*CITY OF KEYSER*
*WATER REVENUE BONDS*
*SERIES 1998A AND SERIES 1998B*

*Date of Closing: October 15, 1998*

**BOWLES RICE McDAVID GRAFF & LOVE, PLLC**

**CITY OF KEYSER**
**WATER REVENUE BONDS,**
**SERIES 1998A AND SERIES 1998B**

**Date of Closing: October 15, 1998**

**TRANSCRIPT OF CLOSING DOCUMENTS**

**Table of Contents**


**BASIC DOCUMENTS**

1. Bond Ordinance
2. Supplemental Resolutions
3. Loan Agreements
4. Public Service Commission Orders
5. Cross-Receipt for Bonds and Bond Proceeds
6. Direction to Authenticate and Deliver Bonds
7. Specimen Bonds

**OPINIONS OF COUNSEL**

8. Approving Opinion on Series 1998A Bonds of Bowles Rice McDavid Graff & Love, PLLC, Bond Counsel
9. Approving Opinion on Series 1998B Bonds of Bowles Rice McDavid Graff & Love, PLLC, Bond Counsel
10. Opinion of Counsel to Issuer

**CERTIFICATES**

11. General Certificate of Issuer and Attorney
12. Certificate as to Arbitrage
13. Certificate of Consulting Engineer, with Schedule A Attached
14. Certificate Designating Authorized Signatories for Consulting Engineer
15. Certificates of Certified Public Accountant

## DOCUMENTS OF THE ISSUER

16. City Charter

17. Oaths of Office of Officers and Council Members

18. Rate Ordinance

19. Minutes on Adoption of Rate Ordinance

20. Affidavits of Publication of Rate Ordinance

21. Minutes on Adoption of Bond Ordinance, Public Hearing Thereon and Supplemental Resolution

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

23. IRS Information Returns (Form 8038-G) and Letters of Transmittal

24. Municipal Bond Commission New Issue Reports

## MISCELLANEOUS DOCUMENTS

25. Acceptance by American Trust Bank, N.A., of Duties as Depository Bank, excluding the duties relating to the Revenue Fund

26. Acceptance by F & M Bank - West Virginia, Inc. of Duties as Depository Bank with respect to the Revenue Fund only

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

28. Certificate of Registration of Bonds

29. Registrar's Agreement

30. Requisition/Assignment Separate From Bond

31. Evidence of Small Cities Block Grant

32. Consent of Holder of Series 1980 Bond and 1961 Note to Issuance of Parity Bonds

33. Certificate of Holder of Series 1984 Bonds as to Payment of Series 1984 Bonds

34. Certificate of Satisfaction and Payment of Interim Financing

35. Approval of West Virginia Infrastructure and Jobs Development Council

# CITY OF KEYSER WATER REVENUE BONDS
# SERIES 1998

# BOND ORDINANCE

**CITY OF KEYSER**

**BOND ORDINANCE**

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE WATERWORKS SYSTEM OF THE CITY OF KEYSER AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF AND AUTHORIZING THE REFINANCING AND REFUNDING OF PRIOR BONDS OF THE CITY OF KEYSER THROUGH THE ISSUANCE BY THE CITY OF KEYSER OF NOT MORE THAN FOUR MILLION DOLLARS ($4,000,000.00) IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 1998; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDERS OF SUCH WATER REVENUE BONDS, SERIES 1998; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE OF SUCH WATER REVENUE BONDS, SERIES 1998 TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF KEYSER:

## ARTICLE I

## STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Resolution. This Ordinance (together with any order, ordinance or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 8, Article 19 of the West Virginia Code of 1931, as amended (the "Enabling Act") and Chapter 13, Article 2E of the West Virginia Code of 1931, as amended (the "Refunding Act") (the Enabling Act and the Refunding Act are hereinafter collectively referred to as the "Act"), and other applicable provisions of law.

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

A. The City of Keyser (the "Issuer") is a municipal corporation of the State of West Virginia in Mineral County of said State.

B. It is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be constructed certain extensions, additions, betterments and improvements to the Issuer's existing waterworks system, including the extensions, additions,

betterments and improvements described in Exhibit A hereto (collectively, the "Project") (the Issuer's existing waterworks system, the Project and any further additions thereto or extensions thereof is herein called the "System") in accordance with the plans and specifications prepared by Vanscoy Engineering & Surveying, Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. It is also deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that the Refunded Bonds, as hereinafter defined, be refinanced and refunded with the proceeds of the Series 1998 Bonds, as hereinafter defined, in order to achieve substantial debt service savings.

D. 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 Bonds, Prior Bonds and all Sinking Funds, Reserve Accounts and other payments provided for herein, all as such terms are hereinafter defined.

E. It is further deemed necessary for the Issuer to issue its Series 1998 Bonds in the total aggregate principal amount of not more than $4,000,000, in one series, being the Series 1998 Bonds (the "Series 1998 Bonds") to permanently finance the costs of acquisition and construction of the Project and to refinance and refund the Refunded Bonds, as hereinafter defined. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Series 1998 Bonds prior to and during construction and acquisition and for a period not exceeding 6 months after completion of construction of the Project; amounts which may be deposited in the Reserve Account; 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 of the Authority (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 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 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes, shall be deemed Costs of the Project, as hereinafter defined, and, provided further, that all principal of and interest and redemption premium on the Refunded Bonds, as well as all other costs relating to the refinancing and refunding of the Refunded Bonds shall also be deemed Costs of the Project, as hereinafter defined.

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

G. It is in the best interest of the Issuer that its Series 1998 Bonds be issued and sold to the Authority (as hereinafter defined) pursuant to the terms and provisions of a loan agreement to be entered into between the Issuer and the Authority, in form satisfactory to the Issuer and the Authority, as shall be approved by a supplemental resolution.

H. There are outstanding obligations of the Issuer which will rank on parity with the Series 1998 Bonds as to liens and sources of and security for payment, which obligations are designated and have the lien positions, together with the Series 1998 Bonds, as follows:

| Designation | Lien Position |
|---|---|
| Waterworks Improvement Revenue Note dated September 19, 1961, issued in the original aggregate principal amount of $200,000 (the "Series 1961 Note") | First Lien |
| Water Revenue Bond, Series 1980, dated February 26, 1980, issued in the original aggregate principal amount of $3,146,000 (the "Series 1980 Bond") | First Lien |
| Water Revenue Bonds, Series 1998 (the "Series 1998 Bonds") | First Lien |

The Series 1998 Bonds shall be issued on a parity with the Series 1980 Bond and the Series 1961 Note with respect to liens, pledges and sources of and security for payment and in all other respects.

I. Less than 50% of the proceeds of the Bonds will be used to refinance and refund the Refunded Bonds.

J The Issuer has complied with all requirements of West Virginia law relating to authorization of the planning, development, design, acquisition, construction and operation of the Project and the System, the refinancing and refunding of the Refunded Bonds, and issuance of the Series 1998 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 has expired prior to the issuance of the Bonds or has been waived by all necessary parties.

K. The Issuer has received the written consent of Rural Development, United States Department of Agriculture (formerly, the Farmers Home Administration) as the sole

Bondholder of the Series 1980 Bond and the Series 1961 Note to the issuance of the Series 1998 Bonds on a parity with the Series 1980 Bond and the Series 1961 Note as further described in H. above and waiving certain other requirements of the Prior Bonds Ordinances.

L. The Issuer has determined that the refunding of the Refunded Bonds will result in a savings of at least $300,000 and the Issuer has received or will receive prior to the issuance of the Series 1998 Bonds, the certificate of Blair & Company, Certified Public Accountants, accountants for the Issuer, certifying that such savings have been achieved, based upon their review, comparison and analysis of the net interest cost in dollars of the refunding portion of the Series 1998 Bonds and the net interest cost in dollars of the Refunded Bonds, and assuming for the purposes of such calculation the allocation of the earliest principal payments on the Series 1998 Bonds to the refunding portion of the Series 1998 Bonds.

M. 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 1998 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 1998 Bonds are to be issued.

N. The Project has been approved 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 Bonds by those who shall be the registered owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the registered owners of any and all of such Bonds, as the case may be, all which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

"Act" means the Enabling Act and the Refunding Act.

"Authority" means the West Virginia Water Development Authority, or any other agency of the State of West Virginia that succeeds to the functions of the Authority, which is expected to be the original purchaser of the Series 1998 Bonds, provided that the Issuer must satisfy the legal and other requirements of the Program.

"Authorized Officer" means the Mayor of the Issuer or any other officer of the Issuer duly appointed by the Governing Body.

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

"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.

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

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

"Bond Year" means 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.

"Bondholder," "Holder of the Bonds," "Holder" 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.

"Bonds" means the Series 1998 Bonds and, where appropriate, any bonds on a parity therewith authorized to be issued hereunder or by another ordinance of the Issuer.

"Closing Date" means the date upon which there is an exchange of the Series 1998 Bonds for the proceeds representing the purchase price of the Series 1998 Bonds from the Authority.

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

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

"Consulting Engineers" means Vanscoy Engineers & Surveying, Keyser, West Virginia, or any qualified engineer or firm of professional engineers, licensed by the State, who shall not be a regular, full-time employee of the State or any of its agencies, commissions or political

subdivisions, that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System in accordance with Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended.

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

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

"Depreciation Reserve" means the Depreciation Reserve established by Section 5.01 hereof.

"Enabling Act" means Chapter 8, Article 19 of the West Virginia Code of 1931, as amended and in effect on the date of adoption hereof.

"Event of Default" means any occurrence or event specified in Section 9.01.

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

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

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

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

"Grant" means all moneys received by the Issuer on account of any grant in aid of design, acquisition or construction of the Project.

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

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

"Independent Certified Public Accountants" shall mean any public accountant or certified public accountant or firm of public accountants or 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" shall mean any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract or investment-type property, 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 City of Keyser, a municipal corporation of the State of West Virginia in Mineral County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" shall mean the Loan Agreement to be entered into between the Authority and the Issuer providing for the purchase of the Series 1998 Bonds from the Issuer by the Authority and the execution and delivery by the Issuer are authorized and directed by Section 3.11 hereof and by the Supplemental Resolution.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 1998 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Series 1998 Bonds Reserve Account, if any. 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 1998 Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

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

"Nonpurpose Investment" means any Investment Property which is acquired with the gross proceeds or any other proceeds of the Series 1998 Bonds and is not acquired in order to carry out the governmental purpose of the Series 1998 Bonds.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, fees and expenses of the Authority, fiscal agents, the Depository

Bank, Registrar and Paying Agent (all as herein defined), 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, or Prior Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

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

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

"Paying Agent" means the Commission, or such other entity or authority as may be designated by the Issuer.

"Prior Bonds" means the Series 1980 Bond and the Series 1961 Note.

"Prior Ordinances" means collectively the Series 1961 Note Ordinance and the Series 1980 Bond Ordinance.

"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 of local governmental unit and use as a member of the general public. All of the foregoing shall be determined in accordance with the Code, including, without limitation, giving due regard to "incidental use," if any, of the proceeds of the issue and/or proceeds used for "qualified improvements," if any.

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

"Project" means the extensions, additions, betterments and improvements to the Issuer's existing waterworks system, including the extensions, additions, betterments and improvements described in Exhibit A hereto.

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

(a) Government Obligations;

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

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

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

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

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

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

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

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

"Recorder" means the Recorder, City Administrator or City Clerk of the Issuer.

"Refunded Bonds" means the Issuer's Water Revenue Bond, Series 1984, dated October 3, 1984, issued in the original principal amount of $304,000, of which approximately $283,000 remain Outstanding, which Refunded Bonds are to be refunded with a portion of the proceeds of the Series 1998 Bonds.

"Refunding Act" means Chapter 13, Article 2E of the West Virginia Code of 1931, as amended and in effect on the date of adoption hereof.

"Registered Owner," "Bondholder," "Holder" or any similar term means whenever used herein with respect to an outstanding Bond, 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.

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

"Series 1961 Note" means the Issuer's Waterworks Improvement Revenue Note, dated September 19, 1961, issued in the original principal amount of $200,000.

"Series 1961 Note Ordinance" means the Ordinance enacted by the Issuer on September 19, 1961 authorizing the issuance of the Series 1961 Note.

"Series 1980 Bond" means the Issuer's Water Revenue Bond, Series 1980, dated February 26, 1980, issued in the original aggregate principal amount of $3,146,000.

"Series 1980 Bond Ordinance" means the Ordinance enacted by the Issuer on February 20, 1980 authorizing the issuance of the Series 1980 Bond.

"Series 1998 Bonds" or "Bonds originally authorized hereby" or similar phrases mean, collectively, the not more than $4,000,000, in aggregate principal amount of the Issuer's Water Revenue Bonds, Series 1998 issued for the purpose of permanently financing a portion of the Costs

of the Project, refinancing and refunding the Refunded Bonds, and for such other purposes permitted and authorized by this Bond Legislation.

"Series 1998 Bonds Reserve Account" means the Series 1998 Bonds Reserve Account established in the Series 1998 Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1998 Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1998 Bonds in the then current or any succeeding year.

"Series 1998 Bonds Sinking Fund" means the Series 1998 Bonds Sinking Fund established by Section 5.02 hereof.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the," refers specifically to the Supplemental Resolution authorizing the sale of the Series 1998 Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 1998 Bonds and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Bonds or any other obligations of the Issuer, as further defined in Section 5.03(B) hereof.

"System" means the complete existing waterworks system now owned by the Issuer, consisting of a waterworks system in its entirety or any integral part thereof, including some or all of mains, hydrants, meters, valves, standpipes, storage tanks, pump tanks, pumping stations, intakes, wells, impounding reservoirs, pumps, machinery, purification plants and softening apparatus and all other facilities necessary, appropriate, useful, convenient or incidental in connection with or to a water supply system, and shall include the Project and any further extensions, additions, betterments and improvements thereto hereafter acquired or constructed for said waterworks 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 $4,452,926 (which amount includes $286,000 for the estimated cost of the refinancing and refunding of the Refunded Bonds as described in Article IV hereof) 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 foregoing Project costs, including without limitation costs associated with the issuance of the Series 1998 Bonds, shall be paid with the proceeds of the Series 1998 Bonds; a Small Cities Block Grant in the amount of $633,500 and anticipated earnings in the amount of $60,000 on proceeds of the Series 1998 Bonds while on deposit in the Bond Construction Trust Fund pending disbursement for Costs of the Project. The proceeds of the Bonds hereby authorized shall be applied as provided in Article VI hereof.

## 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 1998 Bonds, funding a reserve account for the Series 1998 Bonds, paying Costs of the Project not otherwise provided for, refinancing and refunding the Refunded Bonds and thereby discharging the Ordinance relating to such Refunded Bonds and paying certain costs of issuance of the Series 1998 Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be issued negotiable Series 1998 Bonds of the Issuer, in an aggregate principal amount of not more than $4,000,000. Said Series 1998 Bonds shall be issued in one or more series to be designated "Water Revenue Bonds, Series 1998," in the aggregate principal amount of not more than $4,000,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Bonds remaining after the funding of the Series 1998 Bonds Reserve Account (if funded from the Bond proceeds), capitalization of interest, if any, and refinancing and refunding the Refunded Bonds, 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 Bonds shall be issued in such principal amounts not to exceed $4,000,000 in the aggregate; shall bear interest at such rate or rates, not exceeding the then legal maximum, payable semiannually on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the Loan Agreement. The Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Bonds shall be paid by check or draft of the Paying Agent 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 1998 Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of the Series 1998 Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

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

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

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

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

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

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

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

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

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 1998 Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Gross Revenues derived from the operation of the System as herein provided and amounts, if any, in the Series 1998 Bonds Sinking Fund and the Series 1998 Bonds Reserve Account. No holder or holders of any of the Series 1998 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 1998 Bonds or the interest thereon.

Section 3.08. Bonds Secured by Pledge of Gross Revenues; Lien Positions with Respect to Prior Bonds. The payment of the debt service of all the Series 1998 Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Gross Revenues derived from the System, on a parity with the lien on the Gross Revenues in favor of the Holders of the Prior Bonds. Such Gross Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and the Prior Bonds and to make the payments into the sinking funds, the reserve accounts, and any renewal and replacement fund, either existing or hereinafter established are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds and Prior Bonds as the same become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 1998 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 1998 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 1998 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 1998 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 1998 Bonds.

Section 3.10. Form of Series 1998 Bonds. The text of the Series 1998 Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof;

[Form of Series 1998 Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF KEYSER
WATER REVENUE BOND,
SERIES 1998

No. R-_____ $_____

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

The interest on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning _____. 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 _____, _____, West Virginia, as registrar (the "Registrar") on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority, dated _____, 1998.

This Bond is issued (i) to permanently finance a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing waterworks system of the Issuer (the "Project"); (ii) to refinance and refund certain prior obligations of the Issuer; (iii) to pay a portion of the interest on the Bonds during the construction of the Project and for not more than six (6) months thereafter; and (iv) to pay certain costs of issuance hereof and related costs. The existing waterworks system of the Issuer, the Project and any further additions, betterments or improvements thereto is herein called the "System." This Bond is issued under the

authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 13, Article 2E of the West Virginia Code of 1931, as amended (collectively, the "Act"), and an Ordinance duly enacted by the Issuer on _____, 1998 and a Supplemental Resolution duly adopted by the Issuer on _____, 1998 (collectively called 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 securities provided for the Bonds of this Series (the "Bonds") under the Bond Legislation.

THIS BOND IS ISSUED ON PARITY WITH RESPECT TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S WATER REVENUE BOND, SERIES 1980, DATED FEBRUARY 26, 1980, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,146,000 (THE "SERIES 1980 BOND") AND THE ISSUER'S WATER IMPROVEMENT REVENUE NOTE DATED SEPTEMBER 19, 1961, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $200,000 (THE "SERIES 1961 NOTE") (THE SERIES 1980 BOND AND SERIES 1961 NOTE ARE COLLECTIVELY REFERRED TO HEREIN AS THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on parity with the pledge of Gross 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 1998 Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Gross Revenues, the moneys in the Series 1998 Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% (125% so long as the Series 1980 Bond remains Outstanding) of the maximum amount payable in any year for principal of and interest on the Bonds and the Prior Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds provided however, that so long as there exists in the Series 1998 Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations Outstanding prior to or on a parity with the Bonds, including without limitation the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110% (but shall remain 125% so long as the Series 1980 Bond remains Outstanding). 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.

The Issuer covenants and agrees that the Project shall not contribute to excessive erosion or conversion of wetlands.

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

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

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

IN WITNESS WHEREOF, THE CITY OF KEYSER has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated _____, 19_____.

CITY OF KEYSER

[SEAL]

_____
Mayor

ATTEST:

_____
Recorder

(Form of)

**CERTIFICATE OF AUTHENTICATION AND REGISTRATION**

This Bond is one of the Series 1998 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: _____,

_____,
as Registrar

By_____
Its: Authorized Officer

# EXHIBIT A

## SCHEDULE OF ANNUAL DEBT SERVICE

**(Form of)**

**ASSIGNMENT**

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

Dated: _____, 19_____.

_____

In the presence of:

_____

Section 3.11. Sale of Series 1998 Bonds; Approval and Ratification of Execution of Loan Agreement with Authority. The Series 1998 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the Mayor is specifically authorized and directed to execute the Loan Agreement, and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed.

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

## ARTICLE IV

## AUTHORIZATION OF REFINANCING AND REFUNDING OF REFUNDED BONDS

Section 4.01. Authorization of Refinancing and Refunding of Refunded Bonds. There is hereby authorized, pursuant to the Refunding Act and other provisions of law, the refinancing and refunding of the Prior Bonds at an estimated cost of $286,000. The Refunded Bonds, or any portion thereof, may be paid in full upon the issuance of the Series 1998 Bonds with proceeds of the Series 1998 Bonds or such proceeds may be placed into escrow in a manner such that the principal of and interest on such escrowed proceeds shall be sufficient to pay the principal of and interest on the Refunded Bonds, or any part thereof, as the same become due and payable, all as may be provided in the Supplemental Resolution. Without limiting the generality of the foregoing, the payment of the principal, interest and redemption premium, if any, required to refinance and refund the Refunded Bonds is hereby authorized and directed in order to cause the Ordinance authorizing the issuance of the Refunded Bonds and the lien thereof to be discharged and released simultaneously with the issuance of the Series 1998 Bonds. In connection therewith, the Governing Body of the Issuer specifically determines that such refinancing and refunding of the Refunded Bonds will achieve savings in the amount of at least $300,000, assuming for purposes of this calculation the allocation of the earliest principal payments on the Series 1998 Bonds to the refunding portion of the Series 1998 Bonds.

## 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 created (or continued if previously established by the Prior Ordinances) with and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and from each other:

1. Revenue Fund (established by the Series 1980 Bond Ordinance);

2. Bond Construction Trust Fund;

3. Depreciation Reserve (established by the Series 1980 Bond Ordinance); and

4. Rebate 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 Ordinances) with the Commission:

1. Series 1998 Bonds Sinking Fund;

2. Within the Series 1998 Bonds Sinking Fund, the Series 1998 Bonds Reserve Account;

3. Keyser Water Bond Sinking Fund (established by the Series 1980 Bond Ordinance);

4. Note Sinking Fund ("Sinking Fund No. 1" established by the Series 1980 Bond Ordinance); and

5. Reserve Account (established by the Series 1980 Bond Ordinance).

Section 5.03. System Revenues; Flow of Funds.

A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

1. The Issuer shall first on the first day of each month, transfer from the Revenue Fund and pay to the respective offices and places designated in the Series 1980 Bond, the Series 1961 Note and the respective Prior Ordinances relating thereto the amounts required by the Series 1980 Bond, the Series 1961 Note and the respective Prior Ordinances relating thereto for payment of principal of and interest on the Series 1980 Bond and the Series 1961 Note and simultaneously (i) on the first day of each month, commencing 7 months prior to the first date of payment of interest on the Series 1998 Bonds for which interest has not been capitalized, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Series 1998 Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on said Series 1998 Bonds on the next ensuing semiannual interest payment date; provided, that, in the event the period to elapse between the date of such initial deposit in the Series 1998 Bonds Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date, and simultaneously (ii) on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Series 1998 Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1998 Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1998 Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1998 Bonds Sinking Fund and the next annual principal payment date is less than 13 months then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date. In the event moneys in the Revenue Fund are insufficient to make all the payments in this subsection 5.03.A(1), then the Issuer shall make pro rata payments on the Series 1961 Note, the Series 1980 Bond and the Series 1998 Bonds first to interest and then to principal, based upon the respective principal amounts then Outstanding.

2. The Issuer shall next on the first day of each month, transfer from the Revenue Fund and deposit with the Commission in the Reserve Fund the amounts required by the Series 1980 Bond Ordinance to be deposited therein and simultaneously shall also on the first day of each month, commencing the month following the completion of the Project, if not fully funded upon issuance of the Series 1998 Bonds, simultaneously apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1998 Bonds Reserve Account, an amount equal to 1/120 of the Series 1998 Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1998 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 1998 Bonds Reserve Requirement, and provided further, that in the event that there are not sufficient moneys available to make all deposits required by this subsection 5.03.A(2), then the Issuer shall make the deposits required by this subsection on a pro rata basis.

3. The Issuer shall next on the first day of each month, pay from the moneys in the Revenue Fund all current Operating Expenses.

4. The Issuer shall next, from the moneys remaining in the Revenue Fund, on the first day of each month prior to and including the month in which the Project is completed transfer to the Depreciation Reserve the amounts required by the Series 1980 Bond Ordinance to be deposited therein, and, commencing the month following the completion of the Project, on the first day of each month transfer from the moneys remaining in the Revenue Fund to the Depreciation Reserve the greater of (i) the amounts required by the Series 1980 Bond Ordinance to be deposited therein, or (ii) a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any reserve account. Moneys in the Depreciation Reserve shall be used first to make up deficiencies for monthly payments of the principal of and interest on the Series 1961 Note, the Series 1980 Bond and/or the Series 1998 Bonds as the same become due, and next to restore to the Reserve Fund or the Series 1998 Bonds Reserve Account any sum or sums transferred therefrom, and provided that in the event there are not sufficient moneys in the Depreciation Reserve to make the transfer required by this sentence, such transfers shall be made on a pro rata basis. Thereafter, and provided that payments into the Reserve Fund and the Series 1998 Bonds Reserve Account are current and in accordance with the foregoing provisions, moneys in the Depreciation Reserve may be withdrawn by the Issuer and used for extraordinary repairs and for replacements of equipment and for improvements and capital equipment for the System, or any part thereof.

Moneys in the Series 1998 Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 1998 Bonds as the same shall become due. Moneys in the Series 1998 Bonds Reserve Account shall be used only for the purpose of paying principal of and interest on the Series 1998 Bonds, as the same shall come due, when other moneys in the Series 1998 Bond Sinking Fund are insufficient therefor, and for no other purpose except for permitted transfers to the Rebate Fund.

Moneys in the Reserve Fund, the Keyser Water Bond Sinking Fund and the Note Sinking Fund shall only be used in accordance with the Prior Ordinances.

Except to the extent transferred to the Rebate Fund at the request of the Issuer, all investment earnings on moneys in the Series 1998 Sinking Fund and the Series 1998 Reserve Account shall be returned, not less than once each year on the 1st day of October, 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 1998 Bonds, and then to the next ensuing principal payment due thereon.

Except with respect to transfers to the Rebate Fund, any withdrawals from the Series 1998 Bonds Reserve Account which result in a reduction in the balance of the Series 1998 Bonds Reserve Account to below the Series 1998 Bonds Reserve Requirement shall be subsequently restored from the first Gross Revenues available after all required payments have been made in full, for payment of the debt service on the Series 1961 Note and the Series 1980 Bond and to the Series 1998 Bonds Sinking Fund for payment of debt service on the Series 1998 Bonds; provided, if there

is also a deficiency in the Reserve Fund such first Gross Revenues shall be allocated on a pro rata basis to eliminate such deficiencies in the Reserve Fund and the Series 1998 Bonds Reserve Account.

As and when additional Bonds ranking on a parity with the Prior Bonds and the Series 1998 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 a amount equal to the maximum amount of principal and interest which will become due in any year for the account of the Bonds of such series, including such additional parity Bonds.

The Issuer shall not be required to make any further payments into the Series 1998 Bonds Sinking Fund, or into the Series 1998 Bonds Reserve Account therein when the aggregate amount of funds in said Sinking Fund and Series 1998 Bonds Reserve Account are at least equal to the aggregate principal amount of the Series 1998 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 pro rata with respect to the Series 1961 Note, the Series 1980 Bond and the Series 1998 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 1998 Bonds Sinking Fund and the Series 1998 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. If required by the Authority in writing at any time, the Issuer shall make the necessary arrangements whereby required payments into the Series 1998 Bonds Sinking Fund and the Series 1998 Bonds Reserve Account shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

The payments into the Series 1998 Bonds Sinking Fund shall be made on the first day of each month, except that when the first day of any month shall be a Saturday, Sunday or legal holiday then such payments shall be made on the next succeeding business day, and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation.

Moneys in the Series 1998 Bonds Sinking Fund and the Series 1998 Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

Except with respect to transfers to the Rebate Fund, the Series 1998 Bonds Sinking Fund, including the Series 1998 Bonds Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 1998 Bonds.

B. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid on the Series 1961 Note and the Series 1980 Bond and into the Series 1998 Sinking Fund, including the Series 1998 Bonds Reserve Account therein, and the Reserve Fund and the Depreciation Reserve during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

C. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay their respective charges, fees and expenses then due. In case of payments to the Commission under this paragraph, the Issuer shall, if required by the Authority at any time, 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.

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

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

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

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

H. All Tap Fees shall be deposited by the Issuer, as received, in the Revenue Fund and may be used for any lawful purpose of the System.

## ARTICLE VI

## BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of any or all of the Series 1998 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 1998 Bonds, there shall first be deposited with the Commission in the Series 1998 Bonds Sinking Fund, the amount, if any, specified in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 1998 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 1998 Bonds, there shall be deposited with the Commission in the Series 1998 Bonds Reserve Account the sum, if any, set forth in the Supplemental Resolution for funding of the Series 1998 Bonds Reserve Account.

C. Next from the proceeds of the Series 1998 Bonds, there shall be paid to Holders of the Refunded Bonds and/or an escrow agent, as provided in the Supplemental Resolution, the sum necessary, when added to any other monies available therefor, to refinance and refund the Refunded Bonds, including any accrued interest and redemption premiums thereon.

D. Next, from the proceeds of the Series 1998 Bonds, there shall first be credited to the Bond Construction Trust Fund and then paid, any and all borrowings by the Issuer made for the purpose of temporarily financing a portion of the Costs of the Project, together with interest accrued thereon to the date of such payment, not otherwise paid from funds of the Issuer.

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

F. The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Bond Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond Construction Trust Fund set forth in the Bond Legislation. Except with respect to any transfers to the Rebate Fund, moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the Project and until so transferred or expended, are hereby pledged as additional security for the Series 1998 Bonds.

Section 6.02. Disbursements From the Bond Construction Trust Fund. Payments for Costs of the Project shall be made monthly. Except as provided in Section 6.01 hereof, disbursements from the Bond Construction Trust Fund (except for the costs of issuance of the Series 1998 Bonds which shall be made upon request of the Issuer), shall be made only after submission to the Depository Bank of a certificate, signed by an Authorized Officer and the Consulting Engineers, stating:

A. That none of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;

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

C. That each of such costs has been otherwise properly incurred; and

D. That payment for each of the items proposed is then due and owing.

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

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

After completion of the Project, as certified by the Consulting Engineers, the Depository Bank shall transfer any moneys remaining in the Bond Construction Trust Fund to the Series 1998 Bonds Reserve Account, and when fully funded the Depository Bank shall return such remaining moneys to the Issuer for deposit in the Revenue Fund; provided that, in no event shall more than 10% of the proceeds of the Series 1998 Bonds be deposited in the Series 1998 Bonds Reserve Account. The Issuer shall thereafter, apply such moneys in full, first to the next ensuing interest payment, due on the Series 1998 Bonds and thereafter to the next ensuing principal payment due thereon.

## ARTICLE VII

## ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the 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 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 said Bonds or the interest thereon is Outstanding and unpaid. Further, all the covenants, agreements and provisions of the respective Prior Ordinances shall remain in full force and effect so long as any of the respective Prior Bonds remain Outstanding.

Section 7.02. 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 or statutory limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any Bonds 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 7.03. Bond Secured by Pledge of Gross Revenues; Lien Position with Respect to Prior Bonds. The payment of the debt service of the Series 1998 Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Gross Revenues derived from the operation of the System, on parity with the lien on said Gross Revenues in favor of the Holders of the Series 1961 Note and the Series 1980 Bond. The Gross Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bonds and the Prior Bonds and to make the payments into the Sinking Funds, including the Reserve Accounts therein, and all other payments provided for in the Bond Legislation and the Prior Ordinances are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds and the Prior Bonds as the same become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The initial schedule of rates and charges for the services and facilities of the System, a copy of which is attached hereto as Exhibit B and incorporated herein, shall be as set forth in Ordinance No. 245 of the City of Keyser, which rates have been previously enacted by the Issuer on October 27, 1997 and are hereby ratified, and which rates are incorporated herein by reference as a part hereof.

Section 7.05. Sale of the System. Except as otherwise required by law, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Bonds Outstanding, or to effectively defease this Bond Legislation in accordance with Section 10.01 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 Series 1998 Bonds Sinking Fund, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the 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 Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of $10,000, the Issuer shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Depreciation Reserve. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of $10,000 but not in excess of $50,000, the Issuer shall first, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of $10,000 and not in excess of $50,000, shall be deposited in the Depreciation Reserve. Such payment of such proceeds into the Depreciation Reserve shall not reduce the amounts required to be paid into said fund by other provisions of this Bond Legislation. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of $50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of over 50% in amount of the Bonds then outstanding and the Consulting Engineers. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Notwithstanding anything in this Section 7.05 to the contrary, so long as any of the Prior Bonds remain Outstanding, the System shall not be sold, mortgaged, leased, or otherwise disposed of without complying with the provisions of the respective Prior Ordinances applicable to such Outstanding Prior Bonds.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 7.06 and in Section 7.07, so long as any

of the Series 1998 Bonds are Outstanding, 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 1998 Bonds. All obligations issued by the Issuer after the issuance of the Series 1998 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 1998 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the sinking funds, reserve accounts and the Depreciation Reserve 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 Series 1998 Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 1998 Bonds and the interest thereon in this Bond Legislation, or upon the System or any part thereof.

Notwithstanding anything in this Bond Legislation to the contrary, so long as any of the Prior Bonds remain Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System without complying with the provisions of the respective Prior Ordinances applicable to such Outstanding Prior Bonds.

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

Section 7.07. Parity Bonds.

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

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 1998 Bonds.

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

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Recorder a written statement by the Independent Certified Public Accountants reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the

estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

(1) The Bonds and Prior Bonds then Outstanding;

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

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

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

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

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

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior lien of the Series 1998 Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank

prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 1998 Bonds.

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

B. Notwithstanding the foregoing, or any provision of Section 7.06 to the contrary, additional Parity Bonds may be issued solely for the purpose of completing the Project as described in the application to the Authority submitted as of the date of the Loan Agreement without regard to the restrictions set forth in this Section 7.07, if there is first obtained by the Issuer the written consent of the Authority and the Holders of the Prior Bonds to the issuance of bonds on a parity with the Series 1998 Bonds.

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

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

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

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

remote from the direct supervision of the Governing Body shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Consulting Engineers and the Authority, or any other original purchaser of the Bonds, and shall mail in each year to any Holder or Holders of 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 with respect to said Bonds and Prior Bonds and the status of all said funds and accounts.

C. The amount of any Bonds, Prior Bonds or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants in compliance with the applicable OMB Circular and the Single Audit Act or successor thereto in effect at the time, to the extent required, and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of Bonds and shall submit said report to the Authority, 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 Act, the Loan Agreement and this Bond Legislation, and that the Issuer's revenues are adequate to meet the Issuer's Operating Expenses and debt service requirements.

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

Section 7.09. Rates. Equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder and under the Prior Ordinances. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the

schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all reasonable expenses of operation, repair and maintenance of the System and (ii) to leave a balance each year equal to at least 115% (125% so long as the Series 1980 Bond remains Outstanding) of the maximum amount required in any year for payment of principal of and interest on the Series 1998 Bonds, Prior Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 1998 Bonds; provided that, in the event that amounts equal to or in excess of the Series 1998 Bonds Reserve Requirement are on deposit in the Series 1998 Bonds Reserve Account and reserve accounts for obligations on a parity with the Series 1998 Bonds (including the Prior Bonds) are funded at least at the requirement therefor, such balance each year need only equal at least 110% (but shall remain 125% so long as the Series 1980 Bond remains Outstanding) of the maximum amount required in any year for payment of principal of and interest on the Series 1998 Bonds, Prior Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 1998 Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate schedule described in Section 7.04.

Section 7.10. Operating Budget and Audit. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority within 30 days of adoption thereof. The Issuer, by the unanimous consent and approval of the Governing Body, may amend the budget during the subject Fiscal Year provided that the budget remains balanced after such amendment. If the budget is so amended, a copy of the amended budget shall be submitted to the Authority within 15 days of the adoption of such amendment. After the adoption of any such amendment, the budget, as amended, shall be the budget of the Issuer for the balance of the subject Fiscal Year. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget, any amendments thereto and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and to any Holder of any Bonds who shall file his or her address with the Issuer and request in writing that copies of all such budgets, any amendments thereto and resolutions be furnished him or her and shall make available such budgets, any amendments thereto 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 two years following the completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the Loan Agreement as Exhibit C, and forward a copy of such report to the Authority by the 10th day of each month.

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

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

The Issuer agrees that qualified operating personnel properly certified by the State will be employed to operate the System so long as any of the Series 1998 Bonds are Outstanding.

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

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

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, rates, rentals and other charges, if not paid, when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and

regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services of the System to all users of the services of the System delinquent in payment of charges for the service of the System and will not restore such services until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and the Issuer shall take all further actions to enforce collections to the maximum extent permitted by law.

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

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

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

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

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

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

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

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

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

Section 7.16. Connections. To the extent permitted by the laws of the State and rules and regulations of the Public Service Commission of West Virginia, the Issuer shall require every owner, tenant or occupant of any house, dwelling or building intended to be served by the System to connect thereto.

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

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

Section 7.18. Compliance with Loan Agreement and Law. The Issuer agrees to comply with all the terms and conditions of the Loan Agreement, the Act and all applicable laws, rules and regulations issued by the Authority, or other State, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

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 1998 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 1998 Bonds during the term thereof is, under the terms of the Series 1998 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) that, in the event that both (A) in excess of 5% of the Net Proceeds of the Series 1998 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 1998 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 Series 1998 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 1998 Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such Private Business Use is related, all of the foregoing to be determined in accordance with the Code.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of the lesser of 5% of the Net Proceeds of the Series 1998 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 Series 1998 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 that tax-exempt status of the Series 1998 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 1998 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. The Issuer shall deliver or cause the Consulting Engineer to deliver all certificates required by the Loan Agreement, including without limitation the certificates required by Sections 4.1(b)(xviii) and 6.8 of the Loan Agreement.

Section 7.20. Statutory Mortgage Lien. For the further protection of the Holders of the Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Bonds and shall be for the equal benefit of all Holders of each respective series of Bonds; provided, however, that the statutory mortgage lien in favor of the Holders of the Series 1998 Bonds shall be on parity with the statutory mortgage lien in favor of the Holders of the Series 1961 Note and the Series 1980 Bond.

Section 7.21. Covenants with Respect to Erosion and Wetlands. The Issuer covenants and agrees that the Project shall not contribute to excessive erosion or conversion of wetlands.

Section 7.22. Securities Laws Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

## ARTICLE VIII

## INVESTMENT OF FUNDS; NON ARBITRAGE

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

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

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 during which the respective banks hold any such funds, accounts or investments (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 1998 Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest on the Series 1998 Bonds from gross income for federal income tax purposes.

Section 8.02. Arbitrage. The Issuer covenants that (i) it shall not take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Series 1998 Bonds which would cause the Series 1998 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 1998 Bonds) so that the

interest on the Series 1998 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 8.03. Small Issuer Exemption from Rebate of Excess Investment Earnings to the United States; Tax Certificate and Rebate. 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 1998 Bonds are private activity bonds; that 95% or more of the Net Proceeds of the Series 1998 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 1998 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 and applicable to the Series 1998 Bonds. For purposes of this 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.

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 (or the exemption therefrom) and other tax matters as a condition to issuance of the Series 1998 Bonds. In addition, the Issuer covenants to comply with all Regulations from time to time in effect and applicable to the Series 1998 Bonds as may be necessary in order to fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of this Bond Legislation.

Notwithstanding the provisions of the first paragraph of this Section 8.03, if the Issuer is subject to the rebate requirements of Section 148(f) of the Code, and not exempted from such requirements, 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, unless otherwise agreed by the Authority, the Issuer shall deposit, or cause to be deposited, in the Rebate Fund such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and

clear of any lien or pledge hereunder and 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. In addition, the Issuer shall cooperate with the Authority in preparing rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the Issuer. To the extent not so performed by the Authority, the Issuer and the Depository Bank (at the expense of the Issuer) may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer or the Depository Bank may deem appropriate in order to assure compliance with this Section 8.03. The Issuer shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 8.03 in accordance with the requirements of Section 148(f) of the Code and such Regulations. In the event the Issuer fails to make such rebates as required, the Issuer shall pay 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 Series 1998 Bonds from gross income for federal income tax purposes.

The Issuer shall submit to the Authority within 15 days following the end of each Bond Year a certified copy of its rebate calculation and certificate with respect thereto or, if the Issuer qualifies for the small governmental issue exception to rebate, or any other exception therefrom, then the Issuer shall submit to the Authority a certificate stating that it is exempt from such rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the Series 1998 Bonds subject to rebate. The Issuer shall also furnish to the Authority, at any time, such additional information relating to rebate as may be reasonably requested by the Authority.

The Issuer shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" (as that term is defined in the Code) of the Series 1998 Bonds from time to time as the Authority may request.

## 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 Bond; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part 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 shall have been given written notice of such default by the Commission, the Depository Bank, Registrar or any other Paying Agent or a Holder of a Bond; or

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

(4) If a default occurs under either or both of 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 Holders of the Bonds, 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 Holders of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners.

Section 9.03. Appointment of Receiver. Any Holder of a Bond, may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds, any Holder 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 avenues 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 Holder 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 Holders of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System for the sole purpose of the protection of both the 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 Series 1998 Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1998 Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 1998 Bonds only, the pledge of Gross Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 1998 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 1998 Bonds from gross income for federal income tax purposes.

Series 1998 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 1998 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 1998 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 1998 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 1998 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 the issuance of the Series 1998 Bonds, this Ordinance may be amended or supplemented in any way by Supplemental Resolution. Following issuance of the Series 1998 Bonds, no material modification or amendment of this Bond Legislation, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the respective rights of Registered Owners of the Bonds shall be made without the consent in writing of the Holders of 66-2/3% or more in principal amount of the Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein 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 1998 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 Holders 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. Amendments to Maintain Tax Exemption. The Issuer hereby covenants to make any amendment or supplements to this Bond Legislation to enable the interest on the Bonds to remain exempt from federal income taxation, and to preserve and maintain such tax exemption until the maturity or redemption thereof without further consent of the Holders of the Bonds.

Section 11.06. Conflicting Provisions Repealed. All orders, ordinances, 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 the respective Prior Ordinances, or either of them, the respective Prior Ordinance or Prior Ordinances, as the case may be, shall control (unless less restrictive), so long as the Prior Bonds or any portion thereof are Outstanding.

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

Section 11.08. Effective Time. This Ordinance shall take effect following public hearing hereon in accordance with the Act.

Section 11.09. Statutory Notice and Public Hearing. Upon enactment hereof, an abstract of this Ordinance, determined by the Issuer 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 14 consecutive days, with at least 6 full days intervening between each publication, in a newspaper of general circulation in the City of Keyser, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Series 1998 Bonds, and that any person interested may appear before the Common Council upon a date certain, not less than 10 days subsequent to the date of the first publication of the said abstract and notice, and present protests, and that a certified copy of the Ordinance is on file in the office of the Recorder for review by interested parties during the office hours of the Recorder.

At such hearing, all objections and suggestions shall be heard and the Common Council shall take such action as it shall deem proper in the premises.

| | |
|---|---|
| Passed on First Reading | August 13, 1998 |
| Passed on Second Reading | August 27, 1998 |
| Effective following public hearing held on | September 11, 1998 |

Earl R. Hayward
Mayor

ATTEST:

By: Penny Sanders
Recorder

## EXHIBIT A

## DESCRIPTION OF PROJECT

An upgrade to the City of Keyser's existing water treatment plant and distribution system including without limitation the installation or construction of approximately 3,080 LF of 12-inch, 900 LF of 10-inch, 12,325 LF of 8-inch, and 17,330 LF of 6-inch water mains; One 40 gpm booster station; and all necessary valves, controls and appurtenances. The Project also includes improvements to the water treatment plant, including new doors and windows, new water pump, reconstruction of the existing raw water pumps, repair of the water intake weir and screen; and cleaning, painting and telemetry for the existing Keyser Industrial Park water storage tank and all necessary appurtenances thereto.

# EXHIBIT B

## SCHEDULE OF RATES AND CHARGES

Exibit B

S. O. Form 3
1M

P. S. C. W. Va. No. 14
Canceling P. S. C. W. Va. No. 13

CITY OF KEYSER, a municipal utility
(Name of Utility)

OF

Keyser, West Virginia
(Location of Office)

# Rates, Rules and Regulations for Furnishing

# WATER

AT

Keyser and vicinity, Mineral County, West Virginia.

## Filed with THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

Issued September 11, 1997 Effective November 1, 1997

Passed by City Council.

Issued by CITY OF KEYSER
(Name of Utility)

By [signature]
Mayor

## AVAILABILITY OF SERVICE

Available for general domestic, commercial, industrial and resale service which applicable in entire territory served.

(A)

RATE

Effective 45 days from passage by the City of Keyser:

| | | | |
|---|---|---|---|
| First | 2,000 gallons used per month | $3.72 | per 1,000 gallons |
| Next | 5,000 gallons used per month | $3.55 | per 1,000 gallons |
| Next | 50,000 gallons used per month | $3.48 | per 1,000 gallons |
| Next | 50,000 gallons used per month | $3.35 | per 1,000 gallons |
| All over | 107,000 gallons used per month | $1.84 | per 1,000 gallons |

Effective upon substantial completion of system improvements as adopted by resolution by the City of Keyser:

| | | | |
|---|---|---|---|
| First | 2,000 gallons used per month | $5.30 | per 1,000 gallons |
| Next | 5,000 gallons used per month | $5.06 | per 1,000 gallons |
| Next | 50,000 gallons used per month | $4.96 | per 1,000 gallons |
| Next | 50,000 gallons used per month | $4.78 | per 1,000 gallons |
| All over | 107,000 gallons used per month | $2.63 | per 1,000 gallons |

(A)

## MINIMUM CHARGE

No bill will be rendered for less than the following amounts, according to the size meter installed, to-wit:

Effective 45 days from passage by the City of Keyser:

| | | |
|---|---|---|
| 5/8 x 3/4 inch meter ——— | $ 7.44 | per month |
| 3/4 inch meter ——— | 11.16 | per month |
| 1 inch meter ——— | 18.60 | per month |
| 1-1/2 inch meter ——— | 37.20 | per month |
| 2 inch meter ——— | 59.52 | per month |
| 3 inch meter ——— | 111.60 | per month |
| 4 inch meter ——— | 186.00 | per month |
| 6 inch meter ——— | 372.00 | per month |
| 8 inch meter ——— | 595.20 | per month |

Effective upon substantial completion of system improvements as adopted by resolution by the City of Keyser:

| | | |
|---|---|---|
| 5/8 x 3/4 inch meter ——— | $ 10.60 | per month |
| 3/4 inch meter ——— | 15.90 | per month |
| 1 inch meter ——— | 26.50 | per month |
| 1-1/2 inch meter ——— | 53.00 | per month |
| 2 inch meter ——— | 84.80 | per month |
| 3 inch meter ——— | 159.00 | per month |
| 4 inch meter ——— | 265.00 | per month |
| 6 inch meter ——— | 530.00 | per month |
| 8 inch meter ——— | 848.00 | per month |

(C)

## DELAYED PAYMENT PENALTY

The above tariff is net. On all accounts not paid in full within twenty (20) days of date of bill, ten percent (10%) will be added to the amount due. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

(A) Indicates advance
(C) Indicates change

(A) RESALE RATE

The water rate charged to all resale customers including, but not limited to, New Creek Water Association, Inc., the Town of McCoole, or County of Allegany, State of Maryland, or any subsidiary thereof, or any other public or private entity or person who acquires water for the primary purpose of resale though lines and systems owned by them shall be:

Effective 45 days from passage by the City of Keyser:
$1.965 per 1,000 gallons used per month.

Effective upon substantial completion of system improvements as adopted by resolution by the City of Keyser:
$2.125 per 1,000 gallons used per month.

(N) SECURITY DEPOSIT

There will be a $100.00 deposit collected from each new customer to secure payment of bills for water, sewer, or water and sewer services. Deposits are refundable as provided under the Rules and Regulations of the Public Service Commission of West Virginia.

(N) DISCONNECT FOR NON-PAYMENT

If any bill is not paid for water or sewer fees within Thirty (30) days after date thereof, the City may disconnect water service to said customer for non-payment of bill, but must first make a diligent effort to induce the customer to pay same and no disconnect shall be effected until after at least twenty-four (24) hours written notice to customer, all in accordance with Public Service Commission Rules and Regulations.

RECONNECTION FEES

Service will not be restored until all amounts in arrears, including penalties plus a reconnection fee of $30.00 have been paid.

SERVICE CONNECTION CHARGE

A tap fee of Four Hundred Twenty-Five Dollars ($425.00) shall be charged for a 5/8" x 3/4" or a 3/4" meter, and paid in advance, for the initial connection of each new customer location to the water system, which charge shall include the cost of the meter installation. For meters 1" and larger in size, the service connection fee shall be the actual cost of the installation, including meter.

(A) Indicates advance
(N) Indicates n-w

AVAILABILITY OF SERVICE

Unmetered fire protection service, whether for yard hydrants, inside hydrants or sprinkler systems shall be available at the following rates:

(C) RATE

The rate for an unmetered connection to be used solely for fire protection shall be ~~$350.00 per quarter.~~ $116.67 a month.

WORTHLESS CHECK FEE

A service charge, which shall be in addition to any and all other applicable fees and charges, of Fifteen ($15.00) Dollars shall be assessed and collected for all dishonored checks as permitted by West Virginia Code §61-3-39e. Said fee shall automatically increase to the maximum fee permissible under West Virginia Code §61-3-39e or any similar future counterpart thereof.

ADJUSTMENT OF BILLS

No allowance or adjustment of any water bill under this article shall be made for any leaks of any nature occurring on the user's side of the meter unless, in the discretion of the Supervisor for the Utility Board, an allowance or adjustment would prevent or rectify a gross inequity in charges to the customer.

LEAK ADJUSTMENT CLAUSE

The incremental cost of $0.40 per 1,000 gallons shall be used in the event of an allowed leak adjustment to any customer's bill.

ARTICLE SIX

(N) BILLS TO BE A LIEN UPON THE PREMISES SERVED; REQUIRED DEPOSIT; MISCELLANEOUS PROVISIONS APPLICABLE TO BOTH WATER & SEWERAGE SYSTEMS

Rates and charges provided in this ordinance, if not paid when due, shall be a lien upon the premises served by the system to the fullest extent permitted by law. If such rates or charges are not paid within thirty (30) days, the amount thereof, together with all reasonable and customary legal fees, may be recovered by the Utility Board in a civil action in the name of the City of Keyser, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto, including, to the extent and where permissible by statute or law, landlord liability for tenant fees.

With each application for service for water and/or sewerage services, there shall be made to the Utility Board a deposit in the amount of One Hundred ($100.00) Dollars for water, sewage, or water and sewage services, as permitted under the Public Service Commission Rules and Regulations. Said deposit shall be returned to the customer, as required by said rules and regulations, with interest

(C) Indicates change
(N) Indicates new

at the minimum rate as permitted under said rules and regulations and, in the event, there is no minimum rate, then at the rate of 2% per annum.

(N) SERVICE TO TRAILER COURTS

House trailer courts shall be provided with a master meter. No bill shall be rendered for less than the minimum bill herein established for a five-eight by three-quarter (5/8 x 3/4) inch meter, multiplied by the number of units situated on the court site at the time the meter is read, the minimum bill for the size meter installed or the actual charge for water used, whichever is greater. House trailers (as used hereinabove) shall include both mobile and immobile units.

House trailers, either mobile or immobile, located on sites other than a park or court, shall be billed in the same manner as any other family or business unit.

Sewer bills shall be based upon the same minimums times the number of users or the actual water usage, whichever is greater.

## ARTICLE SEVEN
## SEVERABILITY CLAUSE

If any provision of this article is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

## ARTICLE EIGHT
## EFFECTIVE DATE

The provisions of this ordinance shall become effective forty-five (45) days from the date of adoption by the City of Keyser.

## ARTICLE NINE
## PENALTY FOR VIOLATION OF THE USE ORDINANCE

Whoever violates any provision of Article Four, Rules and Regulations - Water, and Article Five, Rule and Regulations - Sewer, for which no other penalty is provided shall be fined not less than $100.00 nor more than $1,000.00, or imprisoned for not more than thirty (30) days, or both fined and imprisoned.

(N) Indicates new

By Authority of the Mayor and City Council

Keith R. Hayward

Mayor

Combined Water and Sewerage Tariff P.S.C. W.VA. NO. 1

superseding all prior Water and Sewerage Tariffs to the extent, and only to the extent, the aforegoing is inconsistent therewith.

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the City Council of the City of Keyser on the 11th day of September, 1998.

Dated: October 15, 1998.

Recorder, City of Keyser

[SEAL]

**THE CITY OF KEYSER**
**WATER REVENUE BONDS,**
**SERIES 1998 A AND SERIES 1998 B**

**SUPPLEMENTAL RESOLUTION**

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITIES, INTEREST RATES, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES AND OTHER TERMS OF THE WATER REVENUE BONDS, SERIES 1998 A AND SERIES 1998 B OF THE CITY OF KEYSER; AUTHORIZING AND APPROVING LOAN AGREEMENTS RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A BONDS REGISTRAR, DEPOSITORY BANK, AND PAYING AGENT; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the City Council (the "Governing Body") of the City of Keyser (the "Issuer") has duly and officially adopted an Ordinance, effective September 11, 1998 (the "Ordinance") entitled:

BOND ORDINANCE

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE WATERWORKS SYSTEM OF THE CITY OF KEYSER AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF AND AUTHORIZING THE REFINANCING AND REFUNDING OF PRIOR BONDS OF THE CITY OF KEYSER THROUGH THE ISSUANCE BY THE CITY OF KEYSER OF NOT MORE THAN FOUR MILLION DOLLARS ($4,000,000.00) IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 1998; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDERS OF SUCH WATER REVENUE BONDS, SERIES 1998; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE OF SUCH WATER REVENUE BONDS, SERIES 1998 TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Ordinance provides for the issuance of Water Revenue Bonds, Series 1998 of the Issuer in one or more series (the "Bonds"), in an aggregate principal amount not to exceed $4,000,000 and has preliminarily authorized the execution and delivery of loan agreements relating to the Bonds (sometimes referred to herein as the "Loan Agreement"), by and between the Issuer and West Virginia Water Development Authority (the "Authority"), all in accordance with Chapter 8, Article 19 of the West Virginia Code of 1931, as amended (the "Act"); and in the Ordinance it is provided that the exact principal amounts, maturity dates, interest rates, interest and principal payment dates, sale prices 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 Issuer has determined to issue the Bonds in two series, the first such series being the Issuer's Water Revenue Bonds, Series 1998 A to be issued in the original aggregate principal amount of $761,842, bearing interest at the rate of 6.25% per annum and maturing on October 1, 2035 (the "Series 1998 A Bonds") and the second such series being the Issuer's Water Revenue Bonds, Series 1998 B to be issued in the original aggregate principal amount of $2,997,584, bearing interest initially at the rate of 6.25% per annum, said rate to be adjusted upon the upcoming issuance of bonds by the Authority to a rate equal to the lesser of 6.25% per annum or the rate charged by the Authority for loans by the Authority from the pool to be funded with the proceeds of the Authority's upcoming bond issue, said Series 1998 B Bonds to mature on October 1, 2038 (the "Series 1998 B Bonds")(the Series 1998 A Bonds and the Series 1998 B Bonds are sometimes collectively referred to herein as the Bonds);

WHEREAS, the Series 1998 A Bonds and the Series 1998 B Bonds shall be on parity with respect to liens, pledges and sources of and security for payment with respect to each other and with respect to the Prior Bonds;

WHEREAS, the form of the Loan Agreement has been presented to the Issuer at this meeting for final ratification and approval;

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

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and that the Loan Agreement be finally ratified and approved and entered into by the Issuer, that the exact principal amounts, the prices, the maturity dates, the redemption provisions, the interest rates and the interest and principal payment dates of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

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

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

A. The Water Revenue Bonds, Series 1998 A of the Issuer, originally represented by a single bond, numbered AR-1, in the principal amount of $761,842. The Series 1998 A Bonds shall be dated the date of delivery thereof, shall finally mature on October 1, 2035, shall bear interest at the rate of 6.25% per annum payable semi-annually on April 1 and October 1 of each year, first interest payable April 1, 1999, shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, as long as the Authority shall be registered owner of the Series 1998 A Bonds, and shall be payable in installments of principal on October 1 of each of the years and in the amounts as set forth in the Debt Service Schedule attached thereto and to the Loan Agreement and incorporated therein by reference.

B. The Water Revenue Bonds, Series 1998 B of the Issuer, originally represented by a single bond, numbered BR-1, in the principal amount of $2,997,584. The Series 1998 B Bonds shall be dated the date of delivery thereof, shall finally mature on October 1, 2038, shall bear interest initially at the rate of 6.25% per annum, said rate to be adjusted upon the upcoming issuance of bonds by the Authority to a rate equal to the lesser of 6.25% per annum or the rate charged by the Authority for loans from the pool to be funded with the proceeds of the Authority's upcoming bond issue, said interest to be payable semi-annually on April 1 and October 1 of each year, first interest payable April 1, 1999, shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, as long as the Authority shall be registered owner of the Series 1998 B Bonds, and shall be payable in installments of principal on October 1 of each of the years and in the amounts as set forth in the Debt Service Schedule attached thereto and to the Loan Agreement and incorporated therein by reference, which Debt Service Schedule shall be amended if a rate less than 6.25% per annum becomes applicable to the Series 1998 B Bonds upon the issuance of the Authority's bonds, such amended Debt Service Schedule to provide for the amortization of the remaining principal of the Series 1998 B Bonds by the aforesaid maturity date of October 1, 2038 using the lower interest rate and providing for substantially level debt service with respect to the Bonds.

Section 2. Except as otherwise provided in this Supplemental Resolution, all other provisions relating to the Bonds shall be as provided in the Ordinance. In order to effectuate the issuance of the Bonds in two series, being the Series 1998 A Bonds and the Series 1998 B Bonds, all references in the Ordinance to the Series 1998 Bonds shall be construed to refer collectively to the Series 1998 A Bonds and the Series 1998 B Bonds where appropriate. Further, the Series 1998 A Bonds and the Series 1998 B Bonds shall be on parity with respect to liens, pledges and sources of and security for payment with respect to each other and with respect to the Prior Bonds. Finally, the Ordinance is supplemented and amended as follows to reflect the issuance of the Bonds in two series:

A The definitions in the Ordinance for "Series 1998 Bonds Reserve Account", "Series 1998 Bonds Reserve Requirement" and "Series 1998 Bonds Sinking Fund" shall be deleted and the following definitions shall be substituted therefor:

"Series 1998 A Bonds Reserve Account" means the Series 1998 A Bonds Reserve Account established in the Series 1998 A Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1998 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1998 A Bonds in the then current or any succeeding year.

"Series 1998 A Bonds Sinking Fund" means the Series 1998 A Bonds Sinking Fund established by Section 5.02 hereof.

"Series 1998 B Bonds Reserve Account" means the Series 1998 B Bonds Reserve Account established in the Series 1998 B Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1998 B Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1998 B Bonds in the then current or any succeeding year.

"Series 1998 B Bonds Sinking Fund" means the Series 1998 B Bonds Sinking Fund established by Section 5.02 hereof.

B Section 3.10 of the Ordinance shall be deleted and the following shall be substituted therefor:

Section 3.10. Form of Series 1998 Bonds. The text of the Series 1998 Bonds shall be in substantially the following forms, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof;

[Form of Series 1998 A Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF KEYSER
WATER REVENUE BOND,
SERIES 1998 A

No. AR-_____ $_____

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

The interest on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning _____. 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 _____, _____, West Virginia, as registrar (the "Registrar") on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority, dated _____, 1998.

This Bond is issued (i) to permanently finance a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing waterworks system of the Issuer (the "Project"); (ii) to refinance and refund certain prior obligations of the Issuer; (iii) to pay a portion of the interest on the Bonds during the construction of the Project and for not more than six (6) months thereafter; and (iv) to pay certain costs of issuance hereof and related costs. The existing waterworks system of the Issuer, the Project and any further additions, betterments or improvements thereto is herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia,

including particularly Chapter 8, Article 19 and Chapter 13, Article 2E of the West Virginia Code of 1931, as amended (collectively, the "Act"), and an Ordinance duly enacted by the Issuer on _____, 1998 and a Supplemental Resolution duly adopted by the Issuer on _____, 1998 (collectively called 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 securities provided for the Bonds of this Series (the "Bonds") under the Bond Legislation.

THIS BOND IS ISSUED ON PARITY WITH RESPECT TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S WATER REVENUE BONDS, SERIES 1998 B, ISSUED CONCURRENTLY HEREWITH IN THE AGGREGATE PRINCIPAL AMOUNT OF $2,997,584 (THE "SERIES 1998 B BONDS"), THE ISSUER'S WATER REVENUE BOND, SERIES 1980, DATED FEBRUARY 26, 1980, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,146,000 (THE "SERIES 1980 BOND") AND THE ISSUER'S WATER IMPROVEMENT REVENUE NOTE DATED SEPTEMBER 19, 1961, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $200,000 (THE "SERIES 1961 NOTE") (THE SERIES 1980 BOND AND SERIES 1961 NOTE ARE COLLECTIVELY REFERRED TO HEREIN AS THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on parity with the pledge of Gross Revenues in favor of the holders of the Series 1998 B Bonds and the Prior Bonds, and from moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1998 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Gross Revenues, the moneys in the Series 1998 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% (125% so long as the Series 1980 Bond remains Outstanding) of the maximum amount payable in any year for principal of and interest on the Bonds, the Series 1998 B Bonds and the Prior Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds provided however, that so long as there exists in the Series 1998 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations Outstanding prior to or on a parity with the Bonds, including without limitation the Series 1998 B Bonds and the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110% (but shall remain 125%

so long as the Series 1980 Bond remains Outstanding). 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.

The Issuer covenants and agrees that the Project shall not contribute to excessive erosion or conversion of wetlands.

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

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

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

IN WITNESS WHEREOF, THE CITY OF KEYSER has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated _____, 19_____.

CITY OF KEYSER

[SEAL]

_____
Mayor

ATTEST:

_____
Recorder

(Form of)

**CERTIFICATE OF AUTHENTICATION AND REGISTRATION**

This Bond is one of the Series 1998 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____,

_____,
as Registrar

By_____
Its: Authorized Officer

# EXHIBIT A

## SCHEDULE OF ANNUAL DEBT SERVICE

**(Form of)**

**ASSIGNMENT**

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

Dated: _____, 19_____.

_____

In the presence of:

_____

[Form of Series 1998 B Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF KEYSER
WATER REVENUE BOND,
SERIES 1998 B

No. BR-_____ $_____

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

The interest on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning _____. 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 _____, _____, West Virginia, as registrar (the "Registrar") on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority, dated _____, 1998.

This Bond is issued (i) to permanently finance a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing waterworks system of the Issuer (the "Project"); (ii) to refinance and refund certain prior obligations of the Issuer; (iii) to pay a portion of the interest on the Bonds during the construction of the Project and for not more than six (6) months thereafter; and (iv) to pay certain costs of issuance hereof and related costs. The existing waterworks system of the Issuer, the Project and any further additions, betterments or improvements thereto is herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia,

including particularly Chapter 8, Article 19 and Chapter 13, Article 2E of the West Virginia Code of 1931, as amended (collectively, the "Act"), and an Ordinance duly enacted by the Issuer on _____, 1998 and a Supplemental Resolution duly adopted by the Issuer on _____, 1998 (collectively called 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 securities provided for the Bonds of this Series (the "Bonds") under the Bond Legislation.

THIS BOND IS ISSUED ON PARITY WITH RESPECT TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S WATER REVENUE BONDS, SERIES 1998 A, ISSUED CONCURRENTLY HEREWITH IN THE AGGREGATE PRINCIPAL AMOUNT OF $761,842 (THE "SERIES 1998 A BONDS"), THE ISSUER'S WATER REVENUE BOND, SERIES 1980, DATED FEBRUARY 26, 1980, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,146,000 (THE "SERIES 1980 BOND") AND THE ISSUER'S WATER IMPROVEMENT REVENUE NOTE DATED SEPTEMBER 19, 1961, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $200,000 (THE "SERIES 1961 NOTE") (THE SERIES 1980 BOND AND SERIES 1961 NOTE ARE COLLECTIVELY REFERRED TO HEREIN AS THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on parity with the pledge of Gross Revenues in favor of the holders of the Series 1998 A Bonds and the Prior Bonds, and from moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1998 B Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Gross Revenues, the moneys in the Series 1998 B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% (125% so long as the Series 1980 Bond remains Outstanding) of the maximum amount payable in any year for principal of and interest on the Bonds, the Series 1998 A Bonds and the Prior Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds provided however, that so long as there exists in the Series 1998 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations Outstanding prior to or on a parity with the Bonds, including without limitation the Series 1998 A Bonds and the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110% (but shall remain 125%

so long as the Series 1980 Bond remains Outstanding). 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.

The Issuer covenants and agrees that the Project shall not contribute to excessive erosion or conversion of wetlands.

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

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

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

IN WITNESS WHEREOF, THE CITY OF KEYSER has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated _____, 19_____.

CITY OF KEYSER

[SEAL]

_____
Mayor

ATTEST:

_____
Recorder

(Form of)

**CERTIFICATE OF AUTHENTICATION AND REGISTRATION**

This Bond is one of the Series 1998 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____,

_____,
as Registrar

By_____
Its: Authorized Officer

# EXHIBIT A

## SCHEDULE OF ANNUAL DEBT SERVICE

**(Form of)**

**ASSIGNMENT**

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

Dated: _____, 19_____.

_____

In the presence of:

_____

C. Sections 5.02 and 5.03 of the Ordinance shall be deleted and the following shall be substituted therefor.

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 Ordinances) with the Commission:

1. Series 1998 A Bonds Sinking Fund;

2. Within the Series 1998 A Bonds Sinking Fund, the Series 1998 A Bonds Reserve Account;

3. Series 1998 B Bonds Sinking Fund;

4. Within the Series 1998 B Bonds Sinking Fund, the Series 1998 B Bonds Reserve Account;

5. Keyser Water Bond Sinking Fund (established by the Series 1980 Bond Ordinance);

6. Note Sinking Fund ("Sinking Fund No. 1" established by the Series 1980 Bond Ordinance); and

7. Reserve Account (established by the Series 1980 Bond Ordinance).

Section 5.03. System Revenues; Flow of Funds.

A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

1. The Issuer shall first on the first day of each month, transfer from the Revenue Fund and pay to the respective offices and places designated in the Series 1980 Bond, the Series 1961 Note and the respective Prior Ordinances relating thereto the amounts required by the Series 1980 Bond, the Series 1961 Note and the respective Prior Ordinances relating thereto for payment of principal of and interest on the Series 1980 Bond and the Series 1961 Note and simultaneously (i) on the first day of each month, commencing 7 months prior to the first date of payment of interest on the Series 1998 A Bonds for which interest has not been capitalized, apportion and set apart out of the

Revenue Fund and remit to the Commission, for deposit in the Series 1998 A Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on said Series 1998 A Bonds on the next ensuing semiannual interest payment date; provided, that, in the event the period to elapse between the date of such initial deposit in the Series 1998 A Bonds Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date, and simultaneously (ii) on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Series 1998 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1998 A Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1998 A Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1998 A Bonds Sinking Fund and the next annual principal payment date is less than 13 months then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date, and simultaneously (iii) on the first day of each month, commencing 7 months prior to the first date of payment of interest on the Series 1998 B Bonds for which interest has not been capitalized, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Series 1998 B Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on said Series 1998 B Bonds on the next ensuing semiannual interest payment date; provided, that, in the event the period to elapse between the date of such initial deposit in the Series 1998 B Bonds Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date, and simultaneously (iv) on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Series 1998 B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1998 B Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1998 B Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1998 B Bonds Sinking Fund and the next annual principal payment date is less than 13 months then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date. In the event moneys in the Revenue Fund are insufficient to make all the payments in this subsection 5.03.A(1),

then the Issuer shall make pro rata payments on the Series 1961 Note, the Series 1980 Bond, the Series 1998 A Bonds and the Series 1998 B Bonds first to interest and then to principal, based upon the respective principal amounts then Outstanding.

2. The Issuer shall next on the first day of each month, transfer from the Revenue Fund and deposit with the Commission in the Reserve Fund the amounts required by the Series 1980 Bond Ordinance to be deposited therein and simultaneously shall also on the first day of each month, commencing the month following the completion of the Project, if not fully funded upon issuance of the Series 1998 A Bonds, simultaneously apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1998 A Bonds Reserve Account, an amount equal to 1/120 of the Series 1998 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1998 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1998 A Bonds Reserve Requirement, and simultaneously shall also on the first day of each month, commencing the month following the completion of the Project, if not fully funded upon issuance of the Series 1998 B Bonds, simultaneously apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1998 B Bonds Reserve Account, an amount equal to 1/120 of the Series 1998 B Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1998 B Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1998 B Bonds Reserve Requirement, and provided further, that in the event that there are not sufficient moneys available to make all deposits required by this subsection 5.03.A(2), then the Issuer shall make the deposits required by this subsection on a pro rata basis.

3. The Issuer shall next on the first day of each month, pay from the moneys in the Revenue Fund all current Operating Expenses.

4. The Issuer shall next, from the moneys remaining in the Revenue Fund, on the first day of each month prior to and including the month in which the Project is completed transfer to the Depreciation Reserve the amounts required by the Series 1980 Bond Ordinance to be deposited therein, and, commencing the month following the completion of the Project, on the first day of each month transfer from the moneys remaining in the Revenue Fund to the Depreciation Reserve the greater of (i) the amounts required by the Series 1980 Bond Ordinance to be deposited therein, or (ii) a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any reserve account. Moneys in the Depreciation Reserve shall be

used first to make up deficiencies for monthly payments of the principal of and interest on the Series 1961 Note, the Series 1980 Bond, the Series 1998 A Bonds and/or the Series 1998 B Bonds as the same become due, and next to restore to the Reserve Fund, the Series 1998 A Bonds Reserve Account or the Series 1998 B Bonds Reserve Account any sum or sums transferred therefrom, and provided that in the event there are not sufficient moneys in the Depreciation Reserve to make the transfer required by this sentence, such transfers shall be made on a pro rata basis. Thereafter, and provided that payments into the Reserve Fund, the Series 1998 A Bonds Reserve Account and the Series 1998 B Bonds Reserve Account are current and in accordance with the foregoing provisions, moneys in the Depreciation Reserve may be withdrawn by the Issuer and used for extraordinary repairs and for replacements of equipment and for improvements and capital equipment for the System, or any part thereof.

Moneys in the Series 1998 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 1998 A Bonds as the same shall become due. Moneys in the Series 1998 A Bonds Reserve Account shall be used only for the purpose of paying principal of and interest on the Series 1998 A Bonds, as the same shall come due, when other moneys in the Series 1998 A Bond Sinking Fund are insufficient therefor, and for no other purpose except for permitted transfers to the Rebate Fund.

Moneys in the Series 1998 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 1998 B Bonds as the same shall become due. Moneys in the Series 1998 B Bonds Reserve Account shall be used only for the purpose of paying principal of and interest on the Series 1998 B Bonds, as the same shall come due, when other moneys in the Series 1998 B Bond Sinking Fund are insufficient therefor, and for no other purpose except for permitted transfers to the Rebate Fund.

Moneys in the Reserve Fund, the Keyser Water Bond Sinking Fund and the Note Sinking Fund shall only be used in accordance with the Prior Ordinances.

Except to the extent transferred to the Rebate Fund at the request of the Issuer, all investment earnings on moneys in the Series 1998 A Bonds Sinking Fund and the Series 1998 A Bonds Reserve Account shall be returned, not less than once each year on the 1st day of October, 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 1998 A Bonds, and then to the next ensuing principal payment due thereon.

Except to the extent transferred to the Rebate Fund at the request of the Issuer, all investment earnings on moneys in the Series 1998 B Bonds Sinking Fund and the Series 1998 B Bonds Reserve Account shall be returned, not less than once each year on the 1st day of October,

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 1998 B Bonds, and then to the next ensuing principal payment due thereon.

Except with respect to transfers to the Rebate Fund, any withdrawals from the Series 1998 A Bonds Reserve Account which result in a reduction in the balance of the Series 1998 A Bonds Reserve Account to below the Series 1998 A Bonds Reserve Requirement shall be subsequently restored from the first Gross Revenues available after all required payments have been made in full, for payment of the debt service on the Series 1961 Note and the Series 1980 Bond and to the Series 1998 A Bonds Sinking Fund for payment of debt service on the Series 1998 A Bonds and to the Series 1998 B Bonds Sinking Fund for payment of debt service on the Series 1998 B Bonds; provided, if there is also a deficiency in the Reserve Fund and/or the Series 1998 B Bonds Reserve Account such first Gross Revenues shall be allocated on a pro rata basis to eliminate such deficiencies in the Reserve Fund, the Series 1998 A Bonds Reserve Account and the Series 1998 B Bonds Reserve Account.

Except with respect to transfers to the Rebate Fund, any withdrawals from the Series 1998 B Bonds Reserve Account which result in a reduction in the balance of the Series 1998 B Bonds Reserve Account to below the Series 1998 B Bonds Reserve Requirement shall be subsequently restored from the first Gross Revenues available after all required payments have been made in full, for payment of the debt service on the Series 1961 Note and the Series 1980 Bond and to the Series 1998 A Bonds Sinking Fund for payment of debt service on the Series 1998 A Bonds and to the Series 1998 B Bonds Sinking Fund for payment of debt service on the Series 1998 B Bonds; provided, if there is also a deficiency in the Reserve Fund and/or the Series 1998 A Bonds Reserve Account such first Gross Revenues shall be allocated on a pro rata basis to eliminate such deficiencies in the Reserve Fund, the Series 1998 A Bonds Reserve Account and the Series 1998 B Bonds Reserve Account

As and when additional Bonds ranking on a parity with the Prior Bonds, the Series 1998 A Bonds and the Series 1998 B 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 a amount equal to the maximum amount of principal and interest which will become due in any year for the account of the Bonds of such series, including such additional parity Bonds.

The Issuer shall not be required to make any further payments into the Series 1998 A Bonds Sinking Fund, or into the Series 1998 A Bonds Reserve Account therein when the aggregate amount of funds in said Sinking Fund and Series 1998 A Bonds Reserve Account are at least equal to the aggregate principal amount of the Series 1998 A Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

The Issuer shall not be required to make any further payments into the Series 1998 B Bonds Sinking Fund, or into the Series 1998 B Bonds Reserve Account therein when the aggregate amount of funds in said Sinking Fund and Series 1998 B Bonds Reserve Account are at least equal to the aggregate principal amount of the Series 1998 B 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 pro rata with respect to the Series 1961 Note, the Series 1980 Bond, the Series 1998 A Bonds, and the Series 1998 B Bonds in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 1998 A Bonds Sinking Fund, the Series 1998 A Bonds Reserve Account, the Series 1998 B Bonds Sinking Fund, and the Series 1998 B Bonds Reserve Account created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Authority in writing at any time, the Issuer shall make the necessary arrangements whereby required payments into the Series 1998 A Bonds Sinking Fund, the Series 1998 A Bonds Reserve Account, the Series 1998 B Bonds Sinking Fund ,and the Series 1998 B Bonds Reserve Account shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

The payments into the Series 1998 A Bonds Sinking Fund and the Series 1998 B Bonds Sinking Fund shall be made on the first day of each month, except that when the first day of any month shall be a Saturday, Sunday or legal holiday then such payments shall be made on the next succeeding business day, and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation.

Moneys in the Series 1998 A Bonds Sinking Fund, the Series 1998 A Bonds Reserve Account, the Series 1998 B Bonds Sinking Fund, and the Series 1998 B Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

Except with respect to transfers to the Rebate Fund, the Series 1998 A Bonds Sinking Fund, including the Series 1998 A Bonds Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 1998 A Bonds.

Except with respect to transfers to the Rebate Fund, the Series 1998 B Bonds Sinking Fund, including the Series 1998 B Bonds Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 1998 B Bonds.

B. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and

paid on the Series 1961 Note and the Series 1980 Bond and into the Series 1998 A Bonds Sinking Fund, including the Series 1998 A Bonds Reserve Account therein and into the Series 1998 B Bonds Sinking Fund, including the Series 1998 B Bonds Reserve Account therein, and the Reserve Fund and the Depreciation Reserve during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

C. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay their respective charges, fees and expenses then due. In case of payments to the Commission under this paragraph, the Issuer shall, if required by the Authority at any time, 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.

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

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

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

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

H. All Tap Fees shall be deposited by the Issuer, as received, in the Revenue Fund and may be used for any lawful purpose of the System.

D. Sections 6.01 and 6.02 of the Ordinance shall be deleted and the following shall be substituted therefor:

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 1998 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 1998 A Bonds, there shall first be deposited with the Commission in the Series 1998 A Bonds Sinking Fund, the amount, if any, specified in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 1998 A Bonds for the period commencing on the date of issuance of the Series 1998 A Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. From the proceeds of the Series 1998 B Bonds, there shall first be deposited with the Commission in the Series 1998 B Bonds Sinking Fund, the amount, if any, specified in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 1998 B Bonds for the period commencing on the date of issuance of the Series 1998 B Bonds and ending 6 months after the estimated date of completion of construction of the Project.

C. Next, from the proceeds of the Series 1998 A Bonds, there shall be deposited with the Commission in the Series 1998 A Bonds Reserve Account the sum, if any, set forth in the Supplemental Resolution for funding of the Series 1998 A Bonds Reserve Account.

D. Next, from the proceeds of the Series 1998 B Bonds, there shall be deposited with the Commission in the Series 1998 B Bonds Reserve Account the sum, if any, set forth in the Supplemental Resolution for funding of the Series 1998 B Bonds Reserve Account.

E. Next from the proceeds of the Series 1998 A Bonds, there shall be paid to Holders of the Refunded Bonds and/or an escrow agent, as provided in the Supplemental Resolution, the sum necessary, when added to any other monies available therefor, to refinance and refund the Refunded Bonds, including any accrued interest and redemption premiums thereon.

F. Next, from the proceeds of the Series 1998 A Bonds to the extent sufficient therefor and then from the proceeds of the Series 1998 B Bonds, there shall first be credited to the Bond Construction Trust Fund and then paid, any and all borrowings by the Issuer made for the purpose of temporarily financing a portion of the Costs of the Project, together with interest accrued thereon to the date of such payment, not otherwise paid from funds of the Issuer.

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

H. The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Bond Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond Construction Trust Fund set forth in the Bond Legislation. Except with respect to any transfers to the Rebate Fund, moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the Project and until so transferred or expended, are hereby pledged as additional security for the Series 1998 A Bonds and the Series 1998 B Bonds, each such series to be secured by its respective amount of unexpended proceeds, it being understood that such Costs are to be paid first from the proceeds of the Series 1998 A Bonds.

Section 6.02. Disbursements From the Bond Construction Trust Fund. Payments for Costs of the Project shall be made monthly. Except as provided in Section 6.01 hereof, disbursements from the Bond Construction Trust Fund (except for the costs of issuance of the Series 1998 A Bonds and the Series 1998 B Bonds which shall be made upon request of the Issuer), shall be made only after submission to the Depository Bank of a certificate, signed by an Authorized Officer and the Consulting Engineers, stating:

A. That none of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;

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

C. That each of such costs has been otherwise properly incurred; and

D. That payment for each of the items proposed is then due and owing.

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

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

After completion of the Project, as certified by the Consulting Engineers, the Depository Bank shall transfer any moneys remaining in the Bond Construction Trust Fund to the Series 1998 B Bonds Reserve Account and when fully funded then to the Series 1998 A Bonds Reserve Account, and when fully funded the Depository Bank shall return such remaining moneys to the Issuer for deposit in the Revenue Fund; provided that, in no event shall more than 10% of the proceeds of the Series 1998 Bonds be deposited in the Series 1998 Bonds Reserve Account. The Issuer shall thereafter, apply such moneys in full, first to the next ensuing interest payment due on the Series 1998 B Bonds and then to the next ensuing interest payment due on the Series 1998 A Bonds and thereafter to the next ensuing principal payment due on the Series 1998 B Bonds and then to the next ensuing principal payment due on the Series 1998 A Bonds.

E. Section 7.09 of the Ordinance shall be deleted and the following shall be substituted therefor:

> Section 7.09. Rates. Equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder and under the Prior Ordinances. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all reasonable expenses of operation, repair and maintenance of the System and (ii) to leave a balance each year equal to at least 115% (125% so long as the Series 1980 Bond remains Outstanding) of the maximum amount required in any year for payment of principal of and interest on the Series 1998 A Bonds, the Series 1998 B Bonds, the Prior Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 1998 A Bonds and the Series 1998 B Bonds; provided that, in the event that amounts equal to or in excess of the Series 1998 A Bonds Reserve Requirement are on deposit in the Series 1998 A Bonds Reserve Account and amounts equal to or in excess of the Series 1998 B Bonds Reserve Requirement are on deposit in the Series 1998 B Bonds Reserve Account and reserve accounts for obligations on a parity with the Series 1998 A Bonds and Series 1998 B Bonds(including the Prior Bonds) are funded at least at the requirement therefor, such balance each year need only equal at least 110% (but shall remain 125% so long as the Series 1980 Bond remains Outstanding) of the maximum amount required in any year for payment of principal of and interest on the Series 1998 A Bonds, the Series 1998 B Bonds, the Prior Bonds and all other obligations secured by a lien on or payable from such revenues on a

parity with the Series 1998 A Bonds and the Series 1998 B Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate schedule described in Section 7.04.

Section 3. The Issuer does hereby authorize, ratify, approve and accept the form of the Loan Agreement, a copy of which is incorporated herein by reference, and the execution and delivery by the Mayor of the Loan Agreement for each of the two series of Bonds, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, approved and directed. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon.

Section 4. The Issuer does hereby appoint and designate F&M Bank, West Virginia, Keyser, West Virginia, as Registrar for the Bonds and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and F&M Bank, West Virginia, in substantially the form attached hereto, and the execution and delivery by the Chairman of the Registrar's Agreement, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, approved and directed. CHGED TO OVB AS REGISTRAR BY 3RD SUP. ORD.

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

Section 6. The Issuer does hereby appoint F&M Bank, West Virginia, Keyser, West Virginia, as Depository Bank under the Ordinance.

Section 7. The Series 1998 A Bonds proceeds in the amount of $56,336, or such other amount as determined by the Mayor to be appropriate after consultation with the Issuer's accountant, shall be deposited in the Series 1998 A Bonds Sinking Fund as capitalized interest.

Section 8. The Series 1998 A Bonds proceeds in the amount of $-0- shall be deposited in a Series 1998 A Bonds Reserve Account.

Section 9. The Series 1998 B Bonds proceeds in the amount of $221,664, or such other amount as determined by the Mayor to be appropriate after consultation with the Issuer's accountant, shall be deposited in the Series 1998 B Bonds Sinking Fund as capitalized interest.

Section 10. The Series 1998 B Bonds proceeds in the amount of $-0- shall be deposited in a Series 1998 B Bonds Reserve Account.

Section 11. The remaining proceeds of the Bonds shall be deposited in the Bond Construction Trust Fund for payment of Costs of the Project, including the payment of the principal of and interest and redemption premium, if any, on the Refunded Bonds in the approximate amount of $285,000 and the repayment of any temporary bank loans or Authority advances made or incurred with respect to the Project, including without limitation the temporary bank loan from F&M Bank, West Virginia in the approximate amount of $410,000, and payment of cost and issuance of the

Bonds, provided however, the disbursements from the Bond Construction Trust Fund shall be paid first with the proceeds of the Series 1998 A Bonds and then with the proceeds of the Series 1998 B Bonds.

Section 12. The Issuer hereby determines to pay, on the date of delivery of the Bonds and receipt of proceeds thereof, all borrowings, if any, of the Issuer heretofore incurred for the purpose of temporarily financing a portion of the cost of the Project, including, but not limited to, all borrowings from the West Virginia Water Development Authority.

Section 13. The Mayor and Recorder are hereby authorized and directed to execute and deliver such other documents, agreements, instruments and certificates required or desirable in connection with the Bonds hereby and by the Ordinance approved and provided for, to the end that the Bonds may be delivered to the Authority pursuant to the Loan Agreement on or about October 8, 1998, or as soon thereafter as practicable.

Section 14. The acquisition and construction of the Project and the financing thereof with the proceeds of the Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents. of the Issuer.

Section 15. The Issuer hereby determines that it is in the best interest of the Issuer to invest all monies in the funds and accounts established by the Ordinance held by the Depository Bank in Qualified Investments as directed in writing by the Mayor to the Depository Bank, and therefore the Issuer hereby authorizes and directs the Depository Bank to take such actions as may be necessary to cause such monies to be invested in such Qualified Investments, as directed by the Mayor. Monies in the Sinking Funds for the Bonds shall be invested by the Municipal Bond Commission in the West Virginia Restricted Consolidated Fund.

Section 16. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1986, as amended, and the temporary and permanent 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 promulgated or to be promulgated thereunder.

Section 17. 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 Bonds are private activity bonds; that 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 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 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 and applicable to

the Bonds. For purposes of this Section 17 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 17 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 Section 17 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 18. All contracts relating to the financing, acquisition and construction of the Project are hereby approved and the Mayor is hereby authorized and directed to execute and deliver all such contracts.

Section 19. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 30th day of September, 1998.

CITY OF KEYSER

Keith R. Hayward

Mayor

## CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the City Council of the City of Keyser on the 30th day of September, 1998.

Dated: October 15, 1998.

[SEAL]

Recorder

**SECOND SUPPLEMENTAL RESOLUTION OF THE CITY COUNCIL**
**OF**
**THE CITY OF KEYSER**

WHEREAS, the City Council of the City of Keyser (the "Issuer") has, by Ordinance enacted on September 11, 1998, as supplemented and amended by a Supplemental Resolution adopted by the Issuer on September 30, 1998 (collectivelly, the "Ordinance"), authorized the issuance of the Issuer's Water Revenue Bonds, Series 1998A in the aggregate principal amount of $761,842 and Water Revenue Bonds, Series 1998B in the aggregate principal amount of $2,997,584 (collectively, the "Bonds"); and

WHEREAS, in said Ordinance, F&M Bank, West Virginia, Keyser, West Virginia, was designated as Registrar for the Bonds and as Depository Bank under the Ordinance; and

WHEREAS, the City now desires to appoint American Trust Bank, N.A., Keyser, West Virginia, as Registrar for the Bonds and as Depository Bank under the Ordinance, provided that the Revenue Fund shall not be maintained at American Trust Bank, N.A., as Depository Bank, but shall remain at F&M Bank, West Virginia.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Keyser that the Ordinance be amended to provide that American Trust Bank, N.A. shall be the Registrar for the Bonds and the Depository Bank under the Ordinance and that the Revenue Fund shall not be maintained with American Trust Bank, N.A., as such Depository Bank, but shall remain at F&M Bank, West Virginia. To the extent not expressly amended herein, the Ordinance shall remain in full force and effect.

Duly adopted by the City Council of the City of Keyser, in Keyser, West Virginia, on October 8, 1998.

CITY OF KEYSER

By: Keith R. Hayward
Its: Mayor

CHS-9468

**THIRD SUPPLEMENTAL RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KEYSER**

WHEREAS, the City Council of the City of Keyser (the "Issuer") has, by Ordinance enacted on September 11, 1998, as supplemented and amended by a Supplemental Resolution adopted by the Issuer on September 30, 1998 and a Second Supplemental Resolution adopted by the Issuer on October 8, 1998 (collectively, the "Ordinance"), authorized the issuance of the Issuer's Water Revenue Bonds, Series 1998A in the aggregate principal amount of $761,842 and Water Revenue Bonds, Series 1998B in the aggregate principal amount of $2,997,584 (collectively, the "Bonds"); and

WHEREAS, in said Second Supplemental Resolution, American Trust Bank, N.A., Keyser, West Virginia, was designated as Registrar for the Bonds and as Depository Bank under the Ordinance, provided that the Revenue Fund was not to be maintained at American Trust Bank, N.A., but was to remain at F&M Bank, West Virginia; and

WHEREAS, the City has been advised that "F & M Bank-West Virginia, Inc." is the correct corporate name for the Bank at which the Revenue Fund is to be maintained and desires to correct said name herein; and

WHEREAS, the City has been advised by American Trust Bank, N.A. that it is unable to accept the duties as Registrar for the Bonds but is able to serve as Depository Bank under the Ordinance, provided that the Revenue Fund will not be maintained at American Trust Bank, N.A., but will remain at F & M Bank-West Virginia, Inc.; and

WHEREAS, the City desires to appoint One Valley Bank, National Association, Charleston, West Virginia, as Registrar for the Bonds, it being understood that American Trust Bank, N.A., will serve as Depository Bank, provided that the Revenue Fund shall not be maintained at American Trust Bank, N.A., but shall remain at F & M Bank-West Virginia, Inc.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Keyser that the Ordinance be amended to provide that One Valley Bank, Charleston, West Virginia shall be the Registrar for the Bonds, that American Trust Bank, N.A. shall be the

Depository Bank under the Ordinance and that the Revenue Fund shall not be maintained with American Trust Bank, N.A., as such Depository Bank, but shall remain at F & M Bank-West Virginia, Inc.

BE IT FURTHER RESOLVED, that the Registrar's Agreement by and between the Issuer and One Valley Bank, National Association, substantially in the form attached hereto, is hereby approved and the Mayor is hereby authorized and directed to execute and deliver the Registrar's Agreement on behalf of the Issuer, with such modifications, amendments, additions and deletions as the Mayor may approve, such approval to be evidenced by his execution of the Registrar's Agreement.

To the extent not expressly amended herein, the Ordinance shall remain in full force and effect.

Duly adopted by the City Council of the City of Keyser, in Keyser, West Virginia, on October 14, 1998.

CITY OF KEYSER

By: Keith K. Haywood
Its: Mayor

GBB.GBB.0042499

WDA-5
(May 1993)

# LOAN AGREEMENT

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

CITY OF KEYSER
(Governmental Agency)

W I T N E S S E T H:

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

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

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

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

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

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

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

## ARTICLE I

## Definitions

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE II

## The Project and the System

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

---

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE III

## Conditions to Loan; Issuance of Local Bonds

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE IV

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

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

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

(b) Covenants substantially as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE V

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

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

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

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

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

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

## ARTICLE VI

### Other Agreements of the Governmental Agency

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

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

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

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

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

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

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

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

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

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

## ARTICLE VII

### Miscellaneous

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

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

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

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

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

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

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

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

7.8 This Loan Agreement shall terminate upon the earlier of:

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

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

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

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

City of Keyser
[Proper Name of Governmental Agency]

(SEAL)

By: Keith R. Hayward

Its: Mayor

Attest: Penny Sanders

Date: October 15, 1998

Its: Recorder

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: Daniel B. Lambert
Director

Attest: Barbara B Meadows
Secretary-Treasurer

Date: October 15, 1998

EXHIBIT A

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 between the Issuer and the West Virginia Water Development Authority (the "Authority") 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 forty 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)(ii) of the Loan Agreement, (vi) that 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 B

[Opinion of Bond Counsel for Governmental Agency]

[To Be Dated as of Date of Loan Closing]

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

Gentlemen:

We are bond counsel to _____ (the "Governmental Agency"), 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 Governmental Agency and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Governmental Agency, 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 April 1 and October 1 of each year, beginning _____ 1, 19__, at the respective rate or rates and with principal payable in installments on October 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 Governmental Agency 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 Governmental Agency and is a valid and binding special obligation of the Governmental Agency 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 Governmental Agency without the consent of the Authority.

3. The Governmental Agency 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 Governmental Agency 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 Governmental Agency, 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,

WDA-5X
(May 1993)

SCHEDULE X
DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds $ 761,842

Purchase Price of Local Bonds $ 761,842

Interest on the Local Bonds is payable on April 1 and October 1 in each year, beginning with the first semiannual interest payment date after delivery of the Local Bonds to the Authority, until the Local Bonds are paid in full, at the rate of 6.25 % per annum. Principal of the Local Bonds is payable on October 1 in each year as set forth on Exhibit 1 attached hereto and incorporated herein by reference.

As of the date of the Loan Agreement, the Local Bonds are on a parity as to source of and security for payment with the following obligations: Waterworks Improvement Revenue Note, dated September 19, 1961, issued in the original aggregate principal amount of $200,000; and Water Revenue Bond, Series 1980, dated February 26, 1980, issued in the original aggregate principal amount of $3,146,000.

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

# West Virginia Water Development Authority

*(1995 Series B Bond Proceeds)*
*City of Keyser, 1998 Series A*
*$761,842 Loan, 6.25% Interest Rate*

## DEBT SERVICE SCHEDULE

| Date | Principal | Coupon | Interest | Total P+I |
|---|---|---|---|---|
| 4/01/1999 | - | - | 21,955.86 | 21,955.86 |
| 10/01/1999 | 7,383.10 | 6.250% | 23,807.56 | 31,190.66 |
| 4/01/2000 | - | - | 23,576.84 | 23,576.84 |
| 10/01/2000 | 5,992.85 | 6.250% | 23,576.84 | 29,569.69 |
| 4/01/2001 | - | - | 23,389.56 | 23,389.56 |
| 10/01/2001 | 6,367.40 | 6.250% | 23,389.56 | 29,756.96 |
| 4/01/2002 | - | - | 23,190.58 | 23,190.58 |
| 10/01/2002 | 6,765.36 | 6.250% | 23,190.58 | 29,955.94 |
| 4/01/2003 | - | - | 22,979.17 | 22,979.17 |
| 10/01/2003 | 7,188.20 | 6.250% | 22,979.17 | 30,167.37 |
| 4/01/2004 | - | - | 22,754.53 | 22,754.53 |
| 10/01/2004 | 7,637.46 | 6.250% | 22,754.53 | 30,391.99 |
| 4/01/2005 | - | - | 22,515.86 | 22,515.86 |
| 10/01/2005 | 8,114.80 | 6.250% | 22,515.86 | 30,630.66 |
| 4/01/2006 | - | - | 22,262.28 | 22,262.28 |
| 10/01/2006 | 8,621.97 | 6.250% | 22,262.28 | 30,884.25 |
| 4/01/2007 | - | - | 21,992.84 | 21,992.84 |
| 10/01/2007 | 9,160.85 | 6.250% | 21,992.84 | 31,153.69 |
| 4/01/2008 | - | - | 21,706.56 | 21,706.56 |
| 10/01/2008 | 9,733.40 | 6.250% | 21,706.56 | 31,439.96 |
| 4/01/2009 | - | - | 21,402.39 | 21,402.39 |
| 10/01/2009 | 10,341.74 | 6.250% | 21,402.39 | 31,744.13 |
| 4/01/2010 | - | - | 21,079.21 | 21,079.21 |
| 10/01/2010 | 10,988.10 | 6.250% | 21,079.21 | 32,067.31 |
| 4/01/2011 | - | - | 20,735.84 | 20,735.84 |
| 10/01/2011 | 11,674.85 | 6.250% | 20,735.84 | 32,410.69 |
| 4/01/2012 | - | - | 20,371.00 | 20,371.00 |
| 10/01/2012 | 12,404.53 | 6.250% | 20,371.00 | 32,775.53 |
| 4/01/2013 | - | - | 19,983.36 | 19,983.36 |
| 10/01/2013 | 13,179.82 | 6.250% | 19,983.36 | 33,163.18 |
| 4/01/2014 | - | - | 19,571.49 | 19,571.49 |
| 10/01/2014 | 14,003.55 | 6.250% | 19,571.49 | 33,575.04 |
| 4/01/2015 | - | - | 19,133.88 | 19,133.88 |
| 10/01/2015 | 14,878.78 | 6.250% | 19,133.88 | 34,012.66 |
| 4/01/2016 | - | - | 18,668.91 | 18,668.91 |
| 10/01/2016 | 15,808.70 | 6.250% | 18,668.91 | 34,477.61 |
| 4/01/2017 | - | - | 18,174.89 | 18,174.89 |
| 10/01/2017 | 16,796.74 | 6.250% | 18,174.89 | 34,971.63 |
| 4/01/2018 | - | - | 17,649.99 | 17,649.99 |
| 10/01/2018 | 17,846.54 | 6.250% | 17,649.99 | 35,496.53 |
| 4/01/2019 | - | - | 17,092.29 | 17,092.29 |
| 10/01/2019 | 18,961.95 | 6.250% | 17,092.29 | 36,054.24 |
| 4/01/2020 | - | - | 16,499.73 | 16,499.73 |
| 10/01/2020 | 20,147.07 | 6.250% | 16,499.73 | 36,646.80 |
| 4/01/2021 | - | - | 15,870.13 | 15,870.13 |
| 10/01/2021 | 21,406.26 | 6.250% | 15,870.13 | 37,276.39 |

# West Virginia Water Development Authority

*(1995 Series B Bond Proceeds)*
*City of Keyser, 1998 Series A*
*$761,842 Loan, 6.25% Interest Rate*

## DEBT SERVICE SCHEDULE

| Date | Principal | Coupon | Interest | Total P+I |
|---|---|---|---|---|
| 4/01/2022 | - | - | 15,201.19 | 15,201.19 |
| 10/01/2022 | 22,744.15 | 6.250% | 15,201.19 | 37,945.34 |
| 4/01/2023 | - | - | 14,490.43 | 14,490.43 |
| 10/01/2023 | 24,165.66 | 6.250% | 14,490.43 | 38,656.09 |
| 4/01/2024 | - | - | 13,735.26 | 13,735.26 |
| 10/01/2024 | 25,676.02 | 6.250% | 13,735.26 | 39,411.28 |
| 4/01/2025 | - | - | 12,932.88 | 12,932.88 |
| 10/01/2025 | 27,280.77 | 6.250% | 12,932.88 | 40,213.65 |
| 4/01/2026 | - | - | 12,080.36 | 12,080.36 |
| 10/01/2026 | 28,985.81 | 6.250% | 12,080.36 | 41,066.17 |
| 4/01/2027 | - | - | 11,174.55 | 11,174.55 |
| 10/01/2027 | 30,797.43 | 6.250% | 11,174.55 | 41,971.98 |
| 4/01/2028 | - | - | 10,212.13 | 10,212.13 |
| 10/01/2028 | 32,722.27 | 6.250% | 10,212.13 | 42,934.40 |
| 4/01/2029 | - | - | 9,189.56 | 9,189.56 |
| 10/01/2029 | 34,767.41 | 6.250% | 9,189.56 | 43,956.97 |
| 4/01/2030 | - | - | 8,103.08 | 8,103.08 |
| 10/01/2030 | 36,940.37 | 6.250% | 8,103.08 | 45,043.45 |
| 4/01/2031 | - | - | 6,948.69 | 6,948.69 |
| 10/01/2031 | 39,249.15 | 6.250% | 6,948.69 | 46,197.84 |
| 4/01/2032 | - | - | 5,722.16 | 5,722.16 |
| 10/01/2032 | 41,702.22 | 6.250% | 5,722.16 | 47,424.38 |
| 4/01/2033 | - | - | 4,418.96 | 4,418.96 |
| 10/01/2033 | 44,308.61 | 6.250% | 4,418.96 | 48,727.57 |
| 4/01/2034 | - | - | 3,034.32 | 3,034.32 |
| 10/01/2034 | 47,077.89 | 6.250% | 3,034.32 | 50,112.21 |
| 4/01/2035 | - | - | 1,563.13 | 1,563.13 |
| 10/01/2035 | 50,020.26 | 6.250% | 1,563.13 | 51,583.39 |
| **Total** | **761,842.00** | **-** | **1,204,579.48** | **1,966,421.48** |

## YIELD STATISTICS

| | |
|---|---|
| Bond Year Dollars | $19,273.27 |
| Average Life | 25.298 Years |
| Average Coupon | 6.2499999% |
| Net Interest Cost (NIC) | 6.2499999% |
| True Interest Cost (TIC) | 6.2502827% |
| Bond Yield for Arbitrage Purposes | 6.2502827% |
| All Inclusive Cost (AIC) | 6.2502827% |

## IRS FORM 8038

| | |
|---|---|
| Net Interest Cost | 6.2499999% |
| Weighted Average Maturity | 25.298 Years |

SCHEDULE Y
REVENUES

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

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

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

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

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

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

# SCHEDULE Z

## Additional and Supplemental Definitions

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

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

## Additional Conditions and Covenants

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

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

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

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

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

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

(a) The Governmental Agency expects to enter into a contract within six months of the date thereof for the construction of the Project, and the amount to be expended pursuant to such contract exceeds the lesser of 2-1/2 percent of the estimated total Project cost financed with proceeds from the sale of the Local Bonds or $100,000;

(b) Work with respect to the construction of the Project will proceed with due diligence to completion. Construction is expected to be completed within three years from the date of issuance of the Authority's water development revenue bonds;

(c) All of the proceeds from the sale of the Local Bonds which will be used for payment of costs of the Project will be expended for such purpose within three years from the date of issuance of the Authority's water development revenue bonds; and

(d) The Governmental Agency does not expect to sell or otherwise dispose of the Project, in whole or in part, prior to the last maturity date of the Local Bonds.

WDA-5
(May 1993)

# LOAN AGREEMENT

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

CITY OF KEYSER
(Governmental Agency)

W I T N E S S E T H:

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

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

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

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

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

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

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

## ARTICLE I

## Definitions

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE II

## The Project and the System

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

---

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE III

### Conditions to Loan; Issuance of Local Bonds

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE IV

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

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

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

(b) Covenants substantially as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE V

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

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

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

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

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

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

## ARTICLE VI

### Other Agreements of the Governmental Agency

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

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

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

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

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

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

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

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

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

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

## ARTICLE VII

## Miscellaneous

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

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

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

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

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

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

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

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

7.8 This Loan Agreement shall terminate upon the earlier of:

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

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

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

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

City of Keyser
[Proper Name of Governmental Agency]

(SEAL)

By: Keith R. Hayworth

Its: Mayor

Attest:

Date: October 15, 1998

Its: Recorder

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: Director

Attest:

Date: October 15, 1998

Secretary-Treasurer

EXHIBIT A

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 between the Issuer and the West Virginia Water Development Authority (the "Authority") 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 forty 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)(ii) of the Loan Agreement, (vi) that 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 B

[Opinion of Bond Counsel for Governmental Agency]

[To Be Dated as of Date of Loan Closing]

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

Gentlemen:

We are bond counsel to _____ (the "Governmental Agency"), 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 Governmental Agency and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Governmental Agency, 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 April 1 and October 1 of each year, beginning _____ 1, 19__, at the respective rate or rates and with principal payable in installments on October 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 Governmental Agency 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 Governmental Agency and is a valid and binding special obligation of the Governmental Agency 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 Governmental Agency without the consent of the Authority.

3. The Governmental Agency 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 Governmental Agency 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 Governmental Agency, 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,

WDA-5X
(May 1993)

# SCHEDULE X
# DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds $2,997,584

Purchase Price of Local Bonds $2,997,584

Interest on the Local Bonds is payable on April 1 and October 1 in each year, beginning with the first semiannual interest payment date after delivery of the Local Bonds to the Authority, until the Local Bonds are paid in full, at the rate of 6.25 % per annum. Principal of the Local Bonds is payable on October 1 in each year as set forth on Exhibit 1 attached hereto and incorporated herein by reference.

As of the date of the Loan Agreement, the Local Bonds are on a parity as to source of and security for payment with the following obligations: Waterworks Improvement Revenue Note, dated September 19, 1961, issued in the original aggregate principal amount of $200,000; and Water Revenue Bond, Series 1980, dated February 26, 1980, issued in the original aggregate principal amount of $3,146,000.

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

# West Virginia Water Development Authority

*(Supplemental Fund)*

*City of Keyser, 1998 Series B*

*$2,997,584 Loan, 6.25% Interest Rate*

## DEBT SERVICE SCHEDULE

| Date | Principal | Coupon | Interest | Total P+I |
|---|---|---|---|---|
| 4/01/1999 | - | - | 86,388.71 | 86,388.71 |
| 10/01/1999 | 25,001.00 | 6.250% | 93,674.50 | 118,675.50 |
| 4/01/2000 | - | - | 92,893.22 | 92,893.22 |
| 10/01/2000 | 19,278.00 | 6.250% | 92,893.22 | 112,171.22 |
| 4/01/2001 | - | - | 92,290.78 | 92,290.78 |
| 10/01/2001 | 20,483.00 | 6.250% | 92,290.78 | 112,773.78 |
| 4/01/2002 | - | - | 91,650.69 | 91,650.69 |
| 10/01/2002 | 21,763.00 | 6.250% | 91,650.69 | 113,413.69 |
| 4/01/2003 | - | - | 90,970.59 | 90,970.59 |
| 10/01/2003 | 23,123.00 | 6.250% | 90,970.59 | 114,093.59 |
| 4/01/2004 | - | - | 90,248.00 | 90,248.00 |
| 10/01/2004 | 24,568.00 | 6.250% | 90,248.00 | 114,816.00 |
| 4/01/2005 | - | - | 89,480.25 | 89,480.25 |
| 10/01/2005 | 26,104.00 | 6.250% | 89,480.25 | 115,584.25 |
| 4/01/2006 | - | - | 88,664.50 | 88,664.50 |
| 10/01/2006 | 27,735.00 | 6.250% | 88,664.50 | 116,399.50 |
| 4/01/2007 | - | - | 87,797.78 | 87,797.78 |
| 10/01/2007 | 29,469.00 | 6.250% | 87,797.78 | 117,266.78 |
| 4/01/2008 | - | - | 86,876.88 | 86,876.88 |
| 10/01/2008 | 31,311.00 | 6.250% | 86,876.88 | 118,187.88 |
| 4/01/2009 | - | - | 85,898.41 | 85,898.41 |
| 10/01/2009 | 33,268.00 | 6.250% | 85,898.41 | 119,166.41 |
| 4/01/2010 | - | - | 84,858.78 | 84,858.78 |
| 10/01/2010 | 35,347.00 | 6.250% | 84,858.78 | 120,205.78 |
| 4/01/2011 | - | - | 83,754.19 | 83,754.19 |
| 10/01/2011 | 37,556.00 | 6.250% | 83,754.19 | 121,310.19 |
| 4/01/2012 | - | - | 82,580.56 | 82,580.56 |
| 10/01/2012 | 39,903.00 | 6.250% | 82,580.56 | 122,483.56 |
| 4/01/2013 | - | - | 81,333.59 | 81,333.59 |
| 10/01/2013 | 42,397.00 | 6.250% | 81,333.59 | 123,730.59 |
| 4/01/2014 | - | - | 80,008.69 | 80,008.69 |
| 10/01/2014 | 45,047.00 | 6.250% | 80,008.69 | 125,055.69 |
| 4/01/2015 | - | - | 78,600.97 | 78,600.97 |
| 10/01/2015 | 47,863.00 | 6.250% | 78,600.97 | 126,463.97 |
| 4/01/2016 | - | - | 77,105.25 | 77,105.25 |
| 10/01/2016 | 50,854.00 | 6.250% | 77,105.25 | 127,959.25 |
| 4/01/2017 | - | - | 75,516.06 | 75,516.06 |
| 10/01/2017 | 54,032.00 | 6.250% | 75,516.06 | 129,548.06 |
| 4/01/2018 | - | - | 73,827.56 | 73,827.56 |
| 10/01/2018 | 57,409.00 | 6.250% | 73,827.56 | 131,236.56 |
| 4/01/2019 | - | - | 72,033.53 | 72,033.53 |
| 10/01/2019 | 60,997.00 | 6.250% | 72,033.53 | 133,030.53 |
| 4/01/2020 | - | - | 70,127.38 | 70,127.38 |
| 10/01/2020 | 64,810.00 | 6.250% | 70,127.38 | 134,937.38 |
| 4/01/2021 | - | - | 68,102.06 | 68,102.06 |
| 10/01/2021 | 68,860.00 | 6.250% | 68,102.06 | 136,962.06 |

# West Virginia Water Development Authority

*(Supplemental Fund)*

*City of Keyser, 1998 Series B*

*$2,997,584 Loan, 6.25% Interest Rate*

## DEBT SERVICE SCHEDULE

| Date | Principal | Coupon | Interest | Total P+I |
|---|---|---|---|---|
| 4/01/2022 | - | - | 65,950.19 | 65,950.19 |
| 10/01/2022 | 73,164.00 | 6.250% | 65,950.19 | 139,114.19 |
| 4/01/2023 | - | - | 63,663.81 | 63,663.81 |
| 10/01/2023 | 77,737.00 | 6.250% | 63,663.81 | 141,400.81 |
| 4/01/2024 | - | - | 61,234.53 | 61,234.53 |
| 10/01/2024 | 82,596.00 | 6.250% | 61,234.53 | 143,830.53 |
| 4/01/2025 | - | - | 58,653.41 | 58,653.41 |
| 10/01/2025 | 87,758.00 | 6.250% | 58,653.41 | 146,411.41 |
| 4/01/2026 | - | - | 55,910.97 | 55,910.97 |
| 10/01/2026 | 93,243.00 | 6.250% | 55,910.97 | 149,153.97 |
| 4/01/2027 | - | - | 52,997.13 | 52,997.13 |
| 10/01/2027 | 99,070.00 | 6.250% | 52,997.13 | 152,067.13 |
| 4/01/2028 | - | - | 49,901.19 | 49,901.19 |
| 10/01/2028 | 105,262.00 | 6.250% | 49,901.19 | 155,163.19 |
| 4/01/2029 | - | - | 46,611.75 | 46,611.75 |
| 10/01/2029 | 111,841.00 | 6.250% | 46,611.75 | 158,452.75 |
| 4/01/2030 | - | - | 43,116.72 | 43,116.72 |
| 10/01/2030 | 118,831.00 | 6.250% | 43,116.72 | 161,947.72 |
| 4/01/2031 | - | - | 39,403.25 | 39,403.25 |
| 10/01/2031 | 126,258.00 | 6.250% | 39,403.25 | 165,661.25 |
| 4/01/2032 | - | - | 35,457.69 | 35,457.69 |
| 10/01/2032 | 134,149.00 | 6.250% | 35,457.69 | 169,606.69 |
| 4/01/2033 | - | - | 31,265.53 | 31,265.53 |
| 10/01/2033 | 142,533.00 | 6.250% | 31,265.53 | 173,798.53 |
| 4/01/2034 | - | - | 26,811.38 | 26,811.38 |
| 10/01/2034 | 151,442.00 | 6.250% | 26,811.38 | 178,253.38 |
| 4/01/2035 | - | - | 22,078.81 | 22,078.81 |
| 10/01/2035 | 160,907.00 | 6.250% | 22,078.81 | 182,985.81 |
| 4/01/2036 | - | - | 17,050.47 | 17,050.47 |
| 10/01/2036 | 170,964.00 | 6.250% | 17,050.47 | 188,014.47 |
| 4/01/2037 | - | - | 11,707.84 | 11,707.84 |
| 10/01/2037 | 181,649.00 | 6.250% | 11,707.84 | 193,356.84 |
| 4/01/2038 | - | - | 6,031.31 | 6,031.31 |
| 10/01/2038 | 193,002.00 | 6.250% | 6,031.31 | 199,033.31 |
| **Total** | **2,997,584.00** | **-** | **5,204,994.61** | **8,202,578.61** |

SCHEDULE Y
REVENUES

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

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

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

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

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

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

# SCHEDULE Z

## Additional and Supplemental Definitions

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

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

## Additional Conditions and Covenants

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

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

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

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

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

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

(a) The Governmental Agency expects to enter into a contract within six months of the date thereof for the construction of the Project, and the amount to be expended pursuant to such contract exceeds the lesser of 2-1/2 percent of the estimated total Project cost financed with proceeds from the sale of the Local Bonds or $100,000;

(b) Work with respect to the construction of the Project will proceed with due diligence to completion. Construction is expected to be completed within three years from the date of issuance of the Authority's water development revenue bonds;

(c) All of the proceeds from the sale of the Local Bonds which will be used for payment of costs of the Project will be expended for such purpose within three years from the date of issuance of the Authority's water development revenue bonds; and

(d) The Governmental Agency does not expect to sell or otherwise dispose of the Project, in whole or in part, prior to the last maturity date of the Local Bonds.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
4-2-98

Entered: March 13, 1998

CASE NO. 97-1504-W-CN

KEYSER MUNICIPAL WATER DEPARTMENT,
a municipal corporation, Keyser,
Mineral County.
Application for a certificate of convenience
and necessity to construct water system
improvements at Keyser, Mineral County.

RECOMMENDED DECISION

On November 5, 1997, the Keyser Municipal Water Department (Keyser), a municipal corporation, Keyser, Mineral 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 improve its water system.

On November 7, 1997, the Commission directed that Keyser publish the Notice of Filing, once, in a newspaper duly qualified by the Secretary of State, published and generally circulated in Mineral County. The Notice of Filing provided that, if no substantial protests were filed within thirty (30) days, the Commission may waive formal hearing and grant the certificate, based upon its review of the evidence submitted with the application. On December 10, 1997, Keyser filed a publication affidavit indicating that it had published the Notice of Filing as directed in the *Mineral Daily News-Tribune*, a newspaper published and generally circulated in Mineral County, West Virginia, on November 19, 1997. No one protested the matter.

On November 26, 1997, Staff Attorney Ronald E. Robertson, Jr., Esquire, filed the Initial Joint Staff Memorandum, dated November 21, 1997, attaching thereto the November 20, 1997 Initial Internal Memorandum from Technical Analyst Joseph A. Marakovits and Utilities Analyst Geert Bakker, both of the Water and Wastewater Division, indicating that, once Commission Staff has reviewed these matters, it would file a recommendation.

On December 8, 1997, the Commission entered the Commission Referral Order in this matter, thereby referring this matter to the Division of Administrative Law Judges for decision on or before June 3, 1998. In response to all of the above, on December 16, 1997, the Administrative Law Judge (ALJ) issued a Procedural Order establishing a procedural schedule to process and resolve this matter, including a March 16, 1998 hearing date.

On March 11, 1998, Staff Attorney Robertson filed the Final Joint Staff Memorandum in this matter, attaching the Final Internal Memorandum, dated

March 9, 1998, from Technical Analyst Marakovits and Utilities Analyst Bakker. Together, these Memoranda comprise Commission Staff's final recommendation in this matter.

Commission Staff reported that the proposed project, estimated to cost $4,243,000, would significantly improve, modernize and upgrade Keyser's existing municipal water treatment and distribution system. Commission Staff opined that the estimated cost is reasonable for a project of this magnitude, and the project's plans and specifications do not conflict with Commission rules and regulation. The West Virginia Office of Environmental Health Services (Health Services) has approved the project by issuing Permit No. 13,553. The project is needed so that Keyser can reduce unaccounted for water, increase the system's water pressure, increase storage capability, replace its 100-year old distribution system, serve additional residential and industrial customers and continue to provide its customers with a continuous and safe supply of potable water. The project will not increase operation and maintenance expenses. Keyser already has passed a municipal rate ordinance to support this project, and no one protested that rate increase, which became effective on October 27, 1997.

Keyser will finance the proposed project with an approved $633,500 West Virginia Small Cities Block (SCB) grant and an approved $3,609,500 West Virginia Water Development Authority (WDA) loan at 6.25% for 40 years. The WDA loan includes $286,000 to retire an existing loan from a 1984 project.

Commission Staff recommended that the ALJ cancel the hearing and grant the application, provided that, should bids exceed the construction cost estimates, Keyser would have to seek separate approval from the Commission.

## 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.

The ALJ holds that, since Keyser published the Notice of Filing, granting a 30-day protest period; since no one protested the proposed project; since the project will address several problems with Keyser's 100-year old distribution system and will permit Keyser to continue serving existing and additional customers; since Health Services has approved the project by issuing Permit No. 13,553; since Keyser already has adopted rates to support the project, without protest; and since Commission Staff has recommended granting the application without a hearing, he will grant Keyser's application for a certificate of public convenience and necessity. Since Commission Staff has opined that the $4,243,000 cost estimate is reasonable for the project; since Keyser has obtained approval to finance the project with a $633,500 SCB grant and a $3,609,500 WDA loan at 6.25% for 40 years, he will approve the proposed financing for the project. Finally, should the scope or the financing of the project change for any reason, the

ALJ will require that Keyser obtain separate Commission approval prior to commencing construction.

## FINDINGS OF FACT

1. Keyser Municipal Water Department filed an application with the Commission, pursuant to *Code* §24-2-11, for a certificate of public convenience and necessity to improve its water system. (See, Application, filed November 5, 1997).

2. Keyser published the Notice of Filing on November 19, 1997, in the *Mineral Daily News-Tribune*, a newspaper published and generally circulated in Mineral County, providing a 30-day protest, and no one protested the matter. (See, Affidavit, filed December 10, 1997).

3. The proposed project, estimated to cost $4,243,000, would significantly improve, modernize and upgrade Keyser's existing municipal water treatment and distribution system. (See, Final Joint Staff Memorandum, filed March 11, 1998).

4. The estimated cost is reasonable for a project of this magnitude, and the project's plans and specifications do not conflict with Commission rules and regulation. (See, Final Joint Staff Memorandum, filed March 11, 1998).

5. Health Services has approved the project by issuing Permit No. 13,553. (See, Final Joint Staff Memorandum, filed March 11, 1998).

6. The project will reduce unaccounted for water, increase the system's water pressure, increase storage capability, replace Keyser's 100-year old distribution system, serve additional residential and industrial customers and continue to provide Keyser's customers with a continuous and safe supply of potable water. (See, Final Joint Staff Memorandum, filed March 11, 1998).

7. The project will not increase operation and maintenance expenses. (See, Final Joint Staff Memorandum, filed March 11, 1998).

8. Keyser already has passed a municipal rate ordinance to support this project, and no one protested that rate increase, which became effective on October 27, 1997. (See, Final Joint Staff Memorandum, filed March 11, 1998).

9. Keyser will finance the proposed project with a $633,500 SCB grant and a $3,609,500 WDA loan at 6.25% for 40 years, including $286,000 to retire an existing loan from a 1984 project. (See, Final Joint Staff Memorandum, filed March 11, 1998).

10. Commission Staff has recommended that the Commission grant the application without a hearing, provided that, should bids exceed the

construction cost estimates, Keyser would have to seek separate approval from the Commission. (See, Final Joint Staff Memorandum, filed March 11, 1998).

## CONCLUSIONS OF LAW

1. For all of the reasons set forth in Finding of Fact Nos. 2 through 10, it is reasonable to hold that public convenience and necessity require the project, and it also is reasonable to grant the application without a hearing.

2. For all of the reasons set forth in Finding of Fact Nos. 9 and 10, it is reasonable to approve the proposed financing for the project and to require Keyser to obtain separate Commission approval before commencing construction should the scope or the financing of the project change for any reason.

## ORDER

IT IS, THEREFORE, ORDERED that the application for a certificate of public convenience and necessity filed with the Commission on November 5, 1997, by the Keyser Municipal Water Department, pursuant to *Code* §24-2-11, for a certificate of public convenience and necessity to improve its water system, be, and it hereby is, granted.

IT IS FURTHER ORDERED that the proposed financing for the project, comprised of a $633,500 SCB grant and a $3,609,500 WDA loan at an interest rate not to exceed 6.25% for a term not to exceed 40 years, including retiring Keyser's existing $286,000 long term debt, be, and it hereby is, approved.

IT IS FURTHER ORDERED that, should the scope or the financing for the project change for any reason, Keyser first shall obtain separate Commission approval before commencing construction of the project.

The Executive Secretary hereby is 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 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 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 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 Order or 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

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 5th day of October, 1998.

CASE NO. 97-1504-W-CN (Reopened)

KEYSER MUNICIPAL WATER DEPARTMENT,
a municipal corporation, Keyser, Mineral County
Application for certificate
of convenience and necessity
to construct water system
improvements at Keyser.

## COMMISSION ORDER APPROVING ADDITIONAL PROJECT COSTS AND SPENDING

## PROCEDURE AND HISTORY

On August 27, 1998, the City of Keyser (City) filed with the Commission a petition, seeking to reopen its certificate case and to obtain Commission approval of an additional $150,000 loan from the West Virginia Water Development Authority, as well as the spending of $60,000 in interest income earned during the construction of the water system improvement project.

According to the City's petition, the bids for the water project came in $209,926 over the $4,243,000 estimate previously approved by Commission Order dated April 4, 1998. The lowest bid for the project was $4,452,926. The City therefore seeks approval of financing for $210,000 in additional funds.

Under the revised funding scenario for the project, the City proposes that the project be financed as follows:

| | |
|---|---|
| Small Cities Block Grant | $ 633,500 |
| Water Development Authority (loan@6.25%/40 yrs.) | 3,759,500 |
| Subtotal | $ 4,393,100 |
| Interest earned during construction | 60,000* |
| Total | $ 4,453,100 |

*Interest revenue will depend upon the effective interest rate.

The Commission has received the letter of commitment for the revised Water Development Authority loan of $3,759,500. The additional debt service for the increased loan amount ($10,300) will be available from McCoole, Maryland, a new resale customer. The projected usage of McCoole, Maryland customers is anticipated to be in excess of 50,000 gallons per day, providing approximately $37,781 of additional yearly revenues.

Commission Staff has concluded that the projected revenues are sufficient for the City to operate its water system after substantial completion of the project and recommends that the Commission grant the City's petition to reopen this certificate case and approve an additional $150,000 loan from the West Virginia Water Development Authority, as well as the spending of $60,000 in interest income earned during the construction of the water system improvement project.

The City has requested expedited treatment of this case so that it may close on the financing and begin construction as soon as possible.

## DISCUSSION

As indicated above, the lowest project bids came in $209,926 over the amount previously approved by Commission Order dated April 4, 1998. To make up this shortfall in funding, the City has obtained from the Water Development Authority a commitment to provide an additional loan of $150,000 to finance the City's water project, for a total loan of $3,759,500, and has proposed the spending of $60,000 in interest income earned during the project's construction.

Upon review of the petition filed by the City, and the exhibits attached thereto, as well as Staff's memorandum recommending that the petition be approved, we find that the City's petition to reopen should be granted. The Commission further finds that the City's request for approval of an additional $150,000 loan from the Water Development Authority should be granted, as should the spending of $60,000 in interest income earned during the construction of the project.

According to the City's petition, "the current revenues generated by the project will be sufficient to meet the increased bid costs without rate modifications if . . . a. [c]onsideration is given to using the part of the revenue from the sale of water to the McCoole, Maryland water system which will soon purchase water for its customers[;] and b.[t]he City of Keyser would invest the project funds during the construction period." See Exhibit C, "Report on Assumptions in Connection with Proposed Additional Financing Required to Construct System Improvements and Rehabilitation Based upon Bids Received," prepared by Blair & Company, CPA's, attached to City's Petition. The Commission's approval of the additional $210,000 in funding is based upon our understanding that there



Public Service Commission
of West Virginia
Charleston

will be no resulting rate modification which will affect the City's water system customers.

Finally, pursuant to Commission procedure, the City shall be directed to again seek additional regulatory approval should there be a change in either or both the scope or funding of project at issue.

## FINDINGS OF FACT

1. On August 27, 1998, the City of Keyser (City) filed a petition with the Commission seeking to reopen its certificate case and to obtain Commission approval of an additional $150,000 loan from the West Virginia Water Development Authority, as well as the spending of $60,000 in interest income earned during the construction of the water system improvement project.

2. The bids for the water project came in $209,926 over the $4,243,000 estimate previously approved by Commission Order dated April 4, 1998. The lowest bid for the project was $4,452,926.

3. The City proposes that the revised total project costs of $4,453,100 be financed as follows:

| | |
|---|---|
| Small Cities Block Grant | $ 633,500 |
| Water Development Authority (loan@6.25%/40 yrs.) | 3,759,500 |
| Subtotal | $ 4,393,100 |
| Interest earned during construction | 60,000* |
| Total | $ 4,453,100 |

*Interest revenue will depend upon the effective interest rate.

4. According to the City's petition, "the current revenues generated by the project will be sufficient to meet the increased bid costs without rate modifications if . . . a. [c]onsideration is given to using the part of the revenue from the sale of water to the McCoole, Maryland water system which will soon purchase water for its customers[;] and b.[t]he City of Keyser would invest the project funds during the construction period." See Exhibit C, "Report on Assumptions in Connection with Proposed Additional Financing Required to Construct System Improvements and Rehabilitation Based upon Bids Received," prepared by Blair & Company, CPA's, attached to City's Petition.



Public Service Commission
of West Virginia
Charleston

## CONCLUSIONS OF LAW

The Commission concludes as a matter of law that it is reasonable to grant the City of Keyser's petition to reopen the water certificate case and to approve an additional $150,000 loan from the West Virginia Water Development Authority, as well as the spending of $60,000 in interest income earned during the construction of the water system improvement project.

## ORDER

IT IS THEREFORE ORDERED that the August 27, 1998 petition filed by the City of Keyser shall be, and it hereby is, granted. The instant case is hereby reopened for the specific purpose of approving an additional $150,00 loan from the West Virginia Water Development Authority and the spending of $60,000 in interest income earned during the construction of the water system improvement project.

IT IS FURTHER ORDERED that the City of Keyser is hereby granted approval of the following financing for its project:

| | |
|---|---|
| Small Cities Block Grant | $ 633,500 |
| Water Development Authority (loan@6.25%/40 yrs.) | 3,759,500 |
| Subtotal | $ 4,393,100 |
| Interest earned during construction | 60,000* |
| Total | $ 4,453,100 |

*Interest revenue will depend upon the effective interest rate.

IT IS FURTHER ORDERED that the City shall be, and it hereby is, directed to seek and obtain additional regulatory approval should there be a change in either or both the scope or funding of the project at issue.

The Executive Secretary of the Commission shall be, and she hereby is, directed to serve a copy of this order upon the City of Keyser by United States First Class Mail, and upon the Commission Staff by hand delivery.

AND IT IS SO ORDERED.

**A True Copy, Teste:**

Sandra Squire

**Sandra Squire**
**Executive Secretary**

**CITY OF KEYSER**
**WATER REVENUE BONDS,**
**SERIES 1998A AND SERIES 1998B**

**CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS**

The undersigned, Barbara B. Meadows, Secretary-Treasurer of West Virginia Water Development Authority, for and on behalf of West Virginia Water Development Authority (the "Authority") and Keith R. Hayward, Mayor of the City of Keyser (the "Issuer"), hereby certify as follows:

1. On the 15th day of October, 1998, the Authority received the entire original issue of $761,842 in aggregate principal amount of Water Revenue Bonds, Series 1998A, and $2,997,584 in aggregate principal amount of Water Revenue Bonds, Series 1998B, of the Issuer (the "Bonds"), issued as two, fully registered Bonds numbered AR-1 and BR-1, respectively, dated October 15th, 1998, the Series 1998A Bond being in the principal amount of $761,842 and the Series 1998B Bond being in the principal amount of $2,997,584.

2. At the time of such receipt of the Bonds upon original issuance, the same had been executed by Keith R. Hayward, as Mayor of the Issuer, by his manual signature, and by Penny Sanders, as City Administrator of the Issuer, by her manual signature, and the official seal of the Issuer had been affixed upon the Bonds.

3. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Bonds, of the proceeds of the Series 1998A Bond in the aggregate principal amount of $761,842 and the Series 1998B Bond in the aggregate principal amount of $2,997,584 (each being 100% of par value), there being no interest accrued on either series.

IN WITNESS WHEREOF, Barbara B. Meadows duly signed and delivered this receipt on behalf of WEST VIRGINIA WATER DEVELOPMENT AUTHORITY and the CITY OF KEYSER has caused this receipt to be duly executed and delivered by its Mayor, as of this 15th day of October, 1998.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By Barbara B Meadows
Secretary-Treasurer

CITY OF KEYSER

By Keith R. Hayward
Mayor

**CITY OF KEYSER**
**WATER REVENUE BONDS**
**SERIES 1998A AND SERIES 1998B**

**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. AR-1, constituting the entire original issue of the City of Keyser Water Revenue Bonds, Series 1998A, in the principal amount of $761,842, and Bond No. BR-1, constituting the entire original issue of the City of Keyser Water Revenue Bonds, Series 1998B, in the principal amount of $2,997,584, dated October 15, 1998, (the "Bonds"), executed by the Mayor and City Administrator of the City of Keyser (the "Issuer") and bearing the official seal of the Issuer, authorized to be issued under and pursuant to a Bond Ordinance and Supplemental Resolutions duly adopted by the Issuer (collectively, the "Local Act");

(2) A copy of the Local Act authorizing the issuance of the above Bonds, duly certified by the City Administrator of the Issuer;

(3) An executed Loan Agreement dated October 15, 1998, by and between the West Virginia Water Development Authority (the "Authority") and the Issuer for each series of the Bonds (collectively, the "Loan Agreement"); and

(4) Signed 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 account of the Issuer of the sum of $761,842 and $2,997,584, which represent the respective agreed aggregate purchase prices of the Bonds, there being no accrued interest thereon. Prior to such delivery of the Bonds, you will please cause the Bonds to be authenticated by an authorized officer, as Bond Registrar, in accordance with the forms of Certificate of Authentication and Registration thereon.

Dated this 15th day of October, 1998.

CITY OF KEYSER

By Keith R. Hayward

Its: Mayor

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF KEYSER
WATER REVENUE BOND,
SERIES 1998A

No. AR-1 $761,842

KNOW ALL MEN BY THESE PRESENTS: That CITY OF KEYSER, a municipal corporation of the State of West Virginia in Mineral 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 SEVEN HUNDRED SIXTY-ONE THOUSAND EIGHT HUNDRED FORTY-TWO DOLLARS ($761,842), in installments on October 1 of each year, as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit A.

The interest on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning April 1, 1999. 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.

SPECIMEN

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority, dated October 15, 1998.

This Bond is issued (i) to permanently finance a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing waterworks system of the Issuer (the "Project"); (ii) to refinance and refund certain prior obligations of the Issuer; (iii) to pay a portion of the interest on the Bonds during the construction of the Project and for not more than six (6) months thereafter; and (iv) to pay certain costs of issuance hereof and related costs. The existing waterworks system of the Issuer, the Project and any further additions, betterments or improvements thereto is herein

called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 13, Article 2E of the West Virginia Code of 1931, as amended (collectively, the "Act"), and an Ordinance duly enacted by the Issuer on September 11, 1998, a Supplemental Resolution duly adopted by the Issuer on September 30, 1998, a Second Supplemental Resolution duly adopted by the Issuer on October 8, 1998, and a Third Supplemental Resolution duly adopted by the Issuer on October 14, 1998 (collectively called 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 securities provided for the Bonds of this Series (the "Bonds") under the Bond Legislation.

THIS BOND IS ISSUED ON PARITY WITH RESPECT TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S WATER REVENUE BONDS, SERIES 1998 B, ISSUED CONCURRENTLY HEREWITH IN THE AGGREGATE PRINCIPAL AMOUNT OF $2,997,584 (THE "SERIES 1998 B BONDS"), THE ISSUER'S WATER REVENUE BOND, SERIES 1980, DATED FEBRUARY 26, 1980, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,146,000 (THE "SERIES 1980 BOND") AND THE ISSUER'S WATER IMPROVEMENT REVENUE NOTE DATED SEPTEMBER 19, 1961, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $200,000 (THE "SERIES 1961 NOTE") (THE SERIES 1980 BOND AND SERIES 1961 NOTE ARE COLLECTIVELY REFERRED TO HEREIN AS THE "PRIOR BONDS").

SPECIMEN

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on parity with the pledge of Gross Revenues in favor of the holders of the Series 1998 B Bonds and the Prior Bonds, and from moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1998 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Gross Revenues, the moneys in the Series 1998 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and

to leave a balance each year equal to at least 115% (125% so long as the Series 1980 Bond remains Outstanding) of the maximum amount payable in any year for principal of and interest on the Bonds, the Series 1998 B Bonds and the Prior Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds provided however, that so long as there exists in the Series 1998 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations Outstanding prior to or on a parity with the Bonds, including without limitation the Series 1998 B Bonds and the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110% (but shall remain 125% so long as the Series 1980 Bond remains Outstanding). 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.

SPECIMEN

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.

The Issuer covenants and agrees that the Project shall not contribute to excessive erosion or conversion of wetlands.

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

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

been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

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

IN WITNESS WHEREOF, THE CITY OF KEYSER has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its City Administrator, and has caused this Bond to be dated October 15, 1998.

CITY OF KEYSER

SPECIMEN

Mayor

[SEAL]

ATTEST:

SPECIMEN

City Administrator

## CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1998 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: October 15, 1998.

ONE VALLEY BANK, NATIONAL ASSOCIATION,
as Registrar

SPECIMEN

By _____
Its: Authorized Officer

## EXHIBIT A

## SCHEDULE OF ANNUAL DEBT SERVICE

SPECIMEN

# West Virginia Water Development Authority

*(1995 Series B Bond Proceeds)*
*City of Keyser, 1998 Series A*
*$761,842 Loan, 6.25% Interest Rate*

## DEBT SERVICE SCHEDULE

| Date | Principal | Coupon | Interest | Total P+I |
|---|---|---|---|---|
| 4/01/1999 | - | - | 21,955.86 | 21,955.86 |
| 10/01/1999 | 7,383.10 | 6.250% | 23,807.56 | 31,190.66 |
| 4/01/2000 | - | - | 23,576.84 | 23,576.84 |
| 10/01/2000 | 5,992.85 | 6.250% | 23,576.84 | 29,569.69 |
| 4/01/2001 | - | - | 23,389.56 | 23,389.56 |
| 10/01/2001 | 6,367.40 | 6.250% | 23,389.56 | 29,756.96 |
| 4/01/2002 | - | - | 23,190.58 | 23,190.58 |
| 10/01/2002 | 6,765.36 | 6.250% | 23,190.58 | 29,955.94 |
| 4/01/2003 | - | - | 22,979.17 | 22,979.17 |
| 10/01/2003 | 7,188.20 | 6.250% | 22,979.17 | 30,167.37 |
| 4/01/2004 | - | - | 22,754.53 | 22,754.53 |
| 10/01/2004 | 7,637.46 | 6.250% | 22,754.53 | 30,391.99 |
| 4/01/2005 | - | - | 22,515.86 | 22,515.86 |
| 10/01/2005 | 8,114.80 | 6.250% | 22,515.86 | 30,630.66 |
| 4/01/2006 | - | - | 22,262.28 | 22,262.28 |
| 10/01/2006 | 8,621.97 | 6.250% | 22,262.28 | 30,884.25 |
| 4/01/2007 | - | - | 21,992.84 | 21,992.84 |
| 10/01/2007 | 9,160.85 | 6.250% | 21,992.84 | 31,153.69 |
| 4/01/2008 | - | - | 21,706.56 | 21,706.56 |
| 10/01/2008 | 9,733.40 | 6.250% | 21,706.56 | 31,439.96 |
| 4/01/2009 | - | - | 21,402.39 | 21,402.39 |
| 10/01/2009 | 10,341.74 | 6.250% | 21,402.39 | 31,744.13 |
| 4/01/2010 | - | - | 21,079.21 | 21,079.21 |
| 10/01/2010 | 10,988.10 | 6.250% | 21,079.21 | 32,067.31 |
| 4/01/2011 | - | - | 20,735.84 | 20,735.84 |
| 10/01/2011 | 11,674.85 | 6.250% | 20,735.84 | 32,410.69 |
| 4/01/2012 | - | - | 20,371.00 | 20,371.00 |
| 10/01/2012 | 12,404.53 | 6.250% | 20,371.00 | 32,775.53 |
| 4/01/2013 | - | - | 19,983.36 | 19,983.36 |
| 10/01/2013 | 13,179.82 | 6.250% | 19,983.36 | 33,163.18 |
| 4/01/2014 | - | - | 19,571.49 | 19,571.49 |
| 10/01/2014 | 14,003.55 | 6.250% | 19,571.49 | 33,575.04 |
| 4/01/2015 | - | - | 19,133.88 | 19,133.88 |
| 10/01/2015 | 14,878.78 | 6.250% | 19,133.88 | 34,012.66 |
| 4/01/2016 | - | - | 18,668.91 | 18,668.91 |
| 10/01/2016 | 15,808.70 | 6.250% | 18,668.91 | 34,477.61 |
| 4/01/2017 | - | - | 18,174.89 | 18,174.89 |
| 10/01/2017 | 16,796.74 | 6.250% | 18,174.89 | 34,971.63 |
| 4/01/2018 | - | - | 17,649.99 | 17,649.99 |
| 10/01/2018 | 17,846.54 | 6.250% | 17,649.99 | 35,496.53 |
| 4/01/2019 | - | - | 17,092.29 | 17,092.29 |
| 10/01/2019 | 18,961.95 | 6.250% | 17,092.29 | 36,054.24 |
| 4/01/2020 | - | - | 16,499.73 | 16,499.73 |
| 10/01/2020 | 20,147.07 | 6.250% | 16,499.73 | 36,646.80 |
| 4/01/2021 | - | - | 15,870.13 | 15,870.13 |
| 10/01/2021 | 21,406.26 | 6.250% | 15,870.13 | 37,276.39 |

## 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: _____, 19_____.

SPECIMEN

In the presence of:

SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF KEYSER
WATER REVENUE BOND,
SERIES 1998B

No. BR-1 $2,997,584

KNOW ALL MEN BY THESE PRESENTS: That CITY OF KEYSER, a municipal corporation of the State of West Virginia in Mineral County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of TWO MILLION NINE HUNDRED NINETY-SEVEN THOUSAND FIVE HUNDRED EIGHTY-FOUR DOLLARS ($2,997,584.00), in installments on October 1 of each year, as set forth from time to time on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit A not to exceed six and one-quarter percent (6.25%) per annum. As contemplated by the Bond Legislation, as hereinafter defined, the Schedule of Annual Debt Service may be modified upon the issuance of bonds by the Authority.

SPECIMEN

The interest on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning April 1, 1999. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar") on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority, dated October 15, 1998.

This Bond is issued (i) to permanently finance a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing waterworks system of the Issuer (the "Project"); (ii) to refinance and refund certain prior obligations of the Issuer; (iii) to pay a portion of the interest on the Bonds during

the construction of the Project and for not more than six (6) months thereafter; and (iv) to pay certain costs of issuance hereof and related costs. The existing waterworks system of the Issuer, the Project and any further additions, betterments or improvements thereto is herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 13, Article 2E of the West Virginia Code of 1931, as amended (collectively, the "Act"), and an Ordinance duly enacted by the Issuer on September 11, 1998, a Supplemental Resolution duly adopted by the Issuer on September 30, 1998, a Second Supplemental Resolution duly adopted by the Issuer on October 8, 1998, and a Third Supplemental Resolution duly adopted by the Issuer on October 14, 1998 (collectively called 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 securities provided for the Bonds of this Series (the "Bonds") under the Bond Legislation.

THIS BOND IS ISSUED ON PARITY WITH RESPECT TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S WATER REVENUE BONDS, SERIES 1998 A, ISSUED CONCURRENTLY HEREWITH IN THE AGGREGATE PRINCIPAL AMOUNT OF $761,842 (THE "SERIES 1998 A BONDS"), THE ISSUER'S WATER REVENUE BOND, SERIES 1980, DATED FEBRUARY 26, 1980, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,146,000 (THE "SERIES 1980 BOND") AND THE ISSUER'S WATER IMPROVEMENT REVENUE NOTE DATED SEPTEMBER 19, 1961, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $200,000 (THE "SERIES 1961 NOTE") (THE SERIES 1980 BOND AND SERIES 1961 NOTE ARE COLLECTIVELY REFERRED TO HEREIN AS THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on parity with the pledge of Gross Revenues in favor of the holders of the Series 1998 A Bonds and the Prior Bonds, and from moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1998 B Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Gross Revenues, the moneys in the Series 1998 B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and

maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% (125% so long as the Series 1980 Bond remains Outstanding) of the maximum amount payable in any year for principal of and interest on the Bonds, the Series 1998 A Bonds and the Prior Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds provided however, that so long as there exists in the Series 1998 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations Outstanding prior to or on a parity with the Bonds, including without limitation the Series 1998 A Bonds and the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110% (but shall remain 125% so long as the Series 1980 Bond remains Outstanding). 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.

SPECIMEN

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.

The Issuer covenants and agrees that the Project shall not contribute to excessive erosion or conversion of wetlands.

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

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

form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

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

IN WITNESS WHEREOF, THE CITY OF KEYSER has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its City Administrator, and has caused this Bond to be dated October 15, 1998.

CITY OF KEYSER

SPECIMEN

Mayor

[SEAL]

ATTEST:

SPECIMEN

City Administrator

## CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1998 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: October 15, 1998.

ONE VALLEY BANK, NATIONAL ASSOCIATION,
as Registrar

By _____
Its: Authorized Officer

## EXHIBIT A

## SCHEDULE OF ANNUAL DEBT SERVICE

SPECIMEN

# West Virginia Water Development Authority

*(Supplemental Fund)*
*City of Keyser, 1998 Series B*
*$2,997,584 Loan, 6.25% Interest Rate*

## DEBT SERVICE SCHEDULE

| Date | Principal | Coupon | Interest | Total P+I |
|---|---|---|---|---|
| 4/01/1999 | - | - | 86,388.71 | 86,388.71 |
| 10/01/1999 | 25,001.00 | 6.250% | 93,674.50 | 118,675.50 |
| 4/01/2000 | - | - | 92,893.22 | 92,893.22 |
| 10/01/2000 | 19,278.00 | 6.250% | 92,893.22 | 112,171.22 |
| 4/01/2001 | - | - | 92,290.78 | 92,290.78 |
| 10/01/2001 | 20,483.00 | 6.250% | 92,290.78 | 112,773.78 |
| 4/01/2002 | - | - | 91,650.69 | 91,650.69 |
| 10/01/2002 | 21,763.00 | 6.250% | 91,650.69 | 113,413.69 |
| 4/01/2003 | - | - | 90,970.59 | 90,970.59 |
| 10/01/2003 | 23,123.00 | 6.250% | 90,970.59 | 114,093.59 |
| 4/01/2004 | - | - | 90,248.00 | 90,248.00 |
| 10/01/2004 | 24,568.00 | 6.250% | 90,248.00 | 114,816.00 |
| 4/01/2005 | - | - | 89,480.25 | 89,480.25 |
| 10/01/2005 | 26,104.00 | 6.250% | 89,480.25 | 115,584.25 |
| 4/01/2006 | - | - | 88,664.50 | 88,664.50 |
| 10/01/2006 | 27,735.00 | 6.250% | 88,664.50 | 116,399.50 |
| 4/01/2007 | - | - | 87,797.78 | 87,797.78 |
| 10/01/2007 | 29,469.00 | 6.250% | 87,797.78 | 117,266.78 |
| 4/01/2008 | - | - | 86,876.88 | 86,876.88 |
| 10/01/2008 | 31,311.00 | 6.250% | 86,876.88 | 118,187.88 |
| 4/01/2009 | - | - | 85,898.41 | 85,898.41 |
| 10/01/2009 | 33,268.00 | 6.250% | 85,898.41 | 119,166.41 |
| 4/01/2010 | - | - | 84,858.78 | 84,858.78 |
| 10/01/2010 | 35,347.00 | 6.250% | 84,858.78 | 120,205.78 |
| 4/01/2011 | - | - | 83,754.19 | 83,754.19 |
| 10/01/2011 | 37,556.00 | 6.250% | 83,754.19 | 121,310.19 |
| 4/01/2012 | - | - | 82,580.56 | 82,580.56 |
| 10/01/2012 | 39,903.00 | 6.250% | 82,580.56 | 122,483.56 |
| 4/01/2013 | - | - | 81,333.59 | 81,333.59 |
| 10/01/2013 | 42,397.00 | 6.250% | 81,333.59 | 123,730.59 |
| 4/01/2014 | - | - | 80,008.69 | 80,008.69 |
| 10/01/2014 | 45,047.00 | 6.250% | 80,008.69 | 125,055.69 |
| 4/01/2015 | - | - | 78,600.97 | 78,600.97 |
| 10/01/2015 | 47,863.00 | 6.250% | 78,600.97 | 126,463.97 |
| 4/01/2016 | - | - | 77,105.25 | 77,105.25 |
| 10/01/2016 | 50,854.00 | 6.250% | 77,105.25 | 127,959.25 |
| 4/01/2017 | - | - | 75,516.06 | 75,516.06 |
| 10/01/2017 | 54,032.00 | 6.250% | 75,516.06 | 129,548.06 |
| 4/01/2018 | - | - | 73,827.56 | 73,827.56 |
| 10/01/2018 | 57,409.00 | 6.250% | 73,827.56 | 131,236.56 |
| 4/01/2019 | - | - | 72,033.53 | 72,033.53 |
| 10/01/2019 | 60,997.00 | 6.250% | 72,033.53 | 133,030.53 |
| 4/01/2020 | - | - | 70,127.38 | 70,127.38 |
| 10/01/2020 | 64,810.00 | 6.250% | 70,127.38 | 134,937.38 |
| 4/01/2021 | - | - | 68,102.06 | 68,102.06 |
| 10/01/2021 | 68,860.00 | 6.250% | 68,102.06 | 136,962.06 |

SPECIMEN

## 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: _____, 19_____.

SPECIMEN

In the presence of:

SPECIMEN

BOWLES RICE
MCDAVID GRAFF & LOVE, PLLC

ATTORNEYS AT LAW

600 QUARRIER STREET
POST OFFICE BOX 1386
CHARLESTON, WEST VIRGINIA 25325-1386
TELEPHONE 304-347-1100
www.bowlesrice.com

1000 TECHNOLOGY DRIVE, SUITE 2310
FAIRMONT, WEST VIRGINIA 26554
TELEPHONE 304-368-4000

105 WEST BURKE STREET
MARTINSBURG, WEST VIRGINIA 25401
TELEPHONE 304-263-0836

7000 HAMPTON CENTER, SUITE K
MORGANTOWN, WEST VIRGINIA 26505
TELEPHONE 304-599-1390

601 AVERY STREET
PARKERSBURG, WEST VIRGINIA 26102
TELEPHONE 304-485-8500

1200 VINE CENTER TOWER
333 WEST VINE STREET
LEXINGTON, KENTUCKY 40507
TELEPHONE 606-225-8700

633 STARKS BUILDING
455 SOUTH FOURTH STREET
LOUISVILLE, KENTUCKY 40202
TELEPHONE 502-589-0500

ONE RIVERFRONT PLACE, SUITE 950
ONE DAVE COWENS DRIVE
NEWPORT, KENTUCKY 41071
TELEPHONE 606-581-8700

WRITER'S DIRECT DIAL NUMBERS
(304) 347-1100

E-MAIL

October 15, 1998

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

RE: City of Keyser
Water Revenue Bonds, Series 1998A

Ladies and Gentlemen:

We have acted as Bond Counsel in connection with the issuance by the City of Keyser (the "Governmental Agency"), a municipal corporation and political subdivision of the State of West Virginia, of its $761,842 Water Revenue Bonds, Series 1998A, dated the date hereof (the "Local Bonds").

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated October 15, 1998, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Governmental Agency and the West Virginia Water Development Authority (the "Authority") and (ii) the Local Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of $761,842, issued initially in the form of one bond registered as to principal and interest to the Authority, with interest payable April 1 and October 1 of each year, beginning April 1, 1999, at the rate of 6.25% per annum and with principal payable in installments on October 1 in each of the years 1999 through 2035, inclusive, all as set forth in "Schedule X" attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued for the purposes of (i) paying a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing waterworks system of the Governmental Agency (the "Project"), (ii) refinancing and refunding certain prior obligations of the Governmental Agency, (iii) paying interest on the Local Bonds during construction of the Project and for not more than 6 months thereafter, and (iv) paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 8, Article 19 and Chapter 13, Article 2E of the Code of West Virginia, 1931, as amended (collectively, the "Local Statute"),

and the Bond Ordinance duly enacted by the Governmental Agency on September 11, 1998, as supplemented by a Supplemental Resolution duly adopted on September 30, 1998, a Second Supplemental Resolution duly adopted on October 8, 1998, and a Third Supplemental Resolution duly adopted on October 14, 1998 (collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued and the Loan Agreement has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

In connection with the issuance of the Local Bonds, the Governmental Agency 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 the excludability of interest on the Local 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 Loan Agreement has been duly authorized by and executed on behalf of the Governmental Agency and is a valid and binding special obligation of the Governmental Agency 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 Governmental Agency without the consent of the Authority.

3. The Governmental Agency is a duly organized and presently existing municipal corporation and political subdivision of the State of West Virginia 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 Governmental Agency has legally and effectively enacted the Local Act and all other necessary orders and resolutions have been duly and effectively adopted by the Governmental Agency 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 Governmental Agency, payable from the Gross Revenues of the System referred to in the Local Act and secured by a lien on and pledge of the Gross Revenues of said System, on a parity with (i) the Governmental Agency's outstanding Water Revenue Bonds, Series 1998B, dated the date hereof, issued in the original principal amount of $2,997,584, (ii) Waterworks Improvements Revenue Note dated September 19, 1961, issued in the original principal amount of $200,000, and (iii) Water Revenue Bond, Series 1980, dated February 26, 1980, issued in the original principal amount of

$3,146,000, 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, under the Local Statute, exempt from direct taxation by the State of West Virginia, and the other taxing bodies of the State.

7. Under existing laws, regulations, rulings and judicial decisions of the United States of America, as presently written and applied, the interest on the Local Bonds (a) is excludable from gross income for federal income tax purposes and (b) is not an item of tax preference for purposes of the federal alternative minimum tax imposed upon individuals and corporations. It should be noted, however, that such interest is included in the adjusted current earnings of a corporation for the purpose of claiming alternative minimum tax. The opinions set forth in the preceding sentences are subject to the condition that the Governmental Agency comply, on a continuous basis, with all requirements of the Code that must be satisfied subsequent to the issuance of the Local Bonds in order that interest thereon be, or continue to be, excluded from gross income for federal income tax purposes. The Governmental Agency has covenanted to comply with each such requirement. Failure to comply with certain of such requirements may cause the inclusion of interest on the Local Bonds in gross income for federal income tax purposes to be retroactive to the date of issuance of the Local Bonds. We express no opinion regarding other federal tax consequences arising with respect to the Local Bonds.

8. Based upon the certifications of the Governmental Agency set forth in the Certificate of 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 Local 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 Governmental Agency comply, on a continuing basis, with all requirements of the Code relating to the applicable exceptions to rebate. The Governmental Agency has covenanted to comply with all such requirements. Failure to comply with such requirements could cause proceeds of the Local Bonds to be subject to such arbitrage rebate requirements retroactive to the date of issuance of the Local Bonds.

9. The Governmental Agency's Water Revenue Bond, Series 1984 has been paid and is no longer entitled to any benefit or security under the ordinance pursuant to which such bond was issued.

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

We have examined the executed and authenticated Local Bond No. AR-1, and are of the opinion that the form of said Bond and its execution and authentication are regular and proper.

Very truly yours,

BOWLES RICE McDAVID GRAFF & LOVE, PLLC

Bowles Rice McDavid Graff & Love, PLLC

BOWLES RICE
MCDAVID GRAFF & LOVE, PLLC

ATTORNEYS AT LAW

600 QUARRIER STREET
POST OFFICE BOX 1386
CHARLESTON, WEST VIRGINIA 25325-1386
TELEPHONE 304-347-1100
www.bowlesrice.com

1000 TECHNOLOGY DRIVE, SUITE 2310
FAIRMONT, WEST VIRGINIA 26554
TELEPHONE 304-368-4000

105 WEST BURKE STREET
MARTINSBURG, WEST VIRGINIA 25401
TELEPHONE 304-263-0836

7000 HAMPTON CENTER, SUITE K
MORGANTOWN, WEST VIRGINIA 26505
TELEPHONE 304-599-1390

601 AVERY STREET
PARKERSBURG, WEST VIRGINIA 26102
TELEPHONE 304-485-8500

1200 VINE CENTER TOWER
333 WEST VINE STREET
LEXINGTON, KENTUCKY 40507
TELEPHONE 606-225-6700

633 STARKS BUILDING
455 SOUTH FOURTH STREET
LOUISVILLE, KENTUCKY 40202
TELEPHONE 502-589-0500

ONE RIVERFRONT PLACE, SUITE 950
ONE DAVE COWENS DRIVE
NEWPORT, KENTUCKY 41071
TELEPHONE 606-581-8700

WRITER'S DIRECT DIAL NUMBERS
(304) 347-1100

E-MAIL

October 15, 1998

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

RE: City of Keyser
Water Revenue Bonds, Series 1998B

Ladies and Gentlemen:

We have acted as Bond Counsel in connection with the issuance by the City of Keyser (the "Governmental Agency"), a municipal corporation and political subdivision of the State of West Virginia, of its $2,997,584 Water Revenue Bonds, Series 1998B, dated the date hereof (the "Local Bonds").

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated October 15, 1998, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Governmental Agency and the West Virginia Water Development Authority (the "Authority") and (ii) the Local Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of $2,997,584, issued initially in the form of one bond registered as to principal and interest to the Authority, with interest payable April 1 and October 1 of each year, beginning April 1, 1999, at the initial rate of 6.25% per annum, which rate is subject to adjustment as provided in the Local Act, as hereinafter defined, and with principal payable in installments on October 1 in each of the years 1999 through 2038, inclusive, all as set forth in "Schedule X" attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued for the purposes of (i) paying a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing waterworks system of the Governmental Agency (the "Project"), (ii) refinancing and refunding certain prior obligations of the Governmental Agency, (iii) paying interest on the Local Bonds during

construction of the Project and for not more than 6 months thereafter, and (iv) paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 8, Article 19 and Chapter 13, Article 2E of the Code of West Virginia, 1931, as amended (collectively, the "Local Statute"), and the Bond Ordinance duly enacted by the Governmental Agency on September 11, 1998, as supplemented by a Supplemental Resolution duly adopted on September 30, 1998, a Second Supplemental Resolution duly adopted on October 8, 1998, and a Third Supplemental Resolution duly adopted on October 14, 1998 (collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued and the Loan Agreement has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

In connection with the issuance of the Local Bonds, the Governmental Agency 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 the excludability of interest on the Local 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 Loan Agreement has been duly authorized by and executed on behalf of the Governmental Agency and is a valid and binding special obligation of the Governmental Agency 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 Governmental Agency without the consent of the Authority.

3. The Governmental Agency is a duly organized and presently existing municipal corporation and political subdivision of the State of West Virginia 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 Governmental Agency has legally and effectively enacted the Local Act and all other necessary orders and resolutions have been duly and effectively adopted by the Governmental Agency 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 Governmental Agency, payable from the Gross Revenues of the System referred to in the Local Act and secured by a lien on and pledge of the Gross Revenues of said System, on a parity with (i) the Governmental Agency's outstanding Water Revenue Bonds, Series 1998A, dated the date hereof, issued in the original principal amount of $761,842, (ii) Waterworks Improvements Revenue Note dated September 19, 1961, issued in the original principal amount of $200,000, and (iii) Water Revenue Bond, Series 1980, dated February 26, 1980, issued in the original principal amount of $3,146,000, 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, under the Local Statute, exempt from direct taxation by the State of West Virginia, and the other taxing bodies of the State.

7. Under existing laws, regulations, rulings and judicial decisions of the United States of America, as presently written and applied, the interest on the Local Bonds (a) is excludable from gross income for federal income tax purposes and (b) is not an item of tax preference for purposes of the federal alternative minimum tax imposed upon individuals and corporations. It should be noted, however, that such interest is included in the adjusted current earnings of a corporation for the purpose of claiming alternative minimum tax. The opinions set forth in the preceding sentences are subject to the condition that the Governmental Agency comply, on a continuous basis, with all requirements of the Code that must be satisfied subsequent to the issuance of the Local Bonds in order that interest thereon be, or continue to be, excluded from gross income for federal income tax purposes. The Governmental Agency has covenanted to comply with each such requirement. Failure to comply with certain of such requirements may cause the inclusion of interest on the Local Bonds in gross income for federal income tax purposes to be retroactive to the date of issuance of the Local Bonds. We express no opinion regarding other federal tax consequences arising with respect to the Local Bonds.

8. Based upon the certifications of the Governmental Agency set forth in the Certificate of 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 Local 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 Governmental Agency comply, on a continuing basis, with all requirements of the Code relating to the applicable exceptions to rebate. The Governmental Agency has covenanted to comply with all such requirements. Failure to comply with such requirements could cause proceeds of the Local Bonds to be subject to such arbitrage rebate requirements retroactive to the date of issuance of the Local Bonds.

9. The Governmental Agency's Water Revenue Bond, Series 1984 has been paid and is no longer entitled to any benefit or security under the ordinance pursuant to which such bond was issued.

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

We have examined the executed and authenticated Local Bond No. BR-1, and are of the opinion that the form of said Bond and its execution and authentication are regular and proper.

Very truly yours,

BOWLES RICE McDAVID GRAFF & LOVE, PLLC

Bowles Rice McDavid Graff & Love, PLLC

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

3. The Local Act has been duly adopted by the Governmental Agency and is in full force and effect.

4. The execution and delivery of the Bonds and the Loan Agreement and the consummation of the transactions contemplated by the Bonds, the Loan Agreement, and the Local Act, 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 Governmental Agency a breach of or default under any agreement, document or instrument to which the Governmental Agency is a party or by which the Governmental Agency or its properties are bound or any existing law, regulation, rule, order or decree to which the Governmental Agency is subject.

5. The Governmental Agency has received, or there have been entered, all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations necessary for the creation and existence of the Governmental Agency, the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges, including, without limitation, all requisite orders, consents, certificates and approvals from the West Virginia Infrastructure and Jobs Development Council and the Public Service Commission of West Virginia, and the Governmental Agency 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 Governmental Agency has received the Recommended Decision of the Public Service Commission of West Virginia entered March 13, 1998, which became the Final Order of the Public Service Commission of West Virginia on April 2, 1998, in Case No. 97-1504-W-CN, as amended by the Commission Order entered October 5, 1998, in said case. The time for appeal of such Commission Order has not expired prior to the date hereof. However, the parties to such Commission Order have stated that they will not appeal such Commission Order. Such Commission Order is not subject to any appeal, further hearing, reopening or rehearing by any customer, protestant, intervenor or other person not a party to the original application. Such Orders, among other things, grant the Governmental Agency a certificate of public convenience and necessity for the Project and approve financing for the Project.

6. 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 Bonds, the Local Act, the acquisition and construction of the Project, the operation of the System or the validity of the Bonds or the collection or pledge of the Gross Revenues therefor.

This opinion may be relied upon by all counsel to the transaction as if specifically addressed thereto.

Very truly yours,

BARR, JAMES & PANCAKE

Jack C Barr

**CITY OF KEYSER**
**WATER REVENUE BONDS,**
**SERIES 1998A AND SERIES 1998B**

GENERAL CERTIFICATE OF ISSUER AND ATTORNEY ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS, BIDDING AND AWARD OF CONTRACT
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. GRANT
11. LOAN AGREEMENT
12. RATES
13. SIGNATURES AND DELIVERY
14. BOND PROCEEDS
15. PUBLICATION OF NOTICE OF BORROWING AND PSC FILING
16. PRIVATE USE OF FACILITIES
17. NO FEDERAL GUARANTY
18. IRS INFORMATION RETURN
19. SPECIMEN BOND
20. CONFLICT OF INTEREST
21. PUBLIC SERVICE COMMISSION ORDERS
22. YEAR 2000 COMPLIANCE

We, the undersigned MAYOR and the undersigned CITY ADMINISTRATOR of the City of Keyser, in Mineral County, West Virginia (the "Issuer"), and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the $761,842 aggregate principal amount of the City of Keyser Water Revenue Bonds, Series 1998A (the "Series 1998A Bonds") and the $2,997,584 aggregate principal amount of the City of Keyser Water Revenue Bonds, Series 1998B (the "Series 1998B Bonds") (collectively, the "Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined shall have the same meaning as in the Bond Ordinance of the Issuer duly adopted September 11, 1998, a Supplemental Resolution duly adopted by the Issuer on September

30, 1998, a Second Supplemental Resolution duly adopted by the Issuer on October 8, 1998, and a Third Supplemental Resolution duly adopted by the Issuer on October 14, 1998 (collectively, the "Local Act").

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

3. GOVERNMENTAL APPROVALS, BIDDING AND AWARD OF CONTRACT: All applicable and necessary approvals, permits, exemptions, consents, authorizations, registrations and certificates required by law for the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Bonds have been duly and timely obtained and remain in full force and effect. Competitive bids for the acquisition and construction of the Project were solicited in accordance with Chapter 5, Article 22, Section 1 of the Code of West Virginia of 1931. The Issuer has awarded the construction contracts for the Project in three separate contracts to the respective lowest bidders therefor, being Walter N. Yoder & Sons, Carl Belt, Inc. and Corrosion Control Corporation. The Issuer has on or prior to this date issued a notice of award to each of Walter N. Yoder & Sons, Carl Belt, Inc. and Corrosion Control Corporation for the Project and the Issuer contemplates entering into a construction contract with each of Walter N. Yoder & Sons, Carl Belt, Inc. and Corrosion Control Corporation for the Project on or before October 26, 1998.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval and execution and delivery by the Issuer of the Loan Agreement, the Issuer has met all conditions prescribed in the Loan Agreement entered into between the Issuer and the Authority and the Issuer is in compliance with all requirements of the Prior Ordinances. Other than as described below, there are no outstanding debt obligations of the Issuer which are secured by the Gross Revenues of the System. The Issuer does have outstanding its (i) Waterworks Improvement Revenue Note, dated September 19, 1961, issued in the original aggregate principal amount of $200,000; and (ii) Water Revenue Bond, Series 1980, dated February 26, 1980, issued in the original aggregate principal amount of $3,146,000 (collectively, the "Prior Bonds"). All payments required to be made on the Prior Bonds are current and the holder of the Prior Bonds has consented in writing to the issuance of the Bonds

on parity with the Prior Bonds. The Refunded Bonds have been paid in full on the date hereof with a portion of the proceeds of the Bonds.

The Bonds are on parity with the Prior Bonds with respect to liens, pledge and source of and security for payment.

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

Bond Ordinance
Supplemental Resolution
Second Supplemental Resolution
Third Supplemental Resolution
Loan Agreements
Public Service Commission Orders
Infrastructure Council Approval
City Charter
Oaths of Office of Officers and Councilmembers
Minutes on Adoption of Rate Ordinance
Affidavit of Publication of Rate Ordinance
and Notice of Public Hearing
Minutes on Adoption of Bond Ordinance
and Supplemental Resolutions
Affidavit of Publication of Abstract of Bond Ordinance
and Notice of Public Hearing
Evidence of Small Cities Block Grant

6. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "City of Keyser." The Issuer is a municipal corporation in Mineral County, West Virginia, 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 3 Council members all duly elected or appointed as applicable, qualified and acting, whose names and dates of commencement and termination of current terms of office are as follows:

| Name | Office | Date of Commencement of Office | Date of Termination of Office |
|---|---|---|---|
| Keith R. Hayward | Mayor | July 1, 1997 | June 30, 1999 |
| Donald P. Heare | Councilmember | July 1, 1997 | June 30, 1999 |
| Sally Burnside | Councilmember | July 1, 1998 | June 30, 2000 |
| Marques Rice | Councilmember | July 1, 1998 | June 30, 2000 |

The duly appointed and acting City Administrator of the Issuer is Penny Sanders.

The duly appointed and acting counsel to Issuer is Barr, James & Pancake, P.L.L.C., Keyser, West Virginia.

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

8. MEETINGS, ETC.: All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the acquisition, construction, operation and financing of the Project and 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 all applicable rules of the Governing Body and all applicable statutes, including, without limitation, Chapter 6, Article 9A, of the Code of West Virginia of 1931, as amended, and a quorum of duly elected or appointed, 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 Local Act. All insurance for the System required by the Local Act is in full force and effect. The System is not presently covered by a policy of flood insurance, but will be if such coverage is available at reasonable cost.

10. GRANT: As of the date hereof, the Small Cities Block grant in the amount of $633,500 is in full force and effect.

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

12. RATES: The Issuer has duly enacted a rate ordinance on October 27, 1997, in Ordinance No. 245, setting rates and charges for the services of the System and said rate ordinance is in full force and effect.

13. SIGNATURES AND DELIVERY: On the date hereof, the undersigned Mayor did officially sign all of the Bonds of the aforesaid issue, all dated October 15, 1998 by his manual signature, and the undersigned City Administrator did officially cause the official seal of the Issuer to be affixed upon each of said Bonds and to be attested by her manual signature, and the Registrar did officially authenticate and deliver the Bonds to a representative of the Authority as the original purchaser of the Bonds under the Loan Agreement. Said official seal is also impressed above the signatures appearing on this certificate.

14. BOND PROCEEDS: On the date hereof the Issuer received from the Authority the agreed purchase price of the Bonds, being $761,842 for the Series 1998A Bonds and $2,997,584 for the Series 1998B Bonds (100% of par value), there being no interest accrued thereon.

15. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE: Upon adoption of the Bond Ordinance, an abstract thereof, determined by the Governing Body to contain sufficient information as to give notice of the contents thereof, was published once each week for 2 successive weeks, with not less than 6 full days between each publication, the first such publication occurring not less than 10 days before the date stated below for the public hearing, in the News-Tribune a newspaper of general circulation in the City of Keyser 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 11th day of October, 1998, at 6:30 p.m., in the Council Chambers of the Keyser City Hall and present protests, and stating that a certified copy of the Bond Ordinance was on file at the office of the City Administrator of the Issuer for review by interested parties during the office hours of the Issuer. At

such hearing all objections and suggestions were heard by the Governing Body and the Bond Ordinance became finally adopted, enacted and effective as of the date of such public hearing, and remains in full force and effect.

16. 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 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 of, or interest on, such issue, under the terms of such issue or any underlying arrangement, is, directly or indirectly, secured by an 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 related 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, other than use as a member of the general public. All of the foregoing have been and are to be determined in accordance with and within the meaning of the Internal Revenue Code of 1986, as amended (including any amendments and successor provisions and the 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 properly completed IRS Form 8038-G in connection with the each series of Bonds and will cause each such executed 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 each such executed Form 8038-G is true, correct and complete.

19. SPECIMEN BONDS: Delivered concurrently herewith are a true and accurate specimens of the Bonds.

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 Local Act 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. PUBLIC SERVICE COMMISSION ORDERS: The Issuer has received the Recommended Decision of the Public Service Commission of West Virginia (the "PSC") entered on March 13, 1998, in Case No. 97-1504-W-CN, which became the Final Order of the PSC on April 2, 1998, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. On October 5, 1998, the Issuer received from the PSC the Commission Order Approving Additional Project Costs and Spending in said Case No. 97-1504-W-CN approving additional project costs for the Project. The time for appeal of such Commission Order has not expired prior to the date hereof. However, the parties to such Commission Order have stated that they will not appeal such Commission Order. The Issuer hereby certifies that it will not appeal such Commission Order. Such Commission Order is not subject to any appeal, further hearing, reopening or rehearing by any customer, protestant, intervenor or other person not a party to the original application.

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's water treatment and distribution facilities, 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 purpose 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 data-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 and Prior Bonds contemplated by the Ordinance as and when they become due.

WITNESS our signatures and the official seal of the CITY OF KEYSER on this 15th day of October, 1998.

[CORPORATE SEAL]

| SIGNATURE | OFFICIAL TITLE |
| --- | --- |
| Keith R. Hayward | Mayor |
| Tommy Sandoe | City Administrator |
| Cody Pancake | Counsel to Issuer |

**CITY OF KEYSER**
**WATER REVENUE BONDS**
**SERIES 1998A AND SERIES 1998B**

## CERTIFICATE AS TO ARBITRAGE

I, Keith R. Hayward, Mayor of the City of Keyser, in Mineral County, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of $761,842 aggregate principal amount of Water Revenue Bonds, Series 1998A of the Issuer, dated October 15, 1998 (the "Series 1998A Bonds") and $2,997,584 aggregate principal amount of Water Revenue Bonds, Series 1998B of the Issuer, dated October 15, 1998 (the "Series 1998B Bonds"), (collectively, 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, as amended, and the temporary and permanent regulations promulgated thereunder or under any predecessor thereto (the "Code"). I am one of the officers of the Issuer duly charged with the responsibility of issuing the Bonds, hereinafter defined. I am familiar with the facts, circumstances and estimates herein certified and am duly authorized to execute and deliver this certificate on behalf of the Issuer.

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 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 October 15, 1998, the date on which the Bonds are to be physically delivered in exchange for the issue price thereof, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

5. In the Bond Ordinance adopted by the Issuer on September 11, 1998 as supplemented by the Supplemental Resolution adopted by the Issuer on September 30, 1998, the Second Supplemental Resolution adopted by the Issuer on October 8, 1998, and the Third Supplemental Resolution adopted by the Issuer on October 14, 1998 (collectively, the "Local Act") pursuant to which the Bonds are issued, the Issuer has covenanted 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 Bonds which would cause the 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 Bonds) 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.

6. Terms not otherwise defined herein shall have the meanings assigned to them under the Local Act.

7. The Bonds were sold on October 15, 1998 to the West Virginia Water Development Authority (the "Authority") for an aggregate purchase price of $761,842 with respect to the Series 1998A Bonds and $2,997,584 with respect to the Series 1998B Bonds (100% of par), there being no accrued interest paid thereon.

8. The Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying a portion of the costs of acquisition and construction of certain additions, betterments and improvements for the waterworks facilities of the Issuer (the "Project"); (ii) to refinance and refund certain prior obligations of the Issuer; (iii) to pay interest on the bonds during the construction of the Project and for not more than six (6) months thereafter; and (iv) paying costs of issuance of the Bonds.

9. The Issuer shall, within 30 days following delivery of the Bonds, enter into agreements which require the Issuer to expend in excess of $100,000 on the Project, constituting a substantial binding commitment. Acquisition, construction and equipping of the Project will proceed with due diligence to completion, and 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 January 31, 2000 except as otherwise required for rebate to the United States under Section 148(f) of the Code. Construction of the Project is expected to be completed by December 1, 1999.

10. The total cost of the Project (including all costs of issuance of the Bonds) is estimated at $4,452,926. Sources and uses of funds for the Project are as follows:

SOURCES

| | |
|---|---|
| Gross Proceeds of Series 1998A Bonds | $ 761,842 |
| Gross Proceeds of Series 1998B Bonds | 2,997,584 |
| Small Cities Block Grant | 633,500 |
| Interest Earnings during Construction Period | 60,000 |
| Total Sources | $4,452,926 |

USES

| | |
|---|---|
| Construction of Project | $ 2,733,926 |
| Retirement of Interim Financing for Project | 406,204 |
| Technical Services | 320,000 |
| Legal & Fiscal | 32,500 |
| Administration | 52,500 |
| Right-of-Ways | 20,000 |
| Retirement of Series 1984 Bond | 286,023 |
| Contingency | 293,523 |
| Capitalized Interest | 278,000 |
| Costs of Issuance | 30,250 |
| Total Uses | $4,452,926 |

The amount of Project costs is estimated to be at least equal to the gross proceeds of the Bonds and the amount of the Small Cities Block Grant. Except for the proceeds of the Bonds and such Grant, 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.

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

(1) Revenue Fund;

(2) Bond Construction Trust Fund;

(3) Depreciation Reserve;

(4) Rebate Fund;

(5) Series 1998A Bonds Sinking Fund;

(6) Within the Series 1998A Bonds Sinking Fund, the Series 1998A Bonds Reserve Account;

(7) Series 1998B Bonds Sinking Fund;

(8) Within the Series 1998B Bonds Sinking Fund, the Series 1998B Bonds Reserve Account;

(9) Keyser Water Bond Sinking Fund (established by the Series 1980 Bond Ordinance);

(10) Note Sinking Fund ("Sinking Fund No. 1" established by the Series 1980 Bond Ordinance); and

(11) Reserve Account (established by the Series 1980 Bond Ordinance).

12. Pursuant to Article VI of the Local Act, the proceeds of the Bonds will be deposited as follows:

(1) Proceeds of the Series 1998A Bonds in the amount of $56,336 will be deposited in the Series 1998A Bonds Sinking Fund as capitalized interest and applied to payment of interest on the Series 1998A Bonds during acquisition and construction of the Project and for not more than six months thereafter. If such moneys in the amount of $56,336 are not expended for the payment of such interest prior to January 9, 1999, such remaining moneys will be invested at a yield not to exceed 5.709004444% per annum, until expended.

(2) Proceeds of the Series 1998B Bonds in the amount of $221,664 will be deposited in the Series 1998B Bonds Sinking Fund as capitalized interest and applied to the payment of interest on the Series 1998B Bonds during acquisition and construction of the Project and for not more than six months thereafter.

(3) Proceeds of the Series 1998A Bonds in the amount of $-0- will be deposited in the Series 1998A Bonds Reserve Account.

(4) Proceeds of the Series 1998B Bonds in the amount of $-0- will be deposited in the Series 1998B Bonds Reserve Account.

(5) Proceeds of the Series 1998A Bonds in the amount of $286,023.47 will be deposited in the Bond Construction Trust Fund and then immediately applied to the current refunding on the date hereof of the Issuer's Water Revenue Bond, Series 1984.

(6) Proceeds of the Series 1998A Bonds in the amount of $406,204.34 will be deposited in the Bond Construction Trust Fund and then immediately applied to the payment of the interim financing with F & M Bank - West Virginia, Inc. for costs of the Project incurred prior to the date hereof.

(7) The balance of the proceeds of the Series 1998A Bonds and the Series 1998B Bonds will be deposited in the Bond Construction Trust Fund and applied solely to the payment of costs of the Project, including costs of issuance of the Bonds and related costs, provided that the disbursements from the Bond Construction Trust Fund will be paid first with proceeds of the Series 1998A Bonds (including any interest earnings thereon) and then with proceeds of the Series 1998B Bonds.

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

Except for "preliminary expenditures" as defined in Treas. Reg. § 1.150-2(f)(2), none of the proceeds of the Bonds will be used to reimburse the Issuer for costs of the Project previously incurred and paid by the Issuer with its own or other funds.

13. Moneys held in the Series 1998A Bonds Sinking Fund and the Series 1998B Sinking Fund will be used solely to pay principal of and interest on the Series 1998A Bonds and Series 1998B Bonds, respectively, and will not be available to meet costs of acquisition and construction of the Project. Except to the extent transferred to the Rebate Fund at the request of the Issuer, all investment earnings on moneys in the Series 1998A Bonds Sinking Fund, the Series 1998B Bonds Sinking Fund, the Series 1998A Bonds Reserve Account and Series 1998B Bonds Reserve Account will be withdrawn therefrom, not less than once each year, and, during construction of the Project, deposited into the Bond Construction Trust Fund, and following completion of construction of the Project, will be deposited in the Revenue Fund, and such amounts will be applied in full, first to the next ensuing interest payment due on the respective series of Bonds and then to the next ensuing principal payments due thereon.

14. Except for the Series 1998A Bonds Sinking Fund, the Series 1998B Bonds Sinking Fund, the Series 1998A Bonds Reserve Account and the Series 1998B 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 Rebate Fund or the Depreciation Reserve will be used or needed for payments upon the Bonds and, because such amounts may be expended for other purposes, there is no reasonable assurance that such amounts would be available to meet debt service if the Issuer encounters financial difficulties; thus, such amounts may be invested without yield limitation. 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 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 proceeds of the Bonds, if any, will be deposited in the Series 1998A Bonds Reserve Account, the Series

1998B Bonds Reserve Account or any other reserve or replacement fund. The amounts deposited in the Series 1998A Bonds Reserve Account and the Series 1998B Bonds Reserve Account from time to time by the Issuer will not exceed the maximum annual principal and interest on the respective series of Bonds and will not exceed 125% of average annual principal and interest on the respective series of Bonds. Amounts in the Series 1998A Bonds Reserve Account and the Series 1998B Bonds Reserve Account, not to exceed 10% of the proceeds of the respective series of Bonds, if invested, will be invested without yield limitation. The establishment of the Series 1998A Bonds Reserve Account and the Series 1998B 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.

15. The Issuer expects to enter into a contract within 6 months of the date hereof, or has already entered into such 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.

16. Work with respect to the acquisition and construction of the Project will proceed with due diligence to completion. Acquisition and construction is expected to be completed within 14 months of the date hereof.

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 1998A Bonds Sinking Fund and the Series 1998B Bonds Sinking Fund for payment of interest on the Bonds and amounts deposited in the Series 1998A Bonds Reserve Account and the Series 1998B Bonds Reserve Account, if any, all of the proceeds of the Bonds will be expended on the Project within 16 months from the date of issuance thereof.

19. The Series 1998A Bonds Sinking Fund and the Series 1998B Bonds Sinking Fund (other than the Series 1998A Bonds Reserve Account and the Series 1998B Bonds Reserve Account, respectively, therein) are intended primarily to achieve a proper matching of payments of debt service on the Bonds each year. The Series 1998A Bonds Sinking Fund and the Series 1998B Bonds Sinking Fund (other than the Series 1998A Bonds Reserve Account and the Series 1998B Bonds Reserve Account, respectively, 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 1998A Bonds Sinking Fund and the Series 1998B Bonds Sinking Fund (other than the Series 1998A Bonds Reserve Account and the Series 1998B Bonds Sinking Fund, respectively, therein). Except as otherwise allowed, any money deposited in the Series 1998A Bonds Sinking Fund and the Series 1998B Bonds Sinking Fund for payment of the principal of or interest on the Bonds (other than the Series 1998A Bonds Reserve Account and the Series 1998B Bonds Sinking Fund, respectively, therein), will be spent within a 13-month period beginning on the date of receipt and will be invested without yield limitation.

20. All the proceeds of the Series 1998A Bonds which will be used for the payment of costs of the Project will be expended for such purposes within three years of January 9, 1996, except as provided above in 12(1) with respect to capitalized interest deposited in the Series 1998A Bonds Sinking Fund which will be invested at a yield not to exceed 5.709004444% on and after January 9, 1999, if not expended by such date. All of the proceeds of the Series 1998B Bonds which will be used for the payment of the costs of the Project will be expended for such purposes within three years of the date hereof.

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. The Issuer shall file Form 8038-G for each series of the Bonds in a timely fashion with the Internal Revenue Service Center, Philadelphia, Pennsylvania, 19255.

24. 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 the lesser of 5% of the proceeds of Bonds or $5,000,000 have been or will be used to make or finance loans to, any person who is not a governmental unit.

25. The original proceeds of the Bonds will not exceed the amount necessary for the purposes of the issues, except to the extent any such proceeds are required for rebate to the United States.

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

27. 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 necessary to comply with the Code and the Treasury Regulations promulgated or to be promulgated thereunder in order to ensure the interest on the Bonds is excludable from gross income for federal income tax purposes.

28. 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.

29. The Issuer will rebate to the United States the amount, if any, required by the Code and to take all steps necessary to make such rebates. In the event the Issuer fails to make such rebates as required, the Issuer shall pay any and all penalties and 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. In connection therewith, and in order to establish that the Bonds qualify for the exception from the arbitrage rebate requirements of Section 148(f) of the Code provided for in 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 Bonds are private activity bonds; that 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 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 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 and applicable to the Bonds. For purposes of this paragraph 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 paragraph and Section 148(f)(4)(D) of the Code, be treated as not issued by such unit; all obligations issued by a subordinate entity shall, for purposes of applying this paragraph and Section 148(f)(4)(D) of the Code to each other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(D) of the Code and all other entities benefiting thereby shall be treated as one issuer.

The Issuer believes that the Authority exclusively lends bond proceeds in a manner that does not result in its bonds being private activity bonds, as defined in the Code, and the Issuer believes that the use of the proceeds by each borrower from the Authority would not result in those proceeds being private activity bonds (if viewed as a separate issue).

30. The Issuer has retained the right to amend the Local Act if such amendment is necessary to assure compliance with Section 148(f) of the Code or as may otherwise be necessary to assure the exclusion of interest on the Bonds from the gross income of the holders thereof.

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

32. The Issuer has created the Series 1998A Bonds Reserve Account and the Series 1998B Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10 year period until such Series 1998A Bonds Reserve Account and the Series 1998B Bonds Reserve Account each holds an amount equal to the maximum amount of principal and interest which will mature and become due on the respective series of Bonds in the then current or any succeeding year. Moneys in the Series 1998A Bonds Reserve Account and the Series 1998B Bonds Reserve Account (established for the annual payment of principal and interest) will be used solely to pay principal of and interest on the respective series of Bonds and will not be available to pay costs of the Project.

33. The Issuer shall submit to the Authority within 30 days following the end of each bond year a certified copy of its rebate calculation and a certificate with respect thereto or, if the Issuer qualifies for the small governmental issuer exception to rebate, or any other exception thereto, then the Issuer shall submit to the Authority 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.

34. The Issuer expects that no part of the Project financed by the Bonds will be sold or otherwise disposed of prior to the last maturity date of the Bonds.

35. The Issuer covenants and agrees to comply with the rebate requirements of the Code if not exempted therefrom, and with all other requirements of the Code necessary, proper or desirable to maintain the tax-exempt status of the Bonds and the interest thereon. In addition, the Issuer has covenanted to comply with all Regulations from time to time in effect and applicable to the Bonds as may be necessary in order to fully comply with Section 148(f) of the Code, and has covenanted 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 the Local Act.

Unless exempted therefrom, the Issuer has further covenanted to calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, unless otherwise agreed by the Authority, the Issuer shall deposit, or cause to be deposited, in the Rebate Fund such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which shall be paid from investment earnings on the underlying fund or account established under the Local Act and on which such rebatable arbitrage was earned or from other lawfully available sources. The Issuer has further covenanted to 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. The Issuer shall remit payments to the United States in the time and at the address prescribed by the Regulations as the same may be from time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefor.

36. The Bonds are a fixed yield issue. No interest or other amount payable on any of the Bonds (other than in the event of an unanticipated contingency) is determined by reference to (or by reference to an index that reflects) market interest rate or stock or commodity prices after the date of issuance, except as provided in the following sentences. The Series 1998A Bonds have been purchased by the Authority with the remaining moneys in its existing loan pool. The Series 1998B Bonds have been temporarily purchased by the Authority from moneys available to it for such purpose pending the issuance by the Authority of its bonds to fund a new loan pool. The Authority has expressed its intention to use moneys from this new loan pool, upon the issuance of such bonds by the Authority, to purchase from the Authority the Series 1998B Bonds and, if the rate charged on

loans from this new loan pool is less than the rate of 6.25% currently applicable to the Series 1998B Bonds, the rate on the Series 1998B Bonds will be reduced to such lower rate. The Issuer reasonably believes that such rate will be indicative of the market interest rates at that time. Thereafter, the rate on the Series 1998B Bonds will not be subject to any further adjustments.

37. None of the Bonds has a yield-to-maturity more than one-fourth of one percent higher than the yield on the Bond determined by assuming the Bond is retired on the date that when used in computing the yield on the Bond produces the lowest yield.

38. No portion of the proceeds of the Bonds will be used, directly or indirectly, to replace funds which were used, directly or indirectly, to acquire higher yielding instruments, all within the meaning of Section 148 of the Code.

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

40. The transaction contemplated herein does 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.

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

42. 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.

43. Bowles Rice McDavid Graff & Love, PLLC is entitled to rely upon the representations, expectations, covenants, certifications and statements contained herein in rendering its opinions regarding the exclusion from gross income for federal income tax purposes of interest on the Bonds.

IN WITNESS WHEREOF, I have set my hand this 15th day of October, 1998.

CITY OF KEYSER

By Keith R. Hayward
Mayor

# CERTIFICATE OF CONSULTING ENGINEER

## CITY OF KEYSER
## WATER REVENUE BONDS,
## SERIES 1998A AND SERIES 1998B

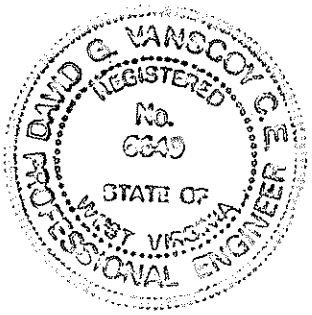
I, David G. Vanscoy, Registered Professional Engineer, West Virginia License No. 6448, of Vanscoy Engineering and Surveying, Consulting Engineers, Keyser, West Virginia, hereby certify that my firm is engineer for the acquisition and construction of certain additions, betterments and improvements to the existing waterworks system, as further described below (the "Project") of the City of Keyser (the "Issuer") to be constructed primarily in Mineral County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. It is anticipated that the Bonds will be purchased by the West Virginia Water Development Authority. Capitalized words not defined herein shall have the meaning set forth in the Bond Ordinance passed by the Issuer on September 11, 1998, and the Loan Agreements (collectively, the "Loan Agreement") by and between the Issuer and the West Virginia Water Development Authority (the "Authority") dated October 15, 1998.

1. The Bonds are for the purpose of financing the costs of the acquisition and construction of certain additions, betterments and improvements to the existing waterworks system of the Issuer, including the acquisition and construction of an upgrade to the Issuer's existing water treatment plant and distribution system including without limitation the installation or construction of approximately 3,080 LF of 12-inch, 900 LF of 10-inch, 12,325 LF of 8-inch, and 17,330 LF of 6-inch water mains; one 40 gpm booster station; all necessary valves, controls and appurtenances relating thereto; improvements to the water treatment plant, including new doors and windows, new water pump, reconstruction of the existing raw water pumps, repair of the water intake weir and screen; cleaning, painting and telemetry for the existing Keyser Industrial Park water storage tank; and all necessary appurtenances thereto.

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 forty 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 will ascertain that all contractors have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds will be verified by my firm for accuracy, (iv) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, (v) the rates and charges for the System as adopted by the Issuer comply with the applicable provisions 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 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, Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature on this 15th day of October, 1998.




[SEAL]

VANSCOY ENGINEERING AND SURVEYING

By David G. Vanscoy

David G. Vanscoy, P.E.

Its: Owner

West Virginia License No. 6649

DATE: August 14, 1998

## AMENDED SCHEDULE A

NAME OF GOVERNMENTAL AGENCY: City of Keyser

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

### A. Cost of Project

| | | | |
|---|---|---|---|
| 1. | Construction | $ 3,090,926 | |
| 2. | Technical Services | $ 320,000 | |
| 3. | Legal and Fiscal | $ 32,500 | |
| 4. | Administrative | $ 32,500 | |
| 5. | Site and Other Lands | $ 20,000 | |
| 6. | Step I and/or Step II (Design) or Other Loan Repayment (Specify Type: _____) | | |
| 7. | Interim Financing Costs | $ 286,000 | |
| 8. | Contingency | $ | |
| 9. | Total of Lines 1 through 8 | $ 343,000 | $4,144,926 |

### B. Sources of Funds

| | | | | |
|---|---|---|---|---|
| 10. | Federal Grants:[1] (Specify Source) | WVSCBG | $ 633,500 | |
| 11. | State Grants: (Specify Source) | | $ | |
| 12. | Other Grants: (Specify Source) | | $ | |
| 13. | Any Other Source[2] (Specify) | Interest | $ 60,000 | |
| 14. | Total of Lines 10 through 13 | | | $ 693,500 |
| 15. | Net Proceeds Required from Bond Issue (Line 9 less Line 14) | | | $3,451,426 |

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

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

## C. Cost of Financing

| | | | |
|---|---|---|---|
| 16. | Capitalized Interest (Construction period plus six months) | $ 278,000 | |
| 17. | Funded Reserve Account[3] | $ | |
| 18. | Other Costs[4] | $ 30,000 | |
| 19. | Total Cost of Financing (Lines 16 through 18) | | $ 308,000 |
| 20. | Size of Bond Issue (Line 15 plus Line 19) | | $ 3,759,426 |

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

SIGNATURE OF AUTHORIZED OFFICER OF APPLICANT

SIGNATURE OF ENGINEER

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

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

**CERTIFICATE DESIGNATING AUTHORIZED SIGNATORIES FOR CONSULTING ENGINEER**

TO:

American Trust Bank, N.A.
Keyser, West Virginia

RE: City of Keyser Water Revenue Bonds, Series 1998A and Series 1998B

TO WHOM IT MAY CONCERN:

The following individual(s) is/are designated as Authorized Signatory for the purpose of signing on the Requisition forms for the above-referenced Bonds:

David G. Vanscoy

Witness my signature this 15th day of October, 1998.

VANSCOY ENGINEERING AND SURVEYING

By: David G. Vanscoy
Authorized Officer

GBB.GBB.0042205

Blair & Company
CERTIFIED PUBLIC ACCOUNTANTS

721 Peoples Building
Post Office Box 1991
Charleston, West Virginia 25327
(304) 343-4603
John D. Blair, Jr., CPA

October 15, 1998

**City of Keyser**
**Water Revenue Bonds, Series 1998A and Series 1998B**

West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 25301

Ladies and Gentlemen:

Based upon the rates and charges as set forth in the water rate ordinance of the City of Keyser (the "Issuer") finally enacted on October 27, 1997, as Ordinace No. 245, and projected operation and maintenance expenses and anticipated customer usage as furnished to us by consulting engineers for the project to be financed with the captioned Bonds (the "Bonds") and as described in our "Report on Rule 42 Financial Exhibit" and related "Report on Agreed-Upon Procedures", both dated July 29, 1997, and our subsequent "Report on Agreed-Upon Procedures" dated August 5, 1998, all of which are incorporated herein by reference, it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other water revenues of the water system of the Issuer, will pay all repair, operation and maintenance expenses and leave a balance each year equal to at least 125 % of the maximum amount required in any year for debt service on the Water Revenue Bonds, Series 1998A and Water Revenue Bonds, Series 1998B (collectively, the "Series 1998 Bonds"), to be issued to the West Virginia Water Development Authority and the Prior Bonds, and all other obligations secured or payable from the revenues of the System prior to or on a parity with the Series 1998 Bonds. All capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to them in the Bond Ordinance adopted by the Issuer on September 11, 1998.

Very truly yours,

BLAIR & COMPANY, CPA's

John D. Blair, Jr., Certified Public Accountant

Blair & Company
CERTIFIED PUBLIC ACCOUNTANTS

721 Peoples Building
Post Office Box 1991
Charleston, West Virginia 25327
(304) 343-4603
John D. Blair, Jr., CPA

**CITY OF KEYSER WATER REVENUE BONDS**
**SERIES 1998**

**ACCOUNTANT'S CERTIFICATE REGARDING DEBT SERVICE SAVINGS**

The undersigned, John D. Blair, Jr., Certified Public Accountant, in connection with the issuance and delivery of the above-referenced bonds (the "Series 1998 Bonds") hereby certifies that the refunding of the City of Keyser Water Revenue Bonds, Series 1984 (the "Refunded Bonds") with a portion of the proceeds of the Series 1998 Bonds will result in a net savings of at least $300,000 based upon my review, comparison and analysis of the net interest cost in dollars of the refunding portion of the Series 1998 Bonds and the net interest cost in dollars of the Refunded Bonds, and assuming for the purpose of such calculation the allocation of the earliest principal payments on the Series 1998 Bonds to the refunding portion of the Series 1998 Bonds, as reflected in the attached Schedule.

WITNESS my signature this 15th day of October 1998.

BLAIR & COMPANY, CPA's

John D. Blair, Jr., Certified Public Accountant

**CITY OF KEYSER WATER REVENUE BONDS**
**SERIES 1998**

## SCHEDULE OF DEBT SERVICE SAVINGS

Approximate total interest payments remaining under existing 1984 FmHA Loan bearing interest at 9.50% per annum, compared with approximate interest payments projected to be due on refunding portion of Water Revenue Bonds, Series 1998, at 6.25% per annum, assuming for purposes of the comparison that the earliest principal payments due on the Series 1998 Bonds are allocated to the refunding portion of the Series 1998 Bonds:

| | Interest on Remaining Principal of Existing Series 1984 Bonds @ 9.5% |
|---|---|
| 1999 | $ 26,625 |
| 2000 | 26,330 |
| 2001 | 26,006 |
| 2002 | 25,650 |
| 2003 | 25,259 |
| 2004 | 24,829 |
| 2005 | 24,357 |
| 2006 | 23,837 |
| 2007 | 23,266 |
| 2008 | 22,638 |
| 2009 | 21,948 |
| 2010 | 21,189 |
| 2011 | 20,356 |
| 2012 | 19,439 |
| 2013 | 18,431 |
| 2014 | 17,323 |
| 2015 | 16,106 |
| 2016 | 14,767 |
| 2017 | 13,296 |
| 2018 | 11,679 |
| 2019 | 9,901 |
| 2020 | 7,947 |
| 2021 | 5,798 |
| 2022 | 3,437 |
| 2023 | 889 |
| | $ 462,480 |

| | Interest on Refunding Portion of Series 1998 Bonds @ 6.25% |
|---|---|
| 1999 | $ 17,813 |
| 2000 | 16,388 |
| 2001 | 14,873 |
| 2002 | 13,264 |
| 2003 | 11,554 |
| 2004 | 9,737 |
| 2005 | 7,807 |
| 2006 | 5,756 |
| 2007 | 3,577 |
| 2008 | 1,262 |
| | $ 102,032 |

# CITY OF KEYSER CHARTER

(Chapter 89 - Acts of the Legislature, 1913)

AN ACT to incorporate the City of Keyser in the County of Mineral, West Virginia, defining the powers thereof and describing the limits of said City, and to repeal all acts and parts of acts inconsistent with the provisions of this act.

(Passed February 3, 1913. In effect from passage. Approved by the Governor February 20, 1913.)


SEC.
1. The City of Keyser; power defined.
2. Corporate limits.
3. Election precincts.
4. Qualification of voters.
5. Registration of voters.
6. Municipal authorities; primary and general election.
7. Contested elections.
8. Council.
9. Citizens' committee.
10. The mayor.
11. Departments of city government; salaries.
12. Meetings of council.
13. Improvements, ordinances and franchises.
14. Qualification of mayor and councilman.
15. Oath of officers.
16. General powers of council.
17. Municipal authority.
18. Assessment and collection of taxes.
19. Bonds.

SEC.
20. Licenses.
21. Franchises.
22. Mandamus.
23. Pavements and sidewalks
24. Nuisances.
25. Lien for taxes, etc.
26. Health, health commissioner
27. Ordinance general provision
28. Ordinance to be in writing and not changed, when.
29. Ordinances and vetoes shall be recorded, etc.
30. Duties of city clerk.
31. Duties of the treasurer.
32. Duties of city attorney.
33. Police department.
34. Duties of the street commissioner.
35. Power to condemn.
36. Recall.
37. Initiative.
38. Referendum.
39. Petitions.
40. Election to adopt or reject charter.
41. Acts repealed.


BE IT ENACTED BY THE LEGISLATURE OF WEST VIRGINIA:

## THE CITY OF KEYSER.

Sec. 1. That the inhabitants of so much of the County of Mineral as are within the boundaries prescribed by Section Two of this Act, and their successors, shall be and remain, and they are hereby made a body politic and corporate, by the name and style of "the City of Keyser," and as such, and by that name may contract and be contracted with, sue and be sued, plead and be impleaded, answer and

be answered unto, and may purchase, take, receive, hold and use goods and chattels, lands and tenements, and choses in action, or any interest, right or estate therein, either for the proper use of said City, or in trust for the benefit of any person or corporation therein; and the same may grant, sell, convey, transfer, let, lease and assign, pledge, mortgage, charge and encumber in any case, and in any manner, in which it would be lawful for a private individual so to do, subject to the limitations and provisions of the constitution of the state; and may have and use a common seal and alter and renew the same at pleasure; and generally shall have all the rights, franchises, capacities and powers appertaining to like corporations in this state, and shall have and succeed to all powers, franchises and immunities, rights and privileges which were conferred upon or belonged or appertained to the Town of Keyser by virtue of any act or acts of the legislature of this state heretofore passed; and shall have all the rights, privileges, capacities and powers provided by Chapter Forty-seven of the Code of West Virginia, as contained in the edition of the year One Thousand Nine Hundred and Six, and amendments thereto, and for which provision is not herein otherwise expressly made. All general and special laws of the State of West Virginia, governing cities, towns and villages, and now applicable and not inconsistent with the provisions of this act, shall apply to and govern the City of Keyser. All by-laws, ordinances and resolutions lawfully passed and in force in the Town of Keyser, as heretofore constituted, and not inconsistent herewith, shall remain in force until altered or repealed by the council elected under the provisions of this Act, and shall extend to and over the whole of the City of Keyser as embraced in Section Two of this Act, and all valid ordinances enacted and now in force in the Town of South Keyser, as heretofore constituted, shall remain in full force and effect therein, until the Mayor and Council shall have been elected and qualified under the first election provided by this Act, at which time all of said ordinances shall ipso facto be repealed. All rights and property heretofore vested in said Towns of Keyser and South Keyser are continued and preserved, and no right or liability, either in favor of or against either of them, existing at the time, and no suit or prosecution of any kind, shall be affected by such change, unless otherwise provided for in this Act, and the said City of Keyser shall succeed to all the rights and liabilities of the Towns of Keyser and South Keyser, and it shall be liable for all the debts and obligations of said towns in the same manner and to the same effect as if such indebtedness had been created by the said City of Keyser.

## CORPORATE LIMITS.

Sec. 2. The corporate limits and boundaries of said city shall be as follows, to-wit: Beginning at a large double poplar on the north-west side of, and at the mouth of White's run where it empties into the North branch of the Potomac River, standing North 35° 45' E. 236 feet from the north end of the Baltimore and Ohio Railroad culvert over said run, and running thence up the river with and near the state

line of West Virginia and Maryland, North 12° W. 462 feet to a sugar at a bend of the river; North 46° 37' W. 600 feet to a large black oak; North 36° W. 225 feet to a large black oak, with double ash pointers; North 61° 15' W. 241.5 feet to a large maple, with sassafras and water birch pointers on the bank of the main branch of the river; South 86° 23' W. 589 feet to a double elm; thence leaving the river, South 36° 43' W. 516 feet passing main tracks of Baltimore and Ohio Railroad, at 266 feet, their inspector's house at 406 feet, the Piedmont Road at 466 feet, leaving said railroad company's lands to a stone on a hillside on the W. A. Liller lands; thence along said hillside, South 8° E. 1,186 feet to a stone in a hollow in Liller's orchard near a spring, standing South 50° 30' W. 64 feet from a pointer marked ash tree, and 140 feet from and at right angles to the southerly side of Piedmont Street; thence, parallel to said street, South 51° E. 1,355 feet to a stone standing in the line of said Liller and Randall Harrison, 140 feet southerly from said street; thence leaving Liller and crossing Harrison and F. M. Reynolds vineyard tract, South 5° 20' W. 1,060 feet to the corner of Reynolds and Hetzel's addition to Keyser, in the old T. B. Davis, or Sheetz and McCarty line; thence along it crossing White's run, and the road leading up the mountain to Elk Garden, South 31° 45' E. 1,363 feet to a stone in this line by a large post on a hill, corner of Babb, Smith and Trout heirs land; thence leaving said line and with the division line of Babb and Smith; South 36° 33' W. 1,265 feet to a large post, formerly corner of the T. B. Davis and T. R. Carskadon lands; thence along their line, now Babb and others, South 50° 42' E. 1,267 feet passing a set stone, corner of the Davis and Carskadon lands at 1,021 feet, to a stone in the westerly line of an alley at the rear of the lots fronting on Mineral Street; thence with said line of said alley, South 48° W. 1,273 feet leaving the same at 1,060 feet crossing a street and running on the Carskadon lands, to a stone on the southerly side of Carskadon run; thence down and along said run with the southerly side of Carskadon lane crossing New Creek pike at 1,152 feet, New Creek at 1,214 feet, South 48° 56' E. 2,094 feet to two chestnuts and a stone on the mountain, on the Carskadon lands; thence along the mountain leaving said lands at 1,435 feet crossing J. R. Carskadon and Taylor land, North 50° 30' E. 4,375 feet to two maples, a locust and stone on the Joseph Arnold land, at the northeast end of a bench of the mountain; thence along the side of the mountain passing H. Vernon's corner at 930 feet, South 69° 12' E. 1,400 feet to a set stone on a hillside with two chestnut oak pointers, south of Arza Furbee's house; thence North 77° 30' E. 857 feet crossing the Headsville road and the Twin mountain and Potomac Railroad at the end of this line to a black walnut stump at the west edge of Limestone Run; thence down along the run, North 7° 55' W. 123 feet; North 8° 50' E. 277.5 feet to a point at the edge of the water; thence down and with the same passing under the county road bridge and the Baltimore and Ohio Railroad, through a culvert, North 37° 07' W. 256 feet to the mouth of said run where it empties into the North Branch of the Potomac River at the upper side of "lovers leap" at the state line of West Virginia and Maryland; thence up and with said state line, the direct lines being, South 70° 10' W. 330 feet;

North 58° W. 486 feet; North 30° W. 293 feet crossing the mouth of New Creek at 148 feet; North 32° 56' W. 250 feet; North 34° 30' W. 650 feet; North 6° W. 708 feet; North 38° 17' W. 196 feet; North 60° 23' W. 169.2 feet passing the Western Maryland railroad bridge at 26 feet to the center of the south end of the Keyser and McCoole highway bridge; North 59° 30' W. 1,188.6 feet; North 73° W. 800 feet to a three pronged willow at the edge of the water; North 68° 10' W. 686 feet to a large sycamore tree; North 63° W. 1,837 feet to a large poplar; thence North 43° 45' W. 666 feet to the beginning.

## ELECTION PRECINCTS.

Sec. 3. The territory of said City shall be divided into such number of election precincts to include such territory as the council shall by ordinance adopt and fix, but for the purposes of the first primary and general election to be held under this Act the several election precincts heretofore established in the Town of Keyser and the Town of South Keyser shall constitute the election precincts for holding said first primary and election.

## QUALIFICATION OF VOTERS.

Sec. 4. Every registered voter qualified by law to vote for a member of the legislature of the state, and who shall have been a resident of said City for six months preceding the day of election, and is a bona fide resident of the election precinct in which he offers to vote, shall be entitled to vote at all elections held in said City by or under the corporate authorities thereof. For the first primary and election hereunder those qualified voters resident in election precincts wherein elections were held for a member of the legislature in the year One Thousand Nine Hundred and Twelve, and at which no municipal election is held under this act, shall be regarded as residents of the municipal election precinct nearest to their actual residence.

## REGISTRATION OF VOTERS.

Sec. 5. The registration of voters provided for under the general laws of the state shall be adopted in the City of Keyser, so far as applicable, and the council shall appoint registrars who shall have authority to register such persons who have moved into the municipality at least six months preceding an election and who are otherwise qualified to vote. Registration books shall be prepared under the direction of the City Clerk and furnished to the judges of the election, and all the provisions of the general law relating to the registration of voters shall apply in said City so far as applicable.

## MUNICIPAL AUTHORITIES -- PRIMARY AND GENERAL ELECTION.

Sec. 6. For said City, there shall be elected at the regular municipal election to be held on the Tuesday after the first Monday in June, One Thousand Nine Hundred and Thirteen, a mayor and three

councilmen who shall hold their office for two years and until their successors are elected and qualified, except that the two councilmen elected, who shall receive the lowest number of votes, shall hold their office for one year, and on the Tuesday after the first Monday in June, One Thousand Nine Hundred and Fourteen, there shall be held an election for the purpose of electing two councilmen as their successors, who shall hold their office for two years and until their successors are elected and qualified, and thereafter, on the Tuesday after the first Monday in June in the succeeding year, a mayor and one councilman shall be elected and in the next succeeding year, on the Tuesday after the first Monday in June, two councilmen shall be elected, and in like manner thereafter, who shall hold their office for two years and until their successors are elected and qualified.

If any vacancy occurs in any such office, the remaining members of said Council shall appoint a person to fill such vacancy during the balance of the unexpired term.

Said officers shall be nominated and elected at large, and they shall qualify and their terms of office shall be two years and until their successors are elected and qualified, and shall begin on the first day of July after the election. The terms of office of the Mayor, Councilmen and Recorder in the Town of Keyser and the Town of South Keyser, in office at the beginning of the terms of office of the Mayor and Councilmen first elected under the provisions of this Act, shall then cease and determine, and the terms of office of all other elective or appointive officers in force in such towns, except as hereinafter provided, shall cease and determine as soon as the Council shall by resolution declare.

Candidates to be voted for at all general municipal elections at which a mayor and one councilman, or at which two councilmen are to be elected, under the provisions of this Act, shall be nominated by a primary election, and no other name shall be printed upon the general ballot except those elected in the manner hereinafter prescribed. The primary election for such nominations shall be held on the second Tuesday preceding the general municipal election. The judges of election shall be appointed by the Council for the general municipal election, who shall be the judges of the primary election, and it shall be held at the same place, so far as possible, and the polls shall be opened and closed at the same hours, with the same clerks as are required for said general municipal election. The Council of the Town of Keyser, as constituted at the passage of this Act, shall appoint the judges for the first primary and general elections to be held hereunder, but the Council of South Keyser, as constituted at the passage of this Act, shall have the right to nominate the judges for the first primary and general elections to be held hereunder for the election precinct embraced within the territory of South Keyser.

Any person desiring to become a candidate for mayor or councilman shall, at least ten days prior to said primary election, file with

the City Clerk a statement of such candidacy, in substantially the following form:

State of West Virginia, Mineral County, ss:

I, _____, being first duly sworn, say that I reside at _____ Street, City of Keyser, County of Mineral, State of West Virginia; that I am a qualified voter therein; that I am a candidate for nomination to the office of (mayor or councilman) to be voted upon at the primary election to be held on the _____ Tuesday of May, 19___, and I hereby request that my name be printed upon the official primary ballot for nomination by such primary election for such office.

(Signed)_____

Subscribed and sworn to (or affirmed) before me by _____ on this ____ day of _____, 19___.

(Signed)_____

And shall at the same time file therewith the petition of at least ten qualified voters requesting such candidacy. Each petition shall be verified by one or more persons as to the qualifications and residence, with street number, of each of the persons so signing the said petition, and the said petition shall be in substantially the following form:

PETITION ACCOMPANYING NOMINATING STATEMENT.

The undersigned, duly qualified electors of the City of Keyser, and residing at the places set opposite our respective names hereon, do hereby request that the name of (name of candidate) be placed on the ballot as a candidate for nomination for (name of office) at the primary election to be held in such city on the _____ Tuesday of May, 19__. We further state that we know him to be a qualified elector of said city and a man of good moral character, and qualified in our judgment, for the duties of such office.

Names of Qualified Electors. Number. Street.

Immediately upon the expiration of the time of filing the statements and petitions for candidates, the said City Clerk shall cause to be published in the newspapers published in the City, in proper form, the names of the persons as they are to appear upon the primary ballot; and shall cause copies of said list of names, as published, to be forthwith posted in at least ten conspicuous places in said City; and the said clerk shall thereupon cause the primary ballots to be

printed, authenticated with a facsimile of his signature. Upon the said ballot the names of the candidates for mayor, arranged alphabetically, shall first be placed, with a square at the left of each name and immediately below, the words "vote for one". Following these names, likewise arranged in alphabetical order, shall appear the names of the candidates for councilmen, with a square at the left of each name, and below the names of such candidates shall appear the words "vote for one". The ballot shall be printed upon plain, substantial white paper, and shall be headed:

"Candidates for nomination for mayor and councilmen of the City of Keyser, at the primary election," but shall have no party designation or mark whatever. The ballots shall be in substantially the following form:

(Place a cross in the square preceding the names of the parties you favor as candidates for the respective offices.)

OFFICIAL PRIMARY BALLOT.

Candidates for nomination for mayor and councilmen of the City of Keyser at the primary election.

For Mayor

[ ] (Name of candidate.)

(Vote for one.)

For Councilman.

[ ] (Name of candidate.)

(Vote for one.)

Official ballot, attest:

Signature _____, City Clerk.

At the first primary the direction shall be printed below the names of the candidates for councilmen, "vote for three," and in those years in which only two councilmen are to be elected, the ballot shall be headed:

"Candidates for nomination for councilmen of the City of Keyser at the primary election," and below the names of the candidates for councilmen shall be the direction "vote for two."

Having caused said ballot to be printed, the City Clerk shall cause to be delivered at each polling place a number of said ballots equal to twice the number of votes cast in such polling precinct at the last general municipal election for mayor. The persons who are qualified to vote at the general municipal election shall be qualified to vote at such primary election, and challenges can be made by not more than two persons, to be appointed at the time of opening the polls by the judges of election; and the law applicable to challenges at a

general municipal election shall be applicable to challenges made at such primary election.

All candidates before the primary may meet at least two days preceding the primary election and a majority thereof may select two challengers for each precinct whom they shall certify to the judge of election and the judge shall in such case appoint such persons certified as the challengers. Judges of election shall, immediately upon the closing of the polls, count the ballots and ascertain the number of votes cast in such precinct for each of the candidates, and make return thereof to the City Clerk before nine o'clock A.M., of the following day. On the day following the said primary election the council shall canvass said returns so received from all the polling precincts, and shall make and publish in all the newspapers of said City at least once, the result thereof. Said canvass shall be publicly made. In those years in which a mayor and one councilman are to be elected, the two candidates receiving the highest number of votes for mayor shall be the candidates and the only candidates whose names shall be placed upon the ballot for mayor at the next succeeding general municipal election, and the two candidates receiving the highest number of votes for councilmen, or if such candidate if less than two, shall be the candidates and the only candidates whose names shall be placed upon the ballot for councilmen at such municipal election; and in those years in which two councilmen are to be elected, the four candidates receiving the highest number of votes for coucil-men, or all such candidates if less than four, shall be the candidates and the only candidates whose names shall be placed upon the ballot for councilmen at such municipal election. At the first election under this Act, the six candidates receiving the highest number of votes for councilmen shall be placed upon the ballot for councilmen at such election. In the event of the death or resignation of a nominee before the election, the candidate receiving the next highest number of votes at the primary shall be placed on the ticket in his stead.

The ballot at such general municipal election shall be in the same general form as for such primary election, so far as applicable. All elections, of whatsoever kind, held under this Act, shall be conducted, returned and the result thereof ascertained and declared in the manner prescribed by the laws of the state relating to elections in so far as they are not in conflict or inconsistent with the provisions of this Act.

For the first primary and general election held under this Act, the duties herein required of the council of the City of Keyser shall be performed by the council of the Town of Keyser, and the duties herein required to be performed by the City Clerk, shall be performed by the recorder of the Town of Keyser, and contests in such cases shall be heard and determined by the council of the Town of Keyser.

## CONTESTED ELECTIONS.

Sec. 7. All contested elections shall be heard and decided by the Council, and the contest shall be made and conducted in the same manner as provided for in such contests for county and district offices; and the Council shall conduct its proceedings in such cases as nearly as practicable in conformity with the proceedings of the county court in such cases.

## COUNCIL.

Sec. 8. Said City shall be governed by a Council, consisting of the Mayor and three Councilmen chosen as provided in this Act. Each of said councilmen shall have the right to vote on all questions coming before the Council, but the Mayor shall have no such right. The three members of the Council, or the Mayor and two members of the Council, shall constitute a quorum, and the affirmative vote of two members shall be necessary to adopt any motion, resolution or ordinance or pass any measure. Upon every vote the yeas and nays shall be called and recorded, and every resolution or ordinance shall be reduced to writing and read before the vote is taken thereon.

## CITIZENS' COMMITTEE.

Sec. 9. Whenever moneys are to be raised and procured for public improvements by the issuance and sale of bonds, or whenever application is made to the City for a public franchise, the Mayor shall, before any action is taken relating to the issuance of such bonds, or the granting or refusing of such franchise, by and with the consent and approval of the Council, appoint seven citizens of said City who shall have been actual residents therein for five years next preceding their appointment and who have been assessed with and paid taxes on at least One Thousand Dollars worth of property therein for the year preceding their appointment, to act in conjunction with the Council, and as a part thereof, in the consideration and determination of all matters and questions pertaining to the issuance of such bonds, or the granting or refusing of such franchises. Each of said citizens shall have a vote in the Council upon all questions relating to or arising out of the matters for which they were appointed, including the awarding of contracts, expenditure of the money and auditing and approving the accounts therefor. The said citizens shall receive such compensation as the Council may prescribe, take the same oath prescribed for councilmen and shall serve until all of the work for which such money was raised and procured, is fully completed, and the accounts of expenditures thereof finally audited and approved; or until such franchise has been granted or refused.

## THE MAYOR.

Sec. 10. The Mayor shall preside at all meetings of the Council; he shall have power to veto any resolution or ordinance, passed by

the Council, and every resolution or ordinance so passed must be signed by him, or by the three councilmen, and be recorded before the same shall be in force. After the passage of any ordinance or resolution by the Council, the ordinance or resolution shall be presented to the Mayor for his approval or disapproval, and at the next regular meeting of the council, he shall return the same with his approval endorsed thereon, or accompanied by his veto and his reasons therefor reduced to writing and if he endorses his approval thereon, or fails to return the same as herein provided, such ordinance shall have full force and effect, but if accompanied by his veto and his reasons in writing the same shall have no force or effect but shall stand as reconsidered in the Council. The objection of the Mayor shall be entered at large upon the journal of its proceedings, and the Council shall proceed to consider the question which shall be in form: "Shall the ordinance or resolution pass, the objection of the mayor thereto notwithstanding?" The vote on the question shall be taken by yeas and nays and shall require the affirmative vote of all three members of the Council to pass such resolution or ordinance over the veto of the Mayor. Should such ordinance or resolution fail to receive the affirmative votes of all three members of the Council, when returned accompanied by the veto and objections of the Mayor thereto, it shall be null and void, but if it receives the affirmative vote of the three members of the Council, it shall thereupon become and be in full force and effect to the same extent as if it had received the approval of the Mayor.

The Mayor shall be superintendent of the department of public affairs and public safety, and he shall, at the first regular meeting of the Council, by and with the consent and approval of the Council, designate one councilman to be superintendent of the department of accounts and finance, one to be superintendent of the department of streets, alleys, parks, public improvements and public property, and one to be superintendent of the department of water works and sewers' but such designation, including that of the Mayor as superintendent of the department of public affairs and public safety, shall be changed whenever it appears to the Council that such change is necessary or advisable.

The Mayor shall at said first meeting nominate, and by and with the consent of the Council, shall appoint a city clerk, street commissioner, chief of police, city attorney, treasurer and such other officers and assistants, including regular policemen, as shall be provided for by ordinance and necessary to the proper and efficient conduct of the affairs of the City; all of said officers shall hold office during the term of the mayor by whom they are appointed and until their successors are appointed and qualified, unless sooner removed by the Council. Any officer, assistant or employee, elected, appointed or employed may be removed at any time by a vote of a majority of the members of the Council, under such regulations as the Council may prescribe. Should the Mayor fail or refuse to transmit to the Council nominations for any or all appointive offices for two successive

meetings of the Council, after he shall have qualified, or for two successive meetings after the Council has refused to confirm any nomination made by him, the Council shall fill such office or offices.

The Mayor shall be the chief executive officer of the City, and he shall, except as otherwise herein provided, see that the laws and ordinances of the City are enforced; that the peace and good order of the city are preserved; he shall be president of the Council and preside at its meetings, and shall supervise all departments and report to the Council for its action all matters requiring attention in any department, and he shall perform such other duties and services as the Council may ordain, in addition to the duties prescribed in this Act, and not inconsistent therewith. The superintendent of the department of accounts and finance shall be vice president of the Council, and in case of vacancy in the office of Mayor, or the absence or inability of the Mayor, shall perform the duties of Mayor.

DEPARTMENTS OF CITY GOVERNMENT--SALARIES.

Sec. 11. The Council shall have and possess, and the Council and its member shall exercise all executive, legislative and judicial powers conferred upon cities, towns and villages by the general law of the state and by this Act.

The executive and administrative powers, authority and duties in said city shall be distributed into and among four departments as follows:

1. Department of public affairs and public safety.

2. Department of accounts and finance.

3. Department of streets, alleys, parks, public improvements and public property.

4. Department of water works and sewers.

The council shall determine the powers and duties to be performed by, and assign them to the appropriate department; shall prescribe the powers and duties of officers and employees, may assign particular officers and employees to one or more of the departments; may require an officer or employee to perform duties in two or more departments; and may make such other rules and regulations as may be necessary or proper for the efficient and economical conduct of the business of the city.

The council shall have power from time to time to create and discontinue offices and employments other than herein prescribed, according to their judgment of the needs of the city, and may, by resolution or otherwise, prescribe, limit or change the compensation of such officers or employees.

The mayor and councilmen, and every other officer or assistant, shall receive such salary or compensation as the council shall by ordinance provide, payable in equal quarterly installments. The salary or compensation of all other employees of said city shall be fixed by the council and shall be payable at such periods as the council may determine.

## MEETINGS OF COUNCIL.

Sec. 12. Regular meetings of the council shall be held on the first Tuesday of July in each year, and thereafter at least twice each month. The council shall provide by ordinance for the time for holding regular meetings, and special meetings may be called from time to time by the mayor or two councilmen. All meetings of the council, whether regular or special, at which any person not a city officer is admitted, shall be open to the public.

## IMPROVEMENT ORDINANCES AND FRANCHISES.

Sec. 13. Every ordinance or resolution appropriating money or ordering any street improvement or sewer, or making or authorizing the making of any contract, or granting any franchise or right to occupy or use the streets, highways, bridges, or public places in the city for any purpose, shall be complete in the form in which it finally passes, and remain on file with the City Clerk for public inspection at least one week before the final passage or adoption thereof. No franchise or right to occupy or use the streets, highways, bridges or public places in said city shall be granted for a period exceeding thirty years, and no amendment or addition thereto shall extend beyond the termination of the original franchise.

## QUALIFICATION OF MAYOR AND COUNCILMEN.

Sec. 14. No person shall be mayor or councilmen who has not for two years next preceding his election, been a resident within the city of Keyser, and who has not been assessed with and paid taxes upon at least Five Hundred Dollars worth of real or personal property.

## OATH OF OFFICERS.

Sec. 15. All officers, elective and appointive, shall make oath, before some one authorized to administer oaths, that they will support the constitution of this state, and will faithfully and impartially discharge the duties of their respective offices, to the best of their skill and judgment; that they will not administer their respective offices with the aim to benefit any political party; and, in the case of councilmen, they shall add in their oath that they will not during their term of office become pecuniarly interested, directly or indirectly, in any contract with the city, or the purchase of any supplies therefor. When the officer shall have made such oath in writing and filed the same with the City Clerk, and shall have given the bond required of

and accepted from him, he shall be considered as having qualified for the office to which he was elected or appointed; provided, that if any person elected to the office of mayor or councilman shall not qualify for said office as herein prescribed within ten days after he shall have been officially declared elected thereto, said office shall ipso facto become vacant, and said vacancy shall be filled in the manner provided for in this act.

## GENERAL POWERS OF COUNCIL.

Sec. 16. In addition to the powers conferred upon the council of cities, towns and villages, by the general laws of the state and amendments thereto, and those herein elsewhere enumerated, the council of said city shall have plenary power and authority therein; to locate, vacate, lay off, close, open, alter, grade, straighten, widen or narrow, pave or repave, construct and keep in repair bridges, viaducts, under grade crossings, roads, streets, alleys, sidewalks, cross walks, drains and gutters for the use of the public, or any of the citizens thereof, and to improve and light the same, and keep them clean and free from obstruction on or over them; provided, the municipality shall not be liable for or respond in damages for injury to persons or property caused by or from a defect or obstruction in or on the plat of ground between the gutter or curb of any street and the paved or plank sidewalk extending there along, or between any such sidewalk and the property lying next adjacent thereto, unless such municipality had acutal notice of such defect or obstruction prior to the time of the injury complained of; to regulate the width of sidewalks and the streets, and the width and care of the public grounds or grass plots abutting thereon, and to order the sidewalks, footways, cross walks, drains and gutters to be curbed and paved, or repaved and kept in good order, free and clean, and to provide for the removal of snow and ice therefrom, and for sprinkling the same, by the owners or occupants of the real property next adjacent thereto; and to require that all pavements shall be of uniform material, between any two cross streets; to regulate traffic on, and the use and occupancy of the streets, alleys, roads and highways of said city, and to regulate the speed of travel thereon of all vehicles, and to prohibit or regulate the use thereon of traction engines or other vehicles or loads causing injury to or unusual wear of the same, and to regulate the speed of engines or trains and street cars within the corporate limits, and to provide for the safety and convenience of the public on streets, alleys, roads, highways and railroad crossings, and to prevent the blocking of such crossings by trains; to regulate the erection, construction and location of telephone, electric light and other poles or structures, or conduits used to carry wires, and to cause the removal thereof from the surface of the streets and to require the wires to be placed under ground; to regulate the making of division fences and party walls by the owners of adjoining and adjacent premises and lots, and to regulate or require the drainage by the owner of such lots or other real estate by the proper drains, ditches and sewers, and to fill or cause to be filled any lot below the

established elevation or grade; to lay off, open, close, vacate or maintain public grounds, parks and public places, and name and rename the same; to regulate the planting, trimming and preservation of shade trees, by persons and corporations, in streets, alleys, roads, public grounds and places, and to provide for the planting, removal, trimming and preservation of such trees and other ornamental shrubbery by the municipality; to establish, maintain and regulate free public libraries and reading rooms, and to purchase books, papers, maps and manuscripts therefor, and to receive donations and bequests of money or property for the same, in trust or otherwise, and to provide for the rent and compensation for the use of any existing free public libraries established and managed by private corporation or association organized for that purpose; to protect divine worship in and about the premises where held; to regulate or prohibit street carnivals or street fairs, or street parades, advertising exhibitions or other exhibitions thereon, or the exhibition of natural or artificial curiosities; to regulate or prohibit the ringing of bells, blowing of steam whistles or use of hand organs or other musical instruments of any annoying character or other music or itinerant performers in the streets, roads, parks, or public places of the municipality; to license, regulate or prohibit auctioneering; to license or prohibit the sale of goods, wares and merchandise or of live animals at auction in the streets or other public places within the municipality; to regulate, license or prohibit the sale of goods, wares, merchandise, drugs or medicine on the streets or other public places; to prevent the illegal sale of intoxicating drinks, liquors, drugs and intoxicating mixtures of all kinds; to impose a license tax on persons keeping for hire automobiles, carriages, hacks, buggies, or wagons, or for carrying for hire persons or baggage in such vehicles; to establish and regulate hack stands and stands for automobiles, coaches, cabs and omnibuses kept on the streets for hire; to regulate or prohibit runners at railroad depots and stations and other places or assemblage of people; to regulate and assess and collect a license fee for the use of the municipality on any thing or business on which a state license is required, subject to the exemptions as provided in Section Thirty-two of the Code; to establish, locate and keep in repair, market places and market houses, and regulate markets, prescribe the time for holding the same and to authorize the seizure thereat and destruction of any and all such goods and drink products as shall be found unwholesome, dangerous or offensive, and without recourse against the municipality for its cost or value; to regulate the sale of all food and drink products, milk, fresh meats, fish and vegetables, and provide for the inspection of the same; to appoint market masters and invest them with power to make arrests for the violations of the municipal ordinances or regulations in their view, and to prevent regarding or forestalling; to regulate and provide for the weighing of hay, coal and other articles for sale in the market; to prevent injury or annoyance to the public or individual from anything dangerous, offensive or unwholesome; to regulate the keeping, handling and transportation of explosives and dangerous combustibles within the municipality; to regulate or prohibit the erection or maintenance in what council deems an improper locality

within the municipality any blacksmith shop, livery stable, cow house, cattle pen, poultry house, pig pen, privy, bill board, sign boards, gas or other engines or the use of walls or walks for signs, and to abat by summary proceeding whatever in the opinion of the council is a nuisance; to regulate or prohibit the distribution of hand bills, circulars and other advertisements of like kind on the streets, roads, alleys and public places, or in private yards, buildings or other structures without first having procured the consent of the owner or occupier thereof; to prohibit within the municipality or within one mile of its corporate limits the erection or maintenance of any slaughter house, scap factory, glue factory, lamp black factory, tannery or other house, shop or factory of like kind or character; to establish, regulate and maintain public baths and bath houses, drinking fountains, water troughs and public toilet stations, and free public band concerts, and to regulate the time and place of bathing in pools, streams and public waters within the police jurisdiction of the municipal corporation; to prevent hogs, cattle, sheep, horses and other animals and fowls of all kinds from going at large in the municipality, and to establish and maintain places for their detention, make regulations respecting the same, and appoint a pound master and define his duties; to arrest, convict and punish any person for keeping an assignation house, house of ill fame, or for leasing or letting to another person any house or other building for the purpose of being used or kept as an assignation house or a house of ill fame, or for knowingly permitting any house owned by him or under his control to be used or kept as an assignation house or house of ill fame, or for loafing, boarding or loitering in a house of ill fame or frequenting the same; to arrest, convict and punish any person for importing, printing, publishing, selling or distributing any book, picture or device or other thing containing obscene language or picture or make an indecent representation; to restrain and punish vagrants, mendicants, beggars, tramps, common prostitutes, and their associates and drunken or disorderly persons within the municipality, and to provide for their arrest and manner of punishment; to establish a board of health and invest it with the necessary power to attain its object; to establish quarantine, to enforce compulsory vaccination or quarantine, and to erect and maintain pest houses and places of detention, within or without said city, and to make and enforce necessary orders for controlling or preventing the spread of infectious and contagious diseases and for abating pestilences; to prohibit and punish by fine the bringing into the corporate limits by railroads or other carriers, persons who are paupers, or persons afflicted with contagious diseases, or to punish by fine, or by fine and imprisonment, any person so bringing within the corporate limits such pauper or diseased person; to provide for the poor of the municipality, and to that end the municipality may contract with the county court of Mineral County for keeping of such poor persons, or any number of them, at the county poor house at a price and on such terms as may be agreed upon between the county court and the proper municipal authorities; to authorize the taking up and to provide for the safe keeping and education, for such periods of time as may be deemed expedient, of all

children who are destitute of proper parental or other care and who are growing up in mendicancy, ignorance, idleness or vice; to establish and maintain, either within or outside of its limits, a house of correction or a house of refuge and a work house, or either of them, and, in the discretion of the municipality to place the same under the management and control of such directors, superintendents and other officers as the council may, by ordinance, provide. All children under the age of sixteen years, who shall be convicted of any offense made punishable by imprisonment under any ordinance of the municipality, or who shall be liable to be committed to prison under any such ordinance may be confined in such house of refuge, and may be there kept or apprenticed out under such rules as the municipality may prescribe, until they arrive at the age of eighteen years, unless for good cause sooner discharged. Any person over the age of sixteen years convicted of the violation of any ordinance of the municipality, and liable to be punished therefor by imprisonment, may in lieu thereof be committed to the house of correction or to the work house, as may be provided by ordinance. The authorities of any house of refuge, established by such municipality, are authorized to appoint a committee of one or more of their number with power to execute and deliver on behalf of said authorities, deeds of apprenticeship for any inmate of said institution when they deem a proper person for an apprenticeship to a trade or occupation, to such person as said committee, or the authorities may approve, and said deed shall have like force and effect as other deeds of apprenticeship under the laws of this state; a copy of every such deed shall be filed and kept in said institution by the superintendent thereof, and it shall not be necessary to file the same in any other place or office. When any inmate of said institution shall have been apprenticed and prove untrustworthy and unreformed, he or she shall be recommitted to the said institution to be held in the same manner as before said apprenticeship. The county court of Mineral County shall have the power to use said house of refuge or work house for children or persons of the age hereinbefore mentioned who shall be convicted in said county, in any court thereof, of any offense not of the grade of felony under the laws of this state; provided, said county court shall maintain its just proportion of the expense of such house of refuge or work house, to be levied for and paid out of the county treasury; to authorize the establishment and maintenance of juvenile courts, and to provide for the proper conduct of the same; to arrest, convict and punish any person for cruelly, unnecessarily or needlessly beating, torturing, mutilating, killing, or overloading or over-driving, or wilfully, depriving of necessary sustenance, any horse or other domestic animal; to restrain fraudulent practices within the municipality; to arrest, convict and punish any person for gambling or keeping any gaming table, commonly called fare bank table and chips used in playing such game; crap table or chips used in playing such game; or roulette or the wheel or chips used in playing such game; or keno table or table of like kind or device used in playing the same; or table or like kind under any denomination, whether the game or games by played with cards, dice or otherwise, or any person who shall be a

partner, or concerned in interest in the keeping or exhibiting of such gaming table, fare bank table or chips, roulette table, or chips, crap table or chips, keno table or devices, or keeping or maintaining any gaming house or place, or betting or gambling for money or anything of value, and to destroy such gambling paraphernalia as may be found in use on any such premises; to restrain all felons and persons guilty of offenses against this state or the United States and deliver them over to the authority or court having jurisdiction of the offense whereof such person is accused; to apprehend and punish any person, who, without a state license therefor, is guilty of carrying about his person, within the municipality, any revolver or other pistol, dirk, bowie knife, sling shot, raxor, billy, metallic or other false knuckles, or any other dangerous or deadly weapons of like kind and character as provided by Chapter Fifty-one of the acts of the legislature of One Thousand Nine Hundred and Nine, and the punishment therefor, whether for the first or other offense, shall be that prescribed by said chapter for any such person guilty under the misdemeanor clause provided therein but the place of confinement of such guilty person may be in the jail or lockup of the municipality in lieu of the county jail; provided, that the police judge of the municipality or other person exercising the functions of his office, may, in his discretion, decline to inflict the punishment therein mentioned, and instead thereof may require or hold such guilty person to answer an indictment by the grand jury of Mineral County for the violation of said law; and it shall be the duty of the prosecuting attorney of such county when requested by the police judge of said municipality, to appear and prosecute such offending person before such police judge; provided, further, that regularly appointed police officers of the municipality whose services are rendered to and paid for by the municipality, shall not be required to give bond, or any bond, provided by said Chapter Fifty-one of the acts of the legislature of One Thousand Nine Hundred and Nine; to provide in or near the corporate limits of the municipality a cemetery or other place for the burial of the dead, and to regulate interments therein, and to guard and police the same, and to provide for the cremation and incineration of dead human bodies, when from the nature of the malady or pestilence from which death ensued, the municipal board of health may direct; to regulate the erection, construction, alteration and repair of dwelling houses, buildings and other structures within the municipality and to compel the numbering of the same by the owners or occupiers thereof; to regulate the hanging of doors and the construction of stairways, elevators and fire escapes in theatres, churches, school buildings, factories and other places where many persons are received at one time, and to require the construction of fire escapes in such buildings; to regulate, by license and otherwise, plumbers, electricians, sewer tappers and vault cleaners; to establish fire limits, and to regulate the construction of buildings and designate materials to be used in the construction of buildings within such limits; to regulate the building of fire walls, fire places, chimneys, boilers, smoke stacks and stove pipes; to take down and remove, or make safe and secure, any and all buildings hereafter erected, and the alteration and repair of any by the owners thereof,

that are or may become dangerous, or to require the owners, or their agents, to take down and remove them or put them in a safe and sound condition at their own expense; to regulate the heighth, construction and inspection of all new buildings hereafter erected, and the alteration and repair of any buildings now or hereafter erected in the municipality, and to require permits to be obtained of the municipality for such buildings and structures and the repair or alteration thereof, and that plans and specifications thereof be submitted to the council or some person designated by it; to regulate the limits within which it shall be lawful to erect any steps, porticos, bay windows, bow windows, show windows, awnings, signs, columns, piers or other projection or structural ornaments of any kind for the houses or buildings fronting on any street; to provide for the prevention and extinguishment of fires, and for this purpose to organize, equip and govern fire companies and hose companies, and to prescribe the powers and duties of such companies and department, and of the several officers therefor, and to impose on those who fail to obey any lawful command of the officer in charge of such company any penalty which the council is authorized to impose for violations of an ordinance, and to give authority to such fire officer to direct the pulling down of any building or the destruction of any fence, wall, building or other thing if such officer deem it necessary to prevent the spreading of the fire; to protect the persons and property within the corporate limits, and to preserve the peace and good order therein, and for this purpose to appoint, when necessary, a police force, and such other officers, as may be deemed necessary; to prescribe the powers and define the duties of the officers appointed under corporate authority, fix their terms of service and compensation, if not otherwise prescribed in this act, and to require and take from them bonds, when deemed necessary, payable to the City of Keyser, with the sureties and in such penalties as may be prescribed, conditioned for the faithful discharge of their duties; to erect, own or lease street cars and street railway plant, and to build, equip, maintain and operate street railways within the municipality and to any park, cemetery or public place belonging to the municipal corporation outside of the corporate limits, and to collect of persons riding thereon, or receiving service thereof, a reasonable fare or compensation therefor; to erect, authorize or prohibit the erection of power plants, heating plants, gas works, electric light works or waterworks in the municipality, and to erect, own or lease and maintain within or without the corporate limits of the municipality such gas works, electric light, power works, waterworks and reservoirs to supply the municipality or its inhabitants with water, light, heat or power, and to prevent injury to the same or the pollution of the water or to impair the healthfulness thereof; provided, that whenever said municipality shall operate an electric light plant, a gas plant, or other public utility, except waterworks, in or for the municipality, all the money derived from the operation of the same shall go to the credit of the fund covering the operation of such plant only, and shall not be diverted therefrom so long as there is any bonded or other debt against the same; and such fund shall be applied to the operating

expenses of the plant which that fund covers, and it may be used to repair, improve, enlarge or replenish such plant, or to discharge in whole or in part any bonded or other debt against the same; to grant, by ordinance or franchise, for periods not exceeding thirty years, the use of its streets, roads, alleys and public places, to lay pipes, conduits, manholes, drains, and other necessary fixtures and appliances, to be used for supplying the municipality and its inhabitants with steam or hot water, or both, for heat and power purposes, or both, or for illuminating purposes; and to grant by ordinance or franchise, for periods not exceeding thirty years, the use of its streets, roads, alleys, and public places for the construction of movable or rolling roads, for the conveying or moving of passengers, freight and other property, and those in charge of the same, upon such terms and conditions as are hereafter prescribed; to grant by ordinance or resolution permits for the temporary use of its streets, roads, alleys and public places for the construction of movable or rolling roads, for the conveying or moving of passengers, freight, vehicles, animals or other property, upon such conditions as are hereinafter prescribed; to provide a revenue for the city and appropriate the same to its expense; to this act and to cause to be assessed and collected in each year an ad valorem tax, not to exceed fifty cents on one hundred dollars assessed valuation on all property in said city, subject to state and county taxes, as valued and returned for such taxation by the county assessor; to erect, buy, sell and lease all buildings necessary for the use of the city government, or any of its departments, including a town hall or play house, and to provide for, and regulate the same and establish and maintain public hospitals, and to receive donations, gifts and bequests for the same, in trust or otherwise; to compel the attendance at public meetings of the members of council, citizens' committee, or any officer or employee of said city; to prevent corrupt practices at all primary and general elections of said city and to fix the maximum sum of money that may be expended by any candidate for nomination or election; to prescribe the purposes for which the same may be used and the penalty or forfeiture to be imposed for violation, which may include the forfeiture of nomination or office; to provide for the removal and abatement of nuisances and to carry out and to enforce sanitary regulations; to regulate the sale of cocaine, morphine, opium and all poisonous drugs within said city, and to prescribe punishment, including fine and imprisonment, for the violation of any such regulation, and to provide that one or more convictions for violating the same shall operate as a revocation of the license of any druggist or pharmacist holding a license under said city; to provide penalties for the offense and violations of laws mentioned herein, but which shall not exceed the penalties provided for like offenses in Chapters One Hundred and forty-eight, One Hundred forty-nine and One Hundred Fifty-one of the Code of West Virginia; and to punish violations of all ordinances even if the offenses under and against the same shall also constitute an offense under the laws of the State of West Virginia.

## MUNICIPAL AUTHORITY.

Sec. 17. To carry into effect these enumerated powers, and all other powers conferred upon said city, expressly or by implication, in this and other acts of the legislature, the municipal authorities of said city shall have power in the manner hereinafter prescribed, to adopt and enforce all needful orders, by-laws and ordinances not contrary to the laws and constitution of this state, and to prescribe, impose and enforce reasonable fines and penalties, including imprisonment, and shall have the right to use the jail of said county for any purpose necessary to the administration of its affairs. Such fines, penalties and imprisonment shall be recovered and enforced under the judgment of the police judge of the city, or the person lawfully exercising his functions.

The proceedings before the police judge, or other person exercising his functions, for enforcing regulations and penalties for violation of ordinances, shall be by warrant of arrest in the corporate name of the city, directed to the chief of police, other policemen of the city, or to any constable of Mineral County, commanding the person to whom direct in the name of the State of West Virginia, to forthwith apprehend the offender or cause him to be apprehended and brought before such police judge, or person there sitting, to answer said charge and to be dealt with according to law.

The warrant of arrest shall be issued only on the information under oath of some reliable person. It shall describe the offense alleged to have been committed where the same is a felony, as heretofore required in such cases by law, and where a violation of a city ordinance, it shall describe the offense in such general terms of the ordinance violated as shall inform the accused of the nature of the charge or charges, and command the officer to forthwith apprehend the accused and bring him before the police judge, or person exercising his functions, to be dealt with according to law. The officer issuing such warrant may endorse thereon, or by subponea direct, the witnesses to be summoned, and may proceed against them for contempt if they fail or refuse to attend or to testify. All trials in the police court shall be by summary proceedings.

## ASSIGNMENT AND COLLECTION OF TAXES.

Sec. 18. The levying and assessment and collection of taxes of said city, and the sale or real estate for such municipal taxes, forfeitures for non-payment and non-assessment thereof, transfer of title vested in the state, redemption of such forfeited real estate and deeds of conveyance therefor, shall, except as otherwise provided in this act, be made in the manner provided in, and subject to, the provisions of Chapters Nine of the Acts of the Legislature of Nineteen Hundred and Eight, extraordinary session, Twenty-Nine, Thirty, Thirty-One and One Hundred and Five of the Code.

## BONDS.

Sec. 19. The council of the said city shall have the right to bond the said city for the purpose of paving the streets and alleys of said city and for constructing waterworks and a sewerage system for the same, and for the purpose of providing hose and other appliances for extinquishing fire, and for any and all public improvements, whenever the council thereof may deem improvements necessary, and to refund outstanding bonds at a lower rate of interest, and to issue new bonds for the purpose of increasing the length of the time on any such indebtedness, but the aggregate indebtedness of said city, for all purposes, shall not at any time exceed five per centum of the assessed valuation of the taxable property therein, based upon the valuation of the last assessment next preceding the date of incurring said indebtedness; and the said council shall by taxation, provide a fund for the payment of interest on any and all indebtedness incurred in the manner aforesaid within the period of thirty-four years; provided, that no debt shall be incurred hereunder until the question of a bond issue be submitted to a vote of the people and the issuance thereof authorized by a three-fifths votes. Such bonds shall not be sold for less than par, nor exchanged for the evidences of indebtedness of said city except dollar for dollar. The method of issuance and proceedings for conduct of election, shall, except as otherwise provided in this act, be in the manner and form provided by Chapter Forty-Seven-A of the Code.

## LICENSES.

Sec. 20. Whenever anything for which a state license is required, is to be done within said city, or within two miles of the corporate limits thereof, the municipal authorities, as herein provided, may require a city license to be had for doing the same, and may, in any case require from any person licensed, a bond with sureties and in such penalty and with such conditions as it may deem proper, and the council on notice, may revoke such license at any time if the condition of the said bond be broken. And the municipal authorities may also impose a license and assess a tax thereon on all wheeled vehicles for public hire, all dogs kept within said corporate limits, all insurance, bonding, casualty and guaranty companies, all franchises heretofore granted by the Towns of Keyser and South Keyser or hereafter granted by the city, bill posting and distributing, and the making, erection and construction of signs and street advertisements, book agents, common criers, moving picture shows, drays, cabs, hacks, etc., eating houses, restaurants, and places where soft drinks are sold, express companies, hitting and striking machines, livery and feed stables, omnibuses, electric light and gas companies. The municipal authorities may prescribe, impose and enforce reasonable fines and penalties, including imprisonment, under the order of the police judge of said city, or the person lawfully exercising his functions, upon any person carrying or attempting to carry on any business for which the said license is required, without first obtaining

a city license therefor, and paying the city license tax assessed thereon. All licenses provided for in this act shall be paid to the treasurer. For the purpose of enforcing the provisions of this section the City shall have police jurisdiction for two miles beyond the corporation limits thereof.

## FRANCHISES.

Sec. 21. Franchises may be granted by the council, under the regulations provided in Section Nine of this act, subject to veto by the mayor, allowing to persons and corporations, for a limited time, the occupancy of portions of the streets, alleys, roads and public grounds as may be necessary for works of public utility and service, such as steam railway tracks, street railway tracks, poles and trolley wires, telegraph and telephone poles and subways, electric light and other electric poles, waterworks, wires, and subways and gas and steam pipe lines. But no such franchise shall hereafter be granted except under the following restrictions and conditions, namely:

No ordinance granting any franchise for the use of the streets, roads, alleys or public grounds of the municipality, for any of the purposes of public utility above named, or for any other purpose of like nature, except as hereinafter provided, shall be passed unless it shall have been first proposed in the council; and notice of the object, nature and extent of such franchise shall be published at least thirty days by the applicant, at his expense, in some newspaper published in said municipality, before being acted upon, and shall have received the votes of at least a majority of all the members elected to the council and citizens appointed as provided in Section Nine, at a regular meeting or meetings, and after said publication. The votes thereon shall be taken by yeas and nays, and the same entered in the journal. Upon being passed by the council the ordinance granting said franchise shall be forthwith transmitted by the municipal clerk to the mayor for his approval or disapproval, and in case of his disapproval of same, it shall not be considered as passed unless it again receives the affirmative vote of a majority of the members elected to the council and citizens appointed as provided in Section Nine. If the franchise is amended, after having been vetoed by the mayor, it shall be subject to the veto of the mayor as in the first instance. After the ordinance granting such franchise has been passed, it shall be published in full, at the expense of the applicant, at least once within the period of ten days thereafter, in some newspaper of general circulation in the municipality and one copy of the same shall be filed with the municipal clerk, who shall preserve the same as a public record.

The council may grant a permit at any time in or upon any street, road, alley or public place; provided, that such permit may be revocable by the council at its pleasure, at any time, whether such right to revoke be expressly reserved in every such permit or not.

All franchises and privileges hereafter granted shall plainly specify on what particular street, road, alley or other public property the same shall apply, and no franchise or privilege shall hereafter be granted by the municipality in general terms, or to apply to the municipality generally. No exclusive franchise shall ever be granted, and no franchise shall be renewed before three years prior to its expiration.

Every grant of any franchise shall be for a limited period of time. If no limit be expressly provided in the grant, the franchise shall be for one year only. In no case shall the franchise extend for a period exceeding thirty years.

No grant of any such franchise shall be made without, at the time of making it, providing that the grantee shall indemnify the municipality against all damages caused by the construction of such works. All reasonable additional provisions and conditions may be made for the protection of the public from unnecessary damages or inconvenience by reason of such works and the operation thereof.

No extension or enlargement of any franchise or grant of rights or powers previously granted to any corporation, person or association of persons, shall be made except in the manner and subject to all the conditions herein provided for the making of original grants of franchises.

Council shall, in suitable, practical terms, make it an express condition of the grant of a franchise, where it is for a work that is useful chiefly to the local public, that, at the expiration of the franchise, the grantee shall, if required by the council, sell to the municipality the physical plant at what it is then worth independent of any value based upon the earning power thereof, and may also provide a means by arbitration or otherwise for determining what said value may be.

No grant of a franchise for the extension of, or addition to, any line of such work, over any street or territory in said municipality, shall be made for a period extending beyond the time limited for the expiration of the franchise of the principal work of which it is an extension, and if the franchise of the principal company or work is one which was granted before this act goes into effect, the franchise granted for the extension or addition shall nevertheless be subject to the condition hereof, including a time limit herein specified.

If a franchise secured from the municipality by an individual or by an independent or new company, and the work constructed thereunder afterwards becomes a part of, or to be operated as a part of, a large work of the same kind, whose franchise was previously obtained and is limited to expire earlier, such later franchise shall, by reason of such annexation, merger or single operation, expire simultaneously with such earlier franchise of the old company or work. An annual

franchise tax of not less than fifty dollars shall be charged and collected on all franchises heretofore granted by the Towns of Keyser and South Keyser or hereafter granted by the City.

## MANDAMUS.

Sec. 22. In all cases where any individual, association of individuals or corporation has obtained or shall obtain any right, privilege or franchise to operate a street car line, lines of cars in whole or in part upon the streets, roads or alleys of the municipality, or to furnish to such municipality or the inhabitants thereof water, gas or electricity, or to construct or operate a telephone or telegraph system in any such municipality, and the terms, conditions or manner of exercising such right, privileges or franchises are embodied in the ordinance or resolution of the municipality, or are otherwise, either voluntarily or by law, imposed or assumed by said individual, association of individuals or corporation, then and in each of such cases the Circuit Court of Mineral County shall have power by mandamus to compel such individual, association of individuals or corporation and their assigns, to use and exercise such right, privilege or franchise in accordance with the terms and conditions and in the manner prescribed in said ordinance or resolution or otherwise lawfully so defined or assumed, and to do and perform each and every obligation and duty attached to such right, privilege or franchise, whether or not such obligation and duty be voluntarily assumed or by law attached thereto or imposed thereby.

Such mandamus maybe awarded at the instance of the municipality in its corporate name, or at the instance of any taxpayer or taxpayers; and the foregoing remedy by mandamus shall not be construed to deprive such municipal corporation, or any inhabitant thereof, of any other remedy given by law to compel such individual, association of individuals or corporation to comply with the terms, conditions and agreements of such right, privilege, or franchise, or of the right to recover damages for their failure so to do, or to effect, remove or lessen the liability of such individual, association of individuals or corporation, to forfeiture of such right, privilege or franchise for failure so to use and exercise such right, privilege or franchise.

## PAVEMENTS AND SIDEWALKS.

Sec. 23. The council shall have the right to establish the width of any sidewalk along any street, alley or public square, or portion thereof, and any owner, of ground fronting on such street, alley or public square, shall in such manner as the council shall reasonably prescribe, pave and curb the sidewalk adjacent to such property. In case of a failure or refusal of such owner to pave or curb the same, the council may cause the same to be properly curbed and paved by the city, and levy and collect from such owner, the whole cost of such curbing and paving adjacent to such property, with a penalty of five per centum added thereto, together with six per centum interest until

paid; and in like manner to require the owner of any property adjacent to any paved sidewalk heretofore or hereafter constructed, to keep the same in repair and in default of doing so, to cause the same to be repaired and to levy and collect from said owners the whole cost thereof with a penalty of five per centum added thereto together with six per centum interest per annum until paid. In all cases of such assessment, whether for the original or for the repairing of sidewalks, payment thereof, including penalties and interest, shall be made to the City Clerk within thirty days after the completion of the work, who shall have power to collect the same from the owner or owners of any such property, by distress and sale in the same manner in which taxes levied for the benefit of the city are authorized to be collected; and in addition, there shall be a lien upon such real estate, which lien may be enforced by appropriate suit in any court of record of Mineral County.

## NUISANCES.

Sec. 24. The council of said city is hereby authorized to decide and adjudge what constitutes a nuisance within the municipality, or within two miles thereof, when not within the limits of another municipality and may require and compel the person committing or maintaining the same, or any owner, agent, assignee, occupant or tenant, of any lot, premises, property, building or structure, upon or in which any nuisance may be, to abate and remove the same upon order from such municipal body, or from the board of health, or health officer, or other officer of the municipality acting with authority in the premises; and the council may prescribe by ordinance a penalty for the punishment of any such person who may refuse, fail or neglect to abate or remove any such nuisance within the time specified in the notice therefor.

The council may also by its own officers, appointees and employees, abate and remove nuisances, after reasonable notice to the owner, occupant, tenant, agent or assignee to abate and remove such nuisance, and collect the expense thereof, with one per centum per month interest added from the date of said notice, from said owner, occupant, tenant, agent or assignee, by distress or sale in the same manner in which taxes levied upon real estate for the benefit of the municipality are authorized to be collected under this act; and the expense shall remain a lien upon said lot or part of lot the same as taxes levied upon real estate in the municipality, which lien is in addition to the remedy specified in this section and may be enforced as provided in Section Twenty-five of this act.

In case of nonresident owners of real estate, such notice may be served upon any tenant, occupant, assignee or rental agent of said premises, or on such nonresident owner or infant or insane owner by publication thereof for not less than two consecutive weeks in a newspaper published in the municipality. The abatement or removal of any such nuisance by the municipality, and at its expense, as herein

provided, shall be prima facie proof that the said notice to the owner, occupant, tenant, agent or assignee was given as herein required.

The council may require all owners, tenants and occupants of improved property, which may be located upon or near any street, road, alley, along which may extend any sewer or system of sewerage, which the municipality may construct, own or control, to connect with such sewer or system of sewerage, all drains, cesspools, sinks, privies or water closets, upon their respective properties, or premises, so that their contents may be made to empty into such sewer or system of sewerage.

And in all cases where any tenant, occupant or agent is required to abate and remove any nuisance, under the provisions of this section, or comply with the provisions of any such ordinance as is mentioned herein, the expense thereof may be deducted out of the accruing or accrued rent of said property, or amount due said owner or agent, and such tenant, occupant or agent may recover the amount so paid from the owner, unless otherwise especially agreed upon between them.

The council may by ordinance regulate the location, construction, repair, use, emptying, and cleaning of all water closets, privies, cesspools, sinks, plumbing, drains, yards, pens, stables and other places where offensive or dangerous substances or liquids are or may accumulate and may provide suitable penalties for the violation of such regulations which may be enforced against the owner, agents, assignees, occupant or tenant of any premises or structure where such violation may occur.

The council shall have authority and jurisdiction of and over the water reservoirs, pipe lines and property adjacent, and all other property of the city located in Mineral County, whether the same be within the corporate limits of said city or not, and for the protection and preservation of the same shall have authority to pass all necessary ordinances, rules and regulations and to provide penalties for the violation thereof; and the police judge, or officer exercising his functions, shall have jurisdiction to try offenders against such ordinances, and his warrant may be directed to any police officer of the city, or to any constable or the sheriff of Mineral County, and may be served and the offender arrested anywhere in said county.

## LIEN FOR TAXES, ETC.

Sec. 25. There shall be a lien on real estate within said city for city taxes assessed thereon, and for all fines and penalties assessed to or imposed upon the owners thereof, by the authorities of such city, including expenses for making sidewalks and paving and curbing the same, and for furnishing water, electric lights or other public utilities when furnished by said city, from the time the same are assessed or imposed, which shall have priority over all other liens except taxes or

debts due the United States and the lien for taxes due the state, county or district; and such lien may be enforced by the council in the same manner provided by law for the enforcement of a lien for county taxes, and any time after six months after such lien attaches, the city may in its own corporate name proceed to the enforcement of said lien against the real estate chargeable therewith by a suit in equity. If any real estate within said city be returned delinquent for the nonpayment of city taxes due thereon, a copy of such delinquent list shall be certified by the council to the auditor of this state and the same may be sold for city taxes, interest and commissions thereon in the same manner, at the same time, and by the same officers as real estate is sold for state taxes; and a return of such sales made to and a deed executed therefor, if not redeemed, in the same manner and with like effect, as the return of sales of real estate for state taxes is made and deeds therefor executed to the purchasers.

Liens against real estate for the cost of abating or removing nuisances by the municipality, as provided in Section Twenty-four herein and the cost of constructing and repairing sidewalks, walkways and curbs by the municipality as provided in Section Twenty-three herein, may be enforced by suit in equity, before any court having jurisdiction, as other liens against real estate are enforced, and this remedy shall be in addition to the imposition of all other remedies and penalties in the premises under the provision of this act; provided, that in the case of laying or repairing sidewalks, and abating nuisances, there shall be first admitted to record in the Office of the Clerk of the County Court of Mineral County, an abstract or statement of the judgment of the council fixing the amount of the expense of laying or repairing such sidewalk or curb or abating or removing such nuisance, together with the penalty of one per centum per month on said amount from the time so fixed until paid, as provided in this act. Said abstract or statement may be certified by the City Clerk; and after the amount of the assessment and penalty is due by the terms of the ordinance or resolution laying the same, and a certificate of such levy and assessment, together with the name of the owner and occupier of said property, its location and description, has been filed in the Office of the Clerk of the County Court of Mineral County, and in satisfaction of the amount so due such municipality, and cost of the proceeding, the said real estate may be sold, and the proceeds applied to the payment of the amount so due.

Water, electric light, power and heating bills and other bills of like kind due the municipality, owning or operating such plant or plants, may be distrained for and collection enforced in the same manner in which the collection of taxes owing to the municipality may be enforced. The municipal authorities may also shut off the supply of such water, light, heat, power or other commodity from such delinquent person or company and refuse thereafter to furnish such service or commodity to said delinquent until all arrearages are paid.

## HEALTH--HEALTH COMMISSIONER.

Sec. 26. The council shall have authority to ordain and enforce such regulation within said city, as shall be necessary or proper to preserve the health of the inhabitants of said city, and to secure them from disease; to require and compel the abatement and removal of all nuisances within said city, at the expense of the person or persons causing the same, or of the owner or owners of the ground whereon the same shall be; to prevent or regulate slaughter houses within said city; or the exercise of any offensive or unhealthy business, trade or employment therein; to prevent the keeping of any stale meats, fish, vegetables or other matter, or depositing the same, or dirt, rubbish, or offal, upon any lot, street, alley or square within the said city, or upon the banks of any streams within the limits thereof.

The mayor, by and with the consent of the council, shall in the month of July, One Thousand Nine Hundred and Thirteen, and in said month of every second year thereafter, appoint a suitable person, who shall be a practicing physician, as health commissioner, whose term of office shall be for two years, and until his successor is appointed and qualified. The members of the council, the mayor, city attorney and health commissioner shall comprise the board of health of said city. The health commissioner shall be charged with the duty of enforcing all quarantine regulations and of all regulations for keeping the streets, roads, alleys and sidewalks of the city, and all premises therein, in a sanitary condition. He shall be authorized to enter all houses, or other places, public or private, at all times, in the discharge of his duties, in improving and maintaining the sanitation of the city and the prevention and suppression of disease, and he shall have the power and be required to carry into effect all of the provisions of Section Twenty-four of this act relating to the abatement of nuisances, under such regulations as the council may by ordinance prescribe. He shall be authorized to do all acts and make all regulations that may be necessary or expedient for the promotion of health and the prevention and suppression of disease; he shall have the right to inspect all wells, cisterns and water supplies in said city and to prohibit the use thereof if necessary in his judgment to prevent or suppress disease; he shall have the right to inspect all milk, meat, fish, oysters, vegetables and all other food stuff displayed or offered for sale in said city and to make such rules and regulations touching the preparation, display, delivery and sale thereof, as he may deem prudent, necessary and proper for cleanliness and the prevention and suppression of disease, and he shall perform such other duties as may be prescribed by the council, and shall have and exercise all of the powers and duties conferred upon the county board of health. He shall give public notice, in such manner as he may deem necessary, of any rule or regulation promulgated by him under this act, and any person, firm or corporation who shall violate the same, after proclamation thereof, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten nor more than one hundred dollars, and for a second offense may be confined in jail not

more than thirty days. Every practicing physician shall forthwith report to the health commissioner every infectious or contagious disease which he is called upon to treat within said city; and if any such physician shall fail to make such report within one day after he has discovered such infectious or contagious disease, he shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten nor more than one hundred dollars. The City Clerk, in his capacity of police judge, shall have jurisdiction of all offenses hereunder.

The council shall have authority to provide, under the supervision of the health commissioner, proper vaccine serum, whenever an epidemic of smallpox is threatened, and the health commissioner shall vaccinate any applicant upon the payment to him of such fee as the council shall by ordinance prescribe, and he shall thereupon issue a certificate to the patient showing his vaccination. And the council may, in like manner, in any proper case, provide antitoxin lymph or serum for immunizing against or preventing the spread of diphtheria, typhoid fever, meningitis, or other infectious or contagious disease or epidemic, and may furnish the same free to indigent persons.

## ORDINANCES--GENERAL PROVISIONS.

Sec. 27. The style of the ordinances of the city shall be: "Be it ordained by the council of the City of Keyser;" but the ordinances now in force shall remain in effect until amended or repealed, except where the same are in conflict or inconsistent with this act.

Sec. 28. All ordinances shall be presented in writing, and no ordinance shall be so amended in its passage as to change its general purpose. No ordinance shall be considered for final passage at the meeting at which it is introduced, unless by unanimous consent entered of record. No ordinance shall contain more than one subject, which shall be clearly expressed in its title; nor shall any ordinance be passed by the council unless a majority of all the members elected to the council shall concur therein by yeas and nays when the question is put upon its passage.

Sec. 29. All ordinances passed by the council, and vetoes of the mayor, shall be spread at large upon the journal, and at the next regular meeting such ordinances and vetoes shall be read in open council, and the mayor shall sign said minutes, when found correct or corrected, in the presence of the council. The council shall provide a well bound book in which shall be copied all ordinances in the order in which they are passed, which ordinances so copied shall be compared with the originals by the mayor and shall be signed by him when found correct. Such book shall be indexed so as to show in brief form the substance of the ordinance. All copies thereof certified, under the hand of the City Clerk and the seal of the City, shall be received by all courts and justices in this state as evidence. But the

council may adopt, by ordinance, properly designating and describing it, a code of laws and ordinances, which when adopted shall be printed in book form, or it may be adopted as a whole after it is printed, and the said code shall be and become the laws and ordinances of said City, and shall be received as such in all courts of this state, and the printed volumes published under the order of the council shall be so received as evidence of what is printed therein until errors or omissions be affirmatively shown therein.

## DUTIES OF THE CITY CLERK.

Sec. 30. The City Clerk shall serve for a term of two years, unless sooner removed for cause. He shall, before entering upon the discharge of his duties as such clerk, take and subscribe to the oath of office prescribed in Section Fifteen of this act, and shall execute such bond as shall be fixed by council which bond shall be approved by council and filed with the treasurer.

In addition to all the other duties prescribed in this act, the City Clerk shall keep the records of the council, and he, or his deputy, shall be present at all regular and special meetings of that body. It shall be his duty to properly record in a well bound book all the proceedings of council as well as a complete record of all ordinances, franchises, bonds, permits and resolutions adopted or passed by council, and to properly index the same, for the convenience and inspection of the council, or any city official or taxpayer.

Before any business at any regular meeting of the council is undertaken it shall be the duty of the clerk to read publicly to the council the minutes of all regular or special meeting of that body, not theretofore read or approved, and upon approval of same by council, the signatures of the mayor and clerk shall forthwith be affixed. All records of council so approved and signed, or duly authenticated copy thereof, signed by the clerk and under the seal of the city, shall be admitted as evidence in any proper case in any court in this state.

The City Clerk, except as may be otherwise herein provided, shall be the custodian of the records and papers of the city and the seal of the city, which shall be kept by him at his office, and the records and papers shall be open to public inspection at all proper hours. He shall, acting under existing laws, in so far as they are not in conflict with this act, perform such duties relating to all city elections held under this act, as the clerks of the circuit or county courts perform, under state laws, in relation to the holding of general or special elections; and he shall likewise be the custodian of all registration books, ballots, tally sheets, etc., pertaining to all municipal elections.

The City Clerk shall have power within the municipality to administer oaths and take acknowledgements of deeds and other instruments required by law to be acknowledged, in the same manner

and with like effect and under the same penalties as notaries public, justices of the peace and other officers of the state are authorized to administer oaths, or take acknowledgements, under state laws.

It shall be the duty of the City Clerk, who shall be the assessor, to make an assessment of the property within the city subject to taxation, substantially in the manner and form in which assessments are made by the assessor of the county, and return the same to the council on or before the first day of August in each year, and for the purpose he shall have all powers conferred by law on county assessors. He shall list the number of dogs in the city and the names of the persons owning the same, which list shall be returned to the council. In order to aid the said council in ascertaining the property and tithables subject to taxation by said city, the City Clerk (who shall act as assessor) of said city, shall have access to all books and public records of Mineral County without expense to said city or assessor, and he shall also have the same power and be subject to the same penalties in ascertaining and assessing the property and subjects of taxation in said city as are granted and imposed upon the county assessors throughout the state by the general state law, and the council shall also have authority to prescribe by ordinance such other rules and regulations as may be necessary to enable and require such assessor to ascertain and properly assess all property and tithables liable to be taxed by said city so that such assessment and taxation shall be uniform, and to enforce such ordinances by reasonable fines and penalties. And the said city assessor, making the valuation for assessment, shall make the same assessment for both real and personal property as the assessor of said county for the assessment year assessed by the county assessor. The City Clerk shall have an office in the city hall, council chamber or such other place as the council may designate and provide. He shall keep his office open at least three consecutive hours in the forenoon and afternoon of each day.

In addition to the duties hereinbefore set out and otherwise provided in this act, the City Clerk shall by virtue of his office be the police judge of the city, and his oath of office and the conditions of his bond shall extend to and cover his duties and obligations as police judge. The City Clerk shall, as such police judge, be ex officio a justice of the peace with authority to issue warrants or other process for all offenses within the police jurisdiction of the city, of which a justice of the peace has jurisdiction under state laws, and for all violations of any city ordinance. In order to preserve the peace and good order of the city and protect the persons and property therein, riotous and disorderly persons in the city may be arrested and detained before issuing any warrant therefor. He shall hold daily sessions of his said court, Sundays excepted. He shall have and exercise all of the civil jurisdiction conferred by law upon justices of the peace, but before proceeding to act in such capacity, he shall file with the Clerk of the County Court of Mineral County, a certificate from the mayor of said city showing his appointment and qualification as City Clerk, and shall thereupon take the oath and execute the bond required to be taken and executed by justices of the peace.

The police judge may commit persons charged with felony or misdemeanor to jail or take bond for their appearance before the grand jury, but he shall receive no fees or other compensation for such services; he shall have power to issue executions for all fines, penalties and costs imposed by him, and he may require the immediate payment thereof, and in default of such payment may commit the person so in default to jail, until the fine and penalty and costs shall be paid or satisfied, and any one so committed may be required to work during imprisonment, as required by council.

If any person is sentenced to imprisonment, or any person or corporation is assessed with a fine of ten dollars or more, such person or corporation shall be allowed an appeal from said decision of the police judge to the Circuit Court of Mineral county, upon the execution of an appeal bond with surety deemed sufficient and approved by the police judge in a penalty double such fine and costs conditioned that the person or corporation proposing to appeal will perform and satisfy any judgment which may be rendered against him or it by said court on such appeal; and in no case shall a fine of less than ten dollars be given by the police judge, if the defendant, his agent or attorney request that the fine be made as much as ten dollars.

If the appeal be taken, the warrant of arrest, the transcript of the judgment, the appeal bond and other papers of the case shall be forthwith delivered by the police judge to the Clerk of the Court to which such appeal is taken, and said court shall proceed to try the case as upon indictment or presentment and render such judgment, including that of costs, as the law and evidence may demand.

The police judge shall be authorized to suspend sentence or parole any juvenile offender under the age of sixteen years, who may be brought before him for the violation of any ordinance of the city or charged with any misdemeanor under the laws of the state; he shall prescribe the conditions of such parole and enter them in his docket and may commit the offender to the care and custody of any proper person, with a view to the correction and reformation of such offender, and may take from such person such bond or security, conditioned as he shall prescribe. The chief of police, or a policeman designated by him, shall attend all sessions of the police court and perform such duties as may be required by ordinance or requested by the police judge.

The police judge shall keep in a well bound book a complete record of all cases heard and considered by him, and he shall account for and pay over the amount of all fines, as well as the fees of himself and other officers, under salary, collected by him, weekly, to the treasurer of the city, and shall make monthly reports thereof, and of all other matters pertaining to his office to the council of the city. In the absence of the police judge the mayor of the city shall sit as such police judge with the same power and authority.

The police judge, if an attorney, shall not practice in said police court as an attorney or counselor or in any case appealed or removed therefrom, but shall have the right to practice law as an attorney in other courts and cases.

In addition to the other duties to be performed by the City Clerk, he shall also be the city collector, charged with the duty of collecting all taxes, levies, assessments, water rents and all other funds due the city, except licenses; and as such collector shall have and exercise all of the rights, authority and powers conferred upon town sergeants by the general law of the state with reference to the collection of taxes and funds of cities, towns and villages, and upon sheriffs with reference to the collection of state and county taxes and funds. He shall at least once in each week, or oftener if the council so require, account for and pay over to the city treasurer all moneys received by him as such collector; he shall before entering upon the duties of his office give the bond hereinbefore required, payable to the City of Keyser in the penalty of not less than five thousand dollars, conditioned for the faithful performance of the duties of the office of City Clerk, collector and police judge and to account for and pay over, as required by law, all moneys which may come into his hands by virtue of any and all of said offices, and shall be chargeable with all of the city taxes, levies, assessments and water rents, from the time the bills therefor are required to be made up and collected, and with all moneys of the city, including fines, fees and penalties, that may come into his hands. He shall receive no fees or commissions for his services, but shall account to the city for all fees received by him, except those received by him when acting in civil suits, taking depositions or acknowledgements. He shall at the first stated meeting of the council in each month make his report to the council of all moneys and credits coming to his hands as City Clerk, police judge and collector, accompanied by a receipt or receipts from the treasurer showing that said moneys have been paid to him, and he shall publish once in every six months a detailed itemized statement of all receipts and expenses of the city for the proceding six months.

The City Clerk may appoint such deputies and assistants, with the approval of the council, as the duties of his office render necessary. The deputies shall take the oath required of the City Clerk and shall give such bond as he may require, but such deputies or assistants shall not perform any judicial duty of the police judge.

The salary fixed for the City Clerk, which shall not be increased or diminished during his term of office, shall be deemed to include all the services of all deputies, clerks and agents employed by him, and no additional allowance shall be made for, or on account of, any such services so rendered by the City Clerk.

## DUTIES OF THE TREASURER.

Sec. 31. The Treasurer shall receive and account for all moneys from all sources of municipal revenue. All license taxes and fees shall be paid him direct by the person to whom such license is issued, and no license shall be valid without the receipt of the treasurer for such tax and fees endorsed thereon. All officers and agents of the city, authorized to receive money for the city, or revenues thereof, from any source whatsoever, shall pay over to the Treasurer such moneys and revenues within one week after the receipt thereof, or sooner if required by the council.

He shall keep the funds of the city in some bank or banks within the city, which shall pay to the city two per centum or more per annum interest on such deposits, payable quarterly, based on the average daily balance on such funds in all accounts. If no bank within the city is willing at any time to receive deposits of the Treasurer, and to pay such interest thereon, the Treasurer shall report this fact to council, which shall thereupon designate a bank or banks in which he shall deposit such funds for the time being, and until some bank in the city will receive deposits at the rate of interest so fixed.

Said bank or banks shall give bond in the penalty prescribed by council, and with sureties to be approved by council, conditioned for the prompt payment, whenever lawfully required, of all public moneys, or parts thereof, which may be deposited with them.

The salary fixed for the Treasurer, which shall not be increased or diminished during his term of office, shall be deemed to include all the services of all deputies, clerks and agents employed by him, and no additional allowance shall be made for or on account of any such service so rendered by the Treasurer. He shall give bond or bonds in an amount to be fixed by council, which bond shall be approved by council, before entering upon the discharge of any of the duties of his office, and file same with the clerk. The Treasurer shall pay all warrants or other proper orders legally drawn and presented, out of any moneys at the time in the fund on which such warrant or order is drawn, but no money shall be paid by him except as the same shall have been appropriated by the council and upon an order signed by the mayor and city clerk. If no money is in the fund with which to pay such warrant or order, the Treasurer shall endorse on the back thereof the words. "no funds," and affix the date of such endorsement, and shall preserve a record of such endorsement in his office. The Treasurer shall perform any other duties which council may from time to time prescribe and which are not inconsistent with the general scope of his duties.

## DUTIES OF CITY ATTORNEY.

Sec. 32. The city attorney shall be the legal advisor of the city and all its officers in all matters arising and in which legal proceedings may be taken; he shall prosecute all suits, actions and proceedings instituted on behalf of said city and defend all suits and actions against said city, and, when requested in writing, shall give his written opinion to the mayor, council, or any standing committee thereof, upon such legal questions as may be referred to him affecting the city's interests; he shall perform such other duties as may be required. It shall be his duty to attend sessions of the police court, when requested by the mayor or police judge, and prosecute all trials therein and all appeals that are taken from such court; and for his services he shall receive such compensation as the council shall provide.

## POLICE DEPARTMENT.

Sec. 33. The council shall by ordinance establish a police department, of which department the chief of police shall be in command. He shall be charged with the duty of preserving peace and good order in the city and of protecting the persons and property of the citizens. He shall have the right to stop, suppress or prevent any immoral, obscene or improper shows, theatrical performances or moving picture exhibitions. Policemen may be suspended, removed and discharged at any time by the mayor, upon his own motion or that of the chief of police, for good cause, in which event the mayor shall report such suspension, removal or discharge, together with the reason therefor, to the council at its next meeting. The council shall consider such suspension, removal or discharge and may make such order in reference thereto as it may deem wise. The council shall have the power to suspend, without pay, the chief of police, or any policemen against whom charges are preferred.

Whenever any notice is required to be given, or any summons, warrant or other process is required to be served or otherwise executed, under the provisions of this act, it shall be sufficient if such notice, summons, warrant, or other process be executed by an officer of the police department of said city in the same way or manner in which the laws of the state prescribe for executing summonses and subpoenas by state officers, unless otherwise provided by this act. The chief of police may also execute within this city any civil writ or process issued by the police judge, or any justice of the peace or court in Mineral County, and shall have all the powers conferred by law upon constables and sheriffs, but he shall not act in such capacity until he shall have first qualified before the County Court of Mineral County and given the bond required of constables.

## DUTIES OF THE STREET COMMISSIONER.

Sec. 34. The street commissioner shall perform such duties as are now, or which may hereafter be imposed upon him by any ordinance of said city, and shall receive such compensation as may be fixed by council.

## POWER TO CONDEMN.

Sec. 35. The council shall have the right to institute proceedings, in the name of the city, for the condemnation of real estate for streets, alleys, avenues, sewers, drains, market grounds, city hall, reservoirs, electric light plant, pipe lines, or for any other ground, within or without the city, necessary for public improvements and which the council is authorized to acquire or maintain under this act; such proceedings shall conform to the provisions of Chapter Forty-two of the Code of West Virginia, and the costs thereof shall be borne by the city, except that in contests involving a hearing in the Circuit Court, costs shall be recovered by the prevailing party.

## RECALL.

Sec. 36. The holder of any electives office may be removed at any time by the electors qualified to vote for a successor of such incumbent. The procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least twenty per centum of the entire vote for all candidates for the office of mayor cast at the last preceding general municipal election, demanding an election of a successor of the person sought to be removed, shall be filed with the city clerk, which petition shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths, that the statements therein made are true as he believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be. Within ten days from the date of filing such petition, the city clerk shall examine and from the voter's register ascertain whether or not said petition is signed by the requisite number of qualified electors, and if necessary, the council shall allow him extra help for that purpose, and he shall attach to said petition his certificate showing the result of said examination. If, by the clerk's certificate, the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate. The clerk shall, within ten days after such amendment, make like examination of the amended petition and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect.

If the petition shall be deemed to be sufficient, the clerk shall submit the same to the council without delay. If the petition shall be found to be sufficient, the council shall order and fix a date for holding said election, not less than thirty days nor more than forty days from the date of the clerk's certificate to the council that a sufficient petition is filed.

The council shall make, or cause to be made, publication of notice and all arrangements for holding such election, and the same shall be conducted, returned and the result thereof declared in all respects as are other city elections. So far as applicable, except as otherwise herein provided, nominations hereunder shall be made without the intervention of a primary election by filing with the clerk at least ten (10) days prior to said special election, a statement of candidacy accompanied by a petition signed by electors entitled to vote at said special election, equal in number to at least ten per centum of the entire vote for all candidates for the office of mayor at the last preceding general municipal election, which said statement of candidacy and petition shall be substantially in the form set out in Section Six of this act, so far as the same is applicable, substituting the word "special" for the word "primary" in such statement and petition and stating therein that such person is a candidate for election instead of nomination.

The ballot for such special election shall be in substantially the following form:

OFFICIAL BALLOT.

Special election for the balance of the unexpires term of _____ as _____.

For _____.

(Vote for one only)
(Names of candidates)

[ ] _____
[ ] _____
(Name of present incumbent.)

Official ballot, attest:
(Signature)_____
City Clerk.

The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requested otherwise in writing, the clerk shall place his name on the official ballot without nomination. In any such removal election, the candidate receiving the highest number of votes shall be declared elected. At such election, if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon qualification of his successor. In the case the party who received the highest number of votes should

fail to qualify within ten days after receiving notification of election, the office shall be deemed vacant. If the incumbent received the highest number of votes, he shall continue in office, and those electors who signed the petition demanding such special election shall, unless it be otherwise ordered by the council, pay the costs of such election, which said costs shall be a lien against the property of all of such petitioners, collectable and enforceable in like manner and to the same extent as taxes due to the city are collected. The said method of removal shall be cumulative and additional to the methods heretofore provided by law.

## INITIATIVE.

Sec. 37. Any proposed ordinance may be submitted to the council by petition signed by electors of the city equal in number to the percentage hereinafter required. The signatures, verification, authentication, inspection, certification, amendment and submission of such petition shall be the same as provided for petition under Section Thirty-six hereof.

If the petition accompanying the proposed ordinance be signed by electors equal in number to twenty per centum of the votes cast for all candidates for mayor at the last preceding general election, and contains a request that the said ordinance be submitted to a vote of the people, if not passed by the council, such council shall either:

(a) Pass such ordinance without alteration within twenty days after attachment of the clerk's certificate to the accompanying petition or,

(b) Forthwith, after the clerk shall attach to the petition accompanying such ordinance his certificate of sufficiency, the council shall call a special election, unless the general municipal election is fixed within ninety days thereafter, and at such special or general municipal election, if one is so fixed, such ordinance shall be submitted without alteration to the vote of the electors of said city. But if the petition is signed by not less than ten per centum of the electors, as above defined, then the council shall within twenty days, pass said ordinance without change, or submit the same at the next general city election occurring not more than ninety nor less than thirty days after the clerk's certificate of sufficiency is attached to said petition.

The ballot used when voting upon said ordinance, shall contain these words: "for the ordinance," and "against the ordinance," (stating the nature of the proposed ordinance.) If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city; and any ordinance proposed by petition, or which shall be adopted by a vote of the people, cannot be repealed or amended except by a vote of the people. Any number of proposed

ordinances may be voted upon at the same election in accordance with the provisions of this section; but there shall not be more than one special election in any period of six months for such purpose.

The council may submit a proposition for the repeal of any such ordinance or for amendments thereto, to be voted upon at any succeeding general city election; and should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall thereby be repealed or amended accordingly. Whenever any ordinance or proposition is required by this act to be submitted to the voters of the city at any election, the city clerk shall cause such ordinance or proposition to be published once in each of the newspapers published in said city; such publication to be not more than twenty nor less than five days before the submission of such proposition or ordinance to be voted on.

## REFERENDUM.

Sec. 38. No ordinance or franchise passed by the council, except when otherwise required by the general laws of the state or by the provisions of this act, except an ordinance for the immediate preservation of the public peace, health or safety, which shall contain a statement of its urgency, shall go into effect before ten days from the time of its final passage, and not then unless within two days after passage, Sundays and holidays excepted, the same shall have been published in full in some newspaper published and generally circulated in said city. And if during said ten days a petition signed by electors of the city, equal in number to at least twenty per centum of the entire vote cast for all candidates for mayor at the last preceding general municipal election at which a mayor was elected, protesting against the passage of such ordinance, or franchise, be presented to the council, the said ordinance or franchise shall thereupon be suspended from going into operation, and it shall be the duty of the council to reconsider such ordinance, or franchise, and if the same is not entirely repealed, the council shall submit the ordinance, or franchise, as is provided by Sub-section (b) of Section Thirty-seven of this act, to the vote of the electors of the city, either at the general election or at a special municipal election to be called for that purpose, and such ordinance or franchise shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. Said petition shall be in all respects in accordance with the provisions of said Section Thirty-seven, except as to the percentage of signers, and be examined and certified to by the clerk in all respects as therein provided.

## PETITIONS.

Sec. 39. Petitions provided for in this act shall be signed by none but legal voters of the city. Each petition shall contain, in addition to the names of the petitioners, the street and house number in which the petitioner resides, his age and length of residence in the

city. It shall also be accompanied by the affidavit of one or more legal voters of the city, stating that the signers thereof were, at the time of signing, legal voters of said city, and the number of signers at the time the affidavit was made.

## ELECTION TO ADOPT OR REJECT CHARTER.

Sec. 40. But this act shall not be effective unless the same shall be first submitted to the voters within the territory embraced and described in Section Two hereof, at a special election called for the purpose and adopted by the majority of the votes cast at such election. Said special election shall be held on the first Tuesday in May, in the year One Thousand Nine Hundred and Thirteen, unless this act shall not have taken effect on that day, in which case such election shall be held on the first Tuesday after the day on which this act would go into effect but for this section. The council of the Towns of Keyser and South Keyser shall provide for circulation of printed copies of this act or publication thereof in such manner as said council deems best. The election shall be held in the election precincts at which the first primary and general election is to be held under this act, as provided in Section Three hereof, and the election officers shall be appointed for such special election and the result thereof ascertained, in the manner provided by Section Six of this act. The ballot shall be prepared under the direction of the council of the Town of Keyser and shall be headed: "Special election for ratification or rejection of a new charter for Keyser," and underneath said head shall be the words, in separate lines, "for new charter," and "against new charter." Any voter desiring to vote for adoption of this act shall strike out the words "against new charter," and any voter desiring to vote for rejection of this act, shall strike out the words "for new charter." And in the event that this act shall not be in effect on the second Tuesday preceding the first Tuesday after the first Monday in June, One Thousand Nine Hundred and Thirteen, the first primary election hereunder shall be held on the second Tuesday of June, and the first general election shall be held on the fourth Tuesday of June, One Thousand Nine Hundred and Thirteen.

## ACTS REPEALED.

Sec. 41. All acts in conflict or inconsistent with this act, are to the extent of any such conflict, hereby repealed, but this act shall not be construed to repeal, change or modify any previous acts not inconsistent with this act, or to take away any powers heretofore conferred upon the City of Keyser, or upon the mayor or council, or any other of the officers thereof, conferred by general law, except so far as the same may be inconsistent with the powers hereby conferred.

*City Of Keyser*

P.O. Box 70
Keyser, W.V. 26726
304-788-1511

The Friendliest City in the USA

OATH OF OFFICE

I, Keith R. Hayward, do hereby solemnly swear that I will support the Constitution of the State of West Virginia, and will faithfully and impartially discharge the duties of Mayor of the City of Keyser, to the best of my skill and judgement. That I will not administer my said position with the aim to benefit any political party and neither will I during my term of employment, become pecuniarily interested directly or indirectly in any contract with the City, or the purchase of supplies thereof.

Keith R. Hayward

Taken, subscribed and sworn to before me this 26th day of June, 19 97.

Penny Sanders
City Administrator
City of Keyser, West Virginia

*City Of Keyser*
111 North Davis Street
~~P.O. Box 19~~
Keyser, W.V. 26726
304-788-1511

The Friendliest City in the USA

OATH OF OFFICE

I, Donald P. Heare, do hereby solemnly swear that I will support the Constitution of the State of West Virginia, and will faithfully and impartially discharge the duties of Councilperson of the City of Keyser, to the best of my skill and judgement. That I will not administer my said position with the aim to benefit any political party and neither will I during my term of employment, become pecuniarily interested directly or indirectly in any contract with the City, or the purchase of supplies thereof.

SO HELP ME GOD.

Donald Heare

Taken, subscribed and sworn to before me this 26th day of June, 19 97.

Penny Sanders

Penny Sanders
City Administrator
City of Keyser, West Virginia

City Of Keyser
P.O. Box 70
Keyser, W.V. 26726
304-788-1511

The Friendliest City in the USA

OATH OF OFFICE

I, Sally Jordan Burnside, do hereby solemnly swear that I will support the Constitution of the State of West Virginia, and will faithfully and impartially discharge the duties of Councilperson of the City of Keyser, to the best of my skill and judgement. That I will not administer my said position with the aim to benefit any political party and neither will I during my term of employment, become pecuniarily interested directly or indirectly in any contract with the City, or the purchase of supplies thereof.

Sally Jordan Burnside

Taken, subscribed and sworn to before me this 1st day of July, 19 98.

Penny Sanders
Penny Sanders
City Administrator
City of Keyser, West Virginia

City Of Keyser
P.O. Box 70
Keyser, W.V. 26726
304-788-1511

The Friendliest City in the USA

OATH OF OFFICE

I, Marques (Marq) Rice, do hereby solemnly swear that I will support the Constitution of the State of West Virginia, and will faithfully and impartially discharge the duties of Councilperson of the City of Keyser, to the best of my skill and judgement. That I will not administer my said position with the aim to benefit any political party and neither will I during my term of employment, become pecuniarily interested directly or indirectly in any contract with the City, or the purchase of supplies thereof.

Marques G. Rice

Taken, subscribed and sworn to before me this 1st day of July, 19 98.

Penny Sanders
Penny Sanders
City Administrator
City of Keyser, West Virginia

ORDINANCE NO. 245

INTRODUCED IN COUNCIL
August 28, 1997

PASSED BY COUNCIL
September 11, 1997

MOTION BY
Councilman Donald P. Heare

SECONDED BY
Councilwoman Sally Burnside

VOTE - YEA
2

VOTE - NAY
0

VOTE - ABSTAINED
0

ORDINANCE EFFECTIVE
October 27, 1997

AN ORDINANCE ESTABLISHING RATES, RULES AND REGULATIONS FOR FURNISHING WATER, SEWERAGE AND SEWER DISPOSAL SERVICE FOR THE CITY OF KEYSER AND AREAS SERVED THEREBY IN MINERAL COUNTY, WEST VIRGINIA, AND REPLACING ALL PRIOR WATER, SEWERAGE AND SEWER DISPOSAL RATES, RULES AND REGULATIONS WHICH ARE INCONSISTENT HEREWITH.

WHEREAS, the City of Keyser is empowered by West Virginia Code Section 8-20-10 & Section 24-2-4b to institute reasonable rates and charges for its waterworks, and sanitary sewerage services, and

WHEREAS, the City of Keyser desires to consolidate its code sections regarding rates and charges,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KEYSER TO ESTABLISH THE RATES, RULES AND REGULATIONS FOR FURNISHING SEWERAGE AND SEWER DISPOSAL SERVICES AND WATER SERVICES, WHICH SHALL BE AS FOLLOWS:

## ARTICLE ONE
## PURPOSE AND SCOPE

There shall be established and maintained just and equitable rates or charges for the use and supply of water and the use of the wastewater (sewerage) collection and treatment system and the services (hereinafter referred to as the "System") rendered by the Utility Board of the City of Keyser (hereinafter referred to as the "Utility Board"), to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the system of the City, or that in any way uses or is served by such system. Such rates or charges shall be sufficient in each year for the payment of proper and reasonable expense of operation, repair, replacement and maintenance of the system, and for the payment of the sums required by Bond covenants to the Utility Board or Municipal Bond Commission or other dedicated accounts. No such rates or charges shall be established until after a public hearing at which all the users of the system and other interested parties shall have had an opportunity to be heard concerning the proposed rates and charges.

The Utility Board of the City of Keyser shall cause all rates and charges to be billed and collected on a just and equitable basis. The Utility Board shall cause to be maintained a record of all charges and disbursements in accordance with the Code of the State of West Virginia, Rules and Regulations of the West Virginia Public Service

board shall cause an annual audit to be made of the financial condition of the system and shall report the same to the Keyser City Council.

ARTICLE TWO
RATE INCREASES

In the event the existing rates established by this Article are not sufficient to meet the obligations of the Utility Board, the Utility Board shall provide the City Council with a request for a rate increase. The request shall include a written report describing factors necessitating a rate increase and the impact on all classes of customers of the proposed increase. The rate increase shall be considered in accordance with the Code of the State of West Virginia and Rules and Regulations of the West Virginia Public Service Commission.

ARTICLE THREE

COST OF SERVICE

The Utility Board is authorized to enter into agreements, subject to the approval of the West Virginia Public Service Commission, to provide services in which a rate is not established in this Article. This may include inter-governmental agreements, agreements with industrial users or emergency aid for other utilities, provided that all provisions of Bond Ordinances are adhered to and that provision of the services will not result in subsidy of the other party by the customers of the Utility Board or a reduction in the level of service provided to the customers of the Utility Board. The City shall by ordinance have power to establish, change and adjust rates and charges for the services rendered therein by the system against the owners of the premises served, in the manner herein before provided for establishing, changing and adjusting rates and charges for the service rendered in the City, and such rates or charges shall be collectible as provided in Articles FOUR and FIVE

ARTICLE FOUR
RULES AND REGULATIONS - WATER

Effective 45 days after passage by the City of Keyser:

| WATER USAGE (monthly) | RATE per 1,000 gallons or part thereof |
|---|---|
| 0 to 2,000 gallons per month | $3.72 |
| over 2,000 to 7,000 gallons per month | $3.55 |
| over 7,000 to 57,000 gallons per month | $3.48 |
| over 57,000 to 107,000 gallons per month | $3.35 |
| over 107,000 gallons per month | $1.84 |

Effective upon substantial completion of system improvements as adopted by resolution by the City of Keyser:

| (Monthly) | per 1,000 gallons or part thereof |
|---|---|
| 0 to 2,000 gallons per month | $5.30 |
| over 2,000 to 7,000 gallons per month | $5.06 |
| over 7,000 to 57,000 gallons per month | $4.96 |
| over 57,000 to 107,000 gallons per month | $4.78 |
| over 107,000 gallons per month | $2.63 |

A. If for any reason there is no record of the amount of water supplied during any billing period, then the charge shall be based upon the last available meter reading.

B. On premises having a private water supply and connected with the sanitary sewer system, there shall be installed a meter for measuring the amount of water supplied to the premises. The customer shall bear all cost relating to the installation, calibration and operation of the flow meter. Meter installation shall be subject to approval of the Supervisor for the Utility Board.

C. The following schedule of rates and services shall be charged for use of the water supplies or waste treatment system for domestic water and sewage. Rates and charges shall be based upon the total flow of water from and/or wastewater discharged into the system.

D. AVAILABILITY OF SERVICE

Available for general domestic, commercial, industrial and resale service which applicable in entire territory served.

RATE

Effective 45 days from passage by the City of Keyser:

| | | |
|---|---|---|
| First | 2,000 gallons used per month | $3.72 per 1,000 gallons |
| Next | 5,000 gallons used per month | $3.55 per 1,000 gallons |
| Next | 50,000 gallons used per month | $3.48 per 1,000 gallons |
| Next | 50,000 gallons used per month | $3.35 per 1,000 gallons |
| All Over | 107,000 gallons used per month | $1.84 per 1,000 gallons |

Effective upon substantial completion of system improvements as adopted by resolution by the City of Keyser:

| | | |
|---|---|---|
| First | 2,000 gallons used per month | $5.30 per 1,000 gallons |
| Next | 5,000 gallons used per month | $5.06 per 1,000 gallons |
| Next | 50,000 gallons used per month | $4.96 per 1,000 gallons |
| Next | 50,000 gallons used per month | $4.78 per 1,000 gallons |
| All over | 107,000 gallons used per month | $2.63 per 1,000 gallons |

E. RESALE RATE

The water rate charged to all resale customers including, but not limited to, New Creek Water Association, Inc., the Town of McCoole, or County of Allegany, State of Maryland, or any subsidiary thereof, or

primary purpose of resale through lines and systems owned by them shall be:

Effective 45 days from passage by the City of Keyser:
$1.955 per 1,000 gallons used per month.

Effective upon substantial completion of system improvements as adopted by resolution by the City of Keyser:
$2.125 per 1,000 gallons used per month.

F. MINIMUM CHARGE

No bill will be rendered for less than the following amounts, according to the size meter installed, to-wit:

Effective 45 days from passage by the City of Keyser:

| | | |
|---|---|---|
| 5/8 x 3/4 | inch meter ----- | $ 7.44 per month |
| 3/4 | inch meter ----- | 11.16 per month |
| 1 | inch meter ----- | 18.60 per month |
| 1-1/2 | inch meter ----- | 37.20 per month |
| 2 | inch meter ----- | 59.52 per month |
| 3 | inch meter ----- | 111.60 per month |
| 4 | inch meter ----- | 186.00 per month |
| 6 | inch meter ----- | 372.00 per month |
| 8 | inch meter ----- | 595.20 per month |

Effective upon substantial completion of system improvements as adopted by resolution by the City of Keyser:

| | | |
|---|---|---|
| 5/8 x 3/4 | inch meter ----- | $ 10.60 per month |
| 3/4 | inch meter ----- | 15.90 per month |
| 1 | inch meter ----- | 26.50 per month |
| 1-1/2 | inch meter ----- | 53.00 per month |
| 2 | inch meter ----- | 84.80 per month |
| 3 | inch meter ----- | 159.00 per month |
| 4 | inch meter ----- | 265.00 per month |
| 6 | inch meter ----- | 530.00 per month |
| 8 | inch meter ----- | 848.00 per month |

G. DELAYED PAYMENT PENALTY

The above tariff is net. On all accounts not paid in full within twenty (20) days of date of bill, ten percent (10%) will be added to the amount due. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

H. DISCONNECT FOR NON-PAYMENT

If any bill is not paid for water or sewer fees within Thirty (30) days after date thereof, the City may disconnect water service to said customer for non-payment of bill, but must first make a diligent effort to induce the customer to pay same and no disconnect shall be effected until after at least twenty-four (24) hours written notice to customer, all in accordance with Public Service Commission Rules and Regulations.

I. RECONNECTION FEES

Service will not be restored until all amounts in arrears, including penalties plus a reconnection fee of $30.00 have been paid.

J. SERVICE CONNECTION CHARGE

A tap fee of Four Hundred Twenty five Dollars ($425.00) shall be charged for a 5/8" x 3/4" or a 3/4" meter, and paid in advance, for the initial connection of each new customer location to the water system, which charge shall include the cost of the meter installation. For meters 1" and larger in size, the service connection fee shall be the actual cost of the installation, including meter.

K. AVAILABILITY OF SERVICE

Unmetered fire protection service, whether for yard hydrants, inside hydrants or sprinkler systems shall be available at the following rates:

RATE

The rate for an unmetered connection to be used solely for fire protection shall be $116.67 a month.

L. WORTHLESS CHECK FEE

A service charge, which shall be in addition to any and or all other applicable fees and charges, of Fifteen ($15.00) Dollars shall be assessed and collected for all dishonored checks as permitted by West Virginia Code Section 61-3-39e. Said fee shall automatically increase to the maximum fee permissible under West Virginia Code Section 61-3-39e or any similar future counterpart thereof.

M. ADJUSTMENT OF BILLS

No allowance or adjustment of any water bill under this article shall be made for any leaks of any nature occurring on the user's side of the meter unless, in the discretion of the Supervisor for the Utility Board, an allowance or adjustment would prevent or rectify a gross inequity in charges to the customer.

N. LEAK ADJUSTMENT CLAUSE

The incremental cost of $0.40 per 1,000 gallons shall be used in the event of an allowed leak adjustment to any customer's bill.

O. SECURITY DEPOSIT

There will be a $100.00 deposit collected from each new customer to secure payment of bills for water, sewer, or water and sewer services. Deposits are refundable as provided under the Rules and Regulations of the Public Service Commission of West Virginia.

ARTICLE FIVE
RULES AND REGULATIONS - SEWER

A. Generally

1. Rules and regulations for the Government of Sewer Utilities, adopted by the Public Service Commission of West Virginia, and now in effect and all amendments thereto and modifications thereof hereafter made by said Commission which are not inconsistent with this ordinance (when this ordinance has priority) are hereby adopted.

2. In the event a building or premises discharging sewage

or other liquid wastes into the municipal sanitary sewer system uses water supplied on other than a metered basis from the City of Keyser municipal water system or from any other source of water supply, the owner or occupant shall be required to cause a water meter or other measuring devise to be installed by pending such installation the sewer service rates and charges to such building or premises shall be based upon an estimated quantity of water used based upon prior average usage.

3. In the event a lot, parcel of land, building or premises uses water in excess of 50,000 gallons per month and it can be shown to the satisfaction of the City Council that a substantial portion of the water as measured by the water meter does not and cannot enter the sewer facilities of the City. then the City may determine, in such manner as may be found practical, the amount of sewage entering the sewer system and the sewer service rate or charge shall be based thereon; or, the City may require or permit, at user's expense and fees, the installation of additional meters or measuring devices in such manner as to determine the quantity of sewage actually entering the sewer facilities, in which case the sewer service rate or charge shall be based thereon.

B. AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial sanitary sewer service.

1. RATE

Effective 45 days from passage by the City of Keyser

a. A customer service charge of $1.44 per month shall be made to each customer connected to the system ("service charge").

b. In addition to the service charge, commodity charges shall be based on the following usages of water:

| | | |
|---|---|---|
| First | 500,000 gallons used per month | $2.97 per 1,000 gallons |
| All over | 500,000 gallons used per month | $2.37 per 1,000 gallons |

Effective upon substantial completion of System Improvements as adopted by resolution by the City of Keyser:

a. A customer service charge of $1.44 per month shall be made to each customer connected to the system ("service charge").

b. In Addition to the service charge, commodity charges shall be based on the following usages of water:

| | | |
|---|---|---|
| First | 500,000 gallons used per month | $4.17 per 1,000 gallons |
| All over | 500,000 gallons used per month | $3.33 per 1,000 gallons |

2. MINIMUM CHARGE

No bill will be rendered for less than $1.44 per month.

[illegible] Service District)

Effective 45 days from passage by the City of Keyser:
$2.01 based on metered water usage per 1,000 gallons used per month.
$1.86 based on metered flows of sewage per 1,000 gallons used per month.

Effective upon substantial completion of system improvements as adopted by resolution by the City of Keyser:
$2.75 based on metered water usage per 1,000 gallons used per month.
$2.53 based on metered flows of sewage per 1,000 gallons used per month.

C. DELAYED PAYMENT PENALTY

The above tariff is net. On all accounts not paid in full within twenty (20) days of date of bill ten percent (10%) will be added to the amount due. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

D. SURCHARGE

Whenever a commercial or industrial user discharges wastes that exceed the BOD, Suspended Solids or other pollutant concentration loads set forth in the Sewer Ordinance, there shall be billed a surcharge in addition to the base user charge according to the formula established in Tariff P.S.C. W.Va. No. 5.

E. SEWER CONNECTION CHARGE

There will be a $350.00 tap fee charged to any new customer requesting service.

F. CAP FEES

In the event of demolition or removal of a building, trailer, or structure, it is necessary to first obtain a sewer cap permit from the Utility Board. The fee for the sewer cap permit will be $30.00.

G. SEPTIC OR WASTEWATER HAULER'S PERMIT

Unless covered by a wastewater contribution permit, all haulers of septic waste or wastewater shall be required to secure an annual permit from the Utility Board. The annual fee for this permit will be $100.00.

H. RATE FOR TRUCKED SEPTIC WASTES OR TRUCKED WASTEWATER

The rate for trucked wastewater or septic discharged into the system shall be $20.00 per 1,000 gallons. The minimum charge for each truck shall be $20.00. The Utility Board shall develop a procedure for

a burden on the Utility Board or its staff, the permit to discharge may be suspended or revoked by the Supervisor. If the permit is revoked, a new permit will be required.

I. ADJUSTMENT OF BILLS

No allowance or adjustment of any sewer bill under this article shall be made for any leaks of any nature occurring on the user's side of the meter unless, in the discretion of the Supervisor for the Utility Board, an allowance or adjustment would prevent or rectify a gross inequity in charges to the customer. In such event the leak adjustment shall be:

Effective 45 days from the passage by the City of Keyser:
$0.24 per 1,000 gallons incremental cost.

Effective upon substantial completion of system improvements as adopted by resolution by the City of Keyser:
$0.31 per 1,000 gallons incremental cost.

ARTICLE SIX
BILLS TO BE A LIEN UPON THE PREMISES SERVED; REQUIRED DEPOSIT; MISCELLANEOUS PROVISIONS APPLICABLE TO WATER & SEWERAGE SYSTEMS

A. Rates and charges provided in this ordinance, if not paid when due, shall be a lien upon the premises served by the system to the fullest extent permitted by law. If such rates or charges are not paid within thirty (30) days, the amount thereof, together with all reasonable and customary legal fees, may be recovered by the Utility Board in a civil action in the name of the City of Keyser, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto, including, to the extent and where permissible by state law, landlord liability for tenant fees.

B. With each application for service for water and/or sewerage services, there shall be made to the Utility Board a deposit in the amount of One Hundred ($100.00) Dollars for water, sewage, or water and sewage services, as permitted under the Public Service Commission Rules and Regulations. Said deposit shall be returned to the customer, as required by said rules and regulations, with interest at the minimum rate as permitted under said rules and regulations and, in the event, there is no minimum rate, then at the rate of 2% per annum.

C. SERVICE TO TRAILER COURTS

House trailer courts shall be provided with a master meter. No bill shall be rendered for less than the minimum bill herein established for a five-eight by three-quarter (5/8 x 3/4) inch meter, multiplied by the number of units situated on the court site at the time the meter is read, the minimum bill for the size meter installed or the actual charge for water used, whichever is greater. House trailers (as used hereinabove) shall include both mobile and immobile units.

House trailers, either mobile or immobile, located on sites other than a park or court, shall be billed in the same manner as any other family or business unit.

Sewer bills shall be based upon the same minimums times the number

of users or the actual water usage, whichever is greater.

## ARTICLE SEVEN
## SEVERABILITY CLAUSE

If any provision of this article is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

## ARTICLE EIGHT
## EFFECTIVE DATE

The provisions of this ordinance shall become effective forty-five (45) days from the date of adoption by the City of Keyser.

## ARTICLE NINE
## PENALTY FOR VIOLATION OF THE USE ORDINANCE

Whoever violates any provision of Article Four, Rules and Regulations - Water, and Article Five, Rule and Regulations - Sewer, for which no other penalty is provided shall be fined not less than $100.00 nor more than $1,000.00, or imprisoned for not more than thirty (30) days, or both fined and imprisoned.

By Authority of the Mayor and City Council

Mayor

Combined Water and Sewerage Tariff
P.S.C. W.VA. NO. 1

superseding all prior Water and Sewerage Tariffs to the extent, and only to the extent, the aforegoing is inconsistent therewith.

S. O. Form 3
1M

P. S. C. W. Va. No. 14
Canceling P. S. C. W. Va. No. 13

CITY OF KEYSER, a municipal utility
(Name of Utility)

OF

Keyser, West Virginia
(Location of Office)

# Rates, Rules and Regulations for Furnishing

# WATER

AT

Keyser and vicinity, Mineral County, West Virginia.

## Filed with THE PUBLIC SERVICE COMMISSION

OF

## WEST VIRGINIA

Issued September 11, 1997 Effective November 1, 1997

Passed by City Council.

Issued by CITY OF KEYSER
(Name of Utility)

By [signature]
Mayor

## AVAILABILITY OF SERVICE

Available for general domestic, commercial, industrial and resale service which applicable in entire territory served.

(A)

### RATE

Effective 45 days from passage by the City of Keyser:

| | | | |
|---|---|---|---|
| First | 2,000 gallons used per month | $3.72 | per 1,000 gallons |
| Next | 5,000 gallons used per month | $3.55 | per 1,000 gallons |
| Next | 50,000 gallons used per month | $3.48 | per 1,000 gallons |
| Next | 50,000 gallons used per month | $3.35 | per 1,000 gallons |
| All over | 107,000 gallons used per month | $1.84 | per 1,000 gallons |

Effective upon substantial completion of system improvements as adopted by resolution by the City of Keyser:

| | | | |
|---|---|---|---|
| First | 2,000 gallons used per month | $5.30 | per 1,000 gallons |
| Next | 5,000 gallons used per month | $5.06 | per 1,000 gallons |
| Next | 50,000 gallons used per month | $4.96 | per 1,000 gallons |
| Next | 50,000 gallons used per month | $4.78 | per 1,000 gallons |
| All over | 107,000 gallons used per month | $2.63 | per 1,000 gallons |

(A)

### MINIMUM CHARGE

No bill will be rendered for less than the following amounts, according to the size meter installed, to-wit:

Effective 45 days from passage by the City of Keyser:

| | | |
|---|---|---|
| 5/8 x 3/4 inch meter ——— | $ 7.44 | per month |
| 3/4 inch meter ——— | 11.16 | per month |
| 1 inch meter ——— | 18.60 | per month |
| 1-1/2 inch meter ——— | 37.20 | per month |
| 2 inch meter ——— | 59.52 | per month |
| 3 inch meter ——— | 111.60 | per month |
| 4 inch meter ——— | 186.00 | per month |
| 6 inch meter ——— | 372.00 | per month |
| 8 inch meter ——— | 595.20 | per month |

Effective upon substantial completion of system improvements as adopted by resolution by the City of Keyser:

| | | |
|---|---|---|
| 5/8 x 3/4 inch meter ——— | $ 10.60 | per month |
| 3/4 inch meter ——— | 15.90 | per month |
| 1 inch meter ——— | 26.50 | per month |
| 1-1/2 inch meter ——— | 53.00 | per month |
| 2 inch meter ——— | 84.80 | per month |
| 3 inch meter ——— | 159.00 | per month |
| 4 inch meter ——— | 265.00 | per month |
| 6 inch meter ——— | 530.00 | per month |
| 8 inch meter ——— | 848.00 | per month |

(C)

### DELAYED PAYMENT PENALTY

The above tariff is net. On all accounts not paid in full within twenty (20) days of date of bill, ten percent (10%) will be added to the amount due. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

(A) Indicates advance
(C) Indicates change

(A) RESALE RATE

The water rate charged to all resale customers including, but not limited to, New Creek Water Association, Inc., the Town of McCoole, or County of Allegany, State of Maryland, or any subsidiary thereof, or any other public or private entity or person who acquires water for the primary purpose of resale though lines and systems owned by them shall be:

Effective 45 days from passage by the City of Keyser:
$1.965 per 1,000 gallons used per month.

Effective upon substantial completion of system improvements as adopted by resolution by the City of Keyser:
$2.125 per 1,000 gallons used per month.

(N) SECURITY DEPOSIT

There will be a $100.00 deposit collected from each new customer to secure payment of bills for water, sewer, or water and sewer services. Deposits are refundable as provided under the Rules and Regulations of the Public Service Commission of West Virginia.

(N) DISCONNECT FOR NON-PAYMENT

If any bill is not paid for water or sewer fees within Thirty (30) days after date thereof, the City may disconnect water service to said customer for non-payment of bill, but must first make a diligent effort to induce the customer to pay same and no disconnect shall be effected until after at least twenty-four (24) hours written notice to customer, all in accordance with Public Service Commission Rules and Regulations.

RECONNECTION FEES

Service will not be restored until all amounts in arrears, including penalties plus a reconnection fee of $30.00 have been paid.

SERVICE CONNECTION CHARGE

A tap fee of Four Hundred Twenty-Five Dollars ($425.00) shall be charged for a 5/8" x 3/4" or a 3/4" meter, and paid in advance, for the initial connection of each new customer location to the water system, which charge shall include the cost of the meter installation. For meters 1" and larger in size, the service connection fee shall be the actual cost of the installation, including meter.

(A) Indicates advance
(N) Indicates n-w

AVAILABILITY OF SERVICE

Unmetered fire protection service, whether for yard hydrants, inside hydrants or sprinkler systems shall be available at the following rates:

(C) RATE

The rate for an unmetered connection to be used solely for fire protection shall be ~~$350.00 per quarter.~~ $116.67 a month.

WORTHLESS CHECK FEE

A service charge, which shall be in addition to any and all other applicable fees and charges, of Fifteen ($15.00) Dollars shall be assessed and collected for all dishonored checks as permitted by West Virginia Code §61-3-39e. Said fee shall automatically increase to the maximum fee permissible under West Virginia Code §61-3-39e or any similar future counterpart thereof.

ADJUSTMENT OF BILLS

No allowance or adjustment of any water bill under this article shall be made for any leaks of any nature occurring on the user's side of the meter unless, in the discretion of the Supervisor for the Utility Board, an allowance or adjustment would prevent or rectify a gross inequity in charges to the customer.

LEAK ADJUSTMENT CLAUSE

The incremental cost of $0.40 per 1,000 gallons shall be used in the event of an allowed leak adjustment to any customer's bill.

ARTICLE SIX

(N) BILLS TO BE A LIEN UPON THE PREMISES SERVED; REQUIRED DEPOSIT; MISCELLANEOUS PROVISIONS APPLICABLE TO BOTH WATER & SEWERAGE SYSTEMS

Rates and charges provided in this ordinance, if not paid when due, shall be a lien upon the premises served by the system to the fullest extent permitted by law. If such rates or charges are not paid within thirty (30) days, the amount thereof, together with all reasonable and customary legal fees, may be recovered by the Utility Board in a civil action in the name of the City of Keyser, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto, including, to the extent and where permissible by statute or law, landlord liability for tenant fees.

With each application for service for water and/or sewerage services, there shall be made to the Utility Board a deposit in the amount of One Hundred ($100.00) Dollars for water, sewage, or water and sewage services, as permitted under the Public Service Commission Rules and Regulations. Said deposit shall be returned to the customer, as required by said rules and regulations, with interest

(C) Indicates change
(N) Indicates new

at the minimum rate as permitted under said rules and regulations and, in the event, there is no minimum rate, then at the rate of 2% per annum.

(N) SERVICE TO TRAILER COURTS

House trailer courts shall be provided with a master meter. No bill shall be rendered for less than the minimum bill herein established for a five-eight by three-quarter (5/8 x 3/4) inch meter, multiplied by the number of units situated on the court site at the time the meter is read, the minimum bill for the size meter installed or the actual charge for water used, whichever is greater. House trailers (as used hereinabove) shall include both mobile and immobile units.

House trailers, either mobile or immobile, located on sites other than a park or court, shall be billed in the same manner as any other family or business unit.

Sewer bills shall be based upon the same minimums times the number of users or the actual water usage, whichever is greater.

## ARTICLE SEVEN
## SEVERABILITY CLAUSE

If any provision of this article is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

## ARTICLE EIGHT
## EFFECTIVE DATE

The provisions of this ordinance shall become effective forty-five (45) days from the date of adoption by the City of Keyser.

## ARTICLE NINE
## PENALTY FOR VIOLATION OF THE USE ORDINANCE

Whoever violates any provision of Article Four, Rules and Regulations - Water, and Article Five, Rule and Regulations - Sewer, for which no other penalty is provided shall be fined not less than $100.00 nor more than $1,000.00, or imprisoned for not more than thirty (30) days, or both fined and imprisoned.

By Authority of the Mayor and City Council

(N) Indicates new

Keith R. Hayward

Mayor

Combined Water and Sewerage Tariff P.S.C. W.VA. NO. 1

superseding all prior Water and Sewerage Tariffs to the extent, and only to the extent, the aforegoing is inconsistent therewith.

August 28, 1997

Mayor Keith R. Hayward brought the council meeting to order at 6:30 P.M. Councilman Donald P. Heare opened the meeting with a prayer.

Present: Mayor Keith R. Hayward, Councilman Donald P. Heare, Councilman Jay Rogers, Councilwoman Sally Burnside, Administrator Penny Sanders, Chief of Police Kipp Ellifritz, News Reporters Sam Shawver and Allison Bunting, Bill Friend, Floyd Conrad, Tom Tettenburn, Gerald Ickes, Barbara Amtower, Charlie Winfree, Carol Webb, Jackie Myers, Robin Mussen, Megan Webb, Ben Meyrs, Renee Amtower, Morris Kiddy, and Marial Sears.

Councilman Heare made a motion to approve the minutes of July 24, 1997, seconded by Councilwoman Burnside. Motion carried unanimously.

UTILITY BOARD

Administrator Sanders read the minutes of the Utility Board for July 1, 1997, August 19, 1997, August 26, 1997, and August 27, 1997.

CITIZEN'S REQUESTS/COMPLAINTS

Robin Mussen and members of the Keyser Swim Team appeared before Mayor and Council to present a check for $1,000.00 raised by a Swim-a-thon. Robin Mussen said they appreciated the use of the pool. Administrator Sanders said there is over $2,000.00 in the Swimming Pool Improvements fund and the Keyser Swim Team is the one that contributed that. She said they need to be commended.

WATER AND SEWER RATES

Mayor Hayward said he would like to go on record saying that he supports the water and sewer rate hike. He said this rate increase is a must. Mayor Hayward said he would like to thank Council and Administrator Sanders for all the hard work that they have put into this. Mayor Hayward said he hoped that no one petitions this increase because this is for the betterment of Keyser. This is something that is necessary. A lot of the projects were mandated and it has to be done to get back into compliance. Mayor Hayward said that he hoped that people really take into consideration on the need for improvements before they just sign a piece of paper against the ordinance. He said not only that, there is a moratorium on and it won't be lifted until improvements are made.

CITIZEN'S REQUESTS/COMPLAINTS

Floyd Conrad appeared before Mayor and Council to discuss a commercial refrigerator that has been on Water Street for about one year. He said it is time for it to go. Councilman Rogers said this will be checked into.

Gerald Ickes said a good job was done on the storm sewer in the Airport.

Morris Kiddy appeared before Mayor and Council to discuss the orange barrels and the green pipe on Water Street. He asked if anything was going to be done with that. Councilman Rogers said there is going to be guardrail placed there. The posts for the guardrail will be concreted into that pipe. Councilman Rogers said it needs to be done soon because kids keep pushing the barrels into the creek.

CITY ENGINEER'S REPORT

Engineer Vanscoy thanked Mr. Ickes for his comments on the storm sewer in the Airport. He said he would relay them to the contractor. He reported that all the pipe was in the ground. There were a few surprises with the utility lines. Engineer Vanscoy said the overall project went well. The only thing left is the trench paving. Also discussed was the contractor placing the line in Cliff and Water Streets. Engineer Vanscoy said there will be approximately $14,000 left in that money. He said that would probably allow laying the pipe up to Beacon Street in the Airport. Councilman Rogers said a grant will allow you to extend the scope of the work as long as it is the same scope of work. You can extend the length of the project. Councilman Rogers said he would like to see that done. Councilwoman Burnside asked if there was going to be any paving done in front of Bob Dorsey's house. Engineer Vanscoy said that sewer lines were going to be replaced there and the street is going to be tore up. The sewer line replacement will be advertised by the end of this year. It is in the Sewer Line Project. Councilman Rogers made a motion to continue the storm line up Baker Street to Beacon Street with the money left from the grant, seconded by Councilman Heare. Motion carried unanimously.

CITIZEN'S REQUESTS/COMPLAINTS

Marial Sears appeared before Mayor and Council to see if there has been any progress on an ordinance against snakes. Mayor Hayward said this is being worked on. We are still waiting on a draft ordinance from another City. Mrs. Sears said she would like to go on record that she is begging that something be done. She said her neighbor has pet rattlesnakes and copperheads. She said they actually let them crawl around in the grass. Mrs. Sears said it is not safe. Mayor Hayward said we are working on something.

Gerald Shaver appeared before Mayor and Council to discuss the moratorium. Mr. Shaver said he had filed an application for a water and sewer tap on May 23, 1997. That was five days before the official application deadline was set by a West Virginia Public Service Commission law judge during a hearing in February 1997. Administrator Sanders said that Mr. Shaver had applied and paid for the taps before May 28, 1997. Administrator Sanders said she called the Public Service Commission Staff Attorney Meyishi Blair to see if Mr. Shaver could be granted his application. Meyishi Blair said since the moratorium is currently in litigation, Mr. Shaver should seek a waiver hearing with the Public Service Commission. Administrator Sanders said the Public Service Commission Staff Attorneys are seeking to have the moratorium on applications retroactive to the February hearing date because they feel further taps would be too much on the current municipal system. There are five other residents that in the same shape as Mr. Shaver. Administrator Sanders said the applications would not be signed until a firm decision is reached on the matter. Councilman Rogers said that this was the first time he had heard of the situation and promised to contact Attorney Blair to check into this.

CITY ADMINISTRATOR'S REPORT

Administrator Sanders said the City Office will be closed September 1, 1997 in observance of "Labor Day".

Administrator Sanders said that people have until September 15, 1997, to turn in their applications for the FEMA Hazard Mitigation Relocation Buyout Program.

Administrator Sanders said she would like to thank the Mayor and Council and employees who turned out for the appreciation splash party held at the swimming pool. It was a good thing for everyone concerned. Hopefully, next year there will be more employees and their families that turn

out.

CHIEF OF POLICE'S REPORT

Chief Ellifritz said the work on the gabion basket wall was suppose to start again on Water Street and it has not. Councilman Rogers said the contractor had not finished a job he was working on. Councilman Rogers said it will probably be another two weeks.

Chief Ellifritz asked if the council had decided what to do about having officers unlock vehicles for people in town. Councilman Rogers said in talking with officers of other towns, they have found that unlocking the newer cars have set off some airbags which cause a lot of damage. He said we try to provide a service and now it seems like it is a liability and a hassle. Councilman Heare said at the last meeting Chief Ellifritz gave us three options. He said he liked the second option which was to develop a release form relieving the City from any damages caused while trying to unlock the doors. Mayor Hayward asked if the release forms would hold up. Councilman Rogers said he didn't think they would hold up. He said that he recommended that the City seek the opinion of the City Attorney to see if a release form is valid. Mayor Hayward said this would be tabled until the next meeting so Attorney Barr can review a release form.

Chief Ellifritz said there were five letters served for junked and abandoned vehicles. Only one had to be towed away. One more letter needs to be served in the West End and then letters will be delivered other places in town.

Chief Ellifritz said home football games start tomorrow night in Keyser.

Councilwoman Burnside said when the street sweeper runs on Wednesday nights people on Main Street do not want to move their vehicles. Chief Ellifritz said he talked to them today and if they don't move their vehicles they will be towed.

FINANCE COMMISSIONER'S REPORT

Councilman Heare stated that as of August 28, 1997 the General Fund had a balance of $50,216.08, Off Street Parking $2,507.66 (Lease payment of $2,290.62 has to be paid yet), Street Excess Levy $155,999.21, Water Fund $66,576.23 (Bond payments of $22,587.71 has to be paid yet), Sewer Fund $38,834.21 (Bond payments of $26,719.30 has to be paid yet) and City of Keyser Laboratory $19,599.41.

STREET COMMISSIONER'S REPORT

Councilwoman Burnside said that Norman Parks is suppose to use his equipment to move the jersey barriers for the City. The guardrail installation will begin next week.

Councilwoman Burnside reported that the curb painting is being done.

Councilwoman Burnside said we have been patching and do doing some general repairs on several streets. This takes three or four men to do the project. We are going to be working on more streets.

Councilwoman Burnside said this month the street sweeper has swept the normal amount of streets. Memorial Bridge has been done four times this month. We are increasing the number of streets being swept but there isn't enough man power to do as many street as what we would like to do. There has been 25 street signs ordered. Mr. Conrad asked if the City hopes to get to all the streets. Councilwoman

Burnside said yes. Councilman Heare asked how many operators does the City have. Councilwoman Burnside said there is two men that can operate the sweeper.

Engineer Vanscoy asked about the signal pole at Chestnut Street. Chief Ellifritz said the gentleman has not got back in touch with us. Engineer Vanscoy said you could contact Mineral Fabrication.

WATER COMMISSIONER'S REPORT

Councilman Rogers read a letter from Camden P. Siegrist. It was in reference to the City of Keyser-Financing by the West Virginia Water Development Authority.

Councilman Rogers read in its entirety Ordinance No. 245, AN ORDINANCE ESTABLISHING RATES, RULES AND REGULATIONS FOR FURNISHING WATER, SEWERAGE AND SEWER DISPOSAL SERVICE FOR THE CITY OF KEYSER AND AREAS SERVED THEREBY IN MINERAL COUNTY, WV, AND REPLACING ALL PRIOR WATER, SEWERAGE AND SEWER DISPOSAL RATES, RULES AND REGULATIONS WHICH ARE INCONSISTENT HEREWITH. Councilman Heare made a motion to accept the introduction to council and the passage of Ordinance No. 245, seconded by Councilwoman Burnside. Motion carried unanimously. The second reading of Ordinance No. 245 will be September 11, 1997. There will be an amendment that will be read next time. Administrator Sanders said a copy was given to the press to publish before the second reading. Councilman Rogers thanked the newspaper for the coverage on the Water and Sewer Rates. The coverage has been factual and important coverage.

UNFINISHED BUSINESS

Councilwoman Burnside said she hoped that something was done about an ordinance on snakes. Councilman Rogers said if Mrs. Sears feels threatened to call the Police Department.

Mayor Hayward said he would like to thank the newspapers, radio stations, businesses and the residents for their cooperation with the disrupted water service while work was being done in the Airport.

NEW BUSINESS

Mayor Hayward read a resignation letter from Mark Farris, Chairman of the Municipal Building Commission, effective August 28, 1997.

Councilman Rogers made a motion to adjourn the council meeting, seconded by Councilwoman Burnside. Motion carried unanimously.

MAYOR KEITH R. HAYWARD

CITY ADMINISTRATOR PENNY SANDERS

September 11, 1997

Acting Mayor Donald P. Heare brought the council meeting to order at 6:30 P.M. Councilman Donald P. Heare opened the meeting with a reading.

Present: Councilman Donald P. Heare, Councilman Jay Rogers, Councilwoman Sally Burnside, City Administrator Penny Sanders, News Reporters Allison Bunting and Liz Beavers, Water/Street Supervisor Rick Shingleton, Bill Friend, Floyd Conrad, Morris Kiddy, Tom Tettenburn, Gerald Ickes, Gerald Radcliffe, Bill Roy, Luther Litten, and Clarence Crawford. Mayor Keith R. Hayward was absent.

Councilman Rogers made a motion to approve the minutes of August 28, 1997, seconded by Councilwoman Burnside. Motion carried unanimously.

CITIZEN'S REQUEST/COMPLAINTS

Luther Litten, New Creek, appeared before Mayor and Council to discuss the Water Rate Increase. He said he is protesting the City of Keyser raising New Creek's water rate. Mr. Litten presented a protest to Acting Mayor Heare. Councilman Rogers said since he has came on council it has been a number one priority to fix the water and sewer problems in the City of Keyser. He said this will not get any cheaper. He said New Creek Water Association said the Cost of Service Survey was not fair, but it was done by the Public Service Commission. It was not done by the City of Keyser. The Public Service Commission decided what should be attributed to New Creek. The accountants took the figures that the Public Service Commission established and they used those figures to determine what New Creek would pay. If New Creek Water Association believes the cost of service study is erroneous, then it is up to New Creek to prove. The City of Keyser can not stand up and say that they feel the study is wrong and our people should pay for it. Councilman Rogers explained the cost of service study to Mr. Litten.

Gerald Ickes, Lynmar Street, appeared before Mayor and Council regarding the Sewer Moratorium. He wanted to know if there was any new information regarding the deadline for the Sewer Moratorium. Councilman Rogers said the Staff Attorney Meyishi Blair is sticking with their appeal. The City placed the Moratorium because they had to help the citizens. Councilman Rogers said in talking with the Mayor and Council they all feel the Moratorium should still stand. Councilman Rogers said Meyishi Blair's opinion for anyone seeking water and sewer service should seek a waiver with the Public Service Commission. At that time a hearing will be held and it will be determined whether they will be granted a waiver. Councilman Rogers said it may be Meyishi Blair's belief that if the appeal is overturned by the Public Service Commissioner's, if they make the date retroactive, then they have no enforcement of revoking a tap. PSC is having people to apply for them by requesting a waiver. The City has not granted any taps. Gerald Ickes raised a question about New Creek being issued over 200 taps.

Morris Kiddy asked if the Moratorium was on when New Creek issued these taps and who issued the taps. Councilman Rogers discussed the waiver process to Mr. Kiddy.

Clarence Crawford appeared before Mayor and Council to discuss his mother's property on Limestone Road. Since this spring there has been 14 holes dug in her yard. There is a 15th hole now. The City has lost thousands of gallons of water. He said the City has not been around to talk to me. Water/Street Supervisor Shingleton said the City has ordered all the parts. There are two parts that are backordered. We

will be renting some equipment from Frostburg Rent-All. The City has 300 feet of pipe. Water/Street Supervisor Shingleton informed Mr. Crawford that the City will be out there Tuesday morning.

CITY ADMINISTRATOR'S REPORT

Administrator Sanders said the was September 15, 1997, deadline set for the FEMA Hazard Mitigation Elevation Buyout Program has been extended to September 17, 1997.

Administrator Sanders said at the last meeting the Mayor and Council discussed getting an ordinance on exotic pets. City of Clarksburg sent a copy of their ordinance on dogs and other animals, but it wasn't geared toward snakes. Administrator Sanders said that she contacted the City Manager in Oak Hill and they will help the City draft an ordinance on exotic pets once they receive information from the Municipal League.

CHIEF OF POLICE'S REPORT

Lt. Roy announced that the equipment company who is doing the service work for McCoole is suppose to meet with Chief Ellifritz September 16, 1997, in the morning to discuss bringing some long heavy equipment through Armstrong Street to Heskett Street.

FINANCE COMMISSIONER'S REPORT

Councilman Heare stated that as of September 11, 1997 the General Fund had a balance of $22,233.46 (Monthly invoices and another payroll has to come from that amount), Off Street Parking $377.46 (Another payroll has to come from that amount), Street Excess Levy $118,119.35, Water Checking $61,639.56 (Monthly invoices, bond payments and another payroll has to come from that amount), Sewer Checking $26,776.22 ( Monthly invoices, bond payments and another payroll has to come from that amount), and City of Keyser Laboratory $19,380.04 (Monthly invoices and another payroll has to come from that amount)

STREET COMMISSIONER'S REPORT

Councilwoman Burnside said the railing on Water Street has been installed. The concrete work has not been done yet.

Councilwoman Burnside said they have been straightening some sign posts.

Councilwoman Burnside said the curb painting is still continuing.

Councilwoman Burnside reported that we are still sweeping streets. Water Street did not get swept because of the rain.

Councilwoman Burnside said the Pre-Bid Meeting for the Salt Bin was September 4th, but there weren't any contractors that showed up. Engineer Vanscoy will be designing the Plans and Specs for the Salt Bin. There will be another Pre-Bid Meeting on September 29th. Faulk Brothers will be storing the City's salt until the Salt Bin is completed.

Councilwoman Burnside said they were going to try and use the pressure washer to remove oil from Main Street.

Gerald Radcliffe appeared before Mayor and Council to see if the street sweeper could run on North Main Street. Councilwoman Burnside said it is on our schedule. Mr. Radcliffe also said there needs to be a street sign that specifies "Children At Play" at the North End Playground.

WATER COMMISSIONER'S REPORT

Councilman Rogers said they received three bids on the 1986 Dodge Pickup Truck. The highest bid was $350.00. Councilman Rogers made a motion to accept the bid of $350.00, seconded by Councilwoman Burnside. Motion carried unanimously.

Councilman Rogers said Jim Hoffman has requested that the City repair the rust and repaint the 1988 truck at the Sewer Plant. We have received estimates. Rob's Body Shop was low bidder of $1,287.90. Councilman Rogers made a motion to accept the quote from Rob's Body Shop to paint the truck, seconded by Councilwoman Burnside. Motion carried unanimously.

Councilman Rogers said New Creek Valley Watershed Association Cleanup has been postponed due to the weather. We will meet and come up with another date.

Councilman Rogers said the work on the gabion basket wall from Center Street to Water Street has been delayed. The City is waiting for a gun they use to tie the baskets together. They are all rented out right now.

UNFINISHED BUSINESS
ORDINANCE NO. 245

Councilman Rogers read Ordinance No. 245 by title only, AN ORDINANCE ESTABLISHING RATES, RULES AND REGULATIONS FOR FURNISHING WATER, SEWERAGE AND SEWER DISPOSAL SERVICE FOR THE CITY OF KEYSER AND AREAS SERVED THEREBY IN MINERAL COUNTY, WV, AND REPLACING ALL PRIOR WATER, SEWERAGE AND SEWER DISPOSAL RATES, RULES AND REGULATIONS WHICH ARE INCONSISTENT HEREWITH. Councilman Rogers made a motion to accept the second reading of Ordinance No. 245 by title only, seconded by Councilwoman Burnside. Motion carried unanimously.

Councilman Rogers said we heard earlier from Mr. Litten. The City did receive a formal protest of New Creek Water Association to the City of Keyser's proposed ordinance increasing water resale rates. Councilman Rogers said he was very disappointed with New Creek for not waiting until we had the meeting on September 17, 1997. The informal meeting was requested by the City to discuss the PSC cost study with McCoole and New Creek. Councilman Rogers said he was sorry to all the people who were waiting for this to happen, but now it looks like there will be a long wait. Tom Tettenburn asked what kind of delay was the City looking at. Councilman Rogers said by law the Public Service Commission can take up to nine months to conduct a hearing. Councilman Rogers said no matter what, it's a delay.

Council and citizens discussed annexation.

NEW BUSINESS

Councilman Rogers said he was very thankful to the Citizens of Keyser for not protesting. He said he would like to thank Liz Beavers and Allison Bunting for their coverage in the papers.

Councilman Rogers said he would like to make a motion to authorize Mayor Hayward to sign the Certificate of Convenience and Necessity when Attorney Barr sends it up, seconded by Councilwoman Burnside. Motion carried unanimously.

Councilwoman Burnside made a motion to hold the Christmas Parade on December 6, 1997 at 2:00 P.M., seconded by Councilman Rogers. Motion carried unanimously. Cindy Pyles will chair the Christmas Parade. Lt. Roy said we need to throw candy back away from the wheels of vehicles. We need to keep it on the sidewalks. The parade will go down

Burnside said yes. Councilman Heare asked how many operators does the City have. Councilwoman Burnside said there is two men that can operate the sweeper.

Engineer Vanscoy asked about the signal pole at Chestnut Street. Chief Ellifritz said the gentleman has not got back in touch with us. Engineer Vanscoy said you could contact Mineral Fabrication.

WATER COMMISSIONER'S REPORT

Councilman Rogers read a letter from Camden P. Siegrist. It was in reference to the City of Keyser-Financing by the West Virginia Water Development Authority.

Councilman Rogers read in its entirety Ordinance No. 245, AN ORDINANCE ESTABLISHING RATES, RULES AND REGULATIONS FOR FURNISHING WATER, SEWERAGE AND SEWER DISPOSAL SERVICE FOR THE CITY OF KEYSER AND AREAS SERVED THEREBY IN MINERAL COUNTY, WV, AND REPLACING ALL PRIOR WATER, SEWERAGE AND SEWER DISPOSAL RATES, RULES AND REGULATIONS WHICH ARE INCONSISTENT HEREWITH. Councilman Heare made a motion to accept the introduction to council and the passage of Ordinance No. 245, seconded by Councilwoman Burnside. Motion carried unanimously. The second reading of Ordinance No. 245 will be September 11, 1997. There will be an amendment that will be read next time. Administrator Sanders said a copy was given to the press to publish before the second reading. Councilman Rogers thanked the newspaper for the coverage on the Water and Sewer Rates. The coverage has been factual and important coverage.

UNFINISHED BUSINESS

Councilwoman Burnside said she hoped that something was done about an ordinance on snakes. Councilman Rogers said if Mrs. Sears feels threatened to call the Police Department.

Mayor Hayward said he would like to thank the newspapers, radio stations, businesses and the residents for their cooperation with the disrupted water service while work was being done in the Airport.

NEW BUSINESS

Mayor Hayward read a resignation letter from Mark Farris, Chairman of the Municipal Building Commission, effective August 28, 1997.

Councilman Rogers made a motion to adjourn the council meeting, seconded by Councilwoman Burnside. Motion carried unanimously.

MAYOR KEITH R. HAYWARD

CITY ADMINISTRATOR PENNY SANDERS

I, as an officer of the News-Tribune, a daily newspaper published at Keyser, Mineral County, West Virginia, hereby certify that the City of Keyser

in the case of Public Notice: Rates, etc for water and sewer services

vs.

a copy whereof is hereto annexed has been published for 1 consecutive day in said NEWS-TRIBUNE, the first publication being on the 11th day of, Sept. 19 97.

Given under my hand at Keyser this 11th day of Sept., 19 97.

Publisher

Publisher's Fee

$ 260.19 (2nd publication)

RECEIVED
97 OCT 20 AM 9:23
PUBLIC SERVICE COMMISSION
SECRETARY'S OFFICE

Mineral Daily News-Tribune

# CLASSIFIED ADVERTISING

Page 10

September 11, 1997

CITY OF KEYSER
111 North Davis St., Keyser, West Virginia
COMBINED WATERWORKS & SEWERAGE AND SEWAGE DISPOSAL SERVICE SERVING THE CITY OF KEYSER AND SURROUNDING TERRITORY
Filed with the Public Service Commission of West Virginia
AN ORDINANCE ESTABLISHING RATES, RULES AND REGULATIONS FOR FURNISHING WATER, SEWERAGE AND SEWER DISPOSAL SERVICE FOR THE CITY OF KEYSER AND AREAS SERVED THEREBY IN MINERAL COUNTY, WEST VIRGINIA, AND REPLACING ALL PRIOR WATER, SEWERAGE AND SEWER DISPOSAL RATES, RULES AND REGULATIONS WHICH ARE INCONSISTENT HEREWITH

WHEREAS, the City of Keyser is empowered by West Virginia Code §8-20-10 & §24-2-4b to institute reasonable rates and charges for its waterworks, and sanitary sewerage services, and

WHEREAS, the City of Keyser desires to consolidate its code sections regarding rates and charges,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KEYSER TO ESTABLISH THE RATES, RULES AND REGULATIONS FOR FURNISHING SEWERAGE AND SEWER DISPOSAL SERVICES AND WATER SERVICE, WHICH SHALL BE AS FOLLOWS:

ARTICLE ONE — PURPOSE AND SCOPE

There shall be established and maintained just and equitable rates or charges for the use and supply of water and the use of wastewater (sewerage) collection and treatment system and the services( hereinafter referred to as the "System") rendered by the Utility Board of the City of Keyser (hereinafter referred to as the "Utility Board") , to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the system of the City, or that in any way uses or is served by such system. Such rates or charge shall be sufficient in each year for the payment of proper and reasonable expense of operation, repair, replacement and maintennace of the system, and for the payment of the sums required by Bond covenants to the Utility Board or Municipal Bond Commission or other dedicated accounts. No such rates or charges shall be established until after a public hearing at which all the users of the system and other intersted parties shall have had an opportunity to be heard concerning the proposed rates and charges.

F. MINIMUM CHARGE

No bill will be rendered for less than the following amounts, according to the size meter installed, to-wit:

Effective 45 days from passage by the City of Keyser:

| | | |
|---|---|---|
| 5/8x3/4 inch meter | $7.44 | per month |
| 3/4 inch meter | 11.16 | per month |
| 1 inch meter | 18.60 | per month |
| 1 1/2 inch meter | 37.20 | per month |
| 2 inch meter | 59.52 | per month |
| 3 inch meter | 111.60 | per month |
| 4 inch meter | 186.00 | per month |
| 6 inch meter | 372.00 | per month |
| 8 inch meter | 595.20 | per month |

Effective upon substantial completion of system improvements as adopted by resolution by the City of Keyser:

| | | |
|---|---|---|
| 5/8x3/4 inch meter | $ 10.60 | per month |
| 3/4 inch meter | 15.90 | per month |
| 1 inch meter | 26.50 | per month |
| 1 1/2 inch meter | 53.00 | per month |
| 2 inch meter | 84.80 | per month |
| 3 inch meter | 159.00 | per month |
| 4 inch meter | 265.00 | per month |
| 6 inch meter | 530.00 | per month |
| 8 inch meter | 848.00 | per month |

G. DELAYED PAYMENT PENALTY

The above tariff is net. On all accounts not paid in full within twenty (20) days of date of bill, ten percent (10%) will be added to the amount due. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

H. DISCONNECT FOR NON-PAYMENT

If any bill is not paid for water or sewer fees within thirty (30) days after date thereof, the City may disconnect water service to said customer for non-payment of bill, but must first make a diligent effort to induce the customer to pay same and no disconnect shall be effected until after at least twenty-four (24) hour written notice to customer, all in accordance with Public Service Commission Rules and Regulations.

I. RECONNECTION FEES

Service will not be restored until all amounts in arrears, including penalties plus a reconnection fee of $30.00 having been paid

C. DELAYED PAYMENT PENALTY

The above tariff is net. On all accounts not paid in full within twenty (20) days of date of bill ten percent (10%) will be added to the amount due. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

D. SURCHARGE

Whenever a commercial or industrial user discharges wastes that exceed the BOD, Suspended Solids or other pollutant concentration loads set forth in the Sewer Use Ordinance, ther shall be billed a surcharge in addition to the base user charge according to the formula estalished in Tariff P.S.C. W.Va., No. 5.

E. SEWER CONNECTION CHARGE

There will be a $350.00 tap fee charged to any new customer requesting service.

F. CAP FEES

In the event of demolition or removal of a building, trailer, or structure, it is necessary to first obtain a sewer cap permit from the Utility Board. The fee for the sewer cap permit will be $30.00.

G. SEPTIC OR WASTEWATER HAULER'S PERMIT

Unless covered by a wastewater contribution permit, all haulers of septic waste or wastewater shall be required to secure an annual permit from the Utility Board. The annual fee for this permit will be $100.00.

H. RATE FOR TRUCKED SEPTIC WASTES OR TRUCKED WASTEWATER

The rate for trucked wastewater or septic discharged into the system shall be $20.00 per 1,000 gallons. The minimum charge for each truck shall be $20.00. The Utility Board shall develop a procedure for billing and collecting. In the event that collection of bills creates a burden on the Utility Board or its staff, the permit to discharge may be suspended or revoked by the Supervisor. If the permit is revoked, a new permit will be required.

I. ADJUSTMENT OF BILLS

No allowance or adjustment of any sewer bill under this article shall be made for any leaks of any nature occurring on the user's side of the meter unless, in the discretion of the Supervisor for the Utility Board , an allowance or adjustment would prevent or rectify a gross inequity in charges to the customer. In such event the leak adjustment shall be:

Effective 45 days from the passage by the City of Keyser:

$0.24 per 1,000 gallons incremental cost.

be billed and collected on a just and equitable basis. The Utility Board shall cause to be maintained a record of all charges and disbursements in accordance with the Code of the State of West Virginia, Rules and Regulations of the West Virginia Public Service Commission and generally accepted accounting practices. The Utility Board shall cause an annual audit to be made of the financial condition of the system and shall report the same to the Keyser City Council.

ARTICLE TWO - RATE INCREASES

In the event the existing rates established by this Article are not sufficient to meet the obligations of the Utility Board, the Utility Board shallprovide the City Council with a request for a rate increase. The request shall include a written report describing factors necessitating a rate increase and the impact on all classes of customers of the proposed increase. The rate increase shall be considered in accordance with the Code of the State o f West Virginia and Rules and Regulations of the West Virginia Public Service Commission.

ARTICLE THREE - COST OF SERVICE

The Utility Board is authorized to enter into agreements, subject to the approval of the West Virginia Public Service Commission, to provide services in which a rate is not established in this Article. This may include inter-governmental agreements, agreements with industrial users or emergency aid for other utilities, provided that all provisions of Bond Ordinances are adhered to and that provision of the services will not result in subsidv of the other party by the customers of the Utility Board or a reduction in the level of service provided to the customers of the Utility Board. The City shall by ordinance have power to establish, change and adjust rates and charges for the services rendered therein by the system against the owner of the premises served, in the manner herein before provided for establishing, changing and adjusting rates and charges for the service rendred in the City, and such rate sor charges shall be collectible as provided in articles FOUR AND FIVE.

ARTICLE FOUR - RULES AND REGULATIONS - WATER

Effective 45 days after passage by the City of Keyser:

| WATER USAGE (monthly) | RATE per 1,000 gallons or part thereof |
|---|---|
| 0 to 2,000 gallons per month | $3.72 |
| over 2,000 to 7,000 gallons per month | $3.55 |
| over 7,000 to 57,000 gallons per month | $3.48 |
| over 57,000 to 107,000 gallons per month | $3.35 |
| 107,000 gallons per month | $1.84 |

Effective upon substantial completion of system improvement as adopted by resolution by the City of Keyser:

| WATER USAGE (monthly) | RATE per 1,000 gallons or part thereof |
|---|---|
| 0 to 2,000 gallons per month | $5.30 |
| over 2,000 to 7,000 gallons per month | $5.06 |
| over 7,000 to 57,000 gallons per month | $4.96 |
| over 57,000 to 107,000 gallons per month | $4.78 |
| 107,000 gallons per month | $2.63 |

A. If for any reason there is no record of the amount of water supplied during any billing period then the charge shall be based upon the last available meter reading.

B. On premises having a private water supply and connected with the sanitary sewer system, there shall be installed a meter for measuring the amount of water supplied to the premises. The customer shall bear all cost relating to the installation, calibration and operation of the flow meter. Meter and installion shall be subject to to approval of the Supervisor for the Utility

A tap fee of Four Hundred Twenty-Five Dollars [illegible] for a 5/8"x3/4" or a 3/4" meter, and paid in advance, for the initial connection of each new customer location to the water system, which charge shall include the cost of the meter installation. For meters 1" and larger in size, the service connection fee shall be the actual cost of the installation, including meter.

K. AVAILABILITY OF SERVICE

Unmetered fire protection service, whether for yard hydrants, inside hydrants or sprinkler systems shall be available at the following rates:

RATE

The rate for an unmetered connection to be used solely for fire protection shall be $116.67 per month.

L. WORTHLESS CHECK FEE

A service charge, which shall be in addition to any and all other applicable fees and charges, of Fifteen ($15.00) Dollars shall be assessed and collected for all dishonored checks as permitted by West Virginia Code §61-3-39e . Said fee shall automatically increase to the maximum fee permissible under West Virginia Code §61-3-39e or any similar future conterpart thereof.

M. ADJUSTMENT OF BILLS

No allowance or adjustment of any water bill under this article shall be made for any leaks or any nature occurring on the user's side of the meter unless, in the discretion of the Supervisor for the Utility Board, an allowance or adjustment would prevent or rectify a gross inequity in charges to the customer.

N. LEAK ADJUSTMENT CLAUSE

The incremental cost of $0.40 per 1,000 gallons shall be used in the event of an allowed leak adjustment to any customer's bill.

O. SECURITY DEPOSIT

There will be a $100.00 deposit collected from each new customer to secure payment of bills for water, sewer, or water and sewer services. Deposits are refundable as provided under the Rules and Regulations of the Public Service Commission of West Virginia.

ARTICLE FIVE

RULES AND REGULATIONS - SEWER

A. Generally

1. Rules and Regulations for the government of Sewer Utilities, adopted by the Public Service Commission of West Virginia, and now in effect an all amendments thereto and modifications thereof hereafter made by said Commission which are not inconsistent with this ordinance (when this ordinance has priority) are hereby adopted.

2. In the event a building or premises discharging sewage, water or other liquid wastes into the municipal sanitary sewer system uses water supplied on other than a metered basis from the City of Keyser municipal water system or any other source of water supply, the owner or occupant shall be required to cause a water meter or other measuring devise to be installed but pending such installion the sewer service rates and charges to such building or premises shall be based upon an estimated quantity of water used based upon prior average usage.

3. In the event a lot, parcel of land, building or premises uses water in excess of 50,000 gallons per month and it can be shown to the satisfaction of the City Council that a substantial portion of the water as measured by the water meter does not and cannot enter the sewer facilities of the City, then the City may determine, in such manner as may be found practical, the amount of sewage entering the sewer system and the sewer service rate or charge shall be based thereon; or, the City may require or permit, at user's expense and fees, the installation of additional meters or measuring devises in such manner as to

ARTICLE SIX

BILS TO BE A LIEN UPON THE PREMISES SERVCED; REQUIRED DEPOSIT; MISCELLANEOUS PROVISIONS APPLICABLE TO BOTH WATER & SEWERAGE SYSTEMS

A. Rates and charges provided in this ordinance, if not paid when due, shall be a lien upon the premises serviced by the system to the fullest extent permitted by law. If such rates or charges are not paid within thirty (30) days, the amount thereof, together with all reasonable and customary legal fees, may be recovered by the Utility Board in a civil action in the name of the City of Keyser, and in connection with such action said lien may be forclosed against such lot, parcel of land or building, in accordance with the laws relating there, including, to the extent and where permissible by statute or law, landlord liability for tenant fees.

B. With each application for service for water and/or sewerage services,there shall be made to the Utility Board a deposit in the amount of One Hundred ($100) Dollars for water, sewage, or water and sewage services, as permitted under the Public Service Commission Rules and Regulations. Said deposit shall be returned to the customer, as required by said rules and regulations, with interest at a minimum rate as permitted under said rules and regulations and, in the event, there is no minimum rate, then at the rate of 2% per annum.

C. SERVICE TO TRAILER COURTS

House trailer courts shall be provided with a master meter. No bill shall be rendered for less than the minimum bill herein estblished for a five-eight by three-quarter (5/8 x 3/4) inch meter, multiplied by the number of units situated on the court site at the time the meter is read, the minimum bill for the size meter installed or the actual charge for water used, whichever is greater. House trailers (as used herein above) shall include both mobile and immobile units.

House trailers, either mobile or immobile, located on sites other than a park or court, shall be billed in the same manner as any other family or business unit.

Sewer bills shall be based upon the same minimums times the number of users or the actual water usage, whichever is greater.

ARTICLE SEVEN

SEVERABILITY CLAUSE

If any provision of this article is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

ARTICLE EIGHT

EFFECTIVE DATE

The provisions of this ordinance shall become effective forty-five (45) days from the date of adoption by the City of Keyser.

ARTICLE NINE

PENALTY FOR VIOLATION OF THE USE ORDINANCE

Whoever violates any provision of Article Four, Rules and Regulations - Water, and Article Five, Rule and Regulations - Sewer, for which no other penalty is provided shall be fined not less than $100.00 nor more than $1,000.00, or imprisoned for not more than thirty (30) days, or both fined and imprisoned.

**by Authority of the Mayor and City Council**
**Keith Hayward, Mayor**

WATER USAGE

| (monthly) | per 1,000 gallons or part thereof |
|---|---|
| 0 to 2,000 gallons per month | $5.30 |
| over 2,000 to 7,000 gallons per month | $5.06 |
| over 7,000 to 57,000 gallons per month | $4.96 |
| over 57,000 to 107,000 gallons per month | $4.78 |
| 107,000 gallons per month | $2.63 |

A. If for any reason there is no record of the amount of water supplied during any billing period then the charge shall be based upon the last available meter reading.

B. On premises having a private water supply and connected with the sanitary sewer system, there shall be installed a meter for measuring the amount of water supplied to the premises. The customer shall bear all cost relating to the installation, calibration and operation of the flow meter. Meter and installtion shall be subject to to approval of the Supervisor for the Utility Board.

C. The following schedule of rates and services shall be charged for use of the water supplies or waste treatment system for domestic water and sewage. Rates and charges shall be based upon the total flow of water from and/or wastewater discharged into the system.

D. AVAILABILITY OF SERVICE

Available for general domestic, commercial, industrial and resale service which applicable in entire territory served.

RATE

Effective 45 days from passage by the City of Keyser:

| | | |
|---|---|---|
| First | 2,000 gallons used per month $3.72 | per 1,000 gallons |
| Next | 5,000 gallons used per month $3.55 | per 1,000 gallons |
| Next | 50,000 gallons used per month $3.48 | per 1,000 gallons |
| Next | 50,000 gallons used per month $3.35 | per 1,000 gallons |
| All Over | 107,000 gallons used per month $1.84 | per 1,000 gallons |

Effective upon substantial completion of system improvements as adopted by resolution by the City of Keyser:

| | | |
|---|---|---|
| First | 2,000 gallons used per month $5.30 | per 1,000 gallons |
| Next | 5,000 gallons used per month $5.06 | per 1,000 gallons |
| Next | 50,000 gallons used per month $4.96 | per 1,000 gallons |
| Next | 50,000 gallons used per month $4.78 | per 1,000 gallons |
| All Over | 107,000 gallons used per month $2.63 | per 1,000 gallons |

E. RESALE RATE

The water rate charge to all resale customers including, but not limited to, New Creek Water Association, Inc., The Town of McCoole, or County of Allegany, State of Maryland, or any subsidiary thereof, or any other public or private entity or person who acquires water for the primary purpose of resale through lines and system owned by them shall be:

Effective 45 days from passage by the City of Keyser

$1.965 per 1,000 gallons used per month.

Effective upon substantial completion of system improvements as adopted by resolution by the City of Keyser:

$2.125 per 1,000 gallons used per month.

liquid wastes into the municipal sanitary sewer system

on other than a metered basis from the City of Keyser municipal water system or any other source of water supply, the owner or occupant shall be required to cause a water meter or other measuring devise to be installed but pending such installion the sewer service rates and charges to such building or premises shall be based upon an estimated quantity of water used based upon prior average usage.

3. In the event a lot, parcel of land, building or premises uses water in excess of 50,000 gallons per month and it can be shown to the satisfaction of the City Council that a substantial portion of the water as measured by the water meter does not and cannot enter the sewer facilities of the City, then the City may determine, in such manner as may be found practical, the amount of sewage entering the sewer system and the sewer service rate or charge shall be based thereon; or, the City may require or permit, at user's expense and fees, the installation of addition meters or measuring devises in such manner as to determine the quantity of sewage actually entering the sewer facilities, in which case the sewer service rate or charge shall be based thereon.

B. AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial sanitary sewer service.

1. RATE

Effective 45 days from passage by the City of Keyser

a. A customer service charge of $1.44 per month shall be made to each customer connected to the system ("service charge".)

b. In addition to the service charge, commodity charges shall be based on the following usages of water:

| | | |
|---|---|---|
| First | 500,000 gallons used per month $2.97 per 1,000 gallons | |
| All over | 500,000 gallons used per month $2.37 per 1,000 gallons | |

Effective upon substantial completion of System Improvements as adopted by resolution by the City of Keyser:

a. A customer service charge of $1.44 per month shall be made to each customer connected to the system ("service charge").

b. In addition to the service charge, commodity charges shall be based on the following uses of water:

| | | |
|---|---|---|
| First | 500,000 gallons used per month $4.17 per 1,000 gallons | |
| All over | 500,000 gallons used per month $3.33 per 1,000 gallons | |

2. MINIMUM CHARGE

No bill will be rendered for less than $1.44 per month.

3. RESALE RATES (Including but not limited to, New Creek Public Service District)

Effective 45 days from passage by City of Keyser:

$2.01 based on metered water usage per 1,000 gallons used per month

$1.86 based on meter flows of sewage per 1,000 gallons used per month

Effective upon substantial completion of system improvements as adopted by resolution by the City of Keyser:

$2.75 based on metered water usage per 1,000 gallons used per month.

$2.53 based on meter flows of sewage per 1,000 gallons used per month.

The provisions of

from the date of adoption by the City of Keyser.

ARTICLE NINE

PENALTY FOR VIOLATION OF THE USE ORDINANCE

Whoever violates any provision of Article Four, Rules and Regulations - Water, and Article Five, Rule and Regulations - Sewer, for which no other penalty is provided shall be fined not less than $100.00 nor more than $1,000.00, or imprisoned for not more than thirty (30) days, or both fined and imprisoned.

**by Authority of the Mayor and City Council**
**Keith Hayward, Mayor**


Classifieds Get Great Results, Call 788-3333 to place yours today!

Affordable Home Care by
G&B Construction
788-1722/812-7568

CALL PAT ROGERS, GRI

Century 21
788-5925/788-3865

(641) DUPLEX w/outbldg. a quiet neighborhood. 3 BRs each side. Great chance for handyman to generate rental income. Sold as-is. $25,000

## 5 Miscellaneous


MINERAL MIX 2:1
Ideal Supplement for Deer
at 1/2 the cost of Deer Mineral
Burgess Farm Service

MAYTAG
Burgess Farm Service
FULL SERVICE DEALER

FULLY ERECTED ON YOUR SITE
Garages, Storage Buildings
Horse Arenas
Commercial Structures
In Many Sizes, Large or Small
We Build Them All
Musser & Associates, Inc.
T/A Fetterville Sales
John M. Esh
304-538-2488
Lic#WV020737

Jenkins
CHRYSLER KEYSER
CHRYSLER-PLYMOUTH-DODGE-JEEP-EAGLE
Rt. 220 S., Keyser, WV
304-788-6301•1-301-786-4466

I, as an officer of the News-Tribune, a daily newspaper published at Keyser, Mineral County, West Virginia, hereby certify that the Public Notice of Change in Rates by in the case of City of Keyser Water/ Sewer Operations

vs.

a copy whereof is hereto annexed has been published for 2 consecutive weeks in said NEWS-TRIBUNE, the first publication being on the 25th day of, Sept. 19 97.

Given under my hand at Keyser this 2nd day of Oct., 19 97.

Publisher

Publisher's Fee
$ 150.50

RECEIVED
97 OCT 20 AM 9: 23
PUBLIC SERVICE COMMISSION
SECRETARY'S OFFICE

increased rates, tolls and charges for furnishing Water and Sewer service to approximately 2,650 water and sewer customers in the surrounding areas of Keyser in the Counties of Mineral County, West Virginia and Allegany County, Maryland.

**WATER OPERATIONS INCREASE EFFECTIVE 45 DAYS FROM APPROVAL OF ORDINANCE**

The proposed increased rates and charges will become effective October 27, 1997 unless otherwise ordered by the Public Service Commission and will produce approximately $166,500 annually in additional revenue, an increase of twenty-seven (27) percent. The average monthly bill for the various classes of customers will be changed as follows:

| | ($) INCREASE | INCREASE (%) |
|---|---|---|
| Residential | $2.72 | 29% |
| Commercial | $10.13 | 29% |
| Industrial | $11.92 | 29% |
| Resale | $1,996.50 | 21% |

**WATER INCREASE EFFECTIVE UPON SUBSTANTIAL COMPLETION OF SYSTEM IMPROVEMENTS**

The proposed increased rates and charges will become effective October 27, 1997 unless otherwise ordered by the Public Service Commission and will produce approximately $280,500 annually in additional revenue, an increase of thirty -six (36) percent. The average monthly bill for the various classes of customers will be changed as follows:

| | ($) INCREASE | INCREASE (%) |
|---|---|---|
| Residential | $5.12 | 42% |
| Commercial | $19.16 | 42% |
| Industrial | $22.52 | 42% |
| Resale | $930.00 | 8% |

**SEWER OPERATIONS INCREASE EFFECTIVE 45 DAYS FROM APPROVAL OF ORDINANCE**

The proposed increased rates and charges will become effective October 27, 1997 unless otherwise ordered by the Public Service Commission and will produce approximately $139,000 annually in additional revenue, an increase of twenty-seven (27) percent. The average monthly bill for the various classes of customers will be changed as follows:

| | ($) INCREASE | INCREASE (%) |
|---|---|---|
| Residential | $1.48 | 15% |
| Commercial | $9.38 | 22% |
| Industrial | $12.95 | 28% |
| Resale | $2,687.50 | 89% |

**SEWER INCREASE EFFECTIVE UPON SUBSTANTIAL COMPLETION OF SYSTEM IMPROVEMENTS**

The proposed increased rates and charges will become effective October 27, 1997 unless otherwise ordered by the Public Service Commission and will produce approximately $234,500 annually in additional revenue, an increase of thirty-six (36) percent. The average monthly bill for the various classes of customers will be changed as follows:

| | ($) INCREASE | INCREASE (%) |
|---|---|---|
| Residential | $3.96 | 35% |
| Commercial | $21.22 | 40% |
| Industrial | $32.09 | 40% |
| Resale | $2,085.50 | 37% |

The increases shown are based on averages of all water and sewer customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges are only a propsoal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing. The Commission shall review and approve or modify the increased rates only upon the filing of a petition within thirty (30) days of the adoption of the ordinance changing said rates or charges, by:

1. Any customer aggrieved by the changed rates or charges who present to the Commision a petition signed by not less than twenty -five (25) percent of the customers served by such municipality operated public utility; or

2. Any customer who is served by a municipally operated public utility and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a petition alleging discrimination between customers within and without the municipal boundaries. Said petition shall be accompanied by evidence of discrimination; or

3. Any customer or group of customers who are affected by said change in rates who reside within the municipal boundaries and who present a petition to the Commission alleging discrimination between said customer or group of customers and other customers of the municipal utility. Said petition shall be accompanied by evidence of discrimination.

All petitions should be addressed to the Executive Secretary, Public Service Commission of West Virginia, 201 Brooks Street, P.O. Box 812, Charleston, West Virginia 25323.

A complete copy of the proposed rates, as well as a representative of the City to provide any information requested concerning it, is available to all customers, prospective customers or their agents at the following office of the City of Keyser:

City of Keyser
111 North Davis Street
Keyser, West Virginia

A copy of the proposed rates is available for public inspection at the office of the Secretary of the Public Service Commission at 201 Brooks Street, P.O. Box 812, West Virginia.

**Penny Sanders**
**City Administrator**

9: 25
10: 2

RECEIVED
97 OCT 20 AM 9: 23
W. V. PUBLIC SERVICE COMMISSION
SECRETARY'S OFFICE

August 13, 1998

Mayor Keith R. Hayward brought the council meeting to order at 6:30 P.M. Councilman Donald P. Heare opened the meeting with a reading.

Present: Mayor Keith R. Hayward, Councilman Donald P. Heare, Councilwoman Sally Burnside, Councilman Marques Rice, Administrator Penny Sanders, Floyd Conrad, News Reporter Liz Seavers, Don Kesner, Dave Vanscoy, Bill Friend, Mary and Jim Shannon, Mariel Sears, Gerald Ickes, Joe Burrell, John Hardy, Sonny Gank, Dave Mallone, Matt Sisk, Billy Price and Kevin Brocket.

Councilman Heare made a motion to accept the minutes of July 23, 1998, and accept them as presented, seconded by Councilwoman Burnside. Motion carried unanimously.

CITIZEN'S REQUESTS/COMPLAINTS

Dave Mallone's Fort Ashby Boy Scout Troop 69, appeared to sit in on a council meeting. Troop members Matt Sisk, Bill Price, and Kevin Brocket were earning the other half of a communication merit badge. In order to receive the merit badge they had to attend a public meeting. Mr. Mallone thanked Mayor and Council for letting them attend the meeting.

Floyd Conrad appeared before Mayor and Council to discuss junked and abandoned vehicles. He said it has stopped. Mayor Hayward said it hasn't stopped. Councilman Rice said there has been two cars moved from the West End since July 3rd. Mayor Hayward said they are working on some others.

Gerald Ickes appeared before Mayor and Council to discuss where the water and sewer projects stand. Engineer Vanscoy reported that there were three contracts awarded for the water project. Contract I was for line replacement. It was awarded to Walter Yoder. Contract II involved the North End, Main Street and some side streets, West End, Armstrong Street, Jackson Street, Virginia Street, Fort Ave. The second contract was for rehab work at the Water Treatment Plant including the intake structure and the weir. Carl Belt was the low bidder on that contract. The low bid for the tank painting for the Industrial Park tank was Corrosion Control. That contract has not been awarded yet. Some minor adjustments need to be made in the financing. We have to receive Parity approval from Farmers Home Administration. The Bond Ordinance tonight is the start of borrowing the money. There is a lot of paper work involved. Once all the paper work is finished, the City will borrow the money and

close on the loan and at that time the City will award the contracts. Engineer Vanscoy said as far as the sewer project, all the plans and specifications have been submitted to Charleston. He reported that they Attorney Barr is waiting for the accountant to submit the new Rule 42.

CITY ADMINISTRATOR'S REPORT

Administrator Sanders reported that the City has finally had its three year audit. It covered July 1, 1994 through June 30, 1997. The only thing that we were cited for was for having insufficient rates for our water system and sewer system. Administrator Sanders reported that it is available for review at the City Office.

Administrator Sanders presented a Press Release that was faxed to her by Jay Rogers, flood recovery coordinator with Regions 6, 8, 9 Planning and Development Council. The Press Release stated that the Region 8 Planning and Development Council has just been notified by the WV Office of Emergency Services that the City of Keyser is eligible for additional funding under the FEMA Hazard Mitigation Grant Program, commonly known as the "Buyout Program". This program assists communities in acquiring, relocating, and elevating flood-prone structures. A meeting will be held Monday, August 17th at 6:00 P.M. at the Keyser City Hall to discuss the application process. Any individual owning property within the Keyser City limits that is subject to flooding is encouraged to attend. This meeting is for new applicants to the program. Administrator Sanders said this is for people that have not already signed up. Administrator Sanders reported that the first group for the Buyout Program is still in the hands of the Environmental Section.

Administrator Sanders reported that at the last Utility Board Meeting they recommended that the Sewer Project Administration be given to Region 8. Administrator Sanders read a letter from Ken Dyche, Region 8 Planning and Development Council. It stated that Region 8 understands that the City of Keyser is interested in obtaining administrative services for its sewer improvement project. The Region 8 Planning and Development Council would like to provide the needed services. The Council feels that it could play an important role in the timely and effective implementation of the sewer project. An administrative memorandum of understanding was attached.

MEMORANDUM OF UNDERSTANDING
BETWEEN
CITY OF KEYSER
AND THE
REGION 8
PLANNING AND DEVELOPMENT COUNCIL

This agreement, made this the 1st day of September, 1998, by and between the Region 8 Planning and Development Council, hereinafter referred to as "Council" and the City of Keyser, hereinafter referred to as "City".

WHEREAS: The Council is a Regional Planning and Development Council formed under the West Virginia State Code and empowered to provide technical assistance to local governments; and

WHEREAS: The City is implementing a sewer improvement project; and

WHEREAS: The City is a member local government requiring assistance with administering the improvement project.

THEREFORE BE IT RESOLVED that the Council and City agree as follows:

1. The Council agrees to perform the following services in a professional manner:

   a. Assist in executing the DEP funding agreement,

   b. Establish and maintain program and project files,

   c. Assist in the removal of loan conditions,

   d. Prepare for adoption programmatic requirements including:

      Affirmative Action Plan for Disadvantage Business Enterprises

      Code of Conduct

      Procurement Standards

      and aid the City in complying with these programmatic requirements,

   e. Assist in establishing a financial management system, including establishment of bookkeeping procedures,

   f. Prepare program reports, including the final progress report, and assist the City in responding to all correspondence from DEP,

   g. Assist with the preparation of bid/contract documents,

h. Review bid/contract documents for completeness,

i. Assure compliance with program requirements during bidding and contract award,

j. Monitor contractor compliance with bid, contract, and programmatic requirements, including compliance with disadvantaged enterprise utilization goals,

k. Monitor contractor activities and review payroll records to assure compliance with federal and state labor requirements.

l. Aid with property acquisition, if needed,

m. If requested, assist in seeking funds from other federal/state sources,

n. Undertake other project related tasks as may be requested by the City.

2. To accomplish "a" through "n" above, the Council agrees:

a. To assign an individual on the Council's staff as project manager for the purpose of administering the City's sewer project.

b. To provide additional staff, if necessary, to assure the timely implementation of the project.

c. To provide supervision necessary for the competent and timely administration of the City's project.

d. To provide clerical and other office support for the administration of the project.

3. The City agrees to reimburse the Council for the above services on an hourly basis for staff salaries, fringe benefits, and administration/office expense. In no instance will the hourly charge to the City be greater than the actual cost experienced by the Council. Travel shall be reimbursed at the State's prevailing rate.

4. The Council will maintain time and attendance records for all project personnel. These time

sheets will be the basis for determining reimbursement to the Council, and they will be provided to the City as requested.

5. The maximum reimbursement to the Council for the provision of services under this agreement is $50,000.

6. The Council agrees to commence administration of the City's sewer project effective September 1, 1990. This agreement will remain in effect until the project is complete.

7. Invoice for cost incurred may not be submitted or more than a monthly basis. Providing funds are available, the City will make prompt payment.

8. Both the Council and City agree that this memorandum may be terminated by either party upon sixty (60) days written notice. Should the Council terminate this agreement it shall assist the City in obtaining qualified project management.

9. These provisions shall be fully and effectively enforced, and failure to comply therewith shall be regarded as material breach of this agreement.

SIGNATURE IN WITNESS THEREOF, the Council and the City has entered into this agreement as of the date first written above.

ATTEST: CITY OF KEYSER:

Mayor

ATTEST: REGION 9 PLANNING AND DEVELOPMENT COUNCIL:

Executive Director

Councilman Hears made a motion to accept the Memorandum of Understanding between City of Keyser and the Region 9 Planning and Development Council, seconded by Councilman Rice. Motion carried unanimously.

Administrator Sanders reported that on the Water Project they are still working on the Parity Consent Application with the Rural Development, originally Farmers Home Administration. There are a few more documents that are needed and we will provide them tomorrow.

Administrator Sanders thanked the Mayor and Council for allowing her to attend the West Virginia Municipal League Conference. It was a very informative conference.

Administrator Sanders asked permission from Mayor and Council to attend the Public Service Commission Meeting in addition to Ridgeley and Carpendale, Tuesday, August 18th, in Beckley. It is in reference to Municipal Utility Training Seminar. Councilman Hearn made a motion to allow Administrator Sanders to attend the Public Service Commission Meeting, seconded by Councilwoman Burnside. Motion carried unanimously.

Administrator Sanders presented a letter from Mary Shannon regarding her sewer line that was hooked up to 55 Clary Street that was torn down. She requested that the City cut the sewer line off at her property. Administrator Sanders passed the letter to the Sewer Commissioner to see if the work could be done.

CHIEF OF POLICE REPORT

Chief Ellifritz reported that as of July 24, 1998 Patrolman Glen Shumaker resigned. Chief Ellifritz asked permission to hire a replacement. He said the Civil Service list is still in effect and there are two candidates eligible. Chief Ellifritz asked for permission to hire Michael Lott as the new Police Officer. Councilman Hearn made a motion to hire Michael Lott as the new Police Officer, seconded by Councilwoman Burnside. Motion carried unanimously.

Chief Ellifritz reported that the problem vehicle on S. Main Street has been towed.

Chief Ellifritz reported that he has had a problems with a local bar called the Sports Pub. It is a recurring problem. Since May 13, 1998, there have been 24 complaints directly related to this bar. Out of those 24 complaints, 14 occurred after 2:00 A.M., 5 occurred before 12:00 midnight, and 5 occurred between 12:00 midnight and 2:00 A.M. Fifteen of the twenty four complaints involved fights inside or outside the bar, three complaints involved theft, one involved a weapon where a guy shot himself in the foot, five involve either suspicious persons or checking persons near the bar. Chief Ellifritz reported that they have gotten nowhere with this bar. He asked the Mayor and Council to review the City Ordinance on Public Nuisance with Attorney Barr and to check about suspending the City License. Councilwoman Burnside said we need to do something about it. Joe Burrell, owner of the Sports Pub, reported that we had talked with an attorney on this issue. He said that most of his problems occur with people that has been barred from the

Sports Pub. He reported that his bar now closes at 2:00 A.M. Mr. Burrell said he hoped that we can settle this situation and he would like some cooperation with the Police Department. Chief Ellifritz reported that the Sports Pub is the only bar that they have problems with. He reported that the Police Department can't afford to have a cruiser at the bar all the time. Chief Ellifritz reported that the main problem is after 2:00 A.M. Mayor Hayward said as the Mayor and Chief Executive Officer of the City, I am suppose to see that the laws and ordinances of the City are enforced and the peace and good order of the City are preserved. Mayor Hayward presented Mr. Burrell with a copy of the Codified Ordinance of Keyser on Public Nuisance. Mayor Hayward read Section 9-1-6 Complaints; notice of hearing before council and Section 9-1-7 Hearing before council; disposition of complaint. Mayor Hayward said the best thing to do would be to schedule a hearing with the City Attorney. Chief Ellifritz said he would like to say that the Sport Pub is enforcing the age requirement of alcoholic beverages. He also reported that they do clean up the glass from the parking lots. Councilman Heare said he thought the proper action would be to have a hearing with both attorneys so both sides could be heard. Councilwoman Burnside asked why Mr. Burrell why couldn't he close earlier like the other establishments. Mr. Burrell said that is when he makes all of his money. Mayor Hayward instructed Administrator Sanders to set up a meeting with Attorney Barr to get this matter resolved.

FINANCE COMMISSIONER'S REPORT

Councilman Heare reported that as of August 13, 1998 the General Fund had a balance of $46,588.48, Street Excess Levy $260,072.20, Fire Protection $89,638.91, Fire Protection Insured $14,616.00, Recreation $3,867.97, Water Fund $73,998.16, Sewer Fund $87,266.62, and City of Keyser Laboratory $13,015.74.

WATER COMMISSIONER'S REPORT

Councilman Rice reported that the City crew is trying to find a source of sewage input into the stream. He reported that we are trying to get it corrected.

Councilman Rice asked about dead water meters. He said a person asked a lady at the city office if the Water Commissioner knew that there were dead water meters that they were getting charged for. The lady at the City Office replied he has never asked. Councilman Rice asked if we have dead meters in town and asked if the City was getting cheated by the estimation or is the customer getting cheated by the estimation. Water/Street Supervisor Gank said when the new water meters are installed there will be other meters that we can replace the dead ones with. He stated that the City

didn't have the funds at one time to order meters. Administrator Sanders reported that the city is losing money on the water. There is 42% unaccounted for water.

Councilman Rice reported that we are still pursuing the sewage line break that was in the Industrial Park.

Councilman Rice reported that Dam Site 14 is being cleaned by Virgil Moore and two of the work release workers.

STREET COMMISSIONER'S REPORT

Councilwoman Burnside reported that the city crews have been mowing various sections of town and Dam Site 14.

Councilwoman Burnside reported that the manhole on North Main Street was lowered. Six tons of blacktop was used.

Councilwoman Burnside reported that the Street Sweeper is still making its normal runs. The city crews hand swept the corners on Main Street where the sweeper can not get.

Councilwoman Burnside reported that the wild flowers that were planted on Water Street are starting to grow.

Councilwoman Burnside said the street signs have been received. She reported that they would like to check into some special signs that could be placed around the hospital.

Councilwoman Burnside said that Cindy Pyles was questioning the oil spill on Main Street. Councilwoman Burnside said they have checked with the past and present Street Supervisor and the City hasn't found anything that will remove the oil.

Councilwoman Burnside said she would like to thank the council for the trip to the Municipal League Conference. The classes were very informative and we learned a lot.

BUILDING INSPECTOR REPORT

Mayor Hayward reported that some of the homes where letters were sent are being taken care of. Mayor Hayward reported that he will be calling a Special Meeting with the Building Safety Commission about a Building Inspector.

URBAN RENEWAL AUTHORITY REPORT

Councilwoman Burnside reported that there was a meeting held July 27th. She reported that they all were in agreement to complete the City Hall Renovations. There are a few things to do. The next focus will be on the Police Station. Councilwoman Burnside reported that we do have the money to proceed with the plans.

RECREATION BOARD UPDATE

Mayor Hayward reported that he has talked to a business in town and they have agreed to help build swing sets. The Recreation Board will have to purchase the pipe.

UNFINISHED BUSINESS

Billy Price on behalf of Troop 69 thanked the Mayor and Council for letting them take part in the meeting. He said they learned a lot.

Councilman Rice thanked the Mayor and Council for allowing him to attend the Municipal League Conference. He said it benefited him greatly.

Councilman Hearn reported on the New Creek Wall. He said it should be done by the first of the year. Bill Friend said they are still checking on prices for engineers.

Councilman Rice commended the Police Department for disbanding the crowd around RG's and the church. He said it was appreciated very much.

NEW BUSINESS

ORDINANCE NO. 249

Administrator Sanders read by title only ORDINANCE NO. 249 ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS, AND IMPROVEMENTS TO THE WATERWORKS SYSTEM OF THE CITY OF KEYSER AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF AND THE REFINANCING AND THE REFUNDING OF PRIOR BONDS OF THE CITY OF KEYSER THROUGH THE ISSUANCE BY THE CITY OF KEYSER OF NOT MORE THAN FOUR MILLION DOLLARS ($4,000,000.00) AND AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 1998; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDERS OF SUCH WATER REVENUE BONDS, SERIES 1998; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE OF SUCH WATER REVENUE BONDS, SERIES 1998 TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; AND ADOPTING OTHER PROVISIONS RELATING THERETO. BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF KEYSER as the first reading. The second reading will be August 27, 1998.

ORDINANCE NO. 250

Administrator Sanders read in its entirety ORDINANCE NO. 250 AN ORDINANCE FOR THE LEASE WITH OPTION TO PURCHASE A "HUSTLER MOWER" AS ESSENTIAL USE EQUIPMENT PURSUANT TO SECTION 265(b)(3) OF THE INTERNAL REVENUE CODE OF 1986 AS A QUALIFIED TAX EXEMPT OBLIGATION AND TO ENTER INTO FINANCING OBLIGATIONS AND LEASE/PURCHASE AGREEMENTS AS MORE

PARTICULARLY SET FORTH IN THE DOCUMENTS ATTACHED HERETO AND MADE A PART HEREOF AND TO EARMARK AND BUDGET FOR THE PAYMENT OF SAID PURCHASE OVER SUCH PERIOD OF TIME AND IN SUCH MANNER AS IS REQUIRED BY LAW. Councilman Heare made a motion to accept the first reading of Ordinance No. 250, seconded by Councilwoman Burnside. Motion carried unanimously.

Mayor Hayward said for the Appointments and Committees for FY 1998-1999 there is a correction. The Chamber of Commerce is suppose to appoint a business person to the Civil Service Commission. The name needs to be changed from Fred Downey to Clifton E. Brooks, Jr. with a one year appointment. Councilman Heare made a motion to change the name from Fred Downey to Clifton E. Brooks, Jr., seconded by Councilwoman Burnside. Motion carried unanimously.

Councilman Heare reported that Region 8 was requesting if the there were any new projects that the City may have or may want to undertake.

NEXT COUNCIL MEETING

Mayor Hayward announced that the next council meeting will be August 27, 1998 at 6:30 P.M. There will be a Special Meeting on August 19, 1998 for the Pool Committee at 12 Noon. Administrator Sanders announced that there will a meeting August 17, 1998 at 6:00 P.M. at the City Hall on the FEMA "Buyout Program". Councilwoman Burnside made a motion to adjourn the council meeting to go into Executive Session, seconded by Councilman Heare. Motion carried unanimously.

EXECUTIVE SESSION

Personnel matters were discussed. No action was taken.

KEITH R. HAYWARD, MAYOR

PENNY SANDERS, CITY ADMINISTRATOR

August 27, 1998

Mayor Keith R. Hayward brought the meeting to order at 6:30 P.M. Councilman Donald P. Hsare opened the meeting with a reading.

Present: Mayor Keith R. Hayward, Councilman Donald P. Hsare, Councilwoman Sally Burnside, Councilman Marquee Rice, Administrator Penny Sanders, Engineer Dave Vanscoy, News Reporter Liz Beavers, Don Kesner, Mary and Jim Shannon, Chief Kipp Ellifritz, Gerald Ickes, Water/Street Supervisor Sonny Gank, Fred Hamilton, Joe Burrell, and John Hardy.

Councilman Hsare made a motion to accept the minutes of August 13, 1998 and accept them as presented, seconded by Councilwoman Burnside. Motion carried unanimously.

CITIZEN'S REQUEST/COMPLAINTS

There were no request/complaints.

CITY ADMINISTRATOR'S REPORT

Administrator Sanders reported on the complaint of the Keyser Sports Pub. A follow up was made with Attorney Barr. Administrator Sanders presented a NOTICE OF HEARING AND ORDER TO SHOW CAUSE that was executed on August 27, 1998 to Keyser Sports Pub. There will be a hearing on September 17, 1998, at 9:00 A.M.

Administrator Sanders reported that Attorney Barr has submitted a motion for modification of certificate of convenience and necessity to construct water system improvement, at Keyser, West Virginia in the County of Mineral, entered March 13, 1998, Final April 2, 1998. This was submitted to the Public Service Commission in Charleston.

Administrator Sanders reported that Dale Lipscomb from Rural Development was in the office today. We went over the application for parity consent. There are a few more things that he needs before it can be released.

Administrator Sanders reported that we are still working on junked and abandoned vehicles. Lt. Roy issued three notices yesterday.

Administrator Sanders reported that Glen Cassady, IPR Contractor for CSX Railroad contracted her today. They will be sending someone in to finish what they didn't do.

Administrator Sanders reported that on Wednesday, September 2nd, is our Sewer Progress and Utility Board

Meeting at 5:00 P.M. Don Starcher from Potomac State College will be at that meeting. We will also try to have Bill Timmermeyer from the Department of Natural Resources at that meeting. Mr. Starcher will go over their proposal for improvements at the Potomac State College Farm.

CHIEF OF POLICE'S REPORT

Chief Ellifritz reported that he had spoken to Joe Burrell from the Keyser Sports Pub. He is drafting a proposal to submit to the City Council in reference to the operation of his business to help comply so he can keep his license. Chief Ellifritz said it has been a quiet two weeks since he has been closing at 2:00 A.M. Hopefully, that problem will be resolved.

Chief Ellifritz reported that there has been 75 vehicles affected by the Junked and Abandoned Vehicle Ordinance. Seventy-one of those vehicles have been either moved or licensed. Four of them are on the list to be moved sometime within the next thirty days. Chief Ellifritz reported there will be more notifications forthcoming. We have to work this at a steady pace because it does consume some time getting the notices served. Also, we have to take into consideration that the tow company has limited space and can only handle a certain number of vehicles. Chief Ellifritz said if we can accomplish two or three vehicles every two or three weeks we are gaining on the problem.

Chief Ellifritz reported that the majority of the properties where letters were sent in reference to trash, high grass, weeds or brush have shown improvement. Some have not and they will be addressed shortly. Chief Ellifritz reported that the problem on Newton Street has been cleaned.

Chief Ellifritz reported that the new police officer, Michael Lott, was hired and began to work on August 26, 1998. We will be getting him the application to get into the Police Academy so we can get him certified.

Mayor Hayward thanked Chief Ellifritz and the Police Officers for their help with the cleanup in town.

FINANCE COMMISSIONER'S REPORT

Councilman Wears reported that as of August 27, 1998 the General Fund had a balance of $20,104.17, Off Street Parking $871.54, Street Excess Levy $251,573.59, Recreation $4,966.53, Fire Protection $89,462.09, Fire Protection Insured $14,516.00, Water Fund $52,499.43, Sewer Fund $24,354.95, City of Keyser Laboratory $18,593.23, and City of Keyser Building Commission $37,564.03.

STREET COMMISSIONER'S REPORT

Councilwoman Burnside reported that the City Crews and the Work Release workers have been cleaning brush and mowing even at the dam sites.

Councilwoman Burnside reported that the storm drains on Church and School Street have been cleaned out. We are using the street sweeper to clean some of these drains.

Councilwoman Burnside reported that the painting of the parking spaces has been started and is coming right along.

Councilwoman Burnside reported that they have been repairing and patching pot holes all over the city in the past two weeks. There has been 22 to 23 tons of hot mix used. The new roller really does a great job.

Councilwoman Burnside reported that the new stop signs and the handicap sign at the hospital have been placed.

WATER COMMISSIONER'S REPORT

Councilman Rice reported that the City is still trying to find where sewage is going into the stream. He said that L&M Plumbing was in and pulled a couple of commodes where they thought the problem may be. Water/Street Supervisor Bank reported that Fran's Place and Charles Smith's Office lines are running into the old storm sewer. We know where the lines are, we have to get them out of there.

Councilman Rice reported that 28 dead meters have been replaced. The main water meter that feeds New Creek Water Association was replaced.

Councilman Rice reported that he is still trying to contact CSX on the sewage problem that was in the Industrial Park.

Councilman Rice reported that with the Water Project upcoming the Department of Highways is starting a new plan where they are allowing engineers/contractors to inspect their own work. He said he is not in favor of that. He would like to see an inspector on any work that is done. Councilman Rice said he received a call from Charleston today stating the price it would cost the City to have a state inspector on the job. This would only cover when we cross state right-of-ways. He said this is something the State is trying. There are about three other places within the state where the Department of Highway is experimenting on. They assured me that they would not allow this unless they thought that the engineer/contractors were well qualified. Councilman Rice said in that respect he would like to make a motion that on our entire Water Project that we contract a private or independent inspector to oversee our project along

with Mr. Vansiny and his inspectors. Councilman Heare asked if it was for the whole system. Councilman Rice said that is what I would like to see. Councilman Rice said as far as the state goes, they are happy that they don't have to have one of their own man there. Councilman Rice said he thought if the City had an independent inspector, he could take care of the state and the entire water project as an independent inspector. Councilman Rice said the Department of Highways from Charleston said if the City didn't agree with their decision, we could write to them and they will make sure that there is a state inspector there. Councilman Rice said his feelings are at the price that the City is paying for the Water Project (2.3 million), he would like to see it done correctly. He said having an independent inspector there would increase our chances of having the work done on time. Mayor Hayward said we have a motion to hire an independent inspector for the water project, do I have a second. Councilwoman Burnside seconded the motion. Mayor Hayward opened this up for discussion. Councilman Heare said that he thought this needs to be looked into a little more thoroughly. Councilman Heare said this is the first that he heard of hiring an independent inspector. You are basically talking about retaining inspectors to inspect the job that the City is spending their money for. This is a certified contractor that we have engaged and you want to have sometody inspect his work when the state is not requiring it. The state is seeing this as a pilot project. You have to look at the amount of extra funds you are going to have to have to hire this inspector whoever it may be. Who would you hire and how would you seek out an independent inspector to inspect. Councilman Heare said he thought it was an overlap of a situation that I assumed was already in control. Councilman Heare said he didn't know what kind of money Councilman Rice was talking about. He said he didn't know the process that you would have to go through doing this. Councilman Heare said he thought it was ill advised to come onto the spot right now with a proposal like this. Have you done any background search. That is the part that I have a problem with. Councilman Heare stated that we have hired a contractor and it has been approved. The funds have been set in place for all of this. I have a problem with hiring an independent inspector to inspect what we are paying these people to do. Councilman Heare asked if he could tell him where the funds are to come from and how we can generate these funds to do this. Councilman Heare said this is what he would like to know right now. I can't proceed any further with this until I know more about the financial structure. Councilman Rice said the reason he brought it up now was because the project is about to get underway. He said he was speaking for the residents of Kayser who would be benefiting from the water project. I would like to assure that every step is going to be done 100% to our satisfaction and the citizens satisfaction. Councilman Heare said he agreed 100% with Councilman Rice. Councilman Heare said if that had not

been the case, he would never have voted for the project to be extended this far with the engineer and the contractors that we have contracted to do this job. I think we all want this job to be done right. Councilman Heare said he had a problem with hiring somebody else. Does that make the job right? Who do we hire? What about the additional funds needed. This is also going to come to the citizens to pay these additional funds that we are talking about. We have no idea how much we are talking about. We all want to see the job done and done correctly. I agree there with you 100%, but having made a selection of the engineering firms to do this job, I feel they are competent in doing their job. Mayor Hayward asked if the engineering firms have their inspectors. Councilman Heare said certainly. All of this money that we are borrowing is all in the process that there is inspectors and inspections that are being done constantly. You saw in the Airport when work was being done up there. Mr. Ickes asked who was going to supply the inspectors, Vandoy Engineer. Councilman Heare said yes. Mr. Ickes said we haven't always had 100% work. For example, on Cornell Street where they put in a new line. It is marked that there are ground leaks. We do need to make sure it's right. Councilwoman Burnside said that there has been a lot of mistakes in the past and this would assure everyone if you had a independent inspector rather than one that was affiliated with the engineering firm that is doing the project. I think that would be the fair thing to do. She said it may cost a little money. Councilman Heare said after each phase of this work is all done these reports go into the Public Service Commission, they go into all these people that's financing this and they are studied and each process has to be taken and done before another progresses. As it has been done in the past, I don't feel it is right to judge someone now for what somebody did 20 or 30 years ago. That's not fair. Administrator Sanders asked Councilman Rice about the inspector that he was speaking of . . . is this going to change our Rule 42 or our bond ordinance. If so, we would need to get a hold of John Blair, CPA, to make changes in the Rule 42. Councilman Rice said truthfully, money wise he could not give an answer. Inspectors go from $10.00 an hour to $15.00 an hour. He said he had no idea on a price. Councilman Rice said he did not know a set dollar amount. Administrator Sanders said we will need to know for our bond ordinance. She asked Councilman Rice if that was something he could get so they could contact John Blair to see if they need to recalculate the Rule 42 again. Councilman Rice said I can try. Councilman Heare said we need to know the approximate amount of hours you think is involved here, the approximate dollar amount, do you have a source to obtain the private inspector from... who would it be and, would it be from this area or Charleston, or another engineer. Councilman Heare said this is the first that I have heard of this and to make a motion and throw it out in the open before these other things are taken into consideration, and as far

as this councilperson is concerned, I would not be rendering a very good judgement. Mayor Hayward said when this project was first brought up and we were studying on it here, the funds for an inspector to my knowledge were already put in the contract. Councilman Heare said we are to have inspectors on this job. This job will have inspectors. Mayor Hayward asked if the state wasn't supposed to be coming in and inspect. In turn there was a letter sent to the state requesting that they bypass using a state inspector. Councilman Heare said he didn't. The state is the one that said this. The state is trying to run projects this way. Administrator Sanders reported that a letter was sent out by our City Engineer to try to save cost to the City by using this program used by the Department of Highways. The State Department of Highways is saying they will except the inspector that the engineer hires to do this. Councilman Heare said in speaking with the engineer in reference to the sewer project, the City could save $3000.00 to $5,000.00 by using the engineer's inspectors. Councilman Rice reported that he was aware that this is a pilot project and none of them are complete yet. I can't say they have positive results from it because none of the projects are done. Councilman Heare said if this is a pilot project that means this is the first project they are using it on. So you would have to wait until the project is done to see if the State deems it feasible for them to continue to do this. Councilman Rice said if it is messed up here, then we are the guinea pigs and this is where it all starts. Councilwoman Burnside said since it seems there needs to be more discussion on this matter, I would like to make a motion to table this until the next meeting, seconded by Councilman Heare. Motion carried. Councilman Heare suggested having a work session with the engineer that will be working on the projects and even with the accountants. We need some more information of what we are talking about. Administrator Sanders said she could give Councilman Rice all the necessary telephone numbers that he would need to call and check about the Rule 42 and Water Bond Ordinance. Mayor Hayward announced that there will be a meeting scheduled after Councilman Rice is given some time to contact the proper people.

URBAN RENEWAL AUTHORITY

Councilwoman Burnside presented the contract between the City of Keyser and Gerald Pancake in reference to replacement of the existing doors with metal doors at the City Hall in the amount of $5,136.78. Councilwoman Burnside made a motion to accept the contract, seconded by Councilman Heare. Motion carried unanimously.

Councilwoman Burnside presented the contract between the City of Keyser and Gerald Pancake in reference to the work to be done in the lobby and the dispatch area of the police

department. The contract is in the amount of $15,597.19. Councilman Heare asked if this could be tabled until the next meeting because he needs to discuss something with Chief Ellifritz. Councilwoman Burnside made a motion to table this until the next meeting, seconded by Councilman Heare. Motion carried unanimously. Councilman Heare requested that there be an Executive Session regarding the Police Department. Chief Ellifritz asked that part of the Executive Session be to discuss an employee salary.

UNFINISHED BUSINESS

ORDINANCE NO. 249

Administrator Sanders read by title the second reading of ORDINANCE NO. 249 ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS, AND IMPROVEMENTS TO THE WATERWORKS SYSTEM OF THE CITY OF KEYSER AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF AND THE REFINANCING AND THE REFUNDING OF PRIOR BONDS OF THE CITY OF KEYSER THROUGH THE ISSUANCE BY THE CITY OF KEYSER OF NOT MORE THAN FOUR MILLION DOLLARS ($4,000,000.00) ANE AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 1998; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDERS OF SUCH WATER REVENUE BONDS, SERIES 1998; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE OF SUCH WATER REVENUE BONDS, SERIES 1998 TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; AND ADOPTING OTHER PROVISIONS RELATING THERETO. Administrator Sanders read a fax from Cam Siegrist, Bond Council, in reference to: THE CITY OF KEYSER NOTICE OF PUBLIC HEARING ON WATER REVENUE BOND ORDINANCE. A Public Hearing will be held on Ordinance No. 249 at the regular council meeting of the Council of the City of Keyser on Friday, September 11, 1998, at 6:30 P.M. in the Council chambers at the Keyser City Hall.

ORDINANCE NO. 250

Administrator Sanders read the second reading by title of ORDINANCE NO. 250 AN ORDINANCE FOR THE LEASE WITH OPTION TO PURCHASE A "HUSTLER MOWER" AS ESSENTIAL USE EQUIPMENT PURSUANT TO SECTION 265(b)(3) OF THE INTERNAL REVENUE CODE OF 1986 AS A QUALIFIED TAX EXEMPT OBLIGATION AND TO ENTER INTO FINANCING OBLIGATIONS AND LEASE/PURCHASE AGREEMENTS AS MORE PARTICULARLY SET FORTH IN THE DOCUMENTS ATTACHED HERETO AND MADE A PART HEREOF AND TO EARMARK AND BUDGET FOR THE PAYMENT OF SAID PURCHASE OVER SUCH PERIOD OF TIME AND IN SUCH MANNERS AS IS REQUIRED BY LAW. Councilman Heare made a motion to accept the second reading and Adoption of Ordinance No. 250, seconded by Councilwoman Burnside. Motion carried unanimously.

NEW BUSINESS

Joe Burrell, owner of Keyser Sports Pub, appeared before Mayor and Council to discuss the complaint that was served on the Keyser Sports Pub earlier in the morning. Mr. Burrell said that he had spoken to Chief Ellifritz on the problems that they were having. Mr. Burrell submitted a copy of his proposal to Mayor and Council and asked that the complaint and hearing be dismissed. Mayor Hayward said this is what the hearing is all about-to discuss the problems and solutions. Mayor Hayward said to be in the best interest he would need to discuss this with Attorney Barr to get the legal aspects and he would get back with Mr. Burrell.

Mayor Hayward said he needs to appoint a Building Inspector to his Appointments and Committees for 1998-1999. He said he would like to appoint David Kessecker. Mr. Kessecker works for Coldwell Banker. He has just went to school for two weeks regarding FEMA. Mr. Kessecker is willing to attend additional schooling that he may need regarding FEMA rules and regulations. Councilwoman Burnside made a motion to accept the Mayor's appointment of David Kessecker as Building Inspector, seconded by Councilman Heare. Motion carried unanimously.

Councilwoman Burnside discussed Christmas decorations. She said she would like to get some new ones. Councilwoman Burnside suggested forming a committee for Christmas Decorations. She said maybe the service clubs would like to go with us in buying these decorations. Councilman Heare said he would be willing to serve on the committee. A meeting was scheduled for September 8, 1998, at 6:00 P.M. to discuss the Christmas decorations.

Councilman Heare said the Fall Festival is September 19th and 20th. He asked if the City wanted to do something.

NEXT COUNCIL MEETING

Mayor Hayward announced that the next council meeting will be Friday, September 11th, at 6:30 P.M. The meeting date needed to be changed because there is a Public Service Commission Seminar on Terminations on September 10th. Councilman Heare made a motion to adjourn the meeting to go into Executive Session, seconded by Councilwoman Burnside. Motion carried unanimously.

EXECUTIVE SESSION

Personnel matters were discussed. No action was taken.

KEITH R. HAYWARD, MAYOR

PENNY SANDERS, CITY ADMINISTRATOR

September 11, 1998

Mayor Keith R. Hayward brought the Public Hearing to order at 6:30 P.M. and read the following notice:

THE CITY OF KEYSER
NOTICE OF PUBLIC HEARING ON
WATER REVENUE BOND ORDINANCE

A public hearing will be held on the following entitled ordinance at a meeting of the Council of the The City of Keyser (The "City") to be held on Fri., September 11, 1998, at 6:30 p.m. in the Council Chambers at the Keyser City Hall, 111 North Davis Street, Keyser, WV, and at such hearing any persons interested may appear before the Council and present protests, and all protests and suggestions shall be heard by the Council and the Council shall then take such actions as it shall deem proper in the premises upon an Ordinance entitled:

Ordinance authorizing the acquisition and construction of certain extensions, additions, betterments and improvements to the water works system of the City of Keyser and the financing of the cost, not otherwise provided, thereof and authorizing the refinancing and refunding of prior bonds of the City of Keyser through the issuance by the City of Keyser of not more than four million dollars ($4,000,000.00) in aggregate principal amount of water revenue bonds, series 1998; providing for the rights and remedies of and security for the holders of such water revenue bonds, series 1998; approving, ratifying and confirming a loan agreement relating to such bonds; authorizing the sale of such water revenue bonds, series 1998 to the West Virginia Water Development Authority; and adopting other provisions relating thereto.

The above-entitled Ordinance was adopted by the Council of the City on August 27, 1998.

The above-quoted title of the Ordinance describes generally the contents thereof and the purpose 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 a portion of the costs of acquisition and construction of additions, betterments and improvements to the existing public waterworks system of the City and to refund certain prior water revenue bonds of the City. The Bonds are payable solely from revenues to be derived from the ownership and operation of the waterworks 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 Administrator of the City for review by interested parties during regular office hours.

Mayor Hayward gave a description of the project:

An upgrade to the City of Keyser's existing water treatment plant and distribution system including without limitation the installation or construction of approximately 3,497 LF of 12-inch, 780 LF of 10-inch, 12,385 LF of 8-inch, 17,105 LF of 6-inch, and 5,115 LF of 2-inch water mains; installation of new water service lines and water meters; one 40 gpm booster station; and all necessary valves, controls and appurtenances. The Project also includes improvements to the water treatment plant, including but not limited to, new doors and windows; raw water pump; reconstruction of the existing raw water pumps; modification to chlorine handling system; repair of the water intake weir and screen; and cleaning, painting, and telemetry for the existing Keyser Industrial Park water storage tank.

Mayor Hayward said if there are no comments or protest, do we have a recommendation to adopt Bond Ordinance No. 249- An Ordinance authorizing the acquisition and construction of certain extensions, additions, betterments and improvements to the water works system of the City of Keyser and the financing of the cost, not otherwise provided, thereof and authorizing the refinancing and refunding of prior bonds of the City of Keyser through the issuance by the City of Keyser of not more than four million dollars ($4,000,000.00) in aggregate principal amount of water revenue bonds, series 1998; providing for the rights and remedies of and security for the holders of such water revenue bonds, series 1998; approving, ratifying and confirming a loan agreement relating to such bonds; authorizing the sale of such water revenue bonds, series 1998 to the West Virginia Water Development Authority; and adopting other provisions relating thereto. Councilman Heare made a motion to adopt Bond Ordinance No. 249, seconded by Councilwoman Burnside. Motion carried unanimously.

Mayor Keith R. Hayward brought the regular council meeting to order. Everyone said the Pledge of Allegiance. Councilman Donald P. Heare opened the meeting with a reading.

Present: Mayor Keith R. Hayward, Councilman Donald P. Heare, Councilwoman Sally Burnside, Councilman Marques Rice, Administrator Penny Sanders, Lt. William Roy, News Reporter Liz Beavers, Sheila Dyche, Keyser Housing Authority, Mary and Jim Shannon, Floyd Conrad, Dixie Layman, Stephanie Dyche, Linda Raigner, Elaine Wilson, Brady Lower, Gerald Ickes and Dave Kesecker.

Councilman Heare made a motion to accept the minutes of August 27, 1998 and accept them as presented, seconded by Councilwoman Burnside. Motion carried unanimously.

CITIZEN'S REQUEST/COMPLAINTS

Sheila Dyche, Keyser Housing Authority, appeared before Mayor and Council regarding noise and traffic jams. Mrs. Dyche gave a brief description of how the Housing Authority was formed. She reported that they had a similar problem three years ago, but it was resolved. Mrs. Dyche said that they have a problem on Virginia Street with drug traffic. People are working the street everyday. She said this is between the Legion up to the parking lot. Mrs. Dyche said she actually saw a drug deal on the street while looking out the window of her office. She said we are even having trouble with people sleeping in the trees. We are finding broken bear bottles, crack residue, and other drug paraphernalia all along Virginia Street. Mrs. Dyche said she asked her residents to leave their porch lights on so there are no dark spots and to identify any dark spots so lights can be placed. Mrs. Dyche reported that these people are not hiding, they are openly working Virginia Street. She said we need help. She said this is not a welfare neighborhood, it is a low income neighborhood. Mrs. Dyche presented the Mayor and Council with pictures that were taken earlier in the day which showed trash, crack wrappers, and bear bottles that were thrown into a ladies yard. She reported that the residents present at the meeting would like to present to the Mayor and Council a petition for help with signatures of people that are concerned with the problem in that neighborhood. Elaine Wilson, Housing Authority Resident, said this is scary. She said she is trying to raise her little girl right. Ms. Wilson said she is afraid when her girl goes out to play that she will come back with a bear bottle or a crack wrapper and wants to know what it is. Ms. Wilson said there was a clip in the newspaper if you want drugs ... you can get it in Keyser, WV. She said that is no lie. You can get it on Virginia Street even in the day. Mayor Hayward said we will try to get some more patrol on the weekends. Lt. Roy reported that the police try to patrol all they can with the force that they have. He said, you as citizens, need to call and report when these things are going on. Some concerned citizens said they are afraid to turn the people in to the police for fear of retaliation. One citizen said she has actually had her porch urinated on and I have had stuff burned on the porch. Mrs. Dyche said these people working the streets are vagrants. She asked if there was anything in the laws where they can be picked up or get them for loitering. Lt. Roy said there is a loitering ordinance but there is nothing on vagrancy. Mrs. Dyche said outsiders are taking over. She said we don't know what else to do. It's a battlefield on Virginia Street. Mrs. Dyche

said she just wanted the Mayor and Council to know what is happening on Virginia Street. She said the Authority can not handle this problem. We need some assistance. Lt. Roy suggested setting up a work session with the Chief of Police, West Virginia State Police, Mineral County Sheriff's Department, and the Prosecuting Attorney to discuss what might be done. Mayor Hayward said we appreciate you coming and letting us know what is going on and we will try to help.

BUILDING INSPECTOR'S REPORT

Dave Kesecker reported that the main objective is that Keyser has lost the neighborhood concept and as the building inspector and along with the help of the Mayor and Council we hope to once again beautify the City of Keyser and once again make it the Friendliest City in the State of West Virginia. Mr. Kesecker said if everyone abides by the rules things will work. He said he would strive to do the best job he can.

CITY ADMINISTRATOR'S REPORT

Administrator Sanders noted dates to remember:

September 18th - 20th the Framer's Gallery will be having a special signing event

September 17th- Region VIII meeting in Petersburg

September 18th - Lisa Dooley Executive Director of the West Virginia Municipal League will be having a meeting at the Holiday inn in Martinsburg from 2:00 P.M. to 3:00 P.M.

Administrator Sanders read a letter from W. Steven Young, P.E., Allegany County Department of Public Works, in reference to the McCoole Water Project. It stated that they understand that the City of Keyser has taken bids on the water main extension necessary to serve the McCoole Project but that as of this date a contract has not been awarded due to some funding concerns. As we previously stated in our April 2, 1996 letter to Mayor and Council, Allegany County is willing to advance the funds necessary for Keyser to complete the line to serve McCoole. We will be willing to negotiate a repayment schedule for this advance but would really hope that it could be paid as soon as the City receives its project funding rather than stretching it into a long-term loan. The letter was reviewed with the Keyser Utility Board, Mayor and Council and it was approved subject to Bond Council and PSC approval. A Resolution was made in reference to this:

RESOLUTION APPROVING AWARD OF PORTION OF THE WATER PROJECT CONSTRUCTION CONTRACT AND INTERIM FINANCING ARRANGEMENTS WITH THE ALLEGANY COUNTY DEPARTMENT OF PUBLIC WORKS FOR WATER LINE CONSTRUCTION FOR THE TOWN OF MCCOOLE.

WHEREAS, as part of the proposed City of Keyser Water

Project, for which bids have now been received and are in the process of review, a portion of which was to construct lines to serve the town of McCoole in Allegany County; and

WHEREAS, Allegany County Department of Public Works has proposed that the contractor be authorized by the City to proceed with this portion of the contract so that the McCoole project could begin even prior to the completion of the bidding and contract letting procedures for the remainder of the project so that the McCoole project could be completed prior to winter; and,

WHEREAS, said letter dated September 2, 1998, attached hereto and made a part hereof, proposes the interim financing of such project by the Allegany County Department of Public Works subject to the negotiation to the terms and conditions of said financing pending the financing and issuance of Water Revenue Bonds for the permanent financing of said project; and,

WHEREAS, bond counsel for the City of Keyser has reviewed the proposed arrangements and determined that the procedure could be used without affecting the validity of the upcoming revenue bonds provided that the approval of the Public Service Commission of West Virginia is received and a resolution is adopted approving the award of that portion of the contract which would provide the lines to serve the Allegany County Department of Public Works, and that the interim financing arrangements with McCoole be approved subject to the obligation that the City of Keyser will repay the McCoole interim financing with a portion of the proceeds of the upcoming Water Revenue Bond Issuance; and,

WHEREAS, the ultimate financing arrangements will take the form and substances as prepared by or approved by legal counsel for the City of Keyser and/or bond counsel for the City of Keyser; and,

WHEREAS, it is necessary to adopt this resolution prior to any action in order for the funding and financing of said bonds to be a legally enforceable portion of the ultimate issuance;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor be, and is hereby, authorized and empowered to enter into an award such of the construction contract portion as is necessary in order to initiate the construction of the McCoole service lines under the City of Keyser water project subject to interim financing being provide by, or on behalf of, the town of McCoole through the Allegany County Department of Public Works or such other entity as Allegany County may direct and generally in accordance with the general proposals set forth in the attached letter dated September 2, 1998, which contracts and interim financing arragements shall be first

approved by the City Engineer as the Engineering Contractor (Vanscoy Engineering and Surveying, David G. Vanscoy, P.E.), the City Attorney, Jack C. Barr, and subject to the consent by the appropriate state officials including without limitation the Public Service Commission of West Virginia, where the same are found necessary by engineering and legal counsel; and,

BE IT FURTHER RESOLVED, that all of said interim financing supplied by or on behalf of McCoole or the Allegany County Department of Public Works shall be costs of the City of Keyser water project to be repaid from the Water Revenue Bond Issuance of the City of Keyser as soon as Bond Issuance funds are available for use; and,

BE IT FURTHER RESOLVED, that he Mayor and City Administrator shall execute such documents as they deem appropriate upon the approval of said documents by the City Engineer and City Attorney.

Councilmer Hearn made a motion to accept the Resolution between the City of Keyser and Allegany County, seconded by Councilman Rice. Motion carried unanimously. Administrator Sanders noted that there are plans available if anyone wants to see them.

Administrator Sanders presented a letter from Barbara Taylor, Division of Environmental Protection, in reference to WV/NPDES Permit No. WV0024392 Modification No. 2. It stated that WV/NPDES Permit No. WV0024392 Modification No. 2 is hereby modified to increase the existing average monthly flow permit limitation of the existing wastewater treatment facility to 2.4 MGD and to change the effluent BOD5 monitoring location. Administrator Sanders said this is good news, it put us into compliance.

Administrator Sanders presented a letter that was sent to Charles A. Moses, Environmental Inspector Supervisor with the WV Division of Environmental Protection, in reference to the Combined Sewer Overflows Under New Creek Bridge-Armstrong Street. This was a follow up to a telephone conversation requesting information as to what the City has done to correct the overflow.

CHIEF OF POLICE'S REPORT

Lt. Roy reported on the crosswalk in front of the hospital. He said there has been a request from a lot of people. Lt. Roy said it is advisable to look at the light that is over the crosswalk. He said it is still pretty dark at night. Lt. Roy said it could be fixed by contacting Potomac Edison and they could place a bigger light on the same pole.

FINANCE COMMISSIONER'S REPORT

Councilman Heare reported that as of September 11, 1995 the General Fund had a balance of $11,663.81, Street Excess Levy $307,263.73, Recreation $4,991.52, Fire Protection $67,357.89, Fire Protection Insured $14,616.00, Water $38,868.67, Sewer $52,189.43, and City of Keyser Laboratory $19,105.96.

STREET COMMISSIONER'S REPORT

Councilwoman Burnside reported that the street sweeper has been making its normal rounds on Wednesday night. We have been able to clean the bridge until today due to the construction on it. The street sweeper has also been used to clean out manholes and catch basins.

Councilwoman Burnside reported that the crews have been mowing along New Creek. Some dead trees were cut down.

Councilwoman Burnside reported that there were some pedestrian signs placed at the crosswalk at the hospital. Lt. Roy said we still need more lighting to see. Councilwoman Burnside said we will look into this.

Councilwoman Burnside reported that Councilman Heare, Councilman Rice, two city workers, and some community service workers will be cleaning Main Street tomorrow to try to get some of the grease off the street. Councilman Heare said we have got permission from the Division of Environmental Protection to use the chemicals. We will also be using the flow jetter. Lt. Roy said the parking meters will be bagged at 11:00 A.M. tomorrow. Councilwoman Burnside said there will be a lot of visitors for the Fall Festival and she would like the cooperation of the merchants to sweep their sidewalks.

WATER COMMISSIONER'S REPORT

Councilman Rice reported that the guys are reading meters. He said he went out yesterday evening on a possible water leak.

Councilman Rice said that the guys have been cutting weeds along New Creek.

Councilman Rice reported that the Hustler Mower will be arriving Monday. He said the first project will be to mow the dam in the Airport.

Councilman Rice reported that the Utility Board suggested Jerome Kraft to be hired as a city employee. He said that Councilwoman Burnside and himself spoke to Mr. Kraft. Councilman Rice made a motion to hire Jerome Kraft as

a city employee, seconded by Councilwoman Burnside. Motion carried unanimously.

URBAN RENEWAL AUTHORITY

Councilwoman Burnside said the contract was signed with Jerry Pancake for the doors at the City Office.

Councilwoman Burnside said we still need to decide what needs to be done with the renovation at the Police Department. Councilman Heare said we need some more information. Councilwoman Burnside said maybe we can have a meeting when we get the information.

UNFINISHED BUSINESS
INDEPENDENT INSPECTOR FOR WATER PROJECT

Mayor Hayward read a letter from the Utility Board dated September 9, 1998 regarding the independent inspectors for the Water Project. The letter stated that the Utility Board was in agreement that the Water Project that has been awarded to Yoder Contracting should be under the inspection of Dave Vanscoy. The Board stated that they have been in contact with Mr. Vanscoy and they have agreed that the inspectors that he hires will be approved by the Utility Board.

Councilman Rice said he guess everyone knows his feelings on this situation. I have received a phone call this week from two (2) members of the New Creek Water Association Water Board. They advised me that the first water project they did in the New Creek and outlying areas was done without an inspector, only the one that was furnished by the contractor or whatever. They related several problems that had arose. With the problems that had arose, they had meetings and they have decided that in the near future and the recent projects they have done, they have what you call a standing motion that New Creek Association will do no work without an independent inspector. This has been decided upon for all future projects. Councilman Rice said this was told to him by Mr. Jack Sanders. Councilman Rice said that Mr. Sanders feels that any project of this magnitude that an independent inspector is very crucial. They were pleased with it. Councilman Rice said that they were aware that they had to spend a little bit more money now, but it was better to spend the money now than later if something would have gone wrong. Councilman Rice said that he is still getting phone calls from citizens requesting that it be done both ways. Councilman Rice said for the most part he still feels that the City needs an independent inspector. Councilman Rice said that we have heard from the Utility Board, Region 8, and the City Attorney, but everyone knows my feelings on it. Councilman Rice said he is speaking for himself and the concerned citizens of the town.

Councilwoman Burnside said she would like to say frankly that she resented the remark that was made during the Work Session by one of the members that referred to Councilman Rice as chasing headlines. I resent that. I found that uncalled for and I respect and admire Councilman Rice and I commend you for your courage to stand by your convictions. It's not easy, believe me, because I have been there. Councilwoman Burnside said she knows that the subject of an independent inspector has been on our minds. This project that we're planning and the sewer project that comes after this involves millions of dollars and can we risk this much money and then quibble over a few hundred to pay an inspector. I don't think so. The question arose also from if our concerned citizens were informed citizens and as most of you know I listen to just about every citizen that approaches me. But when those men who work with these projects express their opinion. I respect the gentlemen who server on the Utility Board and as I have said on several occasions they perform an excellent service to the City. But as we all know we can't always and most often do not agree on every issue. This is an example here in this case. We respect their view points, but we also ask that they respect ours. In all these discussions there's one mystery of who is this insperctor, no one has ever mentioned who he is going to be. Then I wonder to, let me ask, which is more important, a potential small delay which they keep telling us this will be with the project or a piece of mind of making sure that a major project that affects all the citizens is done right. Councilwoman Burnside said at this time, she moves to take from the table the motion that Councilman Rice made. Councilman Heare said he would like to speak in regards to the situation. Mayor Hayward said that Councilwoman Burnside made a motion to take from the table Marques Rice's motion. Mayor Hayward said so at this time do I have a second on this motion. Councilman Rice seconded the motion. Mayor Hayward said at this time we will go into discussion. Councilman Heare said a lot of things was brought to our attention at the last meeting we had with our attorney, Region 8 Director, and our engineer. Our engineer has explained everything, I think. To those of you who would go and see him and ask questions. And here again, I'll just voice what I voiced before. I think it's a duplication. Again taking the information that Mr. Dyche and Attorney Barr gave us I have no reason to think that the job will be done and it will be done right. I'll reiterate again that this water project is approximately twenty-five (25) percent complete. That was the water line going down Armstrong Street that was done a couple of years ago. The same engineer and the same contractor is doing this job. We had no problems with that job and we have had no problems since that job. And as far as the inspectors, they were the same. We have done two (2) mitigation projects, one (1) in the Airport that proved to work out very well. Another project was down at Cliff Street which has worked out very well. From the information

gathered from the two (2) gentlemen I just spoke of. . . I still haven't been given an answer to the question of where still haven't been given an answer to the question of where does the inspector or who hires this inspector, are you thinking about one (1), two (2), or three (3) additional inspectors. We were going to discuss this, but I have never been called to a meeting to discuss it. How many more inspectors do we want. I asked the questions, I can read from the minutes previously here and it's all in the transcripts and it's in the minutes of what will it cost us. You say a little bit Council Lady. What are we talking about here. And as we heard from Mr. Dyche, we may have to go back through all this process again which we have been working on now for five (5) years. Councilman Hearn said he wants to assure the residents and citizens of Keyser. Since the last meeting I have also talked to a lot of people on the street. I'm on the street every day, and they have asked me about this. I have explained to them exactly what is in the minutes and they didn't understand it that way. They see no problem. After we take advice from the attorney and from our counsel that's going to handle this for us, I would hope that we could continue on with our project without any further delays. They informed us if we insist on another inspector it is going to cost the City a great deal of delay. I would suggest as many inspectors as you would get. . . I don't know how many you would have to have to have somebody assure me to say that we're going to do this 100% right. I don't understand the fear of the firm and the plans we have right now. It has been worked on for three (3) to five (5) years. Councilman Rogers worked on it diligently. And then we come to this point when we're ready to move on with it. We feel insecure, is that the problem. We have never discussed it. According to the transcript of the minutes, we said we would. When we say let's hire an independent inspector, what are we saying. If we can spend some time now Mayor, that's what I would like to know. As your finance officer, you would think anything less of me if I didn't want to know how much money are we going to need, where is the money going to come from, do we have the redo all this refinancing, do we have to go through our rates again like Mr. Dyche informed us we would. Do we have some inspectors here that we don't feel are qualified, is that our problem. Councilwoman Burnside said she would like to know who the inspectors are. I haven't been answered that question yet. Who are these inspectors, do we know who they are. Councilman Hearn said Engineer Vanscoy said he would tell us who the inspectors would be, that's no problem. I don't know who he has hired yet, I really haven't asked him. I know Edgell Rotruck is one of his main inspectors whom I have known for all my life. He has worked for Mr. Vanscoy for seven (7) or eight (8) years as an inspector. I do know some of the problems that was on New Creek, Marquis. They had an independent inspector. To put all this aside, I think it's really a damaging thing. We promised Allegany County, we just voted on it. We're going

to supply them water. When we talk about this person or persons and the engineer has told us, and we were all here or I was here when they let the bids to Yoders. There may be two (2) or three (3) jobs going on here at one time. Now are you figuring on two (2) or three (3) inspectors. If the contractor has two (2) or three (3) jobs going, are we going to hire an independent inspector for each one of those jobs. Councilwoman Burnside said as we were told at the Utility Board meeting it's the practice, I think Mr. Dyche said, that the engineer provides the inspector. Councilman Heare said yes mam. We're discussing making a motion when we don't have the answers. I'm sure Dave would tell you if we ask him. I have talked to the engineer and he said nobody has ever come and asked him any questions regarding this. He said he has invited people to come down to his office. Councilwoman Burnside said no, if he has something to say he should say it at a public meeting, not behind closed doors. Sorry. Councilman Heare said Engineer Vanscoy said if there are any questions about this, he would be glad to answer them. I have no problem with him answering questions. We're talking about making a motion, don't you think we need some financial answers. Who is going to hire the inspector or inspectors. Councilwoman Burnside said wouldn't that be in the budget already allowed for under Mr. Vanscoy's contract. Councilman Heare said no mam. According to what the minutes relate, I asked if it was for the whole system and Councilman Rice said that is what he would like to see. He said as far as the State goes, they are happy that they don't have to have. . . Councilman Heare said that's another issue that has nothing to do with it. I don't know who gave you the information Marques. Have you looked into that. Why the State is doing that and what that means for the City. Councilman Rice said the reason the State no longer requires inspectors is lack of manpower. Councilman Heare said okay. Then if there would be a problem when we cross that highway, the City has no. . . with that at all. That's between the State, then engineer, and the contractor, right? Councilman Rice said it comes back onto the engineer. Councilman Heare said that is doesn't come back to the City though. We are not responsible or liable. The liability goes to the engineer or the contractor. The City has no liability there. That's what we were told. The minutes stated that Councilman Rice would like to have an inspector in addition to the engineer's inspectors. is that correct? Councilman Rice said that is correct. Councilman Heare said what is set up in the budget Councilwoman Burnside is money that was set aside in the engineer's cost figures for his inspectors. We're talking about a whole separate entity. Councilman Heare said as your finance officer, how much more money are we going to need. Who hire the private inspectors? Councilman Rice said the associations that he has talked to said the independent contractor works for you, as the city. They set up a couple of work session throughout the projects and their inspector would answer to them. They would compare their notes to the

inspector and the engineer. Councilman Heare said that is exactly what they told us at that work meeting that we had in here and our attorney suggested that we set down at least every month and have these discussions with the inspectors on this job so we make sure the job is being done. Councilman Heare said he even went one step further and said if and when we want to hire a Street and Sewer Supervisor that he to could be an inspector. Councilman Heare said these are questions we are going to have to answer before we just say let's do something. Councilman Heare asked Councilman Rice if he would hire the inspector? Councilman Rice said it would be the City. Councilman Heare asked who is the City? Councilman Heare said the City-that's us... we are the City. He said the City has passed ordinances and established a contract with a certified engineer. He has assured us that he has inspectors. The people who you are borrowing money from will have people coming in to check on this. . there will have to be reports sent to the Public Service Commission as the project progresses along. Councilman Heare said that is what I don't understand if we're afraid that the job won't be done right. Councilman Heare said we worked with the guy that has the engineering. He said he was here when they did the Armstrong Street job. He said I would like for you to understand on that financially we saved about $150,000.00 on that job the way it was done. Councilman Heare said I just don't understand. We went to the engineer when we had a problem. We never doubted his work before as we've had problems and needed the service or the advice of the particular engineer. Is it the engineer that we are afraid of or is the inspector's that he is hiring? Councilman Heare said I don't know. He said he could just vote on something when he doesn't know any answers. Councilman Heare said I have been on this project for five years. I thought we were ready to do something. Councilman Rice said you mention it before the word from the citizens and I guess as myself coming on as a new-over the water would be an insecurity. Councilman Heare asked what is the problem? If you could explain the problem to me. Councilman Rice said he couldn't explain the problem. He said he guessed you would have to ask every citizen that has called me or voiced an opinion. Councilman Heare said I told you I don't know every citizen that has called you. Councilman Heare said I told you I have talked to a lot of citizens on the street and explained them this. Explained to them exactly what is in the minutes, I haven't had any problems. Councilman Heare said to take the advice of our attorney and Mr. Dyche... there is another person that has given us a lot of advice. A lot of it has been just because he wanted to help us. An to take that any say... it's just like saying you guys don't know what you are talking about. Councilman Rice said as I recall from the meeting, Mr. Dyche also pointed out that several cities have done this by using independent inspectors. Councilman Heare said Mr. Dyche didn't say it wasn't impossible. He recommended to you that it would be more practical to use the

inspectors that your engineer hires. If you want to find out who they are, we can find out who they are. I know a couple of them myself. That's what I'm asking you. Are you insecure with that inspector. I know him by name and you know him by name. Councilman Rice said he may know a name, but I don't know the individual. Councilman Heare asked Councilman Rice or Councilwoman Burnside if they had any other questions. Councilwoman Burnside said no, I just have my opinion and everyone has there opinion. Councilman Heare said if this is the case if we do this, do we scrap the whole thing. These are questions that I need to know. The Mayor made a statement and I thought he made a good statement about it. Why he felt we should continue on with our program and get this thing done and get it on the road. We have spent an awful lot of time and an awful lot of money to the place we're at right now. Now if you have to get more information from your bond counsel and your financial advisers that have set this up to hire additional, and you haven't told me how many more inspectors you're talking about. Councilwoman Burnside said you only need one (1) good one. Councilman Heare said we are going to have three (3) good ones. Like we say Sally, if they start this when we were at the meeting or I was at the meeting where Yoder was awarded this contract and he may have three (3) different projects going on. The first thing they want to start is over in the North End. Even that they have to get that water to McCoole. We promised McCoole water in 1988. That's what I'm saying. Former Councilman Rogers worked diligently on this thing for four (4) or five (5) years. Councilman Heare asked Councilman Rice if he had talked with Jay Rogers any. Councilman Rice said about this particular subject about the inspector, no. Councilman Heare said about the project. Councilman Rice said we have talked in the past. Councilman Heare said okay that's what I'm saying. So to do this, how much of the program or how much of this thing are we going to do scrap or what are we going to do to it. If we vote tonight what affect are we going to have in putting in this water system we talked about for all these years. Administrator Sanders informed the Mayor and Council the only thing the bond counsel said is that somebody is going to have to let him know if this project is going to go over the 4 million. If this is going to go over the 4 million then he is going to have to go back to the bond ordinance and redo the whole thing. Somebody is going to have to let him know the dollar amount you're speaking of to see if it's going to go over. That came from Cam Siegrist, Attorney with Bowles Rice McDavid Graff and Love in Charleston. He will be glad to talk with anyone if they would like to call him. He will be willing to answer any questions. Councilman Heare asked Sally if she had any questions. We wanted a Work Session and I guess this is it, I suppose. There are so many questions here that I really think you should be aware of. Councilwoman Burnside said she thinks the evening is getting late and we have other business. Perhaps we better adjourn

this matter for another meeting and have a Work Session on it. Is that agreeable. Councilman Heare said with the financial figures that I could come up with, I will be happy to do it and I will go back through the contracts and the impact of what this would mean to the program. Councilman Heare said he would like for them to realize, or maybe you do, by delaying this way just like the Administrator says there. Then you have to go back all through this. We have done this once before and it cost us about 2 or 2 1/2 years. I can tell you friends right now that it cost us about a half million dollars. Now if you think that's an exaggeration you can talk to Former Mayor Ryan. I don't mean to be over persistant, but I feel it's my obligation as a person sitting here as your Finance Officer and going over all these things, and attending all these meetings you had, I feel I would be neglecting my duty just to say let's do something without knowing the ramifications of what we're talking about doing. Because you're talking about doing something pretty drastic here. If somebody could explain to me or how me understand what the general problem is. Is it a professional problem or is it a personnel problem or is it a personality problem. I don't know. That's just my feelings Mayor and Council people. I feel perfectly satisfied with the inspectors and they have assured us that all of us can go out there and be an inspector if you want to and go out there and look at it. Any citizens has the right to do it.

Mayor Hayward asked if the Council wanted to take more time on this issue to check the hiring of an independent inspector and what it would cost for this project before we go with this motion. Councilman Heare said I would just like to remind everyone what Mr. Dyche said that we have 90 days and our time is running short. There is a $600,000.00 grant you have laying over here and they are not going to let you look at that forever and hold it for you. There are some big things here. . . Marques, I told I would be glad to sit down and go over this stuff with you because there is piles of it. Councilman Heare said I know you are concerned and I am 100% with you. I want you to understand that I am with you Marques and Sally. We want the job done right. Councilman Heare said somebody guarantee that anybody that we hire or numbers of people we hire is going to guarantee us 100% without a problem. The main thing for us, if we have a problem we have a person to fix the problem. Mayor Hayward said that the engineer does the hiring of the inspectors. If something were to go wrong it would not come back to the city or cost the city, it would go to the engineer. Mayor Hayward said it is up to the engineer to make sure the job is done correctly. Councilman Rice said like Councilwoman Burnside said we need another work session. He said the last meeting was not a work session. The Utility Board was yelling. It was just everyone getting things off their chest and leaving. Councilman Heare said the press should be here. Councilman Heare said you need to see what the duties of the Utility

Board are. Councilwoman Burnside said the last paragraph says the recommendations are taken to the Mayor and Council for their approval. Councilman Hearn said the Utility Board has spent a lot of time on this. It is not something we take very lightly. This is a very important thing. Mayor Hayward asked if he had a motion to table this. Councilman Rice said we need a work session in between, but I'll definetly have answers at the next meeting. Councilman Hearn said we had a 90 day deadline. There is a lot involved. A contract has been awarded and the engineer has been awarded. Councilman Hearn said what else do we need to discuss in a work session. He said he would be glad to meet if another work session is called. Councilman Rice said he would study on this. Councilman Hearn said if there is another work session, he would like to know how many inspectors will there be, who is going to hire them, where are we going to get them, what inspectors will Mr. Vanscoy have . . he said he would go down tomorrow and ask Mr. Vanscoy if you wanted me to. Councilman Rice made a motion to table this and schedule another work session, seconded by Councilwoman Burnside. Motion carried. Council decided for a work session on Wednesday, September 16th, at 9:00 A.M.

Gerald Ickes saids it is late in the game to change. He said the specifications are out and it would be up to the Vanscoy and the contractor to deliver as the contract specifys. If you lean hard on Vanscoy about making sure his inspectors pays close attention and the city is not going to bear any expenses for fixing what ever is wrong, I think it is pretty late. The money is already in place and if you go back and tamper with it, it does change the numbers. Mr. Ickes said he was also concerned with the sewer side. It doesn't seem to be moving very fast. The moratorium is in place and that needs to get going. These problems haven't went away. He said as far as the water it is getting very late to change. It all goes back to making sure it gets put in right. He said eventually your going to have to make a decision to go on. Mayor Hayward said we need to talk with Mr. Vanscoy and get some names of inspectors. He said you need to work with Mr. Vanscoy. He is the engineer.

UNFINISHED BUSINESS

Councilwoman Burnside discussed the Christmas decorations. Councilman Hearn discussed holding a bucket brigade. Councilwoman Burnside reported that we are aking for donations for new Christmas decorations. Sixteen of those decorations we can still use. Councilwoman Burnside discussed using different decorations. It takes two to three weeks for delivery. When you place an order you need a purchase order. Maybe there could be new ornaments from the beginning of Main Street and the end of Main Street.

Mayor Hayward read a letter from Cheif of Police

Ellifritz regarding the Keyser Sports Pub Hearing. He said he thought it was best to still hold the hearing on September 17, 1998 at 9:00 A.M.

NEW BUSINESS

Mayor Hayward presented a complaint on 32 Spring Street. There is a lot of trash. A letter needs to be sent.

Mayor Hayward there was request from Wanda and Joe Avers to close the abandoned alley between Vernon and Carroll Streets. Councilwoman Burnside said she would check into this.

Mayor Hayward announced that the Utility Board had a meeting on September 10, 1998. They recommended that the City hire Donald Ashby as the new Street/Sewer Supervisor. Councilwoman Burnside made a motion to table this until the next meeting, seconded by Councilman Rice. Motion carried unanimously.

Mayor Hayward announced that Carpendale will be holding an open house on September 12, 1998 from 1:00 P.M. until 5:00 P.M.

Mayor Hayward said there will be a Municipal Judge Training Seminar in Charleston on November 6, 1998. We need to see if Police Judge Anthony Rogers would like to attend.

NEXT REGULAR COUNCIL MEETING

Mayor Hayward announced that the next council meeting will be Thursday, September 24th, at 6:30 P.M.

Councilwoman Burnside made a motion to adjourn the meeting to go into Executive Session, seconded by Councilman Rice. Motion carried unanimously.

Personnel was discuss. No action take.

KEITH T. HAYWARD, MAYOR

PENNY SANDERS, CITY ADMINISTRATOR

September 30, 1998

Mayor Keith R. Hayward brought the Special Meeting to order at 5:00 P.M.

Mayor Hayward said the Mayor and Council has called this Special Meeting to adopt the Supplemental Resolution for The City of Keyser Water Revenue Bonds, Series 1998 A and Series 1998 B; and to Award Contract I, II, III of the City of Keyser 1997 Water Improvement Project.

The City of Keyser Water Revenue Bonds Series 1998 A and Series 1998 B Supplemental Resolution. Providing as to principal amounts, dates, maturities, interest rates, principal payment schedules, sales prices and other terms of the Water Revenue Bonds. Series 1998 A, Series 1998 B of the City of Keyser are authorizing and approving loan agreements relating to such bonds and the sale and delivery of such bonds to the West Virginia Water Development Authority designating a Bond Registrar, Depository Bank and Paying Agent and making other provisions as to the bonds.

Mayor Hayward asked if there was any discussion. Mayor Hayward asked if there are no questions, do I have a motion to adopt the Resolution. Councilman Heare made a motion to adopt the resolution, seconded by Councilwoman Burnside. Motion carried unanimously.

I, as an officer of the News-Tribune, a daily newspaper published at Keyser, Mineral County, West Virginia, hereby certify that the City of Keyser

in the case of Notice of Public Hearing on Water Revenue Bond Ordinance

vs.

a copy whereof is hereto annexed has been published for 2 consecutive weeks in said NEWS-TRIBUNE, the first publication being on the 31st day of, August 19 98.

Given under my hand at Keyser this 8th day of Sept., 19 98.

Publisher

Publisher's Fee
$ 64.31

**THE CITY OF KEYSER**
**NOTICE OF PUBLIC HEARING ON**
**WATER REVENUE BOND ORDINANCE**

A public hearing will be held on the following entitled ordinance at a meeting of the Council of The City of Keyser (The "City") to be held on Fri., Sept. 11, 1998, at 6:30 p.m. in the Council Chambers at the Keyser City Hall, 111 North Davis Street, Keyser, WVC, and at such hearing any persons interested may appear before the Council and present protests, and all protests and suggestions shall be heard by the Council and the Council shall then take such actions as it shall deem proper in the premises upon an Ordinance entitled:

Ordinance authorizing the acquisition and construction of certain extensions, additions, betterments and improvements to the water works system of the City of Keyser and the financing of the cost, not otherwise provided, thereof and authorizing the refinancing and refunding of prior bonds of the City of Keyser through the issuance by the City of Keyser of not more than four million dollars ($4,000,000.00) in aggregate principal amount of water revenue bonds, series 1998; providing for the rights and remedies of and security for the holders of such water revenue bonds, series 1998; approving, ratifying and confirming a loan agreement relating to such bonds; authorizing the sale of such water revenue bonds, series 1998 to the West Virginia Water Development authority; and adopting other provision relating thereto.

The above-entitled Ordinance was adopted by the Council of the City on August 27, 1998.

The above-quoted title of the Ordinance describes generally the contents thereof and the purpose of the bonds contemplated thereby. The City contemplate the issuance of the bonds described in said Ordinance. The proceeds of the Bonds will be used to provide permanent financing of a portion of the costs of acquisition and construction of additions, betterments and improvements to the existing public waterworks system of the City and to refund certain prior water revenue bonds of the City . The Bonds are payable solely from revenues to be derived from the ownership and operation of the waterworks 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 Administrator of the City for review by interested parties during regular office hours.

**Dated August 28, 1998.**
**Penny Sanders, City Administrator**

0Z0121 0939 066

US Postal Service
**Receipt for Certified Mail**
No Insurance Coverage Provided.
Do not use for International Mail *(See reverse)*

| | |
|---|---|
| Sent to IRS | |
| Street & Number | |
| Post Office, State, & ZIP Code Philadelphia, PA 19255 | |
| Postage | $ |
| Certified Fee | |
| Special Delivery Fee | |
| Restricted Delivery Fee | |
| Return Receipt Showing to Whom & Date Delivered | |
| Return Receipt Showing to Whom, Date, & Addressee's Address | |
| TOTAL Postage & Fees | $ |
| Postmark or Date | |

PS Form 3800, April 1995

Return to Cam

FEB 11 1999


BOWLES RICE
DAVID GRAFF & LOVE, PLLC
ATTORNEYS AT LAW
600 QUARRIER STREET
POST OFFICE BOX 1386
CHARLESTON, WEST VIRGINIA 25325-1386
TELEPHONE 304-347-1100
www.bowlesrice.com


**FILE COPY**


5TH FLOOR, UNITED SQUARE
501 AVERY STREET
PARKERSBURG, WEST VIRGINIA 26102
TELEPHONE 304-485-8500

1200 WORLD TRADE CENTER
333 WEST VINE STREET
LEXINGTON, KENTUCKY 40507
TELEPHONE 606-225-8700

E-MAIL
csiegris@bowlesrice.com


February 11, 1999

**CERTIFIED MAIL**
**RETURN RECEIPT REQUESTED**
**No. Z 121 939 066**

Internal Revenue Service Center
Philadelphia, Pennsylvania 19255

RE: City of Keyser Water Revenue Bonds, Series 1998A

Dear Sirs:

Please find enclosed Form 8038-G, Information Return for Tax-Exempt Governmental Obligations submitted in connection with the City of Keyser Water Revenue Bonds, Series 1998A.

Also enclosed, please find a copy of said Form 8038-G which has been stamped "COPY" in the upper right-hand corner. It would be greatly appreciated if you would stamp said copy acknowledging the receipt of the subject Form 8038-G and indicate the date on which said Form 8038-G was received by your office. Please then return said copy to the undersigned in the enclosed self-addressed, postage prepaid, envelope.

If you have any questions or comments regarding the foregoing, please contact the undersigned at your convenience. Thank you for your cooperation.

Very truly yours,

Camden P. Siegrist

CPS/spg
Enclosures

GBB.GBB.0049593

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.*)

COPY

OMB No. 1545-0720

## Part I Reporting Authority

If Amended Return, check here ▶ ☐

1 Issuer's name: City of Keyser

2 Issuer's employer identification number: 55 : 6000193

3 Number and street (or P.O. box if mail is not delivered to street address): 111 North Davis Street

Room/suite:

4 Report number: G19 98 - 01

5 City, town, or post office, state, and ZIP code: Keyser, West Virginia 26726

6 Date of issue: October 15, 1998

7 Name of issue: Water Revenue Bonds, Series 1998A

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 | 761,842 |
| 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 ▶ ☐ | | |

IRS RECEIVED 021499 28 PSC PHILA., PA MAU-67

## 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 | 10/1/2035 | 6.25 % | 50,020.26 | 50,020.26 | | | |
| 20 | Entire issue | | | 761,842 | 761,842 | 25.298 years | 6.25028% | 6.25 % |

## 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 | 761,842 |
| 23 | Proceeds used for bond issuance costs (including underwriters' discount) | 23 | 13,278 | | |
| 24 | Proceeds used for credit enhancement | 24 | | | |
| 25 | Proceeds allocated to reasonably required reserve or replacement fund | 25 | | | |
| 26 | Proceeds used to currently refund prior issues | 26 | 286,023 | | |
| 27 | Proceeds used to advance refund prior issues | 27 | | | |
| 28 | Total (add lines 23 through 27) | | | 28 | 299,301 |
| 29 | Nonrefunding proceeds of the issue (subtract line 28 from line 22 and enter amount here) | | | 29 | 462,541 |

## Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)

30 Enter the remaining weighted average maturity of the bonds to be currently refunded ▶ 17.2945 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 ▶ October 3, 1984

## 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 ▶ WV Water Development Authority and the date of the issue ▶ January 9, 1996

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.

Keith R. Hayward — Signature of issuer's authorized representative

October 15, 1998 — Date

Keith R. Hayward, 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

*U.S. Government Printing Office: 1995 — 387-095/20109

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Internal Revenue Service Center
Philadelphia, PA 19255

RECEIVED
FEB 14 1999
28
PSC PHILA., PA

4a. Article Number

Z 121 939 066

4b. Service Type

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

5. Signature (Addressee)

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, November 1990 ★U.S. GPO: 1991—287-066 **DOMESTIC RETURN RECEIPT**

US Postal Service
**Receipt for Certified Mail**
No Insurance Coverage Provided.
Do not use for International Mail *(See reverse)*

| | |
|---|---|
| Sent to IRS | |
| Street & Number | |
| Post Office, State, & ZIP Code Philadelphia, PA 19255 | |
| Postage | $ |
| Certified Fee | |
| Special Delivery Fee | |
| Restricted Delivery Fee | |
| Return Receipt Showing to Whom & Date Delivered | |
| Return Receipt Showing to Whom, Date, & Addressee's Address | |
| TOTAL Postage & Fees | $ |
| Postmark or Date | |

FEB 11 1999

PS Form 3800, April 1995

Return to Cary


BOWLES RICE
DAVID GRAFF & LOVE, PLLC
ATTORNEYS AT LAW
600 QUARRIER STREET
POST OFFICE BOX 1386
CHARLESTON, WEST VIRGINIA 25325-1386
TELEPHONE 304-347-1100
www.bowlesrice.com


**FILE COPY**


5TH FLOOR, UNITED SQUARE
501 AVERY STREET
PARKERSBURG, WEST VIRGINIA 26102
TELEPHONE 304-485-8500

1200 WORLD TRADE CENTER
333 WEST VINE STREET
LEXINGTON, KENTUCKY 40507
TELEPHONE 606-225-8700

E-MAIL
csiegris@bowlesrice.com


February 11, 1999

**CERTIFIED MAIL**
**RETURN RECEIPT REQUESTED**
**No. Z 121 939 067**

Internal Revenue Service Center
Philadelphia, Pennsylvania 19255

RE: City of Keyser Water Revenue Bonds, Series 1998B

Dear Sirs:

Please find enclosed Form 8038-G, Information Return for Tax-Exempt Governmental Obligations submitted in connection with the City of Keyser Water Revenue Bonds, Series 1998B.

Also enclosed, please find a copy of said Form 8038-G which has been stamped "COPY" in the upper right-hand corner. It would be greatly appreciated if you would stamp said copy acknowledging the receipt of the subject Form 8038-G and indicate the date on which said Form 8038-G was received by your office. Please then return said copy to the undersigned in the enclosed self-addressed, postage prepaid, envelope.

If you have any questions or comments regarding the foregoing, please contact the undersigned at your convenience. Thank you for your cooperation.

Very truly yours,

Camden P. Siegrist

CPS/spg
Enclosures

GBB.GBB.0049592

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.*)

COPY

OMB No. 1545-0720

**Part I** Reporting Authority — If Amended Return, check here ▶ ☐

| | |
|---|---|
| 1 Issuer's name: City of Keyser | 2 Issuer's employer identification number: 55 6000193 |
| 3 Number and street (or P.O. box if mail is not delivered to street address): 111 North Davis Street — Room/suite: | 4 Report number: G19 98 - 02 |
| 5 City, town, or post office, state, and ZIP code: Keyser, West Virginia 27626 | 6 Date of issue: October 15, 1998 |
| 7 Name of issue: Water Revenue Bonds, Series 1998B | 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 | 2,997,584 |
| 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 | 10/1/2038 | 6.25% | 193,002.00 | 193,002.00 | | | |
| 20 Entire issue | | | 2,997,584 | 5,991,460 | 27.782 years | 6.25027% | 6.25 % |

IRS RECEIVED

**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 | 2,997,584 |
| 23 | Proceeds used for bond issuance costs (including underwriters' discount) | 23 16,972 | | |
| 24 | Proceeds used for credit enhancement | 24 | | |
| 25 | Proceeds allocated to reasonably required reserve or replacement fund | 25 | | |
| 26 | Proceeds used to currently refund prior issues | 26 | | |
| 27 | Proceeds used to advance refund prior issues | 27 | | |
| 28 | Total (add lines 23 through 27) | | 28 | 16,972 |
| 29 | Nonrefunding proceeds of the issue (subtract line 28 from line 22 and enter amount here) | | 29 | 2,980,612 |

PSC BIRMINGHAM, PA MAR 1 97

**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.

▶ Keith R. Hayward — Signature of issuer's authorized representative

October 15, 1998 — Date

▶ Keith R. Hayward, 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

*U.S. Government Printing Office: 1995 — 387-095/20109

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write *"Return Receipt Requested"* on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Internal Revenue Service Center
Philadelphia, PA 19255

FEB 14 1999
PSC PHILA, PA

4a. Article Number

Z 121 939 067

4b. Service Type

☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

5. Received By: *(Print Name)*

6. Signature: *(Addressee or Agent)*

X

8. Addressee's Address *(Only if requested and fee is paid)*

PS Form **3811,** December 1994 102595-97-B-0179 Domestic Return Receipt

Thank you for using Return Receipt Service.

WV MUNICIPAL BOND COMMISSION
Suite 300
812 Quarrier Street
Charleston, WV 25301
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: October 15, 1998

(See Reverse for Instructions)

ISSUER & ISSUE: City of Keyser Water Revenue Bonds, Series 1998A

ADDRESS: 111 North Davis Street, Keyser, West Virginia 26726 COUNTY: Mineral

PURPOSE OF ISSUE: New Money X Refunding X Refunds issue(s) dated: October 3, 1984

ISSUE DATE: October 15, 1998 CLOSING DATE: October 15, 1998

ISSUE AMOUNT: $ 761,842 RATE: 6.25%

1st DEBT SERVICE DUE: April 1, 1999 1st PRINCIPAL DUE: October 1, 1999

1st DEBT SERVICE AMOUNT: PAYING AGENT: Municipal Bond Commission

ISSUERS BOND COUNSEL: Bowles Rice McDavid Graff & Love, PLLC
Contact Person: Camden P. Siegrist, Esq.
Phone: 347-1129

UNDERWRITERS BOND COUNSEL: Jackson & Kelly
Contact Person: Samme L. Gee, Esq.
Phone: 340-1318

CLOSING BANK: American Trust Bank, N.A.
Contact Person:
Phone:

ESCROW TRUSTEE:
Contact Person:
Phone:

KNOWLEDGEABLE ISSUER CONTACT
Contact Person: Penny Sanders
Position: City Administrator
Phone: 788-1511

OTHER: WV Water Development Authority
Contact Person: Daniel B. Yonkosky
Function: Director
Phone: 558-3612

DEPOSITS TO MBC AT CLOSE:
By X Wire
Check
IGT

Accrued Interest: Days $
Capitalized Interest: $ 56,336
Reserve Account: $
Other: $

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By Wire
Check
IGT

To Escrow Trustee: $
To Issuer: $
To CIF-State Treasury $
To Other: $

NOTES:

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED:
TRANSFERS REQUIRED:

Form MBC-1 (9/87)

WV MUNICIPAL BOND COMMISSION
Suite 300
812 Quarrier Street
Charleston, WV 25301
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: October 15, 1998

(See Reverse for Instructions)

ISSUER & ISSUE: City of Keyser Water Revenue Bonds, Series 1998B

ADDRESS: 111 North Davis Street, Keyser, WV 26726 COUNTY: Mineral

PURPOSE OF ISSUE: New Money X Refunding ____ Refunds issue(s) dated: ____

ISSUE DATE: October 15, 1998 CLOSING DATE: October 15, 1998

ISSUE AMOUNT: $ 2,997,584 RATE: 6.25% *(See Notes Below)

1st DEBT SERVICE DUE: April 1, 1999 1st PRINCIPAL DUE: October 1, 1999

1st DEBT SERVICE AMOUNT: ____ PAYING AGENT: Municipal Bond Commission

ISSUERS BOND COUNSEL: Bowles Rice McDavid Graff & Love, PLLC
Contact Person: Camden P. Siegrist, Esq.
Phone: 347-1129

UNDERWRITERS BOND COUNSEL: Jackson & Kelly
Contact Person: Samme L. Gee, Esq.
Phone: 340-1318

CLOSING BANK: American Trust Bank, N.A.
Contact Person: ____
Phone: ____

ESCROW TRUSTEE: ____
Contact Person: ____
Phone: ____

KNOWLEDGEABLE ISSUER CONTACT
Contact Person: Penny Sanders
Position: City Administrator
Phone: 788-1511

OTHER: WV Water Development Authority
Contact Person: Daniel B. Yonkosky
Function: Director
Phone: 558-3612

DEPOSITS TO MBC AT CLOSE:
By X Wire
____ Check
____ IGT

Accrued Interest: ____ Days $ ____
Capitalized Interest: $ 221,664
Reserve Account: $ ____
Other: ____ $ ____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By ____ Wire
____ Check
____ IGT

To Escrow Trustee: $ ____
To Issuer: $ ____
To CIF-State Treasury $ ____
To Other: ____ $ ____

NOTES: *The rate may be reduced upon the issuance of the WV Water Development Authority's new bonds. If the rate is reduced, the Municipal Bond Commission will be notified.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED: ____
TRANSFERS REQUIRED: ____

Form MBC-1 (9/87)

**CITY OF KEYSER**

**WATER REVENUE BONDS,**
**SERIES 1998A AND SERIES 1998B**

## ACCEPTANCE OF DUTIES OF DEPOSITORY BANK

American Trust Bank, N.A., a national association with principal offices in Keyser, West Virginia, hereby accepts appointment as Depository Bank, excluding, however, the duties with respect to the Revenue Fund which we understand is to be maintained at F&M Bank, West Virginia, in connection with a Bond Ordinance adopted September 11, 1998, Supplemental Resolution adopted September 30, 1998, Second Supplemental Resolution adopted October 8, 1998 and Third Supplemental Resolution adopted October 14, 1998 (collectively, the "Ordinance") of the City of Keyser, authorizing issuance of the City's Water Revenue Bonds, Series 1998A dated October 15, 1998, in the aggregate principal amount of $761,842 and Water Revenue Bonds, Series 1998B, dated October 15, 1998, in the aggregate principal amount of $2,997,584 (collectively, the "Bonds") and agrees to perform all duties of Depository Bank, excluding, however, the duties with respect to the Revenue Fund, in connection with such Bonds, all as set forth in said Ordinance.

Dated this 15th day of October, 1998.

AMERICAN TRUST BANK, N.A.

By: Diane D. Armstrong

Its: Senior Vice President

GBB.GBB.0042324

**CITY OF KEYSER**

**WATER REVENUE BONDS,**
**SERIES 1998A AND SERIES 1998B**

**ACCEPTANCE OF DUTIES OF DEPOSITORY BANK**
**WITH RESPECT TO REVENUE FUND**

F & M Bank - West Virginia, Inc., a state banking corporation with offices in Keyser, West Virginia, hereby accepts appointment as Depository Bank, with respect to the Revenue Fund only, in connection with a Bond Ordinance adopted September 11, 1998, Supplemental Resolution adopted September 30, 1998, Second Supplemental Resolution adopted October 8, 1998 and Third Supplemental Resolution adopted October 14, 1998 (collectively, the "Ordinance") of the City of Keyser, authorizing issuance of the City's Water Revenue Bonds, Series 1998A dated October 15, 1998, in the aggregate principal amount of $761,842 and Water Revenue Bonds, Series 1998B, dated October 15, 1998, in the aggregate principal amount of $2,997,584 (collectively, the "Bonds") and agrees to perform all duties of Depository Bank with respect to the Revenue Fund only in connection with such Bonds, all as set forth in said Ordinance.

Dated this 15th day of October, 1998.

F & M BANK - WEST VIRGINIA, INC.

By: Bruce C. Ludwick

Its: SVP and Regional Manager

088.088.0042446

**CITY OF KEYSER**

**WATER REVENUE BONDS,**
**SERIES 1998A AND SERIES 1998B**

**ACCEPTANCE OF DUTIES OF REGISTRAR**

One Valley Bank, National Association, with its principal office in the City of Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the City of Keyser Water Revenue Bonds, Series 1998A, dated October 15, 1998, in the aggregate principal amount of $761,842, and Water Revenue Bonds, Series 1998B, dated October 15, 1998, in the aggregate amount of $2,997,584 (collectively, 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.

Dated this 15th day of October, 1998.

ONE VALLEY BANK, NATIONAL ASSOCIATION

By: Charlotte S. Morgan

Charlotte S. Morgan
Its: Assistant Vice President

**CITY OF KEYSER**

**WATER REVENUE BONDS,**
**SERIES 1998A AND SERIES 1998B**

**CERTIFICATE OF REGISTRATION OF BONDS**

I, Charlotte S. Morgan, Assistant Vice President of One Valley Bank, National Association, as Registrar under the Local Act providing for the $761,842 aggregate principal amount of Water Revenue Bonds, Series 1998A and $2,997,584 aggregate principal amount of Water Revenue Bonds, Series 1998B of the City of Keyser (the "Issuer"), hereby certify that on the 15th day of October, 1998, the single fully registered Series 1998A Bond of the Issuer in the principal amount of $761,842 designated "Water Revenue Bond, Series 1998A," numbered AR-1, and the single fully registered Series 1998B Bond of the Issuer in the principal amount of $2,997,584 designated "Water Revenue Bond, Series 1998B," numbered BR-1, were 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 as of this 15th day of October, 1998.

ONE VALLEY BANK, NATIONAL ASSOCIATION

By: Charlotte S. Morgan

Charlotte S. Morgan
Its: Assistant Vice President

GBB.GB8.0042210

# REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 15th day of October, 1998, by and between CITY OF KEYSER, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its $761,842 aggregate principal amount of Water Revenue Bonds, Series 1998A, and its $2,997,584 aggregate principal amount of Water Revenue Bonds, Series 1998B, in fully registered form (the "Bonds"), pursuant to a Bond Ordinance enacted September 11, 1998, and a Supplemental Resolution adopted September 30, 1998, a Second Supplemental Resolution adopted October 8, 1998 and a Third Supplemental Resolution adopted October 14, 1998 (collectively, the "Local Act");

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 Local Act, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Local Act provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Local Act and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Local Act 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 Local Act, 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 exclusion of interest on the Bonds from gross income for federal income tax purposes, 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. For its fees and expenses hereunder, Registrar shall receive the amount of $500 if a representative of Registrar attends the closing or $250 if a representative of Registrar does not attend the closing, said fees and expenses to be payable upon the issuance of the Bonds.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Local Act with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Local Act, the terms of the Local Act 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 Local Act will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

| | |
|---|---|
| Issuer: | City of Keyser<br>111 North Davis Street<br>Keyser, West Virginia 26726 |
| Registrar: | One Valley Bank, National Association<br>One Valley Square<br>Charleston, West Virginia 25301<br>Attention: Corporate Trust Department |

8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Local Act.

IN WITNESS WHEREOF, CITY OF KEYSER and ONE VALLEY BANK, NATIONAL ASSOCIATION, have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

CITY OF KEYSER

By: Kirk R. Harwood

Its: Mayor

ONE VALLEY BANK,
NATIONAL ASSOCIATION

By: Charlotte L. Morgan

Its: ASSISTANT VICE PRESIDENT

**EXHIBIT A**

[See Transcript Document Numbers 1 and 2]

LOAN PROGRAM II
REQUISITION AS TO LOAN TO GOVERNMENTAL AGENCY

TO: The Bank of New York, Trustee

A. Name of Governmental Agency to which payment is to be made: City of Keyser (West Virginia)

B. Total Amount to be paid: $761,842

C. Certification by Water Development Authority.

I hereby certify that under the terms and provisions of the Loan Agreement providing for the Loan to the above-captioned Governmental Agency, dated as of October 15, 1998, said Governmental Agency has sold its City of Keyser Water Revenue Bonds, Series 1998A (the "Local Bond") to the Authority in the principal amount equal to the amount of the Loan set forth in (B) above, that such Governmental Agency is obligated to make Local Bond Payment and to pay Fees and Charges in accordance with Section 9.09 of the General Resolution and that such Governmental Agency is not in default under any of the terms or provisions of said Loan Agreement.

I further certify that the Local Bond Payments, and other moneys available therefor, will be sufficient to pay interest on and Principal Installments of the Local Bond, the proceeds of which were used to fund the Loan Obligation, as such interest and Principal Installments come due.

The above certification complies with Subsections 6.06(2)(a)(ii) and (v) of the General Resolution.

Barbara B. Meadows
Authorized Representative
West Virginia Water Development Authority

DATE: October 15, 1998
132090

ASSIGNMENT SEPARATE FROM BOND

FOR VALUE RECEIVED, the West Virginia Water Development Authority hereby sells, assigns and transfers unto The Bank of New York, $761,842 City of Keyser (West Virginia) Water Revenue Bonds, Series 1998A, numbered AR-1, standing in the name of the West Virginia Water Development Authority on the books of registration of said Governmental Agency.

Dated: October 15, 1998

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

Barbara B Meadows
Authorized Representative

CHASFS3:132090

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

GASTON CAPERTON
GOVERNOR

November 18, 1994

The Honorable Glen Ryan
Mayor
City of Keyser
101 North Davis Street
Keyser, West Virginia 26728

Dear Mayor Ryan:

Thank you for your application to the Small Cities Block Grant program for fiscal year 1994.

I am pleased to approve your request in an amount not to exceed $633,500. These funds will enable you to improve the water system in the City of Keyser. The expenditure of these funds will be subject to review and concurrence by the newly established Infrastructure and Jobs Development Council. Please be advised that cost necessary to obtain concurrence from the Infrastructure and Jobs Development Council after this date will be considered allowable project cost.

The West Virginia Development Office, Community Development Division staff, will contact you to complete the necessary contracts in order to proceed with your project.

It is with pleasure that I am able to work with you to make this project a reality.

Sincerely,

Gaston Caperton

Gaston Caperton
Governor

GC:bns

# *STATE OF WEST VIRGINIA*

## SMALL CITIES BLOCK GRANT AWARD

**THIS IS TO CERTIFY THAT A GRANT OF $633,500 HAS BEEN AWARDED TO THE *CITY OF KEYSER* TO ASSIST IN THE PROVISION OF QUALITY COMMUNITY FACILITIES**

Gaston Caperton

**GASTON CAPERTON**
**GOVERNOR**

USDA

United States
Department of
Agriculture

Rural Development

Federal Building, Room 320
75 High Street
Morgantown, WV 26505-7500
TELEPHONE: (304) 291-4796
FAX: (304) 291-4159
TTY/TDD (304) 284-5941

**CITY OF KEYSER**
**WATER REVENUE BONDS**
**SERIES 1998**

**TO WHOM IT MAY CONCERN:**

**The undersigned State Director for the United States of America acting through the Rural Utilities Service, United States Department of Agriculture (formerly the United States of America, Farmers Home Administration), as sole present holder of the City of Keyser Water Revenue Bond, Series 1980 (the "Series 1980 Bond") and City of Keyser Waterworks Improvement Revenue Note, dated September 19, 1961 (the "Series 1961 Note"), hereby consents to the issuance of the Issuer's Water Revenue Bonds, Series 1998 (the "Series 1998 Bonds") in an aggregate principal amount of not to exceed $4,000,000 on parity with respect to liens, pledges and sources of and security for payment, with the Series 1980 Bond and the Series 1961 Note, under the terms of the Bond Ordinance authorizing such Series 1998 Bonds, and hereby waives any requirements imposed by the Series 1980 Bond, the Series 1961 Note or the respective Ordinances authorizing the same, regarding the issuance of parity bonds which are not met by the Series 1998 Bonds.**

**Dated this 6th day of October, 1998.**

**By:** _____
**ROBERT D. LEWIS**
**State Director**

Rural Development is an Equal Opportunity Lender. Complaints of discrimination should be sent to: Secretary of Agriculture, Washington, DC 20250.

PRINTED WITH SOYINK

UNITED STATES
DEPARTMENT OF
AGRICULTURE

RURAL
DEVELOPMENT

401 Davis Avenue
Elkins, WV 26241-3848
Phone: (304) 636-2158
TTY/TDD: 1-800-982-8771
FAX: (304) 636-5902

October 13, 1998

City of Keyser
111 N. Davis St.
Keyser, WV 26726

Dear Borrower:

This letter is to acknowledge receipt of your payment in the amount of $286,023.47 toward the 91-06 loan as payment in full. The original water revenue bond will be stamped "Paid in Full" upon application of the payment.

The original bond will be mailed to you in approximately two (2) weeks. If you should have any questions regarding this matter, or if we can be of further assistance, please do not hesitate to contact our office.

Sincerely,

Darrel D. Lipscomb

DARREL D. LIPSCOMB
Rural Development Specialist
Rural Utilities Service

Enclosure

DDLipscomb:nmt

Rural Development is an Equal Opportunity Lender. Complaints of Discrimination should be sent to: Secretary of Agriculture, Washington, DC 20250

**CITY OF KEYSER**

**CERTIFICATE OF SATISFACTION AND PAYMENT**

The undersigned duly authorized representative of F & M Bank - West Virginia, Inc. (the "Bank"), as the lender in connection with a loan or loans made by the Bank to the City of Keyser (the "City") to finance temporarily the costs of certain improvements to the waterworks system of the City pending issuance by the City of the City's Water Revenue Bonds to permanently finance the costs of such improvements (such loan or loans made by the Bank to the City being hereinafter referred to herein as the "Interim Financing"), hereby certifies as follows:

1. The Bank is the holder and owner of the entire outstanding amount of the Interim Financing.

2. On the date hereof, there was paid to the Bank by the City the amount of $406,204.34, the receipt of which is hereby acknowledged, which is sufficient to satisfy all of the Interim Financing, including the interest thereon.

3. All liens, pledges and security, if any, securing any and all of the Interim Financing, including without limitation any lien on or pledge of (i) the revenues of the waterworks system of the City, or (ii) the proceeds of any water revenue bonds to be issued by the City, and all covenants, agreements and obligations of the City with respect to the Interim Financing are satisfied and discharged. The note or notes relating to the Interim Financing will be marked "Satisfied in Full" and returned to the City.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of October, 1998.

F & M BANK - WEST VIRGINIA, INC.

By: John E. Ludwick

Its: SVP and Regional Manager

GBB.GBB.0042540

# 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

March 10, 1997

Kenneth Dyche
Region 8 Planning and Development Council
P.O. Box 849
Petersburg, WV 26726

Re: City of Keyser
Water System Improvements Project 97W-288

Dear Mr. Dyche:

The West Virginia Infrastructure and Jobs Development Council (Council) has reviewed the City of Keyser's (City) preliminary application regarding its proposed water system improvements (Project), and has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act. The City should carefully review the enclosed comments of the Water Technical Review Committee. The City may need to address certain issues raised in said comments as it proceeds with the Project.

The Council understands that a Small Cities Block Grant in the amount of $633,500 has been committed to the Project. In addition, the Council recommends the City pursue a Water Development Authority (WDA) loan of approximately $3,323,429. Please contact the WDA at 558-3612 for specific information on the steps the City needs to follow to apply for this loan. **Please note that this letter <u>does not</u> constitute funding approval from the WDA.**

If you have any questions regarding this matter, please contact Susan J. Riggs at the above-referenced number.

Sincerely,

Russell L. Isaacs

RLI/bh
cc: Fred Cutlip
Daniel B. Yonkosky

STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Cecil H. Underwood
Governor

Joan Ohl
Secretary

# MEMORANDUM

TO: Bernie Yonkosky
Chairman, Funding Committee

FROM: Bill Herold, P.E.
Infrastructure Water Assessment Committee

DATE: February 25, 1997

RE: Preliminary Application 97W-288
City of Keyser Water Project
Mineral County

The Water Assessment Committee has reviewed the application and determined it to be technically feasible with the exception of the Limestone Dam rehabilitation.

It is recommended that the application **be forwarded to the Funding Committee** for review, but not to include the $100,000 dam rehabilitation.

A permit from the WV Bureau for Public Health and a Certificate of Convenience and Necessity from the PSC will be required prior to construction.

If you have any questions concerning this project, please contact me.

BH\km
Enclosure
pc Joe Hatfield, Housing Development Fund
David Warner, Economic Development Authority
Fred Cutlip, WV Development Office
Boyce Griffith, Public Service Commission
Pat Park, Ofc of Abandoned Mine Lands
Joseph P. Schock, Ofc of Env. Health Services
Susan Riggs, WV IJDC
Mike Mower, Kearneysville District Office

T:\WP60WIN\PED\INFRASTR\PROJECTS\1997\KEYSER.F20

BUREAU FOR PUBLIC HEALTH
Office of Environmental Health Services
815 Quarrier Street, Suite 418
Charleston, West Virginia 25301-2616
Telephone (304) 558-2981

Cecil H. Underwood, Governor

WEST VIRGINIA
MOUNTAINS OF OPPORTUNITY

WEST VIRGINIA DEVELOPMENT OFFICE

1900 KANAWHA BOULEVARD, EAST
CHARLESTON, WV 25305-0311

# MEMORANDUM

TO: Paul Daniels, P.E.

FROM: Ralph H. Goolsby

DATE: February 6, 1997

RE: Preliminary Application for City of Keyser

We have reviewed the above captioned project and offer the following comments.

- The project is seeking $633,500 from SCBG, $1,200,000 from IJDC Grant and $2,223,429 from WDA Loan.
- The West Virginia Development Office, at this time, is not working with any clients that impact this project.

RHG:cc

GASTON CAPERTON
GOVERNOR

DIVISION OF ENVIRONMENTAL PROTECTION
1201 Greenbrier Street
Charleston, WV 25311-1088

LAIDLEY ELI McCOY, Ph.D.
DIRECTOR

FEB 11 1997
ADMINISTRATION

# M E M O R A N D U M

MEMO TO: William S. Herold, Jr.
Environmental Engineering Division
Dept. of Health and Human Resources

FROM: Jerry L. Ray
Assistant Chief
Office of Water Resources

DATE: February 10, 1997

SUBJECT: City Of Keyser Water Treatment Plant
Water Lines Replacement Project
Mineral County

We have reviewed the above referenced project application information. Since this project is for the replacement of existing water lines with new lines and the filter backwash wastewater discharges into the city wastewater treatment plant, therefore, we have no objections to this project.

MBS:mbs

*Public Service Commission*
*Caryn Watson Short, Staff Attorney*
*201 Brooks Street, P. O. Box 812*
*Charleston, West Virginia 25323*
*Phone: (304) 340-0338*
*Fax: (304) 340-0372*

February 11, 1997

Paul E. Daniels, Jr., P.E.
Environmental Health Services
815 Quarrier Street, Suite 418
Charleston, WV 25301
FAX: 558-0691

Re: Public Service Commission Staff Review Comments
97-W288 City of Keyser
Infrastructure Preliminary Application

Dear Mr. Daniels:

Attached please find the Public Service Commission Staff technical review comments regarding the City of Keyser's preliminary application to the Infrastructure Council.

Please let me know if you have any questions regarding this matter. Thank you for your attention.

Sincerely,

Caryn Watson Short

CARYN WATSON SHORT
Staff Attorney

CWS/cg
Attachments

**PUBLIC SERVICE COMMISSION STAFF**
**TECHNICAL STAFF**

DATE: February 10, 1997

PROJECT SPONSOR: CITY OF KEYSER (97W-288)

PROJECT SUMMARY: DISTRIBUTION SYSTEM IMPROVEMENTS

The proposed project consists of the replacement of existing distribution facilities, as well as improvements to the existing treatment plant. Estimated cost is $4,056,929.

| | | |
|---|---|---|
| PROPOSED FUNDING: | WVSCBG | $633,500 |
| | WVIJDC GRANT | $1,200,000 |
| | WDA Loan | $2,223,429 38@6% |

PROPOSED RATES: Approximately 16.41

---

FINANCIAL: Geert Bakker

1) Current and proposed rates (average $16.41 for 4500 gallons) are higher than the average rates attributable to 1% of the Median Household Income (MHI), or $16.30 per 4500 gallons) and lower than average rates attributable to 1.5% of the MHI of $24.45. When the rates are increased to the level of 1.5% of the MHI, these rates would produce an additional ~~$989,000~~. 325,000

2). Proposed project added to current cashflow amounts (page 4) show a loss of approximately $40,000. The current city budget shows larger amount for revenue and debtservice, which includes reserves. The differences are caused by a recent rate change which decreased for minimum bill but rates increased particularly for customers using in excess of 20,000 gallons and for resale cucustomers. These rates are based on Commission Staff's recommendation during a rate case.

3) Project is feasible with City's budget numbers attached to the pre-application.

ENGINEERING: James W. Ellars

1. The scope and magnitude of the proposed project will require the City to make application for a Certificate of Convenience and Necessity.

2. The City currently serves 2618 customers. Although the project does not serve any new customers, the project will benefit those already receiving service.

3. Project Feasibility:

Assuming that the City obtains funding, the project is feasible to implement.

4. Alternatives to project:

There are apparently no alternatives other than No Action.

5. Consolidation:

There are presently no formal consolidation efforts underway which immediately affects this utility.

6. Inconsistencies:

None.

7. Operation and Maintenance Costs:

The O & M costs submitted in conjunction with this project seem generally adequate for a project of this magnitude.

OB