authority and the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment (the "DEP"), in form satisfactory to the Issuer, the Authority and the DEP, to be approved hereby if not previously approved by resolution of the Issuer.

G. There are outstanding obligations of the Issuer which will rank on parity with the Series 1997 Bonds as to liens, pledge, source of and security for payment, being the Issuer's Sewerage System Refunding Revenue Bonds, Series 1993 (the "Series 1993 Bonds" or "Prior Bonds"), dated November 1, 1993, issued in the original aggregate principal amount of $7,100,000, pursuant to an ordinance enacted by the Issuer on October 12, 1993, as supplemented by the supplemental resolution of the Issuer adopted November 3, 1993 (collectively, the "Prior Ordinance").

The Issuer has met the parity test requirements of the Prior Bonds and the Prior Ordinance, and the Series 1997 Bonds shall be issued on a parity with the Prior Bonds, with respect to liens, pledge and source of and security for payment and in all other respects. Other than the Prior Bonds, there are no outstanding obligations of the Issuer which will rank prior to or on a parity with the Series 1997 Bonds as to liens, pledge and/or source of and security for payment and in all other respects.

H. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on the Prior Bonds and the Series 1997 Bonds and all payments into the all sinking funds, reserve accounts and other payments provided for herein and in the Prior Ordinance, all as such terms are hereinafter defined.

I. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 1997 Bonds, or will have so complied prior to issuance of any thereof, including, among other things, the approval (or "grandfathering") of the Project and the financing thereof by the West Virginia Infrastructure and Jobs Development Council and the obtaining of a Certificate of Public Convenience and Necessity from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 1997 Bonds or such final order will not be subject to appeal.

J. The Issuer is a governmental unit which has general taxing powers to finance operations of or facilities of the nature of the Project and the System; 95% or more of the Net Proceeds of the Series 1997 Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the

jurisdiction of the Issuer); and the Issuer, all subordinate entities, all entities which issue obligations on behalf of the Issuer, and all entities formed or, to the extent provided under Section 148 of the Code, herein defined, availed of, to avoid the purposes of Section 148(f)(4)(D) of the Code and all other entities benefiting thereby reasonably expect to issue less than $5,000,000 aggregate principal amount of tax-exempt obligations (other than private activity bonds) during the calendar year in which the Series 1997 Bonds are to be issued.

K. Pursuant to the Act, the Issuer has heretofore established a Sanitary Board, and the Sanitary Board has petitioned the Council to issue the Series 1997 Bonds for the purposes set forth herein.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 1997 Bonds by the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Bondholders of any and all of such Series 1997 Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds and by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

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

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 1997 Bonds, or any other agency, board or department of the State that succeeds to the functions of the Authority.

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

"Board" means the Sanitary Board of the Issuer.

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

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

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

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

"Bonds" means, collectively, the Series 1997 Bonds, the Prior Bonds, and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another ordinance of the Issuer.

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

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

"Closing Date" means the date upon which there is an exchange of the Series 1997 Bonds for the proceeds representing the purchase price of the Series 1997 Bonds or at least a de minimis portion thereof from the Authority and the DEP.

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

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

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

"Consulting Engineers" means Chester Engineers, Inc., Huntington, West Virginia, or any qualified engineer or firm of engineers that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System, or portion thereof; provided however, that the Consulting Engineers shall not be a regular, full-time employee of the State or any of its agencies, commissions, or political subdivisions.

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

"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.

"DEP" means the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment, or any other agency, board or department of the State that succeeds to the functions of the DEP.

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

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

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

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

"Governing Body" means the Council of the Issuer.

"Government Obligations" means direct and general obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury), or obligations that are unconditionally guaranteed as to principal and interest by the United States of America, including (in the case of direct and general obligations of the United States of America) evidences of ownership of proportionate interests in future interest and principal payments of such obligations; provided that, investments in such proportionate interests shall be limited to circumstances wherein (a) a bank or trust company acts as custodian and holds the underlying United States obligations; (b) the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor of the underlying United States obligations; and (c) the underlying United States obligations are held in a special account separate from the custodian's general assets, and are not available to satisfy any claim of the custodian, any person claiming through the custodian, or any person to whom the custodian may be obligated.

"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).

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

"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 other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

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

"Issuer" means The City of Huntington, a municipal corporation and political subdivision of the State of West Virginia, in Cabell and Wayne Counties, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" means the Loan Agreement heretofore entered, or to be entered, into among the Authority, the DEP and the Issuer, providing for the purchase of the Series 1997 Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by the Supplemental Resolution.

"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 Bond Year.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 1997 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 1997 Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 1997 Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

"Net Revenues" means Gross Revenues less Operating Expenses.

"Nonpurpose Investment" means any Investment Property which is acquired with the gross proceeds or any other proceeds of the Series 1997 Bonds and is not acquired in order to carry out the governmental purpose of the Series 1997 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, the SRF Administrative Fee, 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.

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

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

"Prior Bonds" or "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.

"Prior Ordinance" means, collectively, the ordinance of the Issuer enacted on October 12, 1993, as supplemented by the supplemental resolution of the Issuer adopted November 3, 1993, authorizing the Prior Bonds.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, or in any activity carried on by a person other than a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, excluding, however, use by a state or local governmental unit

and use as a member of the general public. All of the foregoing shall be determined in accordance with the Code, including, without limitation, giving due regard to "incidental use," if any, of the proceeds of the issue and/or proceeds used for "qualified improvements," if any.

"Project" means the acquisition and construction of certain additions, betterments and improvements for the existing public sewerage system of the Issuer, consisting of gravity and pressure sanitary sewerage lines, grinder pumps, manholes and other sewerage facilities to service the Inwood Drive, Shockey Drive, McCoy Road, Ridgewood Road, Miller Road and other areas, together with all appurtenant facilities.

"Qualified Investments" means and includes the following:

1. (a) Direct obligations (other than an obligation subject to variation in principal repayment) of the United States of America ("United States Treasury Obligations"), (b) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by the United States of America, (c) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by any agency or instrumentality of the United States of America when such obligations are backed by the full faith and credit of the United States of America, or (d) evidences of ownership of proportionate interests in future interest and principal payments on obligations described above 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 government obligations are not available to any person claiming through the custodian or to whom the custodian may be obligated.

2. Federal Housing Administration debentures.

3. The listed obligations of government sponsored agencies which are <u>not</u> backed by the full faith and credit of the United States of America:

-Federal Home Loan Mortgage Corporation (FHLMC)
Participation certificates (excluded are stripped mortgage securities which are purchased at prices exceeding their principal amounts)
Senior Debt obligations
-Farm Credit Banks (formerly, Federal Land Banks, Federal Intermediate Credit Banks and Banks for Cooperatives)
Consolidated system-wide bonds and notes

-Federal Home Loan Banks (FHL Banks)
Consolidated debt obligations
-Federal National Mortgage Association (FNMA)
Senior debt obligations
Mortgage-backed securities (excluded are stripped mortgage securities which are purchased at prices exceeding their principal amounts)
-Student Loan Marketing Association (SLMA)
Senior debt obligations (excluded are securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date)
-Financing Corporation (FICO)
Debt obligations
-Resolution Funding Corporation (REFCORP)
Debt obligations

4. Unsecured certificates of deposit, time deposits, and bankers' acceptances (having maturities of not more than 30 days) of any bank the short-term obligations of which are rated `A-1' or better by S&P.

5. Deposits the aggregate amount of which are fully insured by the Federal Deposit Insurance Corporation (FDIC), in banks which have capital and surplus of at least $5 million.

6. Commercial paper (having original maturities of not more than 270 days) rated `A-1+' by S&P and `Prime-1' by Moody's.

7. Money market funds rated `AAm' or `AAm-G' by S&P, or better.

8. "State Obligations," which means:

A. Direct general obligations of any state of the United States of America or any subdivision or agency thereof to which is pledged the full faith and credit of a state the unsecured general obligation debt of which is rated `A3' by Moody's <u>and</u> `A' by S&P, or better, or any obligation fully and unconditionally guaranteed by any state, subdivision or agency whose unsecured general obligation debt is so rated.

B. Direct general short-term obligations of any state agency or subdivision or agency thereof described in (A) above and rated `A-1+' by S&P and `Prime-1' by Moody's.

C. Special Revenue Bonds (as defined in the United States Bankruptcy Code) of any state, state agency or subdivision described in (A) above and rated `AA' or better by S&P and `Aa' or better by Moody's.

9. Pre-refunded municipal obligations rated "AAA" by Standard & Poor's Corporation and "Aaa" by Moody's Investors Service meeting the following requirements:

A. the municipal obligations are (1) not subject to redemption prior to maturity or (2) the trustee for the municipal obligations has been given irrevocable instructions concerning their call and redemption and the issuer of the municipal obligations has covenanted not to redeem such municipal obligations other than as set forth in such instructions;

B. the municipal obligations are secured by cash or United States Treasury Obligations which may be applied only to payment of the principal of, interest and premium on such municipal obligations;

C. the principal of and interest on the United States Treasury Obligations (plus any cash in the escrow) has been verified by the report of independent certified public accountants to be sufficient to pay in full all principal of, interest, and premium, if any, due and to become due on the municipal obligations ("Verification");

D. the cash or United States Treasury Obligations serving as security for the municipal obligations are held by an escrow agent or trustee in trust for owners of the municipal obligations;

E. no substitution of a United States Treasury Obligation shall be permitted except with another United States Treasury Obligation and upon delivery of a new Verification; and

F. the cash or United States Treasury Obligations are not available to satisfy any other claims, including those by or against the trustee or escrow agent.

10. Repurchase agreements:

A. With any domestic bank the long term debt of which is rated 'AA' or better by S&P (so long as an opinion is rendered that the repurchase agreement is a "repurchase agreement" and a "qualified

financial contract" as defined in the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") and that such bank is subject to FIRREA), or any foreign bank the long term debt of which is rated at least 'AA' by S&P and 'AAA' by S&P and at least 'Aa' by Moody's; provided the term of such repurchase agreement is for one year or less.

B. With (1) any broker-dealer with "retail customers" which has, or the parent company of which has, long-term debt rated at least 'AA' by S&P and 'Aa' by Moody's, which broker-dealer falls under the jurisdiction of the Securities Investors Protection Corporation (SIPC); or (2) any other entity approved by Financial Security, provided that:

a. The market value of the collateral is maintained (i) for United States Treasury Securities at the levels shown below under "Collateral Levels for United States Treasury Obligations" and (ii) for other collateral, at levels acceptable to Financial Security;

b. Failure to maintain the requisite collateral percentage will require the Issuer to liquidate the collateral.

c. The Issuer, the Paying Agent or a third party acting solely as agent therefor (the "Holder of the Collateral") has possession of the collateral or the collateral has been transferred to the Holder of the Collateral in accordance with applicable state and federal laws (other than by means of entries on the transferor's books);

d. The repurchase agreement shall state and an opinion of counsel shall be rendered that the Holder of the Collateral has a perfected first priority security interest in the collateral, any substituted collateral and all proceeds thereof (in the case of bearer securities, this means the Holder of the Collateral is in possession);

e. The transferor represents that the collateral is free and clear of any third-party liens or claims;

f. An opinion is rendered that the repurchase agreement is a "repurchase agreement" as defined in the United States Bankruptcy Code and, if the provider is a bank, that

such bank is subject to FIRREA and the repurchase agreement is a "qualified financial contract" as defined in FIRREA;

g. There is or will be a written agreement governing every repurchase transaction;

h. The Issuer represents that it has no knowledge of any fraud involved in the repurchase transaction; and

i. The Issuer receives the opinion of counsel (which opinion shall be addressed to the Issuer and the Bond Insurer) that such repurchase agreement is legal, valid, binding and enforceable upon the provider in accordance with its terms.

11. Investment agreements with (A) a domestic bank the long-term debt of which is rated at least 'AA' by S&P and 'Aa' by Moody's (so long as an opinion is rendered that the bank is subject to FIRREA); or (B) a foreign bank the long-term debt of which is rated 'AAA' by S&P and at least "Aa' by Moody's, or at least 'AA' by S&P and 'Aaa' by Moody's; provided, that, by the terms of the investment agreement:

(1) interest payments are to be made at times and in amounts as necessary to pay debt service (or, if the investment agreement is for the construction fund, construction draws) on the Bonds;

(2) the invested funds are available for withdrawal without penalty or premium, at any time upon not more than seven days' prior notice (which notice may be amended or withdrawn at any time prior to the specified withdrawal date); provided that the Ordinance specifically requires the Issuer to give notice in accordance with the terms of the investment agreement so as to receive funds thereunder with no penalty or premium paid;

(3) the investment agreement shall state that is the unconditional and general obligation of, and is not subordinated to any other obligation of, the provider thereof;

(4) a fixed guaranteed rate of interest is to be paid on invested funds and all future deposits, if any, required to be made

to restore the amount of such funds to the level specified under the Ordinance;

(5) the term of the investment agreement does not exceed seven years or such longer term as shall be approved by the Bond Insurer;

(6) the Issuer receives the opinion of domestic counsel (which opinion shall be addressed to the Issuer and the Bond Insurer) that such investment agreement is legal, valid, binding and enforceable upon the provider in accordance with its terms and of foreign counsel (if applicable) in form and substance acceptable;

(7) the investment agreement shall provide that if during its term

(a) the provider's rating by either S&P or Moody's falls below 'AA' or 'Aa,' respectively, or, with respect to a foreign bank, below the ratings of such provider at the delivery date of the investment agreement, the provider must, at the direction of the Issuer (who shall give such direction if so directed by the Bond Insurer), within 10 days of receipt of such direction, either (i) collateralize the investment agreement by delivering or transferring in accordance with applicable state and federal laws (other than by means of entries on the provider's books) to the Issuer, the Paying Agent or a third party acting solely as agent therefor (the "Holder of the Collateral") United States Treasury Obligations which are free and clear of any third-party liens or claims at the Collateral Levels set forth below; or (ii) repay the principal of and accrued but unpaid interest on the investment, and

(b) the provider's rating by either Moody's or S&P is withdrawn or suspended or falls below 'A,' or, with respect to a foreign bank, below "AA" or "Aa" by S&P or Moody's, as appropriate, the provider must, at the direction of the Issuer (who shall give such direction if so directed by the Bond Insurer), within 10 days of receipt of such direction, repay the principal of and accrued but unpaid interest on the investment, in either case with no penalty or premium to the Issuer; and

(8) The investment agreement shall state and an opinion of counsel shall be rendered that the Holder of the Collateral has a perfected first priority security interest in the collateral, any substituted collateral and all proceeds thereof (in the case of bearer securities, this means the Holder of the Collateral is in possession);

(9) the investment agreement must provide that if during its term

(a) the provider shall default in its payment obligations, the provider's obligations under the investment agreement shall, at the direction of the Issuer (who shall give such direction if so directed by the Bond Insurer), be accelerated and amounts invested and accrued but unpaid interest thereon shall be repaid to the Issuer or Paying Agent, as appropriate, and

(b) the provider shall become insolvent, not pay its debts as they become due, be declared or petition to be declared bankrupt, etc. ("event of insolvency"), the provider's obligations shall automatically be accelerated and amounts invested and accrued but unpaid interest thereon shall be repaid to the Issuer or Paying Agent, as appropriate.

(10) Any State-administered pool investment fund in which the Issuer is statutorily permitted or required to invest.

(11) Subject to the prior written approval of the Bond Insurer, such other obligations as shall be permitted to be legal investments of the Issuer by the laws of the State.

COLLATERAL LEVELS FOR UNITED STATES TREASURY OBLIGATIONS

	Remaining maturity				
	1 year or less	5 years or less	10 years or less	15 years or less	30 years or less
Frequency of valuation					
Daily	102	105	106	108	114
Weekly	103	111	112	114	120
Monthly	105	117	120	125	133
Quarterly	107	120	130	133	140

VALUATION REQUIREMENTS:

(1) On each valuation date the Issuer, the Paying Agent, or the custodian who shall confirm to the Issuer and the Paying Agent, shall, at the cost of the provider, value the market value (exclusive of accrued interest) of the collateral, which market value will be an amount equal to the requisite collateral percentage times the principal amount of the investment and unpaid accrued interest thereon that is being secured;

(2) In the event the collateral level is below its collateral percentage on a valuation date, such percentage shall be restored within the following restoration periods: one business day for daily valuations, two business days for weekly and monthly valuations, and one month for quarterly valuations. [The use of different restoration periods affect the requisite collateral percentage.];

(3) The Issuer shall terminate the repurchase agreement or investment agreement, as appropriate, upon a failure to maintain the requisite collateral percentage after the restoration period and, if not paid by the counterparty in federal funds against transfer of the collateral, liquidate the collateral.

(f) The prior written consent of the Bond Insurer shall be a condition precedent to the deposit of any credit instrument provided in lieu of a cash deposit into the Reserve Account.

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

"Registrar" means the Bond Registrar.

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

"Reserve Accounts" means, collectively, the respective reserve accounts established for the Prior Bonds and the Series 1997 Bonds.

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

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

"Series 1993 Bonds" or "Prior 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 Account" means the Redemption Account established by the Prior Ordinance for the Series 1993 Bonds and continued hereby.

"Series 1993 Bonds Reserve Account" means the Reserve Account established by the Prior Ordinance for the Series 1993 Bonds and continued hereby.

"Series 1993 Bonds Sinking Fund" means the Sinking Fund established by the Prior Ordinance for the Series 1993 Bonds and continued hereby.

"Series 1997 Bonds" means the not more than $4,000,000 in aggregate principal amount of Sewer Revenue Bonds, Series 1997 (West Virginia SRF Program), of the Issuer, authorized by this Bond Legislation.

"Series 1997 Bonds Reserve Account" means the Series 1997 Bonds Reserve Account established in the Series 1997 Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1997 Bonds Reserve Account Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1997 Bonds in the then current or any succeeding year.

"Series 1997 Bonds Sinking Fund" means the Series 1997 Bonds Sinking Fund established by Section 5.02 hereof.

"Sinking Funds" means, collectively, the respective sinking fund established for the Prior Bonds and the Series 1997 Bonds.

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

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

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

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the," refers specifically to the supplemental resolution authorizing the sale of the Series 1997 Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 1997 Bonds, and not so included may be included in another Supplemental Resolution.

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

"System" means, collectively, the complete existing municipal sewage treatment and collection system of the Issuer, consisting of a sewage treatment plant, collection and transportation lines, lift stations, pumps and all appurtenant facilities, now owned by the Issuer or any integral part thereof, and all other facilities necessary, appropriate, useful, convenient or incidental in connection with or to a municipal sewage treatment and collection system, and shall include any additions, betterments and improvements thereto hereafter acquired or constructed for said sewage treatment and collection 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.

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

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized the acquisition and construction of the Project, at an estimated cost of $4,000,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the SRF Program. The cost of the Project is estimated not to exceed $4,000,000, all of which will be obtained from proceeds of the Series 1997 Bonds.

ARTICLE III

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

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 1997 Bonds, funding a reserve account for the Series 1997 Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 1997 Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be issued the negotiable Series 1997 Bonds of the Issuer, in an aggregate principal amount of not more than $4,000,000. The Series 1997 Bonds shall be issued as a single bond, designated "Sewer Revenue Bonds, Series 1997 (West Virginia SRF Program)", and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 1997 Bonds remaining after funding of the Series 1997 Bonds Reserve Account (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in or credited to the Bond Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Terms of Bonds. The Series 1997 Bonds shall be issued in such principal amounts; shall bear interest at such rate or rates, not exceeding the then legal maximum, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the Loan Agreement. The Series 1997 Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 1997 Bonds shall be paid by check or draft of the Paying Agent or its agent, mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 1997 Bonds shall initially be issued in the form of a single bond, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 1997 Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 1997 Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

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

Section 3.03. Execution of Bonds. The Series 1997 Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the City Clerk. In case any one or more of the officers who shall have signed or sealed the Series 1997 Bonds shall cease to be such officer of the Issuer before the Series 1997 Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 1997 Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 1997 Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 hereof shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Series 1997 Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 1997 Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting the Series 1997 Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 1997 Bonds remain outstanding, the Issuer, through the Bond Registrar or its agent, shall keep and maintain books for the registration and transfer of such Bonds.

The registered Series 1997 Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Series 1997 Bonds or transferring the registered Series 1997 Bonds are exercised, all Series 1997 Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 1997 Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Series 1997 Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Series 1997 Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 1997 Bonds or, in the case of any proposed redemption of Series 1997 Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

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

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 1997 Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided and amounts, if any, in the Series 1997 Bonds Reserve Account. No holder or holders of the Series 1997 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 1997 Bonds or the interest thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of all Series 1997 Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System, on parity with the lien on the Net Revenues in favor of the Holders of the Prior Bonds. The Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Prior Bonds and the Series 1997 Bonds and to make the payments into the respective Sinking Funds, the Reserve Accounts therein, and the Depreciation Fund, and all other payments hereinafter set forth, are hereby irrevocably pledged to the payment of the principal of and interest on the Prior Bonds and the Series 1997 Bonds as the same become due, and for the other purposes provided in the Bond Legislation.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 1997 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 1997 Bonds to the original purchasers upon receipt of the documents set forth below:

A. If other than the Authority, a list of the names in which the Series 1997 Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;

B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 1997 Bonds to the original purchasers;

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

D. An executed copy of the Loan Agreement; and

E. The unqualified approving opinion of bond counsel on the Series 1997 Bonds.

Section 3.10. Form of Bonds. The text of the Series 1997 Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF HUNTINGTON
SEWER REVENUE BOND,
SERIES 1997
(WEST VIRGINIA SRF PROGRAM)

No. R-____ $_____

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF HUNTINGTON, a municipal corporation and political subdivision of the State of West Virginia in Cabell County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ DOLLARS ($_____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 199___, as set forth on the "Schedule of Annual Debt Service" attached as EXHIBIT B hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said EXHIBIT B. The interest and the SRF Administrative Fee (as defined in the hereinafter described Bond Legislation) shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 199___, as set forth on EXHIBIT B attached hereto.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia

Division of Environmental Protection (the "DEP), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and among the Issuer, the Authority and the DEP, dated _____, 199___.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); (ii) [to fund a reserve account for the Bonds of this Series (the "Bonds"); and (iii)] to pay certain costs of issuance hereof and related costs. The existing public sewerage system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Bond Ordinance duly enacted by the Issuer on _____, 199___, and a Supplemental Resolution duly adopted by the Issuer on _____, 199___ (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH 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 (THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on parity with the pledge of Net Revenues in favor of the Holders of the Prior Bonds, and from moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1997 Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay all operating expenses of the System and the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 1997 Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of

operation, repair and maintenance of the System, and to leave a balance each year equal to at least 120% of the maximum amount payable in any year for principal of and interest on the Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Prior Bonds, so long as the Prior Bonds are outstanding, and thereafter, 115% of such amount; provided however, that, if the Prior Bonds are no longer outstanding and so long as there exists in the Series 1997 Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

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

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

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

[SEAL]

_____
Mayor

ATTEST:

_____
City Clerk

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1997 Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 199___.

ONE VALLEY BANK, NATIONAL
ASSOCIATION, as Registrar

_____
Authorized Officer

(Form of)

EXHIBIT A

RECORD OF ADVANCES

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

TOTAL $_____

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

(Form of)

ASSIGNMENT

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

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

Dated: _____, _____.

_____

In the presence of:

_____

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreement. The Series 1997 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous ordinance or resolution, the Mayor is specifically authorized and directed to execute the Loan Agreement in the form attached hereto as "Exhibit A" and made a part hereof, and the City Clerk is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed.

Section 3.12. "Amended Schedule A" Filing. Within 60 days following the Completion Date, the Issuer will file with the Authority a schedule in substantially the form of the "Amended Schedule A" to the Loan Agreement, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

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

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

(2) Depreciation Fund (established by the Prior Ordinance); and

(3) Bond Construction Trust Fund.

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

(1) Series 1993 Bonds Sinking Fund (established by the Prior Ordinance);

(a) Within the Series 1993 Bonds Sinking Fund:

(i) Series 1993 Bonds Reserve Account (established by the Prior Ordinance); and

(ii) Series 1993 Bonds Redemption Account (established by the Prior Ordinance);

(2) Series 1997 Bonds Sinking Fund;

(a) Within the Series 1997 Bonds Sinking Fund, the Series 1997 Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System and all parts thereof shall be deposited upon receipt by the Issuer in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in the Prior Ordinance and in this Bond Legislation and shall

be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner provided in the Prior Ordinance and in this Bond Legislation. All moneys 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, (i) remit to the Commission the amounts required by the Prior Ordinance to be deposited in the Series 1993 Bonds Sinking Fund for payment of the principal of and interest on the Series 1993 Bonds, (ii) commencing 4 months prior to the first date of payment of interest on the Series 1997 Bonds for which interest has not been capitalized or as required in the Loan Agreement, remit to the Commission for deposit in the Series 1997 Bonds Sinking Fund, an amount equal to 1/3rd of the amount of interest which will become due on the Series 1997 Bonds on the next ensuing quarterly interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1997 Bonds Sinking Fund and the next quarterly interest payment date is less than 4 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly interest payment date, the required amount of interest coming due on such date, and (iii) commencing 4 months prior to the first date of payment of principal of the Series 1997 Bonds, remit to the Commission for deposit in the Series 1997 Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 1997 Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1997 Bonds Sinking Fund and the next quarterly principal payment date is less than 4 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and, simultaneously, (i) remit to the Commission the amount required by the Prior Ordinance to be deposited in the Series 1993 Bonds Reserve Account, and (ii) commencing 3 months prior to the first date of payment of principal of the Series 1997 Bonds, if not fully funded upon issuance of the Series 1997 Bonds, remit to the Commission for deposit in the Series 1997 Bonds Reserve

Account, an amount equal to 1/120 of the Series 1997 Bonds Reserve Account Requirement; provided, that no further payments shall be made into the Series 1997 Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1997 Bonds Reserve Account Requirement.

(4) Thereafter, from the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing with the first month in which interest shall be payable from the Revenue Fund and as previously set forth in the Prior Ordinance and not in addition thereto, transfer from the Revenue Fund to the Depreciation Fund, an amount equal to not less than 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of the Reserve Accounts.

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:

(a) To make up any deficiency in the Reserve Accounts (so that the amount on deposit therein is at least equal to the Reserve Account Requirement), or to reimburse in whole or in part any issuer of a reserve account letter of credit in the event of a draw thereon;

(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 (excluding the Reserve Accounts);

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

(d) Upon resolution of the Board and the Issuer, moneys in the Depreciation Fund in excess of $1,000,000 may be used for optional redemption or for purchase of Bonds. In the event of purchase of Bonds, the Issuer may direct the purchase of Bonds offered for sale at the lowest price below the redemption price of such Bonds.

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

Moneys in the Series 1997 Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 1997 Bonds as the same shall become due. Moneys in the Series 1997 Bonds Reserve Account shall be used only for the purpose of paying principal of and interest on the Series 1997 Bonds as the same shall come due, when other moneys in the Series 1997 Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 1997 Bonds Sinking Fund and the Series 1997 Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Bond Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment due on the Series 1997 Bonds and then to the next ensuing principal payment due thereon.

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

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

maximum provided and required to be paid into the concomitant sinking fund in any year for account of the Bonds of such series, including such additional Bonds which by their terms are payable from such sinking fund.

The Issuer shall not be required to make any further payments into the Series 1997 Bonds Sinking Fund, or into the Series 1997 Bonds Reserve Account therein when the aggregate amount of funds in said Sinking Fund and Reserve Account are at least equal to the aggregate principal amount of the Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

Principal and interest payments, and any payments made for the purpose of funding a deficiency in any Reserve Account, shall be made on a parity and pro rata, with respect to the Prior Bonds and Series 1997 Bonds in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 1997 Bonds Sinking Fund created hereunder, and all amounts required for the Series 1997 Bonds Sinking Fund shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited. If required by the Authority at anytime, the Issuer shall make the necessary arrangements whereby required payments into the Series 1997 Bonds Sinking Fund and the Series 1997 Bonds Reserve Account shall be automatically deducted from the Revenue Fund and transferred to the Commission on the dates required hereunder.

Moneys in the Series 1997 Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 1997 Bonds Sinking Fund, including the Series 1997 Bonds Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 1997 Bonds and any additional Bonds ranking on a parity therewith that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required principal, interest and reserve payments with respect to the Series 1997 Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. The Issuer shall also on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the SRF Administrative Fee as set forth in the Loan Agreement.

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

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

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

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

ARTICLE VI

BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of any or all of the Series 1997 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 1997 Bonds, there shall first be deposited with the Commission in the Series 1997 Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 1997 Bonds for the period commencing on the date of issuance of the Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 1997 Bonds, there shall be deposited with the Commission in the Series 1997 Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 1997 Bonds Reserve Account.

C. As the Issuer receives advances of the remaining moneys derived from the sale of the Series 1997 Bonds, such moneys shall be deposited with the Depository Bank in the Bond Construction Trust Fund and applied solely to payment of the costs of the Project in the manner set forth in Section 6.02 hereof and, until so expended, are hereby pledged as additional security for the Series 1997 Bonds.

D. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 1997 Bonds shall be used to fund the Series 1997 Bonds Reserve Account, if not funded upon issuance of the Series 1997 Bonds, in an amount not to exceed the Series 1997 Bonds Reserve Requirement; provided that, in no event shall more than 10% of the proceeds of the Series 1997 Bonds be deposited in the Series 1997 Bonds Reserve Account.

Section 6.02. Disbursements From the Bond Construction Trust Fund. On or before the Closing Date, the Issuer shall have delivered to the Authority and the DEP a report listing the specific purposes for which the proceeds of the Series 1997 Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly.

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

(1) a completed and signed "Payment Requisition Form," a form of which is attached to the Loan Agreement as Exhibit C, and

(2) a certificate, signed by an Authorized Officer and the Consulting Engineers, stating:

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

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

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

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

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

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 1997 Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 1997 Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 1997 Bonds or the interest thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 1997 Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of the Series 1997 Bonds, shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 1997 Bonds or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of the Series 1997 Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System, on parity with the lien on the Net Revenues in favor of the Holders of the Prior Bonds. The Net Revenues in an amount sufficient to pay the principal of and interest on the Prior Bonds and the Series 1997 Bonds and to make the payments into the respective Sinking Funds, including the Reserve Accounts therein, and all other payments provided for in the Bond Legislation, are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Prior Bonds and the Series 1997 Bonds as the same become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Rates. Prior to the issuance of the Bonds, rates or charges for the use of the services and facilities of the System will be fixed and established, all in the manner and form required by law, and a copy of such rates and charges so fixed and established shall at all times be kept on file in the office of the City Clerk of the Issuer, which copy will be open to inspection by all interested parties. The schedule or schedules of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to make the prescribed payments into the funds and accounts created hereunder. Such schedule or schedules of rates and charges shall be revised from time to time, whenever necessary, so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant with a margin for

contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule or schedules of rates or charges from time to time in effect shall be sufficient to produce Net Revenues equal to not less than the sum of (i) 120% of the Maximum Annual Debt Service on the Bonds in any Fiscal Year, so long as the Prior Bonds are Outstanding, and thereafter 115% of such amount; provided that, in the event the Prior Bonds are no longer outstanding and an amount equal to or in excess of the Series 1997 Bonds Reserve Account Requirement is on deposit in the Series 1997 Bonds Reserve Account and any reserve accounts for obligations prior to or on a parity with the Series 1997 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.

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

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

So long as the Series 1997 Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Bonds Outstanding, or to effectively defease this Bond Legislation in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Bonds, immediately be remitted to the Commission for deposit in the Sinking Funds, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Bonds. Any balance remaining after the payment of all the Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Board 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 Board shall, in writing, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Board 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 Board shall first, in writing, determine with the written approval of the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Council may then, if it be so advised, by resolution duly adopted, approve and concur in such finding and authorize such sale, lease or other disposition of such property 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 shall reduce the amounts required to be paid into said fund by other provisions of the Prior Ordinance and this Bond Legislation.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom shall be in excess of $200,000 and insufficient to defease the pledge created by this Ordinance, as provided by Article X, 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 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in Section 7.07 hereof, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds. All obligations issued by the Issuer after the issuance of the Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts established by this Bond Legislation and the Prior Ordinance at the time of the issuance of such subordinate obligations have been made and are current.

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

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

Section 7.07. Additional Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinance shall be applicable. In addition, no additional parity Bonds, as in this section defined, payable out of the revenues of the System, shall be issued after the issuance of the Series 1997 Bonds pursuant to this Ordinance, without the prior written consent of the Authority and the DEP and without complying with the conditions and requirements herein provided (unless less restrictive than the provisions of the Prior Ordinance).

No such additional parity Bonds shall be issued except for the purpose of financing the costs of the acquisition and 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 City Clerk of the Issuer a written statement by Independent Accountants, reciting the conclusion that the Net Revenues actually derived, from the System during the Fiscal Year 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 Prior 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 1997 Bonds then Outstanding;

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

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

The "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 the increased Net Revenues to be available as a result of existing additional customers required by law to be served by the System upon completion of the facilities to be financed with the proceeds of any 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 City 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 Prior Bonds and the Series 1997 Bonds, and all the covenants and other provisions of the Prior Ordinance and this Bond Legislation (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 Prior Bonds and the Series 1997 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 Prior Ordinance and this Bond Legislation required for and on account of such additional parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to the Prior Ordinance and this Bond Legislation.

No additional parity Bonds shall be valid unless authenticated in accordance with the Prior Ordinance and this Bond Legislation. Prior to such authentication, registration, if applicable, and delivery, the Registrar shall receive those documents prescribed by the Prior Ordinance and this Bond Legislation, modified as deemed necessary by the Registrar to reflect the issuance of such additional parity Bonds.

The term "additional parity Bonds," as used in this section, shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien on the revenues of the System of which is subject to the prior and superior lien of the Bonds on such revenues. Any such subordinate bonds, notes, certificates or other obligations shall be payable from the Net Revenues remaining after all payments required to be made in accordance with the Prior Ordinance and this Bond Legislation have first been paid. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or equally, as to lien and source of and security for

payment from such revenues, with the Bonds except in the manner and under the conditions provided in this section.

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

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

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

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

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

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the Public Service Commission of West Virginia. Separate control accounting records shall be

maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Issuer. The Issuer shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Issuer shall be reported to such agent of the Issuer as the Issuer shall direct.

The Issuer shall file with the Consulting Engineers, the Authority and the DEP, or any other original purchaser of the Series 1997 Bonds, and shall mail in each year to any Holder or Holders of the Series 1997 Bonds, requesting the same, an annual report containing the following:

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

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

(C) The amount of any Bonds, notes or other obligations payable from the revenues of the System outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Accountants in compliance with OMB Circular 128 and the Single Audit Act and shall mail upon request, and make available generally, the report of said Independent Accountants, or a summary thereof, to any Holder or Holders of the Series 1997 Bonds and shall submit said report to the Authority and the DEP, or any other original purchaser of the Bonds. Such audit report submitted to the Authority shall include a statement that the Issuer is in compliance with the terms and provisions of the Loan Agreement and this Bond Legislation and that the revenues of the System are adequate to meet the Issuer's operation and maintenance expenses and debt service requirements.

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

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

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

Section 7.09. Securities Law Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

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

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

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

construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

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

The Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a "Performance Certificate," a form of which is attached to the Loan Agreement as Exhibit A, to the DEP within 60 days of the end of the first year after the Project is completed.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the Project is 90% completed.

The Issuer agrees that qualified operating personnel properly certified by the State will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of the Loan Agreement. The Issuer shall notify the DEP in writing of the certified operator employed at the 25% completion stage.

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

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

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

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

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 1997 Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the greater of the fair appraised value or the original cost thereof. In the event of any damage to or destruction of any portion of the System, the

Board will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damages or destroyed portion. The Board will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Board and the Issuer during construction of the Project in the full insurable value thereof.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than is customarily carried by municipalities of equivalent size with respect to works and properties similar to the System to protect the Issuer and the Board from claims for bodily injury and/or death and 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 and the Board from claims arising out of operation or ownership of motor vehicles of or for the System, provided that, the Board, with the review of an insurance consultant and the concurrence of the Issuer, may elect to self-insure. If the Issuer determines in good faith that any required insurance is not commercially available at a reasonable cost with reasonable terms, it shall engage an insurance consultant to verify the determination and to make recommendations regarding the types, amounts and provisions of any such insurance that should be purchased or funded by the Issuer, taking into consideration the costs and practices of other municipal water and sewer systems of similar size and type in the State to the extent that such information is available. The Issuer may, upon resolution adopted in good faith and upon the recommendations of the insurance consultant, adopt alternate or supplemental risk management programs which the Issuer determines to be reasonable, including the right to self-insure and participate in captive insurance companies.

(3) 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 Board 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.

(4) FIDELITY BONDS will be provided as to every officer and employee of the Board 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.

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

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

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

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

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

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

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

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

Section 7.18. Compliance with Loan Agreement and Law. The Issuer agrees to comply with all the terms and conditions of the Loan Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer will provide the DEP with copies of all documents submitted to the Authority.

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

Section 7.19. 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 1997 Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Series 1997 Bonds during the term thereof is, under the terms of the Series 1997 Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the Series 1997 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 1997 Bonds during the term thereof is, under the terms of the Series 1997 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 1997 Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project, or if the Series 1997 Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such Private Business Use is related, all of the foregoing to be determined in accordance with the Code.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of 5% of the Net Proceeds of the Series 1997 Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 1997 Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

D. INFORMATION RETURN. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 1997 Bonds and the interest thereon, including, without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer will take any and all actions that may be required of it (including, without limitation, those deemed necessary by the Authority) so that the interest on the Series 1997 Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including, without limitation, those deemed necessary by the Authority), the result of which would adversely affect such exclusion.

ARTICLE VIII

INVESTMENT OF FUNDS; NON ARBITRAGE

Section 8.01. Investments. The Issuer shall invest and reinvest, and shall instruct the 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 Reserve Accounts shall mature or be subject to retirement at the option of the holder within not more than 5 years from the date of such investment.

(B) The Issuer shall, or shall cause the Commission to semiannually transfer from the Reserve Accounts to the Sinking Funds any earnings on the moneys deposited therein and any other funds in excess of the Reserve Account Requirement; provided, however, that there shall at all times remain on deposit in the Reserve Accounts an amount at least equal to the 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 the Reserve Accounts, whereupon it shall be valued immediately after such withdrawal. If amounts on deposit in the Reserve Accounts shall, at any

time, be less than the applicable Reserve Account Requirement, the applicable Bond Insurer or Bondholder shall be notified immediately of such deficiency, and such deficiency shall be made up from the first available Net Revenues after required deposits to the Sinking Funds and otherwise in accordance with the Prior Ordinance and this Bond Legislation.

(D) All amounts representing accrued and capitalized interest shall be held by the 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 the Sinking Funds may be invested by the Commission in the West Virginia "consolidated fund" managed by the West Virginia State Board of Investments pursuant to Chapter 12, Article 6 of the Code of West Virginia, 1931, as amended.

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

Section 8.02. Arbitrage and Tax Exemption. The Issuer covenants that (i) it shall not take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Series 1997 Bonds which would cause the Series 1997 Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Series 1997 Bonds) so that the interest on the Series 1997 Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 8.03. Small Issuer Exemption from Rebate of Excess Investment Earnings to the United States. In accordance with Section 148 (f)(4)(D) of the Code, the Issuer covenants that it is a governmental unit with general taxing powers; that no part of the Series 1997 Bonds are private activity bonds; that 95% or more of the Net Proceeds of the Series 1997 Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and that the aggregate face amount of all the tax-exempt obligations (other than private

activity bonds) issued by the Issuer during the calendar year in which the Series 1997 Bonds are issued does not and will not exceed $5,000,000, determined in accordance with Section 148(f)(4)(D) of the Code and the Regulations from time to time in effect an applicable to the Series 1997 Bonds. For purposes of the first paragraph of Section 8.03 and for purposes of applying Section 148(f)(4)(D) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a governmental unit to make loans to other governmental units with general taxing powers not subordinate to such unit shall, for purposes of applying this first paragraph of Section 8.03 and Section 148(f)(4)(D) of the Code, be treated as not issued by such unit; all obligations issued by a subordinate entity shall, for purposes of applying this first paragraph of Section 8.03 and Section 148(f)(4)(D) of the Code to each other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(D) of the Code and all other entities benefiting thereby shall be treated as one issuer.

Notwithstanding the foregoing, if in fact the Issuer is subject to the rebate requirements of Section 148(f) of the Code, and not exempted from such requirements, the Issuer covenants to make, or cause to be made, all rebate calculations, computations and payments in the time, manner and as required in Section 148(f) of the Code and the Regulations from time to time in effect and applicable to the Series 1997 Bonds and otherwise covenants and agrees to comply with the provisions of such Section 148(f) of the Code and the Regulations from time to time in effect and applicable to the Series 1997 Bonds. In the event of a failure to pay the correct rebate amount, the Issuer will pay from any lawful sources available therefor, to the United States such amount, plus a penalty equal to 50% of the rebate amount not paid, plus interest on that amount, unless waived. In order to provide for the administration of this paragraph, the Issuer may provide for the employment of independent attorneys, accountants and consultants compensated on such reasonable basis as the Issuer may deem appropriate.

The Issuer shall furnish to the Authority, annually, and at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information relating thereto as may be requested by the Authority. In addition, the Issuer shall cooperate with the Authority in preparing any required rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the Issuer.

The Issuer shall submit to the Authority within 15 days following the end of each Bond Year a certified copy of its rebate calculation or, if the Issuer qualifies for the small governmental issue exception to rebate, the Issuer shall submit a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the Series 1997 Bonds subject to rebate. The Issuer shall

also furnish the Authority, at any time, such additional information relating to rebate as may be reasonably requested by the Authority, including information with respect to earnings on all funds constituting "gross proceeds" of the Bonds (as such term "gross proceeds" is defined in the Code).

ARTICLE IX

DEFAULT AND REMEDIES

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

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

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

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

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

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds; (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Holders of the Series 1997 Bonds shall be on a parity with the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the

Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds, any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

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

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

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

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the completion of the Project and the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and

making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

DEFEASANCE

Section 10.01. Defeasance of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of the Series 1997 Bonds, the principal of and interest due or to become due thereon, if any, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 1997 Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest on the Series 1997 Bonds from gross income for federal income tax purposes.

Series 1997 Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due either at maturity or at the next redemption date, the principal installments of and interest on such Series 1997 Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 1997 Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of and interest due and to become due on said Series 1997 Bonds on and prior to the next redemption date or the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on said Series 1997 Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of and interest to become due on said Bonds on and prior to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 1997 Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 1997 Bonds, no material modification or amendment of this Ordinance, or of any ordinance, resolution or order amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 1997 Bonds shall be made without the consent in writing of the Registered Owners of the Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of the Series 1997 Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein respectively pledged therefor without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the excludability of interest on the Series 1997 Bonds from gross income of the holders thereof.

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

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

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

Section 11.05. Conflicting Provisions Repealed; Prior Ordinance. All ordinances, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed, provided that, in the event of any conflict between this Ordinance and the Prior Ordinance, the Prior Ordinance shall

control (unless less restrictive), so long as the Prior Bonds or any portion thereof are Outstanding.

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

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

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

Passed on First Reading:	November 13, 1995
Passed on Second Reading:	November 27, 1995
Passed on Final Reading Following Public Hearing:	December 11, 1995

Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of THE CITY OF HUNTINGTON on the 11th day of December, 1995.

Dated: November 25, 1997.

[SEAL]

City Clerk

EXHIBIT A

Loan Agreement included in bond transcript as Document No. 3

10/24/97
435500/94001

THE CITY OF HUNTINGTON

Sewer Revenue Bonds, Series 1997
(West Virginia SRF Program)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1997 (WEST VIRGINIA SRF PROGRAM), OF THE CITY OF HUNTINGTON; RATIFYING AND APPROVING A LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the city council (the "Governing Body") of The City of Huntington (the "Issuer"), has duly and officially adopted and enacted a bond ordinance, effective December 11, 1995 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE CITY OF HUNTINGTON AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $4,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1995 (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF

SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Bond Ordinance provides for the issuance of Sewer Revenue Bonds, Series 1995 (West Virginia SRF Program), of the Issuer, in the aggregate principal amount not to exceed $4,000,000;

WHEREAS, the Sewer Revenue Bonds, Series 1995 (West Virginia SRF Program), were not issued in 1995, but will be issued in 1997;

WHEREAS, the Governing Body desires to redesignate the Bonds as "Sewer Revenue Bonds, Series 1997 (West Virginia SRF Program)" (the "Bonds" or the "Series 1997 Bonds");

WHEREAS, the Bond Ordinance has authorized the execution and delivery of a loan agreement relating to the Bonds (the "Loan Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection (the "DEP"), all in accordance with Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Bond Ordinance it is provided that the form of the Loan Agreement and the exact principal amount, date, maturity date, interest rate, interest and principal payment dates, sale price and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

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

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

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the Bonds be redesignated, that the Loan Agreement be ratified and approved by the Issuer, that the exact principal amount, the date, the maturity date, the interest rate, the interest and principal payment dates and the sale price of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

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

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted, the Sewer Revenue Bonds, Series 1995 (West Virginia SRF Program), are hereby redesignated as "Sewer Revenue Bonds, Series 1997 (West Virginia SRF Program)," and there are hereby authorized and ordered to be issued the Sewer Revenue Bonds, Series 1997 (West Virginia SRF Program), of the Issuer, originally represented by a single Bond, numbered R-1, in the principal amount of $3,039,895. The Bonds shall be dated the date of delivery thereof, shall finally mature March 1, 2019, and shall bear interest at the rate of 2% per annum. The principal of and the interest on the Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 1998, and ending March 1, 2019, and in the amounts as set forth in "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Bonds.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Bond Ordinance.

Section 3. The Issuer does hereby approve and shall pay the administrative fee equal to 1% of the principal amount of the Bonds set forth in the "Schedule Y" attached to the Loan Agreement.

Section 4. The Issuer does hereby ratify, approve and accept the Loan Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the Loan Agreement and in the application to the DEP and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 5. The Issuer does hereby appoint and designate One Valley Bank, National Association, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Bonds under the Bond Ordinance and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 6. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds under the Bond Ordinance.

Section 7. The Issuer does hereby appoint and designate Bank One, West Virginia, National Association, Huntington, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 8. Series 1997 Bonds proceeds in the amount of $-0- shall be deposited in the Series 1997 Bonds Sinking Fund, as capitalized interest.

Section 9. Series 1997 Bonds proceeds in the amount of $177,634 shall be deposited in the Series 1997 Bonds Reserve Account.

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

Section 11. The Mayor and the City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered on or about November 25, 1997, to the Authority pursuant to the Loan Agreement.

Section 12. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Bonds is in the public interest, serves a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 13. The Issuer does hereby ratify, approve and accept all contracts relating to the financing, acquisition and construction of the Project, including without limitation, Contract 1 with McCoy Construction Company and Contract 2 with B. & L. Utility Contractors, Inc.

Section 14. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in

repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such repurchase agreements or time accounts until further directed in writing by the Issuer. Moneys in the Series 1997 Bonds Sinking Fund, including the Series 1997 Bonds Reserve Account therein, shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

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

Section 16. The Issuer is a governmental unit with general taxing powers to finance operations of or facilities of the nature of the Project and the System; no part of the Bonds are private activity bonds; 95% or more of the net proceeds of the Bonds are to be used for local governmental activities of the Issuer; and the Issuer reasonably expects to issue less than $5,000,000 aggregate principal face amount of tax-exempt obligations (other than private activity bonds) during the calendar year 1997, being the calendar year in which the Bonds are to be issued. For purposes of this Section and for purposes of applying Section 148(f)(4)(D) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a governmental unit to make loans to other governmental units with general taxing powers not subordinate to such unit shall, for purposes of applying this Section and Section 148(f)(4)(D) of the Code, be treated as not issued by such unit; all obligations issued by a subordinate entity shall, for purposes of applying this Section and Section 148(f)(4)(D) of the Code to each other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(D) of the Code and all other entities benefiting thereby shall be treated as one issuer.

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

Adopted this 10th day of November, 1997.

Jean Dean

Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of The City of Huntington on the 10th day of November, 1997.

Dated: November 25, 1997.

[SEAL]

City Clerk

11/03/97
435500/94001

State of West Virginia
WATER DEVELOPMENT AUTHORITY

180 Association Drive
Charleston WV 25311-1571

Telephone (304) 558-3612
Telecopier (304) 558-0299

June 22, 1999

The City of Huntington
Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

TO WHOM IT MAY CONCERN:

In reliance upon a certificate of the Issuer's certified public accountant 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 Series 1997 Bonds, hereinafter defined and described, hereby consents to the issuance of the Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program) (the "Bonds"), in the original aggregate principal amount of $2,083,550 by The City of Huntington (the "Issuer"), 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) (the "Series 1997 Bonds").

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

Authorized Representative

WRD 1A-82
Revised 3/93

STATE OF WEST VIRGINIA
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF WATER RESOURCES
1201 GREENBRIER STREET
CHARLESTON, WV 25311

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

WATER POLLUTION CONTROL PERMIT

Permit No. WV0023159

Subject: Sewage Facilities

Issue Date: March 8, 1995

Effective Date: April 7, 1995

Expiration Date: March 7, 2000

Supersedes: WV/NPDES Permit No. WV0023159; Issue Date September 27, 1989

Location:	Huntington (City)	Cabell/Wayne (County)	Ohio (Drainage Basin)

Outlet Sites: Latitude: 38°24'16"N
Longitude: 82°31'44"W

To whom it may concern:

This is to certify that City of Huntington
Sanitary Board
P. O. Box 1659
Huntington, WV 25717

is hereby granted a NPDES Water Pollution Control Permit to operate and maintain an existing wastewater collection system and an existing 17.0 MGD activated sludge wastewater treatment plant which are further described as follows, and to implement a Publicly Owned Treatment Works Pretreatment Program.

A wastewater collection system comprised of approximately 200 miles of combined gravity sewer lines and 100 miles of sanitary gravity sewer lines ranging from six(6) to 54 inches in diameter, necessary manholes, necessary cleanouts, 25 lift stations, 12 miles of force main ranging from six(6) to 54 inches in diameter, and all requisite appurtenances.

A wastewater treatment plant comprised of two(2) mechanical bar screens, two(2) preaeration/grit removal chambers, four(4) primary clarifiers with a volume of 563,400 gallons and a surface area of 5,000 square feet each, eight(8) aeration chambers with a volume of 552,000 gallons each, eight(8) secondary clarifiers with a volume of 456,200 gallons and a surface area of 5,100 square feet each, two(2) chlorine contact chambers with a volume of 260,000 gallons each, two(2) gravity sludge thickeners with a volume 150,000 gallons each, three(3) sludge dewatering belt presses, a fluidized bed sludge incinerator, an incinerator ash lagoon, and all requisite appurtenances.

(Continued on Page 2)

These facilities are to serve a population equivalent of approximately 90,000 persons in the City of Huntington, the City of Kenova, the Town of Ceredo, Northern Wayne County Public Service District, Monel Park Public Service District, Spring Valley Public Service District, the former Ohio River Public Service District service area which is now an integral part of the Pea Ridge Public Service District, and environs, and discharge treated wastewater to the Ohio River at Mile Point 313.2.

This permit is subject to the following terms and conditions:

The information submitted on and with Permit Application No. WV0023159, dated the 31st day of March 1994, additional information, dated the 12th day of October 1994, additional information, received the 13th day of October 1994, additional information, received the 24th day of October 1994, and additional information, received the 22nd day of November 1994, are all hereby made terms and conditions of this Permit with like effect as if all such Permit application information was set forth herein, and with other conditions set forth in Sections A, B, C, D, E, F, G and H.

A.1. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning April 7, 1995 and lasting through midnight, March 7, 2000 the permittee is authorized to discharge from outlet number(s) 001 - Discharge from the sewage treatment plant.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations (Quantity) lbs/day Avg. Monthly	Max. Daily	Other Units (Specify) Avg. Monthly	Max. Daily	Monitoring Requirements Measurement Frequency	Sample Type
Flow			17.0 MGD		Continuous	Measured
Biochemical Oxygen Demand (5 Day)	4,253	8,507	30.0 mg/l	60.0 mg/l	Daily	24 Hr. Composite
Total Suspended Solids	4,253	8,507	30.0 mg/l	60.0 mg/l	Daily	24 Hr. Composite
Ammonia Nitrogen	2,127	4,253	15.0 mg/l	30.0 mg/l	Once/Week	24 Hr. Composite
Fecal Coliform			200 counts/100 ml	400 counts/100 ml	Daily	Grab
Cadmium, Total			0.021 mg/l	0.031 mg/l	1/Month*	24 Hr. Composite
Chromium, Hexavalent			0.162 mg/l	0.242 mg/l	1/Month*	24 Hr. Composite
Copper, Total			0.323 mg/l	0.485 mg/l	1/Quarter*	24 Hr. Composite
Lead, Total			0.061 mg/l	0.092 mg/l	1/Month*	24 Hr. Composite

* Refer to Sections G.9 and H.5 for details.

(Continued on Page 4 of 21)

(Continued from page 3 of 21)

A.1. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning April 7, 1995 and lasting through midnight, March 7, 2000 the permittee is authorized to discharge from outlet number(s) 001 - Discharge from the sewage treatment plant.

Such discharges shall be limited and monitored by the permittee as specified below:

	Discharge Limitations				Monitoring Requirements	
Effluent	(Quantity) lbs/day		Other Units (Specify)		Measurement	Sample
Characteristic	Avg. Monthly	Max. Daily	Avg. Monthly	Max. Daily	Frequency	Type
Nickel, Total			2.87 mg/l	4.30 mg/l	1/Quarter*	24 Hr. Composite
Silver, Total			0.194 mg/l	0.291 mg/l	1/Quarter*	24 Hr. Composite
Zinc, Total			1.45 mg/l	2.18 mg/l	1/Quarter*	24 Hr. Composite
Arsenic, Total			1.62 mg/l	2.42 mg/l	1/Quarter*	24 Hr. Composite
Mercury, Total			0.003 mg/l	0.005 mg/l	1/Month*	24 Hr. Composite
Cyanide, Total			0.081 mg/l	0.121 mg/l	1/Month*	Grab
Phenolics, Total			0.081 mg/l	0.121 mg/l	1/Month*	Grab
Chromium, Total			Monitor Only mg/l	Monitor Only mg/l	1/Quarter*	24 Hr. Composite

* Refer to Sections G.9 and H.5 for details.

(Continued on Page 5 of 21)

A.1. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning April 7, 1995 and lasting through midnight, March 7, 2000 the permittee is authorized to discharge from outlet number(s) 001 - Discharge from the sewage treatment plant

Such discharges shall be limited and monitored by the permittee as specified below:

	Discharge Limitations				Monitoring Requirements	
Effluent	(Quantity) lbs/day		Other Units (Specify)		Measurement	Sample
Characteristic	Avg. Monthly	Max. Daily	Avg. Monthly	Max. Daily	Frequency	Type
Acute Toxicity, *Pimephales Promelas*, 48 Hour Static				2.5 TU_A	Annually*	24 Hour Composite
Acute Toxicity, *Daphnia Magna* or *Pulex*, 48 Hour Static				2.5 TU_A	Annually*	24 Hour Composite

* Refer to Sections G.8 and G.9 for details.

The pH shall not be less than 6.0 standard units and not greater than 9.0 standard units and shall be monitored daily by grab sampling.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): Effluent BOD_5 and Acute Toxicity samples shall be collected at a location immediately preceding disinfection. Other effluent samples shall be collected at or as near as possible to the point of discharge.

This discharge shall not cause violation of Title 46, Series 1, Section 3 of the West Virginia Legislative Rules issued pursuant to Chapter 22, Article 11.

A.2. SEWER SYSTEM OVERFLOWS

a) Outlet Numbers 002 through 024, listed below, serve as combined sewer relief points. Combined Sewer Overflows (CSOs) are allowed only when flows in combined sewers exceed conveyance capacities during wet weather periods. CSOs are point source discharges which must be provided technology based control measures in accordance with the Clean Water Act. Additional control measures may also have to be provided if determined necessary to comply with water quality standards. At a minimum, technology-based control measures must include best management practices or other noncapital intensive measures to minimize discharges and water quality impacts.

Outlet Number	Name and Location	Receiving Stream
002	Krout Creek Pump Station Latitude 38°24'54"N Longitude 82°31'37"W	Krout Creek (Mile Point 0.2)
003	East Road Pump Station Latitude 38°24'15"N Longitude 82°31'00"W	Ohio River (Mile Point 312.5)
004	Fourpole Creek Pump Station Latitude 38°24'30"N Longitude 82°30'08"W	Fourpole Creek (Mile Point 0.1)
005	West 22nd Street Pump Station Latitude 38°24'43"N Longitude 82°29'35"W	Ohio River (Mile Point 311.2)
006	West 13th Street Pump Station Latitude 38°24'58"N Longitude 82°28'48"W	Ohio River (Mile Point 310.9)
007	West 7th Street Regulator Latitude 38°25'08"N Longitude 82°28'06"W	Ohio River (Mile Point 310.2)
008	1st Street Regulator Latitude 38°25'16"N Longitude 82°27'30"W	Ohio River (Mile Point 309.6)
009	4th Street Pump Station Latitude 38°25'20"N Longitude 82°27'13"W	Ohio River (Mile Point 308.9)
010	9th Street Regulator Latitude 38°25'27"N Longitude 82°26'40"W	Ohio River (Mile Point 308.4

A.2. SEWER SYSTEM OVERFLOWS (Continued)

a) (Continued)

Outlet Number	Name and Location	Receiving Stream
011	11th Street Regulator Latitude 38°25'30"N Longitude 82°26'29"W	Ohio River (Mile Point 308.2)
012	16th Street Regulator Latitude 38°25'37"N Longitude 82°25'58"W	Ohio River (Mile Point 307.8)
013	20th Street Regulator Latitude 38°25'47"N Longitude 82°25'28"W	Ohio River (Mile Point 307.2)
014	East 25th Street Diversion Chamber Latitude 38°26'00"N Longitude 82°24'53"W	Ohio River (Mile Point 306.6)
015	Division Street Regulator Latitude 38°26'10"N Longitude 82°24'23"W	Ohio River (Mile Point 306.1)
016	5th Avenue Pump Station Latitude 38°25'43"N Longitude 82°23'32"W	Guyandotte River (Mile Point 0.2)
017	Roby Hollow Pump Station Latitude 38°24'50"N Longitude 82°23'20"W	Guyandotte River (Mile Point 1.2)
018	Pat's Branch Pump Station Latitude 38°25'01"N Longitude 82°23'23"W	Guyandotte River (Mile Point 1.1)
019	Oak Street Pump Station Latitude 38°25'22"N Longitude 82°23'25"W	Guyandotte River (Mile Point 0.6)
020	Richmond Street Pump Station Latitude 38°25'52"N Longitude 82°23'13"W	Ohio River (Mile Point 305.0)
021	35th Street Pump Station Latitude 38°25'54"N Longitude 82°22'12"W	Ohio River (Mile Point 304.6)

A.2. SEWER SYSTEM OVERFLOWS (Continued)

a) (Continued)

Outlet Number	Name and Location	Receiving Stream
022	B & O Regulator Latitude 38°24'23"N Longitude 82°29'54"W	Fourpole Creek (Mile Point 0.2)
023	Park Avenue Diversion Chamber Latitude 38°24'14"N Longitude 82°29'35"W	Fourpole Creek (Mile Point 0.5)
024	James River Road Regulator Latitude 38°24'16"N Longitude 82°24'00"W	Fourpole Creek (Mile Point 1.1)

b) The permittee shall provide and implement a plan of action for minimization of discharges and evaluation of water quality impacts and Long-Term Control Plan, if water quality impacts exist, in accordance with the following schedule:

DESCRIPTION OF ACTIVITY	DUE DATE
Submit a final plan to State (Plan Received on November 15, 1993)	November 15, 1993
Completion of planned minimization of discharges	May 15, 1995
Completion of planned evaluation of water quality impacts	~~May 15, 1996~~ Jan. 1, 1997
Development of long-term control plan	~~May 15, 1997~~ Jan 1, 1999

c) Evaluation of Water Quality Impacts

(1) Analysis of water quality upstream and downstream from CSO discharges to assess their impacts. Emphasis should be placed on critical periods, especially summer storm events following dry weather-low flow periods.

(2) Monitoring of the rates and durations of representative discharges during varying rainfall conditions.

(3) Analysis of the quality of representative discharges.

d) Development of Long-Term Control Plan

The permittee shall develop a Long-Term Control Plan (LTCP), if any water quality impacts are demonstrated and documented during an evaluation phase as outlined in Item A.2.b), or if this Office determines the water quality impacts exist.

e) Reporting Requirements

The permittee shall submit written quarterly progress reports detailing actions taken to meet the schedule presented in Section A.2.b).

A.3. LIMITATIONS ON SPECIFIC SEWER SYSTEM OVERFLOWS

a) Outlet Numbers 026 through 035, listed below, could bypass raw and/or partially treated sewage directly into the receiving stream.

Outlet Number	Name and Location	Receiving Stream
026	Edison Drive Latitude 38°24'33"N Longitude 82°24'37"W	Unnamed Tributary (Mile Point 0.75) of Fourpole Creek
027	Sandelwood Latitude 38°24'02"N Longitude 82°23'55"W	Unnamed Tributary (Mile Point 1.05) of Guyandotte River
028	Hillendale Latitude 38°23'42"N Longitude 82°24'13"W	Fourpole Creek (Mile Point 6.3)
029	Stamford Park Latitude 38°23'57"N Longitude 82°23'30"W	Unnamed Tributary (Mile Point 1.21) of Guyandotte River
030	Ferguson Road Latitude 38°24'12"N Longitude 82°23'37"W	Unnamed Tributary (Mile Point 0.8) of Guyandotte River
031	Garden Farms Latitude 38°23'35"N Longitude 82°22'46"W	Grapevine Creek (Mile Point 0.92)
032	Greenbrier No. 2 Latitude 38°24'03"N Longitude 82°27'06"W	Fourpole Creek (Mile Point 3.05)
033	Greenbrier No. 1 Latitude 38°24'04"N Longitude 82°27'08"W	Fourpole Creek (Mile Point 3.05)
034	Stonecrest Latitude 38°23'43"N Longitude 82°27'09"W	Hisey Fork (Mile Point 1.56)
035	Auburn Road Latitude 38°24'01"N Longitude 82°31'29"W	Fourpole Creek (Mile Point 0.22)

A.3. LIMITATIONS ON SPECIFIC SEWER SYSTEM OVERFLOWS (Continued)

b) This documentation is for purposes of identification only. It is not to be interpreted as formal authorization to discharge from these outlets. Any discharge from these outlets shall be subject to the requirements of Section D.3 on Page 13 of 21 of this Permit. Bypass reports will be reviewed and the intentional use, or misuse, of the overflows will be subject to remedial and/or enforcement action.

c) The documentation provided herein shall not constitute an affirmative defense in any enforcement action brought against the permittee for violations resultant to the discharges from these outlets.

B. SCHEDULE OF COMPLIANCE

1. The permittee shall achieve compliance with the provisions for waste treatment and the discharge limitations specified in this permit in accordance with the following schedule:

a) On or Before April 7, 1995	-Submit Revised Pretreatment Ordinance and Enforcement Response Plan as Required by Section H.7.a) on Page 20 of 21.
b) On or Before May 1, 1995	-Submit Local Limit Evaluations as Required by Section H.8 on Page 20 of 21.
c) On or Before July 1, 1995	-Formally Enact the Revised Ordinance as Required by Section H.7.b) on Page 20 of 21.

2. A report of compliance or noncompliance with the requirements of Section B.1.c) shall be submitted no later than the 15th day of July 1995.

C. MANAGEMENT CONDITIONS

1. Duty to Comply

(a) The permittee must comply with all conditions of this permit. Permit noncompliance constitutes a violation of the CWA and State Act and is grounds for enforcement action; for permit modification, revocation and reissuance, suspension or revocation; or for denial of a permit renewal application.

(b) The permittee shall comply with all effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

2. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for a new permit at least 180 days prior to expiration of the permit.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment.

4. Permit Actions

This permit may be modified, revoked and reissued, suspended, or revoked for cause. The filing of a request by the permittee for permit modification, revocation and reissuance, or revocation, or a notification of planned changes or anticipated noncompliance, does not stay any permit conditions.

5. Property Rights

This permit does not convey any property rights of any sort or any exclusive privilege.

6. Signatory Requirements

All applications, reports, or information submitted to the Chief shall be signed and certified as required in Title 46, Series 2, Section 4.6 of the West Virginia Legislative Rules.

7. Transfers

This permit is not transferable to any person, except after notice to the Chief. The Chief may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

8. Duty to Provide Information

The permittee shall furnish to the Chief, within a reasonable specified time, any information which the Chief may request to determine whether cause exists for modifying, revoking and reissuing, suspending, or revoking this permit, or to determine compliance with this permit. The permittee shall also furnish to the Chief, upon request, copies of records required to be kept by this permit.

9. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Chief, it shall promptly submit such facts or information.

10. Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

a) Enter upon the permittee's premises in which an effluent source or activity is located, or where records must be kept under the conditions of this permit;
b) Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;
c) Inspect at reasonable times any facilities, equipment(including monitoring and control equipment), practices, or operations regulated or required under this permit; and
d) Samples or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the State Act, any substances or parameters at any locations.

11. Permit Modification

This permit may be modified, suspended, or revoked in whole or in part during its term in accordance with the provisions of Chapter 22-5A-12 of the Code of West Virginia.

12. Water Quality

The effluent or effluents covered by this permit are to be of such quality so as not to cause violation of applicable water quality standards adopted by the State Environmental Quality Board.

13. Outlet Markers

A permanent marker at the establishment shall be posted in accordance with Title 46, Series 3, Section 9 of the West Virginia Legislative Rules promulgated pursuant to Chapter 22, Article 11.

14. Liabilities

a) Any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Clean Water Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.
b) Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
c) Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
d) Nothing in C.14.a),b) and c) shall be construed to limit or prohibit any other authority the Chief may have under the State Water Pollution Control Act, Chapter 22, Article 11.

D. OPERATION AND MAINTENANCE

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. Unless otherwise required by Federal or State law, this provision requires the operation of back-up auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit. For domestic waste treatment facilities, waste treatment operators as classified by the WV Bureau of Public Health Regulations authorized under Chapter 16, Article 1, Public Health Laws, Code of West Virginia, will be required except that in circumstances where the domestic waste treatment facility is receiving any type of industrial waste, the Chief may require a more highly skilled operator.

2. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. Bypass

a) Definitions
   (1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility: and
   (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of D.3.c) and D.3.d) of this permit.

c) (1) If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass;
   (2) If the permittee does not know in advance of the need for bypass, notice shall be submitted as required in F.2.b) of this permit.

d) Prohibition of bypass
   (1) Bypass is permitted only under the following conditions, and the Chief may take enforcement action against a permittee for bypass, unless;
      (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
      (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
      (C) The permittee submitted notices as required under D.3.c) of this permit.
   (2) The Chief may approve an anticipated bypass, after considering its adverse effects, if the Chief determines that it will meet the three conditions listed in D.3.d)(1) of this permit.

4. Upset

a) Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of D.4.c) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
   (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
   (2) The permitted facility was at the time being properly operated;
   (3) The permittee submitted notice of the upset as required in F.2.b) of this permit.
   (4) The permittee complied with any remedial measures required under C.3. of this permit.

d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. Removed Substances

Where removed substances are not otherwise covered by the terms and conditions of this permit or other existing permit by the Chief, any solids, sludges, filter backwash or other pollutants (removed in the course of treatment or control of wastewaters) and which are intended for disposal within the State, shall be disposed of only in a manner and a site subject to the approval by the Chief. If such substances are intended for disposal outside the State or for reuse, i.e., as a material used for making another product, which in turn has another use, the permittee shall notify the Chief in writing of the proposed disposal or use of such substances, the identity of the prospective disposer or users, and the intended place of disposal or use, as appropriate.

E. MONITORING AND REPORTING

1. Representative Sampling

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. Reporting

a) Permittee shall submit each month, according to the enclosed format, a Discharge Monitoring Report(DMR) indicating in terms of concentration, and/or quantities, the values of the constituents listed in Part A analytically determined to be in the plant effluent(s).

b) The required DMRs should be received no later than 20 days following the end of the reporting period and be addressed to:

Chief	Regional Administrator
Office of Water Resources	U. S. Environmental Protection Agency
1201 Greenbrier Street	Region III
Charleston, WV 25311-1088	841 Chestnut Building
Attention: Municipal Branch	Philadelphia, PA 19107

c) Enter reported average and maximum values under "Quantity" and "Concentration" in the units specified for each parameter, as appropriate.

d) Specify the number of analyzed samples that exceed the allowable permit conditions in the columns labeled "N.E"(i.e., number exceeding).

e) Specify frequency of analysis for each parameter as no. analyses/specified period (e.g. "3/month" is equivalent to 3 analyses performed every calendar month.) if continuous, enter "Cont.". The frequency listed on format is the minimum required.

3. Test Procedures

Samples shall be taken, preserved and analyzed in accordance with the latest edition of 40 CFR Part 136, unless other test procedures have been specified elsewhere in this permit.

4. Recording of Results

For each measurement or sample taken pursuant to the permit, the permittee shall record the following information.

a) The date, exact place, and time of sampling or measurement;
b) The date(s) analyses were performed;
c) The individual(s) who performed the sampling or measurement;
d) The individual(s) who performed the analyses; if a commercial laboratory is used, the name and address of the laboratory;
e) The analytical techniques or methods used, and
f) The results of such analyses.

Information not required by the DMR form is not to be submitted to this agency, but is to be retained as required in E.6.

5. Additional Monitoring by Permittee

If the permittee monitors any pollutant at any monitoring point specified in this permit more frequently than required by this permit, using approved test procedures or others as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report Form. Such increased frequency shall also be indicated.
Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit.

6. Records Retention

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for the permit, for a period of at least three(3) years from the data of the sample, measurement, report or application. This period may be extended by request of the Chief at any time.

7. Definitions

a) "Daily discharge" means the discharge of a pollutant measured during a calendar day or within any specified period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

b) "Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

c) "Maximum daily discharge limitation" means the highest allowable daily discharge.

d) "Composite Sample" is a combination of individual samples obtained at regular intervals over a time period. Either the volume of each individual sample is proportional to discharge flow rates or the sampling interval(for constant volume samples) is proportional to the flow rates over the time period used to produce the composite. The maximum time period between individual samples shall be two hours.

e) "Grab Sample" is an individual sample collected in less than 15 minutes.

f) "i-s" =immersion stabilization - a calibrated device is immersed in the effluent stream until the reading is stabilized.

g) The "daily average temperature" means the arithmetic average of temperature measurements made on an hourly basis, or the mean value plot of the record of a continuous automated temperature recording instrument, either during a calendar month, or during the operating month if flows are of shorter duration.

h) The "daily maximum temperature" means the highest arithmetic average of the temperatures observed for any two(2) consecutive hours during a 24-hour day, or during the operating day if flows are of shorter duration.

i) The "daily average fecal coliform" bacteria is the geometric average of all samples collected during the month.

j) "Measured Flow" means any method of liquid volume measurement, the accuracy of which has been previously demonstrated in engineering practice, or for which a relationship to absolute volume has been obtained.

k) "Estimate" means to be based on a technical evaluation of the sources contributing to the discharge including, but not limited to pump capabilities, water meters and batch discharge volumes.

l) "Noncontact cooling water" means the water that is contained in a leak-free system, i.e. no contact with any gas, liquid, or solid other than the container for transport; the water shall have no net poundage addition of any pollutant over intake water levels, exclusive of approved anti-fouling agents.

F. OTHER REPORTING

1. Reporting Spills and Accidental Discharges

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee for any responsibilities, liabilities, or penalties established pursuant to Title 46, Series 3, Section 2 of the West Virginia Legislative Rules promulgated pursuant to Chapter 22, Article 11.

Attached is a copy of the West Virginia Spill Alert System for use in complying with Title 46, Series 3, Section 2 of the rules as they pertain to the reporting of spills and accidental discharges.

2. Immediate Reporting

a) The permittee shall report any noncompliance which may endanger health or the environment immediately after becoming aware of the circumstances by using the Agency's designated spill alert telephone number. A written submission shall be provided within five(5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

b) The following shall also be reported immediately:
   (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
   (2) Any upset which exceeds any effluent limitation in the permit; and
   (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Chief in the permit to be reported immediately. This list shall include any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance.

c) The Chief may waive the written report on a case-by-case basis if the oral report has been received in accordance with the above.

d) Compliance with the requirements of F.2. of this section, shall not relieve a person of compliance with Title 46, Series 3, Section 2.

3. Reporting Requirements

a) Planned changes. The permittee shall give notice to the Chief of any planned physical alterations or additions to the permitted facility which may affect the nature or quantity of the discharge. Notice is required when:
   (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in Section 13.7.b of Series 2, Title 46; or
   (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. The notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under F.2. of this section.

b) Anticipated noncompliance. The permittee shall give advance notice to the Chief of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

c) In addition to the above reporting requirements, all existing manufacturing, commercial, and silvicultural discharges must notify the Chief in writing as soon as they know or have reason to believe:
   (1) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, or any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels".
      (A) One hundred micrograms per liter (100 ug/l);
      (B) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitro phenol: and for 2-methyl 4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
      (C) Five(5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 4.4.b.9 of Series 2, Title 46;
      (D) The level established by the Chief in accordance with Section 6.3.g. of Series 2, Title 46;
   (2) That any activity has occurred or will occur which would result in any discharge (on a non-routine or infrequent basis) of a toxic which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels".
      (A) Five hundred micrograms per liter (500 ug/l);
      (B) One milligram per liter (1 mg/l) for antimony;
      (C) Ten(10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 4.4.b.7. of Series 2, Title 46;
      (D) The level established by the Chief in accordance with Section 6.3.g. of Series 2, Title 46;
   (3) That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product of any toxic pollutant which was not reported in the permit application under Section 4.4.b.9 of Series 2, Title 46 and which will result in the discharge on a routine or frequent basis of that toxic pollutant at levels which exceed five times the detection limit for that pollutant under approved analytical procedure.
   (4) That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product of any toxic pollutant which was not reported in the permit application under Section 4.4.b.9 of Series 2, Title 46 and which will result in the discharge on a non-routine or infrequent basis of that toxic pollutant at levels which exceed ten times the detection limit for that pollutant under approved analytical procedure.

4. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under the above paragraphs at the time monitoring reports are submitted. The reports shall contain the information listed in F.2.a).

5. Additional Noncompliance Reporting Requirement

For any noncompliance reports required to be submitted in writing by this Office, a copy shall also be forwarded to the U. S. Environmental Protection Agency at the location specified in E.2.b).

G. OTHER REQUIREMENTS

1. The herein described treatment works, structures, electrical and mechanical equipment shall be adequately protected from physical damage by the maximum expected 100 year flood level and operability be maintained during the 25 year flood level.

2. The entire sewage treatment facility shall be adequately protected by fencing.

3. Continuous maintenance and operation of the listed sewage treatment facility shall be performed by or supervised by a certified operator possessing at least a class IV certificate for Waste Water Treatment Works Operators, issued by the State of West Virginia.

4. An instantaneous flow from the sewage treatment plant shall not exceed the peak design flow at any given time.

5. The arithmetic mean of values for effluent samples collected in a period of seven(7) consecutive days shall not exceed 45.0 mg/l for BOD_5 and TSS and 22.5 mg/l for NH_3-N.

6. The arithmetic mean of the effluent values of the BOD_5 and TSS discharged during a period of 30 consecutive days shall not exceed 15 percent of the respective arithmetic mean of the influent values for these parameters during the same time period except as specifically authorized by the permitting authority.

7. The permittee shall submit, to the Chief, one(1) complete copy, of the Environmental Protection Agency application relative to their sludge management program, on or before the 7th day April 1995. Compliance with the terms and conditions of 40 CFR Part 503 shall, at this time, serve to fulfill the requirements of Section D.5, Removed Substances, on page 13 of 21 of this Permit, with respect to the sludge generated by the wastewater treatment facilities permitted herein.

8. The permittee shall perform acute whole effluent toxicity testing in accordance with the following.

   a) The acute toxicity testing required herein shall be conducted in accordance with the procedures set out in the latest revision of Environmental Protection Agency Publication No. 600/4-90-027F, "Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms."

      (1) The 48 hour static acute toxicity testing shall be performed on an annual (1/year) basis during the period beginning on the effective date of the Permit and ending on the expiration date of the Permit.

      (2) A 24 hour composite sample of the effluent shall be utilized for testing.

G. OTHER REQUIREMENTS (Continued)

8.a)(3) The tests shall be conducted using Pimephales promelas, fathead minnow, and Daphnia magna or Daphnia pulex as the test species.

(4) Test results shall be reported on the attached Discharge Monitoring Report and copies of all test results provided as an attachment thereto.

(5) The acute toxicity units, TU_A, required to be reported are calculated by dividing 100 by the LC_{50}.

b) If whole effluent toxicity testing shows noncompliance with the specified limitations prescribed in Section A.1., the permittee shall immediately resample and test the effluent. This shall be performed within 30 days of the initial demonstration of noncompliance with the whole effluent toxicity discharge limitations prescribed herein. Copies of the retesting results shall be provided to this Office immediately upon completion of the test.

c) If the second test shows compliance, whole effluent toxicity testing shall continue in accordance with the requirements as prescribed herein. However, if the second test shows noncompliance, this Office shall impose further requirements, as may be necessary, in order to obtain compliance with the whole effluent toxicity discharge limitations.

d) This Office shall impose further requirements should the whole effluent toxicity testing results demonstrate an irregular pattern of noncompliance.

9. Publicly Owned Treatment Works effluent monitoring for cadmium, hexavalent chromium, copper, lead, nickel, silver, zinc, arsenic, mercury, cyanide, phenolics, chromium and acute toxicity shall be coordinated, if practicable, with discharges from the ash lagoon. The permittee shall provide a written notification, as as attachment to the Discharge Monitoring Report, if the sampling period being reported is not representative of a discharge from the ash lagoon.

10. The permittee shall perform the analyses of the effluent discharge limitations, as prescribed in Section A.1, for cadmium, hexavalent chromium, lead, mercury, cyanide, and phenolics for a period of six(6) consecutive months. Thereupon, if compliance, with the prescribed effluent discharge limitations for these parameters, has been demonstrated, the permittee shall be afforded an opportunity to request a reduction in the measurement frequency, to quarterly, for said parameters.

H. PRETREATMENT REQUIREMENTS

1. The permittee shall implement the Industrial Pretreatment Program in accordance with the Clean Water Act and the regulations, 40 CFR Part 403, promulgated, thereunder. The program shall also be implemented in accordance with the program submission, approved on the 18th day of April 1984.

2. The permittee shall implement the program upon all industrial users of the Publicly Owned Treatment Works (POTW), irrespective of the geographical location of the users. The permittee shall secure and maintain adequate legal authority to control users located in Kenova, Ceredo, Northern Wayne Public Service District, Spring Valley Public Service District, Pea Ridge Public Service District for the integrated former Ohio River Public Service District service area, as well as any users located in unincorporated areas outside the corporate boundaries of the City of Huntington.

3. The permittee shall submit proposed changes to the approved program in accordance with 40 CFR Part 403.18, and shall obtain prior approval of Substantial Modifications as defined by 40 CFR Part 403.18(c).

4. The permittee's implementation of the program shall, at a minimum, meet the requirements listed below.

   a) The permittee shall issue individual discharge permits to all significant industrial users (SIUs) as defined by 40 CFR Part 403.3(t). Permits shall contain the minimum requirements of 40 CFR Part 403.8(f)(1)(iii). The permittee shall reissue permits to SIUs prior to their expiration. Administrative extensions of expiring permits shall not be granted without written consent from the Chief.

   b) The permittee shall inspect each SIU at least once per year. The annual inspection shall evaluate the manufacturing process, chemical storage areas, pretreatment facilities, spill prevention and control procedures, slug discharge control procedures, hazardous waste generation and disposal procedures, self-monitoring procedures and records.

   c) The permittee shall sample and analyze the nondomestic wastewater discharge(s) of each SIU at least once per year. Such monitoring shall include all parameters limited in the SIU's permit and shall be performed in accordance with 40 CFR Part 136.

   d) The permittee shall perform quarterly assessments of SIU compliance, and document the names of SIUs that demonstrate significant noncompliance (SNC) and the SNC criteria violated. The permittee shall publish the name of any SIU that demonstrates significant noncompliance in the pretreatment year, as required by 40 CFR Part 403.8(f)(2)(vii). Publication shall occur on or before the 15th day of August of each year.

H. PRETREATMENT REQUIREMENTS (Continued)

4.e) The permittee shall take timely and appropriate enforcement for all instances of industrial user noncompliance in accordance with an Enforcement Response Plan as required by 40 CFR Part 403.8(f)(5).

f) The permittee shall ensure that adequate resources (equipment and personnel) are available to fully implement the pretreatment program.

5. The permittee shall conduct monitoring at its treatment plant, as follows:

a) The POTW effluent shall be monitored as specified in Section A.1 on Pages 3, 4 and 5 of this Permit.

b) The POTW influent shall be monitored for arsenic, mercury, cadmium, chromium (total), copper, lead, nickel, silver, zinc, cyanide (total), selenium, and total phenolics. Monitoring frequency and sample type shall be the same as specified for each parameter in the effluent self-monitoring requirements of Section A.1, and influent monitoring shall be performed concurrent with effluent monitoring.

c) The permittee shall conduct annual (1/year) monitoring of the POTW influent for all priority pollutants not specified in Section A.1. For volatile organics, a minimum of four(4) individual samples shall be obtained. The samples may be analyzed separately or may be combined in the laboratory, using flask or purge device compositing techniques as specified in EPA's draft guidance, VOA Compositing Procedures, and the composite sample then analyzed. Twenty-four hour composite samples shall be obtained and analyzed for base neutrals, acid extractables, pesticides and metals.

d) The permittee shall conduct quarterly (4/year) monitoring of the treatment plant's sludge for arsenic, beryllium, cadmium, chromium (T), copper, lead, nickel, silver, mercury and zinc. Monitoring shall be performed on the influent sludgestream to the incinerator and analytical results shall be reported on a dry weight basis.

6. On or before the 31st day of August of each year, the permittee shall submit an annual report that describes the permittee's pretreatment implementation activities of the previous pretreatment implementation year (July 1 through June 30). The annual report shall include the following information:

a) **SIU Listing** - Provide an updated list of all current SIUs. The list shall indicate which SIUs are subject to Categorical Pretreatment Standards, and the applicable standard.

b) **SIU Permits** - Provide a list of the issuance and expiration dates of each SIU permit, and the names of SIUs that are without a valid permit.

H. PRETREATMENT REQUIREMENTS (Continued)

6.c) **Sampling and Inspection** - Provide the number of inspections and sampling events performed by the permittee at SIUs and a listing of SIUs that were not sampled and those that were not inspected.

d) **Compliance and Enforcement** - Provide a summary of the violations of pretreatment standards and requirements that occurred during the year. Include the results of the quarterly SNC assessments required by Section H.4.d) above, and for each SIU that demonstrated SNC, describe the specific enforcement action taken and the current compliance status of the SIU. Also provide the numbers of each type of enforcement action taken by the permittee, and a copy of the published list of SIUs in SNC, as required by Section H.4.d) above.

e) **POTW Operations** - Provide a description of any interference, upset or permit violations experienced by the POTW which are attributable to the discharges of industrial users. Include a summary of the results of the influent, effluent and sludge monitoring required by Item 5 above.

7. The permittee shall revise the pretreatment provisions of its sewer use ordinance to provide the requisite legal authority for the Board to implement the program, as mandated by 40 CFR Part 403. The permittee shall also revise its Enforcement Response Plan to incorporate any necessary changes resulting from the revised ordinance. Such actions shall be performed in accordance with the following schedule:

   a) On or before the 7th day of April 1995 - Submit Permit Modification Application with an approvable revised ordinance and an approvable revised Enforcement Response Plan.

   b) On or before 1st day of July 1995 - Formally enact the approved, revised ordinance.

8. The permittee shall technically reevaluate the adequacy of local limits for arsenic, cadmium, chromium, lead, mercury, nickel, total phenolics, and cyanide, and shall evaluate the necessity of local limit development for beryllium. Evaluations shall be based upon the effluent limitations of this Permit and the sludge quality standards and incinerator emission standards of 40 CFR Part 503. The results of the evaluations shall be submitted to the Chief on or before the 1st day of May 1995.

9. The Chief and the U. S. EPA retain the right to require the permittee to institute changes to the pretreatment program if:

   a) The requirements of 40 CFR Part 403 are not satisfied by program implementation;

   b) Problems such as interference, pass through or sludge contamination develop;

   c) Federal or State requirements change.

The herein-described activity is to be extended, modified, added to, made, enlarged, acquired, constructed or installed, and operated, used and maintained strictly in accordance with the terms and conditions of this permit; with the plans and specifications submitted with Permit Application No. **WV0023159**, dated the **31st** day of **March**, **1994**; with the plan of maintenance and method of operation thereof submitted with such application(s); and with any applicable rules and regulations promulgated by the Environmental Quality Board and the director of the Division of Environmental Protection.

Failure to comply with the terms and conditions of this permit, with the plans and specifications submitted with Permit Application No. **WV0023159**, dated the **31st** day of **March**, **1994**, and with the plan of maintenance and method of operation thereof submitted with such application(s) shall constitute grounds for the revocation or suspension of this permit and for the invocation of all the enforcement procedures set forth in Article 11, Chapter 22 of the Code of West Virginia.

This permit is issued in accordance with the provisions of Article 11, Chapter 22 of the Code of West Virginia and is transferable under the terms of Section 11 of said article.

By: Martha Scott
Chief

MAS/jdm

WRD 2A-82

STATE OF ' VIRGINIA
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DISCHARGE MONITORING REPORT

FACILITY NAME Huntington, City of; Sanitary Board
LOCATION OF FACILITY Huntington, Cabell/Wayne Counties
PERMIT NUMBER WV0023159 OUTLET NO. 001
WASTELOAD FOR MONTH OF _____ 19____

COMMERCIAL LABORATORY NAME _____
COMMERCIAL LABORATORY ADDRESS _____
INDIVIDUAL PERFORMING ANALYSES _____

Parameter		Quantity					Other Units					Measurement	Sample
		Minimum	Avg.Monthly	Max.Daily	Units	N.E.	Minimum	Avg.Monthly	Max.Daily	Units	N.E.	Frequency	Type
low, in onduit or hru trmt. lant 50050	Reported	***** *****	********* *********	******* *******	*** ***	** **	***** *****		******* *******	MGD			
	Permit Limitation	***** *****	********* *********	******* *******	*** ***	** **	N/A	17.0	N/A		** **	Continuous	Measured
OD, 5 day 20 Deg. C) 0310	Reported	***** *****			lbs day		***** *****			mg/l			
	Permit Limitation	N/A	4,253	8,507		** **	N/A	30.0	60.0		** **	Daily	24 Hour Composite
olids, otal uspended 0530	Reported	***** *****			lbs day		***** *****			mg/l			
	Permit Limitation	N/A	4,253	8,507		** **	N/A	30.0	60.0		** **	Daily	24 Hour Composite
itrogen, mmonia 0610	Reported	***** *****			lbs day		***** *****			mg/l			
	Permit Limitation	N/A	2,127	4,253		** **	N/A	15.0	30.0		** **	Once/Week	24 Hour Composite
H 0400	Reported	***** *****	********* *********	******* *******	*** ***	** **		********* *********		Std. Units			
	Permit Limitation	***** *****	********* *********	******* *******	*** ***	** **	6.0	N/A	9.0		** **	Daily	Grab
oliform, ecal eneral 4055	Reported	MF	- - - - - - - -	MPN	*** ***	** **	***** *****			Count per 100ml			
	Permit Limitation	Circle	Method	Used	*** ***	** **	N/A	200	400		** **	Daily	Grab

Name of Principal Executive Officer

Title of Officer

I certify under penalty of law that this document and all attachments were prepared under my directions or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

Date Completed

Signature of Principal Executive Officer or Authorized Agent

WRD 2A-82

STATE OF \ ' VIRGINIA
NATIONAL POLLUTANT DIS..ARGE ELIMINATION SYSTEM
DISCHARGE MONITORING REPORT

FACILITY NAME Huntington, City of; Sanitary Board
LOCATION OF FACILITY Huntington, Cabell/Wayne Counties
PERMIT NUMBER WV0023159 OUTLET NO. 001
WASTELOAD FOR MONTH OF _____ 19____

COMMERCIAL LABORATORY NAME _____
COMMERCIAL LABORATORY ADDRESS _____
INDIVIDUAL PERFORMING ANALYSES _____

Parameter		Quantity					Other Units					Measurement	Sample
		Minimum	Avg.Monthly	Max.Daily	Units	N.E.	Minimum	Avg.Monthly	Max.Daily	Units	N.E.	Frequency	Type
admium, otal 1027	Reported	***** *****	********* *********	******* *******	*** ***	** **	***** *****			mg/l			
	Permit Limitation	N/A	N/A	N/A	*** ***	** **	N/A	0.021	0.031		** **	Once/Month	24 Hour Composite
hromium, exavalent 1032	Reported	***** *****	********* *********	******* *******	*** ***	** **	***** *****			mg/l			
	Permit Limitation	N/A	N/A	N/A	*** ***	** **	N/A	0.162	0.242		** **	Once/Month	24 Hour Composite
ead, otal 1051	Reported	***** *****	********* *********	******* *******	*** ***	** **	***** *****			mg/l			
	Permit Limitation	N/A	N/A	N/A	*** ***	** **	N/A	0.061	0.092		** **	Once/Month	24 Hour Composite
ercury, otal 1900	Reported	***** *****	********* *********	******* *******	*** ***	** **	***** *****			mg/l			
	Permit Limitation	N/A	N/A	N/A	*** ***	** **	N/A	0.003	0.005		** **	Once/Month	24 Hour Composite
yanide, otal 0720	Reported	***** *****	********* *********	******* *******	*** ***	** **	***** *****			mg/l			
	Permit Limitation	N/A	N/A	N/A	*** ***	** **	N/A	0.081	0.121		** **	Once/Month	Grab
henolics, otal 2730	Reported	***** *****	********* *********	******* *******	*** ***	** **	***** *****			mg/l			
	Permit Limitation	N/A	N/A	N/A	*** ***	** **	N/A	0.081	0.121		** **	Once/Month	Grab

Name of Principal Executive Officer

Title of Officer

I certify under penalty of law that this document and all attachments were prepared under my directions or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

Date Completed

Signature of Principal Executive Officer or Authorized Agent

WRD 2A-82

STATE OF \ ' VIRGINIA
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DISCHARGE MONITORING REPORT

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COMMERCIAL LABORATORY NAME _____
COMMERCIAL LABORATORY ADDRESS _____
INDIVIDUAL PERFORMING ANALYSES _____

Parameter		Quantity					Other Units					Measurement	Sample
		Minimum	Avg.Monthly	Max.Daily	Units	N.E.	Minimum	Avg.Monthly	Max.Daily	Units	N.E.	Frequency	Type
rsenic, otal 1002	Reported	***** *****	********* *********	******* *******	*** ***	** **	***** *****			mg/l			
	Permit Limitation	N/A	N/A	N/A	*** ***	** **	N/A	1.62	2.42		** **	1/Quarter	24 Hour Composite
opper, otal 1042	Reported	***** *****	********* *********	******* *******	*** ***	** **	***** *****			mg/l			
	Permit Limitation	N/A	N/A	N/A	*** ***	** **	N/A	0.323	0.485		** **	1/Quarter	24 Hour Composite
ickel, otal 1067	Reported	***** *****	********* *********	******* *******	*** ***	** **	***** *****			mg/l			
	Permit Limitation	N/A	N/A	N/A	*** ***	** **	N/A	2.87	4.30		** **	1/Quarter	24 Hour Composite
ilver, otal 1077	Reported	***** *****	********* *********	******* *******	*** ***	** **	***** *****			mg/l			
	Permit Limitation	N/A	N/A	N/A	*** ***	** **	N/A	0.194	0.291		** **	1/Quarter	24 Hour Composite
hromium, otal 1034	Reported	***** *****	********* *********	******* *******	*** ***	** **	***** *****			mg/l			
	Permit Limitation	N/A	N/A	N/A	*** ***	** **	N/A	Report Only	Report Only		** **	1/Quarter	24 Hour Composite
inc, otal 1092	Reported	***** *****	********* *********	******* *******	*** ***	** **	***** *****			mg/l			
	Permit Limitation	N/A	N/A	N/A	*** ***	** **	N/A	1.45	2.18		** **	1/Quarter	24 Hour Composite

Name of Principal Executive Officer

Title of Officer

I certify under penalty of law that this document and all attachments were prepared under my directions or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

Date Completed

Signature of Principal Executive Officer or Authorized Agent

WRD 2A-82

STATE OF VIRGINIA
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DISCHARGE MONITORING REPORT

FACILITY NAME Huntington, City of; Sanitary Board
LOCATION OF FACILITY Huntington, Cabell/Wayne Counties
PERMIT NUMBER WV0023159 OUTLET NO. 001
WASTELOAD FOR MONTH OF _____ 19____

COMMERCIAL LABORATORY NAME _____
COMMERCIAL LABORATORY ADDRESS _____
INDIVIDUAL PERFORMING ANALYSES _____

Parameter		Quantity					Other Units					Measurement	Sample
		Minimum	Avg.Monthly	Max.Daily	Units	N.E.	Minimum	Avg.Monthly	Max.Daily	Units	N.E.	Frequency	Type
oxicity,	Reported	*****	*********	*******	***	**	*****	*********					
cute,		*****	*********	*******	***	**	*****	*********		TU_A			
imephales	Permit	*****	*********	*******	***	**	N/A	N/A	2.5		**	Annually	24 Hour
romelas,	Limitation	*****	*********	*******	***	**					**		Composite
8 Hour	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	*******
tatic,	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	*******
1427, 2F	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	*******
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	*******
oxicity,	Reported	*****	*********	*******	***	**	*****	*********					
cute,		*****	*********	*******	***	**	*****	*********		TU_A			
aphnia	Permit	*****	*********	*******	***	**	N/A	N/A	2.5		**	Annually	24 Hour
agna or	Limitation	*****	*********	*******	***	**					**		Composite
ulex, 48	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	*******
our Static	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	*******
1425, 2F	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	*******
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	*******

Name of Principal Executive Officer

Title of Officer

I certify under penalty of law that this document and all attachments were prepared under my directions or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

Date Completed

Signature of Principal Executive Officer or Authorized Agent

WV/NPDES Permit No. WV0023159

DIVISION OF ENVIRONMENTAL PROTECTION
1201 Greenbrier Street
Charleston, WV 25311-1088

GASTON CAPERTON
GOVERNOR

DAVID C. CALLAGHAN
DIRECTOR

NOTICE TO PERMITTEES

The 1989 regular session of the West Virginia legislature revised the Water Pollution Control Act, Chapter 20, Article 5A of the West Virginia Code by adding Section 6a, now Chapter 22, Article 11, Section 10. This section of the Code requires all holders of a State water pollution control permit or a national pollutant discharge elimination system permit to be assessed an annual permit fee, based upon regulations promulgated by the Director of the Division of Natural Resources. The Director promulgated regulations to this effect and the current regulations have an effective date of July 1, 1993. The regulations establish an annual permit fee based upon the relative potential to degrade the waters of the State which, in most instances, relate to volume of discharge. However, for sewage facilities, the annual permit fee is based upon the number of customers served by the facility. You may contact the Secretary of State's Office, State Capitol Building, Charleston, West Virginia 25305, to obtain a copy of the regulations. The reference is Title 47, Legislative Rules of Department of Natural Resources, Series 26 Water Pollution Control Permit Fee Schedule.

Based upon the volume of discharge for which your facility is currently permitted or operating at, the number of customers served by your facility or for the category you fall within, pursuant to Section 7 of Title 47, Series 26, your annual permit fee is **$2500**. This fee is due no later than the anniversary date of permit issuance in each year of the term of the permit or in the case of coverage under a general permit, the fee is due no later than the anniversary date of your coverage under the general permit. You will be invoiced by this agency at the appropriate time for the fee. Failure to submit the annual fee within one hundred and eighty(180) days of the due date will render your permit void.

Revised: 3-92

EMERGENCY RESPONSE SPILL ALERT SYSTEM
WEST VIRGINIA DIVISION OF NATURAL RESOURCES

(IREMENTS:

West Virginia Legislative Rules Series 3, Section 2, State Water Resources Board, effective July 1, 1987.

RESPONSIBILITY FOR REPORTING:

Each and every person who may cause or be responsible for any spill or accidental discharge of pollutants into the waters of the State shall give immediate notification to the Water Resources' Emergency Notification Number, 1-800-642-3074. Such notification shall set forth insofar as possible and as soon thereafter as practical the time and place of such spill or discharge, type or types and quantity or quantities of the material or materials therein, action or actions taken to stop such spill or discharge and to minimize the polluting effect thereof, the measure or measures taken or to be taken in order to prevent a recurrence of any such spill or discharge and such additional information as may be requested by Water Resources. This also applies to spills to the waters of the State resulting from accidents to common carriers by highway, rail and water.

It shall be the responsibility of each industrial establishment or other entity discharging directly to a stream to have available the following information pertaining to those substances that are employed or handled in its operation in sufficiently large amounts as to constitute a hazard in case of an accidental spill or discharge into a public stream:

1) Potential toxicity in water to man, animals and aquatic life;
2) Details on analytical procedures for the quantitative estimation of such substances in in water; and
3) Suggestions on safeguards or other precautionary measures to nullify the toxic effects of a substance once it has gotten into a stream.

Failure to furnish such information as required by Section 9, Article 5A, Chapter 20, Code of West Virginia shall be punishable under Section 19,Article 5A, Chapter 20, Code of West Virginia.

It shall be the responsibility of any person who causes or contributes in any way to the spill or accidental discharge of any pollutant or pollutants into State waters to immediately take any and all measures necessary to contain such spill or discharge. It shall further be the responsibility of such person to take any and all measures necessary to clean-up, remove, and otherwise render such spill or discharge harmless to the waters of the State.

When the Chief determines it necessary for the effective containment and abatement of spills and accidental discharges, the Chief may require the person or persons responsible for such spill or discharge to monitor affected waters in a manner prescribed by the Chief until the possibility of any adverse effect on the waters of the State no longer exists.

VOLUNTARY REPORTING BY LAW OFFICERS, U. S. COAST GUARD, LOCK MASTERS AND OTHERS:

In cases involving river and highway accidents where the responsible party may or may not be available to report the incident, law officers, U. S. Coast Guard, Lock Masters and other interested person should make the report.

WHO TO CONTACT: Notify the following number: 1-800-642-3074.

ORMATION NEEDED:
- Source of spill or discharge
- Location of incident
- Time of incident
- Material spilled or discharged
- Amount spilled or discharged
- Toxicity of material spilled or discharged
- Personnel at the scene
- Actions initiated
- Shipper/Manufacturer identification
- Railcar/Truck identifcation number
- Container type

RIGHT OF APPEAL

Notice is hereby given of your right to appeal the terms and conditions of this permit which you are aggrieved by to the Environmental Quality Board by filing a NOTICE OF APPEAL on the form prescribed by the Board for this purpose, with the Board, in accordance with the provisions of Chapter 22, Article 11, Section 21 of the Code of West Virginia within thirty(30) days after the date of receipt of the above permit.