THE CITY OF LOGAN, WEST VIRGINIA

$623,087 Subordinate Sewerage System Revenue Bonds, Series 1987

$152,833 Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987

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$623,087 Subordinate Sewerage System
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$152,833 Supplemental Subordinate Sewerage System
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Closing: September 25, 1987

TRANSCRIPT OF PROCEEDINGS

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State of West Virginia

CERTIFICATE

I, Ken Hechler, Secretary of State of the State of West Virginia, hereby certify that

ATTACHED IS A TRUE COPY OF WEST VIRGINIA CODE, CHAPTER 16, ARTICLE 13 "SEWAGE WORKS OF MUNICIPAL CORPORATIONS AND SANITARY DISTRICTS"; AS INDICATED BY THE RECORDS OF MY OFFICE.

Given under my hand and the Great Seal of the State of West Virginia, on this

TWENTY-FIRST *day of*

SEPTEMBER *19* 87

Ken Hechler

Secretary of State.

Notice shall be given by the county court of the time and place, when and where all persons interested will be heard substantially as provided in section one of this article. The conduct of the hearing and the manner of conducting the subsequent election on the question whether such territory shall become disconnected and the issuance, reception, return and canvassing of the ballots shall be, as nearly as possible, in accordance with the provisions of section one of this article. The ballots for the election provided for in this section shall be substantially as follows, to wit:

☐ For disconnection from sanitary district.
☐ Against disconnection from sanitary district.

If a majority of the votes cast at such election shall be in favor of disconnection, and if the trustees of such sanitary district shall, by ordinance, disconnect such territory, thereupon the county court of the county in which the original petition for the formation of such sanitary district was filed, shall enter an appropriate order in the records of the said county court and thereafter such territory shall henceforth be deemed disconnected from such sanitary district. (1933, Ex. Sess., c. 24, § 14.)

Editor's note. — As to designation of county courts as county commissions, see W. Va. Const., art. IX, § 9.

ARTICLE 13.

SEWAGE WORKS OF MUNICIPAL CORPORATIONS AND SANITARY DISTRICTS.

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16-13-2. Sanitary board to supervise and control construction, etc., of works; appointment of board; definitions.
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16-13-23a. Additional powers of municipality upon receipt of order to cease pollution.
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Constitutionality. — See Brewer v. City of Point Pleasant, 114 W. Va. 572, 172 S.E. 717 (1934); Stevenson v. City of Bluefield, 39 F. Supp. 462 (S.D.W. Va. 1941); West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

Obligations incurred by a city under the authority of this article permitting the issuance of revenue bonds for the construction of sewers are not to be deemed "debts" within the constitutional inhibition. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

Legislative intent to protect municipalities from general obligations. — It appears clear that the legislature recognized the need for municipal utility systems; however, it did not wish the municipality to become generally obligated for the building or acquisition of the system. Financing is provided for primarily by revenue bonds, and bondholders are assured of a safe investment through the collection of sufficient user charges to service the bonds and maintain the assets of the system. Op. Att'y Gen., April 3, 1979.

No conflict with statutory limitations on expenditure of tax funds. — There is no conflict between this article, authorizing a city to incur expenses which are to be payable solely from the proceeds of revenue bonds, and the general statutory limitations on the expenditure of money and incurring of obligations with respect to funds produced by tax levies. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

Limitation imposed by article read into agreement with federal works administrator. — Where a city made an agreement with the federal works administrator under the War Mobilization and Reconversion Act of 1944 with regard to advances of money to the city for the purpose of plan preparation for construction of a proposed sewage treatment and disposal system, the limitation imposed by this article would be read into the agreement, since the parties are presumed to know the extent of the city's authority to make a binding contract. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

Municipality may not compel nonresidents to connect with a municipal sewer extended without its corporate limits. 48 Op. Att'y Gen. 19 (1958).

Ordinance held valid. — An ordinance of a municipal corporation, creating a sanitary board and authorizing such sanitary board to enter into contracts for the construction of a sewage system, was within the police power of the State delegated to municipalities by this chapter. West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

§ 16-13-1. Acquisition, operation, etc., of works; acquisition of property; issuance of bonds.

Any municipal corporation and/or sanitary district in the State of West Virginia is hereby authorized and empowered to own, acquire, construct, equip, operate and maintain within and/or without the corporate limits of such municipal corporation, a sewage collection system and/or a sewage treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other appurtenances necessary or useful and convenient for the collection and/or treatment, purification and disposal, in a sanitary manner, of the liquid and solid waste, sewage, night soil and industrial waste of such municipal corporation and/or sanitary district, and shall have authority to acquire by gift, grant, purchase, condemnation, or otherwise, all necessary lands, rights-of-way and property therefor, within and/or without the corporate limits of such municipal corporation and/or sanitary district, and to issue revenue bonds to pay the cost of such works and property; and any such municipality may serve and supply the facilities of such sewerage system within the corporate limits of such municipality and within the area extending twenty miles beyond the corporate limits of such municipality: Provided, however, that such municipality shall not serve or supply the facilities of such sewerage system within the corporate limits of any other municipality without the consent of the governing body thereof. No obligations shall be incurred by any such municipality and/or sanitary district in such construction or acquisition except such as is payable solely from the funds provided under the authority of this article. (1933, Ex. Sess., c. 25, § 1; 1955, c. 132.)

Sections read together. — This section should be read and construed with former § 8-4-20 and §§ 16-13-2, 16-13-16, 24-1-1, 24-2-1, and 24-2-3. Delardas v. Morgantown Water Comm'n, 148 W. Va. 776, 137 S.E.2d 426 (1964).

Use of territory in adjoining state authorized. — By this section and § 16-13-22 the legislature intended, insofar as it could, to confer upon such municipalities as might find its exercise convenient, the right to make necessary and appropriate arrangements for the disposal of their sewage, even where that course involved the use of territory in an adjoining state. Bernard v. City of Bluefield, 117 W. Va. 556, 186 S.E. 298 (1936).

Quoted in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Cited in City of Beckley v. Craighead, 125 W. Va. 484, 24 S.E.2d 908 (1943).

§ 16-13-2. Sanitary board to supervise and control construction, etc., of works; appointment of board; definitions.

The construction, acquisition, improvement, equipment, custody, operation and maintenance of any such works for the collection, treatment or disposal of sewage and the collection of revenues therefrom for the service rendered thereby, shall be under the supervision and control of a sanitary board appointed by the governing body as set forth in section eighteen [§ 16-13-18] of this article. The term "works" as used in this article shall be construed to

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mean and include a works for the collection and/or treatment, purification and disposal of sewage, in its entirety or any integral part thereof. The term "municipality" as used in this article shall be construed to mean any municipal corporation, incorporated city, town, village or sanitary district in the State of West Virginia. The term "governing body" as used in this article shall be construed to mean the mayor and council or other legally constituted governing body of any municipality. The term "board" when hereinafter used in this article shall be construed to mean the sanitary board as set up in section eighteen of this article. (1933, Ex. Sess., c. 25, § 2.)

Sections read together. — This section should be read and construed with former § 8-4-20 and §§ 16-13-1, 16-13-16, 24-1-1, 24-2-1 and 24-2-3. Delardas v. Morgantown Water Comm'n, 148 W. Va. 776, 137 S.E.2d 426 (1964).

Quoted in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Cited in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957).

§ 16-13-3. Powers of sanitary board; contracts; employees; compensation thereof; extensions and improvements; replacement of damaged public works.

The board shall have power to take all steps and proceedings and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers under this article: Provided, that any contract relating to the financing of the acquisition or construction of any such works, or any trust indenture as hereinafter provided for, shall be approved by the governing body of such municipality before the same shall be effective. The board may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and such other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, all of whom shall do such work as the board shall direct. All such compensation and all expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under the authority of this article, and the board shall not exercise or carry out any authority or power herein given it so as to bind said board of said municipality beyond the extent to which money shall have been or may be provided under the authority of this article. No contract or agreement with any contractor or contractors for labor and/or material, exceeding in amount the sum of one thousand dollars, shall be made without advertising for bids, which bids shall be pubicly opened and award made to the best bidder, with power in the board to reject any or all bids. After the construction, installation, and completion of the works, or the acquisition thereof, the board shall operate, manage and control the same and may order and complete any extensions, betterments and improvements of and to the works that the board may deem expedient, if funds therefor be available or are made available as provided in this article, and shall establish rules and regulations for the use and operation of the works, and of other sewers and drains connected therewith so far as they may affect the operation of such works, and do all things necessary or expedient

for the successful operation thereof. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition, as nearly as practicable, if requested so to do by proper authority, out of the funds provided by this article. (1933, Ex. Sess., c. 25, § 3.)

Contractor is not entitled to governmental immunities of municipality. — A contractor under contract with the sanitary board of a municipality for construction of a sewage treatment and disposal system is not entitled to the governmental immunities of the municipality incident to the construction project. West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

And is liable on contract with third party. — Where a contract between a municipal sanitary board and a contractor, providing for the construction of a sanitary sewage system, provides inter alia that "existing surface, overhead or subsurface structures damaged or destroyed by reason of the contractor's operations shall be promptly repaired or replaced in a satisfactory manner at the cost and expense of the contractor," and the contractor by job order requests enters into a contract with an existing water company to remove certain of the latter's water pipes which interfere with the construction of the sewage system, the contractor, in a notice of motion for judgment proceeding instituted by the water company, is liable for the expense so incurred. West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

Stated in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

§ 16-13-4. Payment of preliminary expenses of surveys, etc.

All necessary preliminary expenses actually incurred by the board of any municipality in the making of surveys, estimates of costs and of revenue, employment of engineers or other employees, the giving of notices, taking of options and all other expenses of whatsoever nature, necessary to be paid prior to the issue and delivery of the revenue bonds pursuant to the provisions of this article, may be met and paid in the following manner. Said board may from time to time certify such items of expense to the clerk or recorder of said municipality, directing him to pay the several amounts thereof, and thereupon said clerk or recorder shall at once draw a warrant or warrants upon the treasurer of said municipality, which warrant or warrants shall be paid out of the general funds of said municipality not otherwise appropriated, without a special appropriation being made therefor by the governing body; or, in case there are no general funds of such municipality not otherwise appropriated, the clerk or recorder shall recommend to the governing body the temporary transfer from other funds of such municipality of a sufficient amount to meet such items of expense, or the making of a temporary loan for such purpose, and such governing body shall thereupon at once make such transfer of funds, or authorize such temporary loan in the same manner that other temporary loans are made by such municipality: Provided, however, that the fund or funds of such municipality from which such payments are made shall be fully reimbursed and repaid by said board out of the first proceeds of the sale of revenue bonds hereinafter provided for, and before any other disbursements are made therefrom, and the amount so advanced to pay such preliminary expenses, shall be a first charge against the proceeds resulting from the sale of such revenue bonds until the same has been repaid as herein provided. (1933, Ex. Sess., c. 25, § 4.)

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A municipality is authorized to incur obligations for the purpose of defraying preliminary expenses of sewer projects, provided repayment of such obligations is to be made solely from the proceeds of revenue bonds, and not in any way from tax levies. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

And may obtain advances by any procedure it may see fit to adopt. — Money used in preliminary engineering work prior to actually beginning construction of a sewage disposal system need not be handled by the sanitary board in accordance with the provisions of §§ 16-13-1, 16-13-18 and this section. The sanitary board is an agency of the city. This article merely requires that the construction and maintenance of the project be under the supervision and control of the sanitary board. A method is provided whereby the sanitary board may meet its own necessary preliminary expenses; but the city, in the early stages of the project, during that period in which the city has not even decided to go ahead with the work, and when there is no sanitary board in existence, is not prevented by any provision in the article from obtaining advances for plan preparation by any procedure which it may see fit to adopt. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

United States entitled to recover advances made by federal works agency. — The United States was held entitled to recover from a city the amount of three advances of money made to the city by the federal works agency for the purpose of plan preparation for construction of a proposed sewage treatment and disposal system, and the city sanitary board was ordered to issue a requisition to the trustees, into whose hands proceeds of future bond issues came, to repay such advances out of any funds in its hands comprising proceeds of revenue bond issues. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

§ 16-13-5. Ordinance necessary before acquisition or construction of works.

Before any municipality shall construct or acquire any works under this article, the governing body shall upon petition of the board, enact an ordinance or ordinances which shall: (a) Set forth a brief and general description of the works and, if the same are to be constructed, a reference to the preliminary report which shall heretofore have been prepared and filed by an engineer chosen by the board as aforesaid; (b) set forth the cost thereof estimated by the engineer chosen as aforesaid; (c) order the construction or acquisition of such works; (d) direct that revenue bonds of the municipality shall be issued pursuant to this article in such an amount as may be found necessary to pay the cost of the works; and (e) contain such other provisions as may be necessary in the premises. (1933, Ex. Sess., c. 25, § 5.)

Quoted in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957).

Stated in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

§ 16-13-6. Publication and hearing upon ordinance.

After such ordinance shall have been adopted, an abstract of the ordinance, determined by the governing body to contain sufficient information as to give notice of the contents of such ordinance, together with the following described notice, shall be published as a Class II legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the municipality. The notice shall state that said ordinance has been adopted, and that the municipality contemplates the issuance of the bonds described in the ordinance, and

that any person interested may appear before the governing body upon a certain date, which shall not be less than ten days subsequent to the first date of publication of such abstract and notice which shall not be prior to the last date of publication of such abstract and notice, and present protests. At such hearing all objections and suggestions shall be heard and the governing body shall take such action as it shall deem proper in the premises: Provided, however, that if at such a hearing written protest is filed by thirty percent or more of the owners of real estate situate in said municipality, then the governing body of said municipality shall not take further action unless four fifths of the qualified members of the said governing body assent thereto. (1933, Ex. Sess., c. 25, § 6; 1967, c. 105; 1981, 1st Ex. Sess., c. 2.)

§ 16-13-7. Acquisition by condemnation or purchase.

Every such municipality shall have power to condemn any such works to be acquired and any land, rights, easements, franchises and other property, real or personal, deemed necessary or convenient for the construction of any such works, or for extensions, improvements, or additions thereto, and in connection therewith may have and exercise all the rights, powers and privileges of eminent domain granted to municipal corporations under the laws relating thereto. Title to property condemned shall be taken in the name of the municipality. Proceedings for such appropriation of property shall be under and pursuant to the provisions of chapter fifty-four [§ 54-1-1 et seq.], of the Code of West Virginia, one thousand nine hundred thirty-one, and acts amendatory and supplemental thereto: Provided, that the municipality shall be under no obligation to accept and pay for any property condemned, and shall in no event pay for any property condemned or purchased, except from the funds provided pursuant to this article; and in any proceedings to condemn, such orders may be made as may be just to the municipality and to the owners of the property to be condemned, and an undertaking or other security may be required securing such owners against any loss or damage to be sustained by reason of the failure of the municipality to accept and pay for the property, but such undertaking or security shall impose no liability upon the municipality except such as may be paid from the funds provided under the authority of this article. In event of the acquisition by purchase the board may obtain and exercise an option from the owner or owners of said property for the purchase thereof, or may enter into a contract for the purchase thereof, and such purchase may be made upon such terms and conditions, and in such manner as the board may deem proper. In event of the acquisition of any works already constructed by purchase or condemnation, the board at or before the time of the adoption of the ordinance described in section five [§ 16-13-5] hereof, shall cause to be determined what repairs, replacements, additions, and betterments will be necessary in order that such works may be effective for their purpose, and an estimate of the cost of such improvements shall be included in the estimate of the cost required by section five hereof, and such improvement shall be made upon the acquisition of the works and as a part of the cost thereof. (1933, Ex. Sess., c. 25, § 7.)

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§ 16-13-8. Cost of works.

The cost of the works shall be deemed to include the cost of acquisition or construction thereof, the cost of all property, rights, easements, and franchises deemed necessary or convenient therefor and for the improvements determined upon as provided in this article; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the improvement last mentioned; engineering and legal expenses; expense for estimates of cost and of revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized and the construction or acquisition of the works and the placing of the works in operation and the performance of the things herein required or permitted in connection with any thereof. (1933, Ex. Sess., c. 25, § 8.)

Expenses incurred in "determining the feasibility or practicability of the enterprise". — It is foreseen, as shown in this section, that a city may probably incur expenses in "determining the feasibility or practicability of the enterprise." Such determination would of course be made prior to the issuance of any revenue bonds, and probably before the creation of a sanitary board. It might often result in a rejection of the project altogether, in which event no revenue bonds would be issued, and any obligation incurred by the city might prove to be uncollectible. On the other hand, if the project be undertaken by the city, whatever loans may have been made on the faith of the revenue bonds would or should be included in the cost of the works and repaid out of the proceeds of the bonds. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

Advances from the United States to a city for the purpose of plan preparation for construction of a proposed sewage treatment and disposal system represent a part of the cost of the works which should have been repaid out of the first proceeds received from the sale of the first issue of revenue bonds. Such repayment would not in any way increase the cost of the works; it was the very first item of expense incurred in connection with the works. Under the agreement between the city and the United States, it was a liability from the moment construction of the sewage treatment and disposal plant was begun. No disadvantage would result to bondholders as a result of the payment of this just debt out of the proceeds of a future revenue bond issue. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

§ 16-13-9. Contracts and obligations incurred to be paid for solely by revenue bonds.

Nothing in this article contained shall be so construed as to authorize or permit any municipality to make any contract or to incur any obligation of any kind or nature except such as shall be payable solely from the funds provided under this article. Funds for the payment of the entire cost of the works, exclusive of any portions of the cost that may be defrayed out of any grant or contribution, shall be provided by the issuance of revenue bonds of the municipality, the principal and interest of which shall be payable solely from the fund herein provided for such payment, and said bonds shall not, in any respect, be a corporate indebtedness of such municipality, within the meaning of any statutory or constitutional limitations thereon. All the details of such bonds shall be determined by ordinance or ordinances of the municipality. (1933, Ex. Sess., c. 25, § 9; 1949, c. 93.)

Cross reference. — See notes to § 16-13-8.

The provisions of this article become a part of the contract between the municipality and the bondholders as effectually as if written verbatim in the bonds. The bondholders are bound by their contract in this instance just as firmly as in any other legal contract. Consequently, the bonds do not create a corporate indebtedness of the municipality. Brewer v. City of Point Pleasant, 114 W. Va. 572, 172 S.E. 717 (1934); United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

Contractual obligation between municipalities not relieved by inability of town to sell revenue bonds. — Under the provisions of §§ 16-13-19 and 16-13-23a, a city and a town may enter into a contract whereby the city agreed to construct a sewage disposal facility and the town agreed to contribute to the cost of the construction of the facility in return for the right to use the facility, and the fact that the town was unable to sell revenue bonds because it was not allowed to have part ownership in the treatment plant or interceptor sewers did not relieve the town of its contractual obligation when the city offered to buy the revenue bonds issued by the town. Since the contracts were authorized by statute and were thus not ultra vires, even if the contracts were not formally approved by ordinance, the municipalities were estopped from asserting any invalidity of the contracts on such ground. City of Morgantown v. Town of Star City, 156 W. Va. 529, 195 S.E.2d 166 (1973).

§ 16-13-10. Interest on and redemption of bonds; form; statement on face of bond; negotiability; exemption from taxation; registration; execution; sale; disposition of surplus proceeds; additional and temporary bonds.

Such revenue bonds shall bear interest at not more than twelve percent per annum, payable at such times, and shall mature at such time or times as may be determined by ordinance. Such bonds may be made redeemable before maturity at the option of the municipality, to be exercised by said board, at not more than the par value thereof and a premium of five percent, under such terms and conditions as may be fixed by the ordinance authorizing the issuance of the bonds. The principal and interest of the bonds may be made payable in any lawful medium. Said ordinance shall determine the form of the bonds, either coupon or registered, shall set forth any registration and conversion privileges, and shall fix the denomination or denominations of such bonds and the place or places of payment of the principal and interest thereof, which may be at any bank or trust company within or without the State. The bonds shall contain a statement on their face that the municipality shall not be obligated to pay the same or the interest thereon except from the special fund provided from the net revenues of the works. All such bonds shall be, and shall have and are hereby declared to have all the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State. Said bonds shall be exempt from all taxation, state, county and municipal. Such bonds shall be executed by the proper legally constituted authorities of the municipality, and be sealed with the corporate seal of the municipality, and in case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers, before delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. Such bonds shall be sold at a price not lower than a price, which when computed upon standard tables of bond values, will show a net return of not more than thirteen per centum per annum to the purchaser upon the amount

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paid therefor, and the proceeds derived therefrom shall be used exclusively for the purposes for which said bonds are issued and same may be sold at one time or in parcels as funds are needed. Any surplus of bond proceeds over and above the cost of the works shall be paid into the sinking fund hereinafter provided. If the proceeds of the bonds, by error of calculation or otherwise, shall be less than the cost of the works, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in said ordinance authorizing the issuance of the bonds first issued or in the trust indenture hereinafter authorized, shall be deemed to be of the same issue and shall be entitled to payment without preference or priority of the bonds first issued. Prior to the preparation of the definitive bonds, temporary bonds may under like restrictions be issued with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. (1933, Ex. Sess., c. 25, § 10; 1970, c. 11; 1980, c. 33; 1981, 1st Ex. Sess., c. 2.)

§ 16-13-11. Additional bonds to extend or improve works.

The governing body may provide by said ordinance authorizing the issuance of the bonds or in the trust indenture hereinafter referred to, that additional bonds may thereafter be authorized and issued, at one time or from time to time under such limitations and restrictions as may be set forth in said ordinance and/or trust indenture, for the purpose of extending, improving or bettering the works when deemed necessary in the public interest, such additional bonds to be secured and be payable from the revenues of the works equally with all other bonds issued pursuant to said ordinance without preference or distinction between any one bond and any other definite bonds upon the issuance of the latter. (1933, Ex. Sess., c. 25, § 11.)

§ 16-13-12. Additional bonds for extension, etc., of works to have equal priority with original bonds.

The governing body may provide by said ordinance authorizing the issuance of the bonds or in the trust indenture hereinafter referred to, that additional bonds may thereafter be authorized and issued, at one time or from time to time, under such limitations and restrictions as may be set forth in said ordinance and/or trust indenture, for the purpose of extending, improving or bettering the works when deemed necessary in the public interest, such additional bonds to be secured and be payable from the revenues of the works equally with all other bonds issued pursuant to said ordinance without preference or distinction between any one bond and any other bond by reason of priority of issuance or otherwise. (1933, Ex. Sess., c. 25, § 12.)

§ 16-13-13. Application of revenue from bonds; lien.

All moneys received from any bonds issued pursuant to this article, after reimbursements and repayment to said municipality of all amounts advanced for preliminary expenses as provided in section four [§ 16-13-4] of this article, shall be applied solely to the payment of the cost of the work, extensions,

improvements or betterments, or to the appurtenant sinking fund and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the holders of the bonds or the trustees hereinafter provided for. (1933, Ex. Sess., c. 25, § 13.)

Quoted in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957).

§ 16-13-14. Securing bonds by trust indenture.

In the discretion of the governing body such bonds may be secured by a trust indenture by and between the municipality and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the State of West Virginia but no such trust indenture shall convey or mortgage the works or any part thereof. The ordinance authorizing the revenue bonds and fixing the details thereof may provide that such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the municipality and the board in relation to the construction or acquisition of the works and the improvement, operation, repair, maintenance and insurance thereof, and the custody, safeguarding and application of all moneys, and may provide that the works shall be contracted for, constructed and paid for under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, successors, assigns or nominees, who may be given the right to require the security given by contractors and by any depository of the proceeds of bonds or revenues of the works or other moneys pertaining thereto be satisfactory to such purchasers, successors, assigns or nominees. Such indenture may set forth the rights and remedies of the bondholders and/or such trustee, restricting the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations. Except as in this article otherwise provided, the governing body may provide by ordinance or in such trust indenture for the payment of the proceeds of the sale of the bonds and the revenues of the works to such officer, board or depository as it may determine for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. (1933, Ex. Sess., c. 25, § 14.)

§ 16-13-15. Sinking fund; transfer of balance of net revenues.

At or before the issuance of any such bonds the governing body shall by said ordinance create a sinking fund, to be remitted to and administered by the state sinking fund commission, for the payment of the bonds and the interest thereon and the payment of the charges of banks or trust companies for making payment of such bonds or interest, and shall set aside and pledge a sufficient amount of the net revenues of the works, hereby defined to mean the revenues of the works remaining after the payment of the reasonable expense of oper-

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§ 16-13-16. Rates for service; change or readjustment; hearing; lien and recovery; discontinuance of services.

The governing body shall have power, and it shall be its duty, by ordinance, to establish and maintain just and equitable rates or charges for the use of and the service rendered by such works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the sewerage system of the municipality, or that in any way uses or is served by such works, and may change and readjust such rates or charges from time to time. Such rates or charges shall be sufficient in each year for the payment of the proper and reasonable expense of operation, repair, replacements and maintenance of the works and for the payment of the sums herein required to be paid into the sinking fund. Revenues collected

pursuant to this section shall be deemed the revenues of the works. No such rates or charges shall be established until after a public hearing, at which all the users of the works and owners of property served or to be served thereby and others interested shall have an opportunity to be heard concerning the proposed rates or charges. After introduction of the ordinance fixing such rates or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates or charges, shall be given by publication as a Class II-0 legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the municipality. The first publication shall be made at least ten days before the date fixed in such notice for the hearing. After such hearing, which may be adjourned from time to time, the ordinance establishing rates or charges, either as originally introduced or as modified and amended, shall be passed and put into effect. A copy of the schedule of such rates and charges so established shall be kept on file in the office of the board having charge of the operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinbefore provided: Provided, however, that if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. The aggregate of the rates or charges shall always be sufficient for such expense of operation, repair and maintenance and for such sinking fund payments. All such rates or charges, if not paid when due, shall constitute a lien upon the premises served by such works. If any service rate or charge so established shall not be paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the board in a civil action in the name of the municipality, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto: Provided, however, that where both water and sewer services are furnished by any municipality to any premises the schedule of charges may be billed as a single amount or individually itemized and billed for the aggregate thereof. Whenever any rates, rentals or charges for services or facilities furnished shall remain unpaid for a period of thirty days after same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid. The board collecting such charges shall be obligated under reasonable rules and regulations, to shut off and discontinue both water and sewer services to all delinquent users of either water facilities, or sewer facilities, or both, and shall not restore either water facilities or sewer facilities to any delinquent user of either until all delinquent charges for both water facilities and sewer facilities, including reasonable interest and penalty charges, have been paid in full. (1933, Ex. Sess., c. 25, § 16; 1933, 2nd Ex. Sess., c. 48; 1959, c. 125; 1967, c. 105.)

Sections read to should be read anc § 8-4-20 and §§ 1 24-2-1, and 24-2-3. Water Comm'n, 148 (1964).

Municipal sewer jurisdiction of pub 45 Op. Att'y Gen. 64

Hence, municipal rates with the con accordance with § 2 Gen. 642 (1954).

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Sections read together. — This section should be read and construed with former § 8-4-20 and §§ 16-13-1, 16-13-2, 24-1-1, 24-2-1, and 24-2-3. Delardas v. Morgantown Water Comm'n, 148 W. Va. 776, 137 S.E.2d 426 (1964).

Municipal sewer system is subject to jurisdiction of public service commission. 45 Op. Att'y Gen. 642 (1954).

Hence, municipality is required to file its rates with the commission for approval in accordance with § 24-2-1 et seq. 45 Op. Att'y Gen. 642 (1954).

Jurisdiction to enforce lien. — The fact that this section speaks of the enforcement of the lien in a "civil action" should not be construed as placing that jurisdiction in our courts of law simply because the word "action," strictly applied, does not usually refer to chancery practice. City of Beckley v. Craighead, 125 W. Va. 484, 24 S.E.2d 908 (1943). As to abolition of procedural distinctions between law and equity, see Rules of Civil Procedure, Rule 2, appearing in Vol. 1A.

Discrimination not shown. — Charges made against the users of a city sewage system were based upon the amount of water used upon the premises as indicating the extent to which the sewers were used. The charges were subject to a deduction of the amount of water retained on the premises, such amount to be determined by a meter installed by the consumer and used to record gallonage of water that had come on the property but had not been disposed of through the sewers. It was held that the method under which the charges were assessed was neither capricious nor unfair although certain users had been unable to install meters used to measure their deductions. Houchins v. City of Beckley, 127 W. Va. 306, 32 S.E.2d 286 (1944).

Applied in Brewer v. City of Point Pleasant, 114 W. Va. 572, 172 S.E. 717 (1934).

Quoted in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

§ 16-13-17. Municipality subject to established rates.

The municipality shall be subject to the same charges and rates established as hereinbefore provided, or to charges and rates established in harmony therewith, for service rendered the municipality, and shall pay such rates or charges when due from corporate funds and the same shall be deemed to be a part of the revenues of the works as herein defined, and be applied as herein provided for the application of such revenues. (1933, Ex. Sess., c. 25, § 17.)

Quoted in West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

§ 16-13-18. Supervision of works by sanitary board; organization of board; qualifications, terms and compensation of members.

The governing body shall provide by ordinance that the custody, administration, operation and maintenance of such works shall be under the supervision and control of a sanitary board, created as herein provided. Such sanitary board shall be composed of either the mayor of the municipality, or the city manager thereof, if said municipality shall have a city manager form of government, and two persons appointed by the governing body, one of whom, during the construction period, must be a registered professional engineer. The engineer member of the board need not be a resident of said municipality. After the construction of the plant has been completed, the engineer member may be succeeded by a person not an engineer. No officer or employee of the municipality, whether holding a paid or unpaid office, shall be eligible to appointment on said sanitary board until at least one year after the expiration of the

term of his public office. Said appointees shall originally be appointed for terms of two and three years respectively, and upon the expiration of each such term and each succeeding term, an appointment of a successor shall be made in like manner for a term of three years. Vacancies shall be filled for an unexpired term in the same manner as the original appointment. Each member shall give such bond, if any, as may be required by ordinance. Such mayor or city manager shall act as chairman of the sanitary board, which shall elect a vice-chairman from its members and shall designate a secretary and treasurer (but the secretary and the treasurer may be one and the same), who need not be a member or members of the sanitary board. The vice-chairman, secretary and treasurer shall hold office as such at the will of the sanitary board. The members of the sanitary board shall receive such compensation for their services, either as a salary or as payments for meetings attended, as the governing body may determine, and shall be entitled to payment for their reasonable expenses incurred in the performance of their duties. The governing body shall fix the reasonable compensation of the secretary and treasurer in its discretion, and shall fix the amounts of bond to be given by the treasurer. All compensation, together with the expenses in this section referred to, shall be paid solely from funds provided under the authority of this article. The sanitary board shall have power to establish bylaws, rules and regulations for its own government. (1933, Ex. Sess., c. 25, § 18; 1939, c. 96; 1953, c. 146; 1957, c. 137.)

Effect of article generally. — The effect of the provisions of this article is to authorize and empower a municipal corporation in this State to own, construct, equip, operate and maintain sewer systems, to place the construction, operation and management of such systems under the supervision and control of a sanitary board appointed by the governing body, to authorize such board to operate, manage and control them and to order and complete any extensions or betterments that the board may deem expedient. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

There is no repugnancy between the provisions of this article and §§ 24-1-1, 24-2-1 or 24-3-1, and for these reasons, the provisions of this article do not operate to repeal any of those sections. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

The provisions of this article do not revise the subject matter of §§ 24-1-1, 24-2-1 or 24-3-1, and they were not intended as a substitute for any of the provisions of those sections. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

In conferring such power and authority upon a municipality by this article, the legislature did not create, or intend to create, any repugnancy or inconsistency between the provisions of this article and the pertinent provisions of chapter 24, or to repeal any of those provisions of that chapter. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Public service commission may order extension of service. — A public utility is under a duty to make reasonable extensions of its services in accordance with its franchise and charter obligations and the needs of the inhabitants within the territory covered by its franchise; and a public service commission may, where its action is not unlawful, arbitrary, or capricious, order an extension of service for the inhabitants of such territory. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Sanitary board may be incorporated and domesticated in adjoining state. — Since the incorporation of its sanitary board and its domestication in the state of Virginia was the only plan by which the power intended to be granted by the legislature to a city to construct a sewage disposal plant outside the State of West Virginia could be legally effectuated, the power to so incorporate its sanitary board was a necessary and incidental right to the main power granted. Bernard v. City of Bluefield, 117 W. Va. 556, 186 S.E. 298 (1936).

Member of city council may not serve as consulting engineer to the sanitary board on city sewer project. 49 Op. Att'y Gen. 60 (1961).

Mayor and city manager may not both be appointed to municipal sanitary board. — When a municipal corporation has a city man-

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ager form of government, the municipality's governing board has the option of appointing either its mayor or its city manager (but not both) to the municipal sanitary board. 52 Op. Att'y Gen. 217 (1967).

As to scope of duties and responsibilities of city treasurer as they relate to possession of funds of a sanitary board, see 52 Op. Att'y Gen. 497 (1967).

Applied in Houchins v. City of Beckley, 127 W. Va. 306, 32 S.E.2d 286 (1944).

Cited in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957).

§ 16-13-18a. Publication of financial statement.

Every sanitary board shall prepare a financial statement and cause the same to be published as a Class I legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the sanitary district. Such statement shall contain an itemized account of the receipts and expenditures of the board during the previous fiscal year, showing the source from which all money was derived, and the name of the person to whom an order was issued, together with the amount of such order, and why such order was issued, arranging the same under distinct heads, and including all money received and expended from the sale of bonds, and also a specific statement of the debts of such board, showing the purpose for which any debt was contracted, the amount of money in all funds at the end of the preceding year, and the amount of uncollected service charges. Such statement shall be prepared and published by the board as soon as practicable after the close of the fiscal year: Provided, that such statement for the fiscal year ending June thirtieth, one thousand nine hundred fifty-six, may be published any time during the year one thousand nine hundred fifty-seven. The statement shall be sworn to by the chairman and secretary and treasurer of the board. If a board fails or refuses to perform the duties hereinbefore named, every member of the board concurring in such failure or refusal shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred nor more than five hundred dollars and the circuit court or criminal court and justices of the peace [magistrates], of the county where the offense was committed, shall have concurrent jurisdiction to try such offense. (1957, c. 138; 1967, c. 105.)

Editor's note. — The bracketed word was inserted by the editor. See § 50-1-17.

§ 16-13-19. Contract with other municipalities for service of works; powers of lessee as to rates; intercepting sewers.

Any municipality operating a sewage collecting system and/or a sewage disposal plant or plants as defined in this article, or which as herein provided has ordered the construction or acquisition of such works (in this section called the owner), is hereby authorized to contract with one or more other municipal corporations or political subdivisions within the State (in this section called the lessee), and such lessees are hereby authorized to enter into such contracts with such owners, for the service of such works to such lessees and their inhabitants, but only to the extent of the capacity of the works without

impairing the usefulness thereof to the owners, upon such terms and conditions as may be fixed by the boards and approved by ordinances of the respective contracting parties: Provided, however, that no such contract shall be made for a period of more than forty years or in violation of the provisions of said ordinance authorizing bonds hereunder or in violation of the provisions of said trust indenture. The lessee shall by ordinance have power to establish, change and adjust rates and charges for the service rendered therein by the works against the owners of the premises served, in the manner hereinbefore provided for establishing, changing and adjusting rates and charges for the service rendered in the municipality where the works are owned and operated, and such rates or charges shall be collectible and shall be a lien as herein provided for rates and charges made by the owner. The necessary intercepting sewers and appurtenant works for connecting the works of the owner with the sewerage system of the lessee shall be constructed by the owner and/or the lessee upon such terms and conditions as may be set forth in said contract, and the cost or that part of the cost thereof which is to be borne by the owner may be paid as a part of the cost of the works from the proceeds of bonds issued under this article unless otherwise provided by said ordinance or trust indenture prior to the issuance of the bonds. The income received by the owner under any such contract shall, if so provided in said ordinance or trust indenture, be deemed to be a part of the revenues of the works as in this article defined and be applied as herein provided for the application of such revenues. (1933, Ex. Sess., c. 25, § 19; 1981, 1st Ex. Sess., c. 2.)

Applied in City of Morgantown v. Town of Star City, 156 W. Va. 529, 195 S.E.2d 166 (1973).

§ 16-13-20. Discharge of lien on property acquired.

No property shall be acquired under this article upon which any lien or other encumbrance exists, unless at the time such property is acquired a sufficient sum of money be deposited in trust to pay and redeem such lien or encumbrance in full. (1933, Ex. Sess., c. 25, § 20.)

§ 16-13-21. Action on certificates or attached coupons; receivers.

Any holder of any such certificates or any of the coupons attached thereto, and the trustee, if any, except to the extent the rights herein given may be restricted by said ordinance authorizing issuance of the bonds or by the trust indenture, may either at law or in equity, by suit, action, mandamus or other proceeding protect and enforce any and all rights granted hereunder or under such ordinance or trust indenture, and may enforce and compel performance of all duties required by this article or by such ordinance or trust indenture to be performed by the municipality issuing the bonds or by the board or any officer, including the making and collecting of reasonable and sufficient charges and rates for service rendered by the works. If there be any failure to pay the

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principal or interest of any of the bonds on the date therein named for such payment, any court having jurisdiction of the action may appoint a receiver to administer the works on behalf of the municipality and the bondholders and/or trustee, except as so restricted, with power to charge and collect rates sufficient to provide for the payment of the expenses of operation, repair and maintenance and also to pay any bonds and interest outstanding and to apply the revenues in conformity with this article and the said ordinance and/or trust indenture. (1933, Ex. Sess., c. 25, § 21.)

Rules of Civil Procedure. — As to abolition of procedural distinctions between law and equity, see Rule 2, appearing in Vol. 1A. As to receivers, see Rule 66. As to application of rules to extraordinary remedies, see Rule 81(a)(5).

§ 16-13-22. Powers conferred in addition to existing powers; jurisdiction outside corporate limits.

The authority herein given shall be in addition to and not in derogation of any power existing in any municipality under any statutory or charter provisions which it may now have or hereafter adopt. For all purposes of this article, all municipal corporations shall have jurisdiction for ten miles outside the corporate limits thereof. (1933, Ex. Sess., c. 25, § 22.)

§ 16-13-22a. Grants, loans and advances.

Any municipality is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of acquisition or construction of said sewage works and the construction of betterments and improvements thereto, and for the other purposes herein authorized, from any authorized agency of the State or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of bonds authorized to be issued under the provisions of this article, the revenues of the said sewage works or grants to the municipality from any agency of the State or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any agency of the State, the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual.

In no event shall any such loan or temporary advance be a general obligation of the municipality and such loans or temporary advances, including the interest thereon, shall be paid solely from the sources specified in this section. (1949, c. 93; 1961, c. 107; 1980, c. 59; 1981, 1st Ex. Sess., c. 2.)

Stated in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957).

§ 16-13-22b. Contracts for abatement of pollution.

When determined by its legislative body to be in the public interest and necessary for the protection of the public health, any municipality is authorized to enter into and perform contracts, whether long-term or short-term, with any industrial establishment for the provision and operation by the municipality of sewerage facilities to abate or reduce the pollution of waters caused by discharges of industrial wastes by the industrial establishment and the payment periodically by the industrial establishment to the municipality of amounts at least sufficient, in the determination of such legislative body, to compensate the municipality for the cost of providing (including payment of principal and interest charges, if any), and of operating and maintaining the sewerage facilities serving such industrial establishment. (1949, c. 93.)

§ 16-13-22c. Refunding bonds.

Any municipality is authorized to issue refunding revenue bonds to refund, pay or discharge all or any part of its outstanding revenue bonds, including interest thereon, if any, in arrears or about to become due. The relevant provisions in this article pertaining to revenue bonds shall be equally applicable in the authorization and issuance of refunding revenue bonds, including their terms and security, the ordinance, the trust indenture, rates, or other aspects of the bonds. (1949, c. 93.)

§ 16-13-22d. Subordination of bonds.

Notwithstanding any other provisions to the contrary in this article, any municipality authorizing the issuance of bonds under this article in an effort to aid in the abatement or reduction of the pollution of any waters or streams may provide in the ordinance authorizing the issuance of the bonds and in any trust indenture pertaining thereto that such bonds, or any additional bonds that may thereafter be issued to extend or improve the works, shall, to the extent and in the manner prescribed, be subordinated and be junior in standing, with respect to the payment of principal and interest and the security thereof, to such other bonds as are designated in the ordinance. (1949, c. 93.)

§ 16-13-22e. Operating contract.

Any such municipality may enter into contracts or agreements with any persons, firms or corporations for the operation and management of the facilities and properties of said sewerage system, or any part thereof, for such period of time and under such terms and conditions as shall be agreed upon between such municipality and such persons, firms or corporations. Such municipality shall have power to provide in the resolution authorizing the issuance of bonds hereunder, or in any trust indenture, securing such bonds, that such contracts or agreements shall be valid and binding upon the munic-

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§ 16-13-22f. Exemption of bonds from taxation.

Said bonds and the interest thereon, together with all properties and facilities of said municipality owned or used in connection with sewerage system, and all the moneys, revenues and other income of such municipality derived from such sewerage system shall be exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof. (1955, c. 132.)

§ 16-13-22g. Covenants with bondholders.

Any resolution authorizing the issuance of bonds hereunder, or any trust indenture with any bank or trust company within or without the State, for the security of said bonds, may contain covenants with the holders of such bonds as to:

(a) The purpose or purposes to which the proceeds of sale of such bonds, or the revenues derived from said sewerage system, may be applied and the securing, use and disposition thereof, including, if deemed desirable, the appointment of a trustee or depositary for any of such funds;

(b) The pledging of all or any part of the revenues derived from the ownership, operation or control of such sewerage systems, including any part thereof heretofore or hereafter constructed or acquired or derived from any other sources, to the payment of the principal of or interest thereon of bonds issued hereunder and for such reserve or other funds as may be deemed necessary or desirable;

(c) The fixing, establishing and collecting of such fees, rentals or other charges for the use of the services and facilities of such sewerage system, including the parts thereof heretofore or hereafter constructed or acquired and the revision of same from time to time, as will always provide revenues at least sufficient to provide for all expenses of operation, maintenance and repair of such sewerage system, the payment of the principal of and interest on all bonds or other obligations payable from the revenues of such sewerage system, and all reserve and other funds required by the terms of the ordinance authorizing the issuance of such bonds;

(d) The transfer from the general funds of the municipality to the account or accounts of such sewerage system of an amount equal to the cost of furnishing the municipality or any of its departments, boards or agencies with the services and facilities of such sewerage system;

(e) Limitations or restrictions upon the issuance of additional bonds or other obligations payable from the revenue of such sewerage system, and the rank or priority, as to lien and source and security for payment from the revenues of such sewerage system, between bonds payable from such revenues;

(f) The manner and terms upon which all bonds and other obligations issued hereunder may be declared immediately due and payable upon the happening of a default in the payment of the principal of or interest thereon, or in the

performance of any covenant or agreement with bondholders, and the manner and terms upon which such defaults may be declared cured and the acceleration of the maturity of such bonds rescinded and repealed;

(g) Budgets for the annual operation, maintenance and repair of such sewerage system and restrictions and limitations upon expenditures for such purposes, and the manner of adoption, modification, repeal or amendment thereof, including the approval of such budgets by consulting engineers designated by holders of bonds issued hereunder;

(h) The amounts of insurance to be maintained upon such sewerage system, or any part thereof, and the use and disposition of the proceeds of any insurance;

(i) The keeping of books of account, relating to such undertakings and the audit and inspection thereof, and the furnishing to the holders of bonds issued hereunder or their representatives, reports prepared, certified, or approved by accountants designated or approved by the holders of bonds issued hereunder;

(j) Such other additional covenants as shall be deemed necessary or desirable for the security of the holders of bonds issued hereunder, notwithstanding that such other covenants are not expressly enumerated hereunder, it being the intention hereof to grant to such municipalities the power to make any and all covenants or agreements necessary in order to secure greater marketability for bonds issued hereunder as fully and to the same extent as such covenants or agreements could be made by a private corporation rendering similar services and facilities and to grant such municipalities full and complete power to enter into any contracts, covenants or agreements with holder of bonds issued hereunder not inconsistent with the Constitution of the State of West Virginia. (1955, c. 132.)

§ 16-13-23. Article deemed full authority for construction, etc., of works and issue of bonds; alternative method; powers of state department of health unaffected.

This article, shall, without reference to any other statute, be deemed full authority for the construction, acquisition, improvement, equipment, maintenance, operation and repair of the works herein provided for and for the issuance and sale of the bonds by this article authorized, and shall be construed as an additional and alternative method therefor and for the financing thereof, and no petition or election or other or further proceeding in respect to the construction or acquisition of the works or to the issuance or sale of bonds under this article and no publication of any resolution, ordinance, notice or proceeding relating to such construction or acquisition or to the issuance or sale of such bonds shall be required except such as are prescribed by this article, any provisions of other statutes of the State to the contrary notwithstanding: Provided, however, that all functions, powers and duties of the state department of health shall remain unaffected by this article. (1933, Ex. Sess., c. 25, § 23.)

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§ 16-13-23a. Additional powers of municipality upon receipt of order to cease pollution.

Notwithstanding any other provision contained in this article, and in addition thereto, the governing body of any municipal corporation which has received or which hereafter receives an order issued by the chief of the division of water resources or the state water resources board requiring such municipal corporation to cease the pollution of any stream or waters, is hereby authorized and empowered to fix, establish and maintain, by ordinance, just and equitable rates or charges for the use of the services and facilities of the existing sewer system of such municipal corporation, and/or for the use of the services and facilities to be rendered upon completion of any works and system necessary by virtue of said order, to be paid by the owner, tenant or occupant of each and every lot or parcel of real estate or building that is connected with and uses any part of such sewer system, or that in any way uses or is served thereby, and may change and readjust such rates or charges from time to time. Such rates or charges shall be sufficient for the payment of all the proper and reasonable costs and expenses of the acquisition and construction of plants, machinery and works for the collection and/or treatment, purification and disposal of sewage, and the repair, alteration and extension of existing sewer facilities, as may be necessary to comply with such order of the chief of the division of water resources or the state water resources board, and for the operation, maintenance and repair of the entire works and system; and the governing body shall create, by ordinance, a sinking fund to accumulate and hold any part or all of the proceeds derived from rates or charges until completion of said construction, to be remitted to and administered by the state sinking fund commission by expending and paying said costs and expenses of construction and operation in the manner as provided by said ordinance; and after the completion of the construction such rates or charges shall be sufficient in each year for the payment of the proper and reasonable costs and expenses of operation, maintenance, repair, replacement, and extension from time to time, of the entire sewer and works. No such rates or charges shall be established until after a public hearing, at which all the potential users of the works and owners of property served or to be served thereby and others interested shall have an opportunity to be heard concerning the proposed rates or charges. After introduction of the ordinance fixing such rates or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates or charges, shall be given by publication of such notice as a Class II-0 legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the municipality. The first publication shall be made at least ten days before the date fixed therein for the hearing. After such hearing, which may be adjourned from time to time, the ordinance establishing the rates or charges, either as originally introduced or as modified and

amended, may be passed and put into effect. A copy of the schedule of such rates and charges so established shall be kept on file in the office of the sanitary board having charge of the construction and operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinbefore provided: Provided, however, that if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. If any rate or charge so established shall not be paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the sanitary board of such municipal corporation in a civil action in the name of the municipality. Any municipal corporation exercising the powers given herein shall have authority to construct, acquire, improve, equip, operate, repair and maintain any plants, machinery, or works necessary to comply with such order of the state water resources board, and the authority provided herein to establish, maintain and collect rates or charges shall be construed as a further additional and alternative method of financing such works and matters, and shall be independent of any other provision of this article insofar as such article provides for or requires the issuance of revenue bonds or the imposition of rates and charges in connection with such bonds: Provided, however, that except for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works in compliance with an order of the state water resources board, and the rights, powers, and duties of such municipal corporation and the respective officers and departments thereof, including the sanitary board, shall be governed by the provisions of this article. (1955, c. 135; 1967, c. 105.)

Applied in City of Morgantown v. Town of Star City, 156 W. Va. 529, 195 S.E.2d 166 (1973).

§ 16-13-24. Article to be construed liberally.

This article being necessary for the public health, safety and welfare, it shall be liberally construed to effectuate the purpose thereof. (1933, Ex. Sess., c. 25, § 24.)

Quoted in West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

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WEST VIRGINIA CODE

ANNOTATED

VOLUME 5

1985 Replacement

1987 Cumulative Supplement

Including Acts passed during the 1987 Regular Session through April 26, 1987

Prepared by the Editorial Staff of the Publishers

Under the Supervision of

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THE MICHIE COMPANY
Law Publishers
CHARLOTTESVILLE, VIRGINIA
1987

person violating the provisions of this section is punishable by a fine of five dollars and notwithstanding the provisions of section one [§ 49-5-1], article five, chapter forty-nine, the magistrate court shall have concurrent jurisdiction. (1987, c. HB 2072.)

§ 16-9A-4. Use of tobacco or tobacco products in certain areas of certain public schools prohibited; penalty.

Every person who shall smoke a cigarette or cigarettes, pipe, cigar or other implement, of any type or nature, designed, used or employed for smoking any tobacco or tobacco product; or who shall use any tobacco product, whether chewing tobacco, snuff or otherwise, in any building or part thereof used for instructional purposes, in any school of this state, as defined in section one [§ 18-1-1], article one, chapter eighteen of this code, or on any lot or grounds actually used for instructional purposes of any such school of this state while such school is used or occupied for school purposes, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished for each offense by a fine of not less than one nor more than five dollars: Provided, That this prohibition shall not be construed to prevent the use of any tobacco or tobacco product in any faculty lounge or staff lounge or faculty office or other area of said public school not used for instructional purposes: Provided, however, That students do not have access thereto: Provided further, That nothing herein contained shall be construed to prevent any county board of education from promulgating rules and regulations that further restrict the use of tobacco or tobacco products, in any form, from any other part or section of any public school building under its jurisdiction. (1987, c. HB 2072.)

§ 16-9A-5. Outdoor billboard advertisements for smokeless tobacco products, nuisance affecting public health.

(a) Any outdoor billboard advertisement for snuff and chewing tobacco products must conspicuously display one of the following statements:

"WARNING: THIS PRODUCT MAY CAUSE MOUTH CANCER"

"WARNING: THIS PRODUCT MAY CAUSE GUM DISEASE AND TOOTH LOSS"

"WARNING: THIS PRODUCT IS NOT A SAFE ALTERNATIVE TO CIGARETTES"

The warnings shall be rotated every four months by the manufacturer, packager or importer of snuff and chewing tobacco products in an alternating sequence in the advertisement for each brand of such tobacco product. Such warning shall appear in the format and type style prescribed under 15 U.S.C. 1333 (b) (3), as amended.

No other warning, format, or type style in any outdoor billboard advertisement shall be required by any state or local statute or regulation.

(b) Any outdoor billboard advertisement that does not conform to the provisions of this section shall be deemed a nuisance affecting the public health. (1987, c. HB 2072.)

ARTICLE 11.

SEXUAL STERILIZATION.

Wrongful pregnancy. — An action based on wrongful pregnancy is recognized in West Virginia. James v. Caserta, 332 S.E.2d 872 (W. Va. 1985).

In applying general rules governing damages to a wrongful pregnancy action, the following damages are recoverable, if proven: (1) Any medical and hospital expenses incurred as a result of a physician's negligence, including costs of the initial unsuccessful sterilization operation, prenatal care, childbirth, postnatal care, and a second sterilization operation, if obtained; (2) the physical and mental pain suffered by the wife as a result of the pregnancy and subsequent childbirth and as a result of undergoing two sterilization operations; and (3) recovery for the loss of consortium and loss of wages. James v. Caserta, 332 S.E.2d 872 (W. Va. 1985).

ARTICLE 13.

SEWAGE WORKS OF MUNICIPAL CORPORATIONS AND SANITARY DISTRICTS.

Sec.
16-13-1. Acquisition, operation, etc., of works; acquisition of property; issuance of bonds.
16-13-15. Sinking fund; transfer of balance of net revenues.
16-13-22a. Grants, loans and advances.

§ 16-13-1. Acquisition, operation, etc., of works; acquisition of property; issuance of bonds.

Any municipal corporation and/or sanitary district in the state of West Virginia is hereby authorized and empowered to own, acquire, construct, equip, operate and maintain within and/or without the corporate limits of such municipal corporation, a sewage collection system and/or a sewage treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other appurtenances necessary or useful and convenient for the collection and/or treatment, purification and disposal, in a sanitary manner, of the liquid and solid waste, sewage, night soil and industrial waste of such municipal corporation and/or sanitary district, including acquisition of the municipal sewerage system resulting from the severance of a combined waterworks and sewerage system pursuant to section one-b [§ 8-20-1b], article twenty, chapter eight of this code, and shall have authority to acquire by gift, grant, purchase, condemnation, or otherwise, all necessary lands, rights-of-way and property therefor, within and/or without the corporate limits of such municipal corporation and/or sanitary district, and to issue revenue bonds to pay the cost of such works and property; and any such municipality may serve and supply the facilities of such sewerage system within the corporate limits of such municipality and within the area

extending twenty miles beyond the corporate limits of such municipality: Provided, That such municipality shall not serve or supply the facilities of such sewerage system within the corporate limits of any other municipality without the consent of the governing body thereof. No obligations shall be incurred by any such municipality and/or sanitary district in such construction or acquisition except such as is payable solely from the funds provided under the authority of this article. (1933, Ex. Sess., c. 25, § 1; 1955, c. 132; 1986, c. 118.)

Effect of amendment of 1986. — The amendment added "including acquisition of the municipal sewerage system resulting from the severance of a combined waterworks and sewerage system pursuant to section one-b, article twenty, chapter eight of this code," and made minor stylistic change.

§ 16-13-15. Sinking fund; transfer of balance of net revenues.

At or before the issuance of any such bonds the governing body shall by said ordinance create a sinking fund, to be remitted to and administered by the West Virginia municipal bond commission, for the payment of the bonds and the interest thereon and the payment of the charges of banks or trust companies for making payment of such bonds or interest, and shall set aside and pledge a sufficient amount of the net revenues of the works, hereby defined to mean the revenues of the works remaining after the payment of the reasonable expense of operation, repair and maintenance, such amount to be paid by the board into said sinking fund at intervals to be determined by ordinance prior to issuance of the bonds, for: (a) The interest upon such bonds as such interest shall fall due; (b) the necessary fiscal agency charges for paying bonds and interest; (c) the payment of the bonds as they fall due, or, if all bonds mature at one time, the proper maintenance of a sinking fund in such amounts as are necessary and sufficient for the payment thereof at such time; (d) a margin for safety and for the payment of premiums upon bonds retired by call or purchase as herein provided, which margin, together with any unused surplus of such margin carried forward from the preceding year, shall equal ten percent of all other amounts so required to be paid into the sinking fund. Such required payments shall constitute a first charge upon all the net revenue of the works. Prior to the issuance of the bonds the board may by ordinance be given the right to use or direct the West Virginia municipal bond commission to use such sinking fund or any part thereof in the purchase of any of the outstanding bonds payable therefrom at the market price thereof, but not exceeding the price, if any, at which the same shall in the same year be payable or redeemable, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued. After the payments into such fund as herein required, the board may at any time in its discretion transfer all or any part of the balance of the net revenues, after reserving an amount deemed by the board sufficient for operation, repair and maintenance for an ensuing period of not less than twelve months and for depreciation, into the sinking fund or into a fund for extensions, betterments and additions to the

works. The amounts of the balance of the net revenue as and when so set apart shall be remitted to the West Virginia municipal bond commission to be retained and paid out by said commission consistent with the provisions of this article and with the ordinance pursuant to which such bonds have been issued. The West Virginia municipal bond commission is hereby authorized to act as fiscal agent for the administration of such sinking fund, under any ordinance passed pursuant to the provisions of this article, and shall invest all such sinking funds as provided by general law. Notwithstanding the foregoing, payments of principal and interest on any bonds owned by the United States of America or any agency or department thereof may be made by the governing body directly thereto. (1933, Ex. Sess., c. 25, § 15; 1933, 2nd Ex. Sess., c. 48; 1986, c. 118.)

Effect of amendment of 1986. — The amendment substituted "West Virginia municipal bond commission" for "state sinking fund commission" in four places; added the last sentence; and made other minor changes.

§ 16-13-16. Rates for service; change or readjustment; hearing; lien and recovery; discontinuance of services.

Textbooks. — Administrative Law in West Virginia (Neely), § 3.07.

§ 16-13-22a. Grants, loans and advances.

Any municipality is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of acquisition or construction of said sewage works and the construction of betterments and improvements thereto, and for the other purposes herein authorized, from any authorized agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of bonds authorized to be issued under the provisions of this article, the revenues of the said sewage works or grants to the municipality from any agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any agency of the state, the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid

from the proceeds thereof until the maturity of such notes or other negotiable instrument.

In no event shall any such loan or temporary advance be a general obligation of the municipality and such loans or temporary advances, including the interest thereon, shall be paid solely from the sources specified in this section. (1949, c. 93; 1961, c. 107; 1980, c. 59; 1981, 1st Ex. Sess., c. 2; 1986, c. 118.)

Effect of amendment of 1986. — The amendment added the last sentence in the first paragraph.

§ 16-13-23a. Additional powers of municipality upon receipt of order to cease pollution.

Textbooks. — Administrative Law in West Virginia (Neely), § 3.07.

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

Sec.
16-13A-1. Legislative findings.
16-13A-1a. Jurisdiction of the public service commission.
16-13A-1b. County commissions to develop plan to create, consolidate, merge, expand or dissolve public service districts.
16-13A-1c. General purpose of districts.
16-13A-2. Creation of districts by county commission; enlarging, reducing or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the secretary of state.
16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.
16-13A-3a. Removal of members of public service board.
Sec.
16-13A-4. Board chairman; members' compensation; procedure; district name.
16-13A-5. General manager of board.
16-13A-7. Acquisition and operation of district properties.
16-13A-9. Rules and regulations; service rates and charges; discontinuance of service; required water and sewer connections.
16-13A-11. Accounts; audit.
16-13A-18a. Sale, lease or rental of water, sewer or gas system by district; distribution of proceeds.
16-13A-21. Complete authority of article; liberal construction; district to be public instrumentality; tax exemption.
16-13A-24. Acceptance of loans, grants or temporary advances.
16-13A-25. Borrowing and bond issuance; procedure.

16-13A-1. Legislative findings.

The Legislature of the state of West Virginia hereby determines and finds that the present system of public service districts within the state has provided a valuable service at a reasonable cost to persons who would otherwise have been unable to obtain public utility services. To further this effort, and to ensure that all areas of the state are benefiting from the availability of

public service district utility services and to further correct areas with health hazards, the Legislature concludes that it is in the best interest of the public to implement better management of public service district resources by expanding the ability and the authority of the public service commission to assist public service districts by offering advice and assistance in operational, financial and regulatory affairs.

In addition to the expanded powers which shall be given to the public service commission, the Legislature also concludes that it is in the best interest of the public for each county commission to review current technology available and consider consolidating existing public service districts where it is feasible and will not result in the interference with existing bond instruments. Further, if such consolidation is not feasible, the Legislature finds that it is in the best interest of the public for each county commission to review current technology available and consider consolidating or centralizing the management of public service districts within its county or multi-county area to achieve efficiency of operations. The Legislature also finds that additional guidelines should be imposed on the creation of new public service districts and that county commissions shall dissolve inactive public service districts as hereinafter provided. The Legislature also finds that the public service commission shall promulgate rules and regulations to effectuate the expanded powers given to the commission relating to public service districts. (1953, c. 147; 1980, c. 60; 1986, c. 81.)

Effect of amendment of 1986. — The amendment rewrote the section as it appeared in the bound volume.

§ 16-13A-1a. Jurisdiction of the public service commission.

The jurisdiction of the public service commission relating to public service districts shall be expanded to include the following powers, and such powers shall be in addition to all other powers of the public service commission set forth in this code:

(a) To study, modify, approve, deny or amend the plans created under section one-b [§ 16-13A-1b] of this article for consolidation or merger of public service districts and their facilities, personnel or administration;

(b) To petition the appropriate circuit court for the removal of a public service district board member or members; and

(c) To create by general order a separate division within the public service commission to provide assistance to public service districts in technological, operational, financial and regulatory matters. (1986, c. 81.)

CERTIFICATE

Certified to be a true and correct copy of the Charter of The City of Logan.

Given under my hand and the official seal of The City of Logan, West Virginia, this 25th day of September, 1987.

[SEAL]

Violet Miller
City Clerk

7437B

PART I

The Charter

Editor's note.—The Charter here set out is contained in an Act of the Legislature of West Virginia, passed February 21, 1933 (Acts 1933, ch. 124), and all Acts and Ordinances amendatory thereof. Amendments to the Charter are cited in parentheses following the section affected. Unless so indicated, the section derives unchanged from Acts 1933, ch. 124. It should be noted that Acts 133, ch. 124, was in effect from passage and became a law without the approval of the governor.

Catchlines to the sections are unofficial and should not be construed to restrict, limit or affect the contents of the sections. Words in brackets have been added for the purpose of clarification.

§ 1. Continuation of body politic and corporate; name of city; enumeration of powers of city.

§ 2. Composition of municipal authorities.

§ 3. Exercise of corporate powers generally.

§ 4. Nomination by primary election of candidates for mayor and councilmen to be voted on at municipal elections; election of municipal executive committeemen by political parties; application of state election laws; duties of secretary to the mayor, etc., under state law.

§ 5. When elections held; when officers to begin terms; voting places.

§ 6. Who may vote for officers elected under Charter.

§ 7. Registration of voters.

§ 8. Oaths and compensation of officers elected or appointed under Charter.

§ 9. Filling vacancies in council generally.

§ 10. Organization of council; mayor as presiding officer, etc.; quorum; appointment of city solicitor.

§ 11. Qualifications, duties and compensation of city solicitor; taxable attorneys' fees in criminal prosecutions; appointment, salary and duties of secretary to the mayor; admissibility in evidence of transcripts of ordinances, etc.

§ 12. Filling temporary vacancy in office of mayor.

§ 13. Election and terms of mayor and councilmen; eligibility for office of mayor or councilmen.

§ 14. Salary, powers and duties of mayor.

§ 15. Assessments by county assessor; power of council as to method of collecting taxes.

§ 16. Annual estimates and levy; dog tax.

§ 17. Lien on real estate for taxes, etc.

§ 18. Power of council as to licenses and license tax.

§ 19. Municipal court and municipal judge.
§ 20. Mayor as ex officio treasurer; powers and duties of treasurer, disbursements from city treasury.
§ 21. Mayor as superintendent of streets; streets to be kept clean, etc.; sewers to be kept in repair, etc.; disposition of garbage.
§ 22. Mayor's oath and bond.
§ 23. Mayor's settlement at expiration of term; audit and inspection of mayor's books; monthly reports.
§ 24. Removal of officers, etc.
§ 25. City to construct, etc., its own roads, etc.
§ 26. City to maintain poor persons and paupers.
§ 27. Authority of city to issue bonds; limitation on aggregate indebtedness.
§ 28. Power of city to construct streets, etc.
§ 29. Duty of owner of abutting property with reference to sidewalks, etc.
§ 30. Condemnation of real estate for streets, drains, sewers, etc.
§ 31. Public utility franchises.
§ 32. Authority of council to control construction, etc., of buildings.
§ 33. Power to make ordinances, etc., and to provide for enforcement by fines, etc.
§ 34. Succession to rights and liabilities under former Charters.
§ 35. Continuation in effect of ordinances, etc., in effect at effective date of Charter.
§ 36. Application to city of chapter 8 of Code of West Virginia.
§ 37. Executive committees of political parties generally.
§ 38. Regular and special meetings of council; compelling attendance of absent council members; decisions on questions put to vote.
§ 39. Police and police protection.
§ 40. Fire department.
§ 41. City engineer.
§ 42. Determination of contested elections.
§ 43. Execution, etc., of deeds, etc.; compensation of election officials.
§ 44. Holding more than one office in city government.
§ 45. State or county officer ineligible as mayor.
§ 46. End of term of officers as of May 1, 1933.
§ 47. Repeal of former Charter, etc.

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AN ACT to amend and reenact an Act of the Legislature of West Virginia, passed on the eighth day of March, one thousand nine hundred twenty-nine, known as house bill number three hundred seventeen, relating to the Charter of the City of Logan, and being chapter twenty of the Acts of the Legislature of West Virginia, one thousand nine hundred twenty-nine, relating to municipal charters.

Be it enacted by the Legislature of West Virginia:

That the Act of the Legislature of West Virginia, passed March eighth, one thousand nine hundred twenty-nine, known as house bill number three hundred seventeen, relating to the Charter of the City of Logan and being chapter twenty of the Acts of the Legislature of West Virginia of one thousand nine hundred twenty-nine, relating to municipal charters be, and the same hereby is, amended and reenacted to read as follows:

Sec. 1. Continuation of body politic and corporate; name of city; enumeration of powers of city.

That the inhabitants of that portion of Logan County in the State of West Virginia, included within the boundary lines of the present City of Logan, as such boundary lines are already fixed and established by the Acts of the Legislature of West Virginia,[1] shall continue to be a body politic and

1. **Editor's note.**—The boundary lines here referred to are contained in an Act of the Legislature of West Virginia, passed March 24, 1925 (Acts 1925, ch. 19), and are as follows: "Beginning at a stake in the center line of the Guyan Valley railroad at the Bill Ellis hollow; thence north seventeen degrees thirty-three minutes east eight hundred and fifty-four and sixty-five hundredths feet to a dead sugar tree in the Bill Ellis hollow; thence north twenty-nine degrees thirty-nine minutes west seven thousand and nineteen feet to a stake in the center line of the Guyan Valley railroad at the mouth of Varney branch; thence north seventy-eight degrees twenty-nine minutes west five hundred and twenty-eight and seven hundredths feet crossing Guyandotte river to a stake at high water mark and on to the lower edge of the county road; thence with the high water mark of said river to the mouth of Island creek, a distance of about one-half mile; thence with the right hand side of said creek (as you ascend the same), to the right of way of the county road at the county bridge across Island creek; thence crossing

corporate under the name, "The City of Logan," and as such shall have perpetual succession; may use a corporate seal; may sue and be sued; plead and be impleaded; contract and be contracted with; acquire property for municipal purposes in fee simple, or lesser interest or estate, by purchase, gift, devise, appropriation, lease, or lease with the privilege to purchase, either within or without the city limits, subject to the rights of other affected municipal corporations; may sell, lease, hold, manage and control such property, and make any and all rules and regulations, by ordinance or resolution which may be required to carry out fully all provisions of any conveyance, deed or will, in relation to any gift or bequest, or the provisions of any lease by which it may acquire property; after the first election under this Charter, may acquire, construct, own, lease and operate light, heat, power and water plants, may grant public franchises to be exercised within the city; may assess, levy and collect taxes for general and special purposes on all the subjects or objects within the boundaries which the city may lawfully tax; may borrow money for permanent improvements and public works on the faith and credit of the city by the issue or sale of bonds or notes of the city, and in the issuance and sale of said bonds the said city shall be governed by the restrictions and limitations of the Constitution

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Island creek to a line parallel with said bridge to the right of way of the county road and thence with the right of way of the county road to Guyandotte river and crossing Guyandotte river on a line parallel with the county bridge across said river to high water mark on the left hand side of said river (as you ascend the same), on the lower side of the public road or street; and thence with said high water mark to the upper line of the street or public road at the point where the county bridge crosses Guyandotte river; and thence re-crossing Guyandotte river on a line parallel with the line of the county bridge across Guyandotte river to high water mark on the right hand side of said river (as you ascend the same); thence with the said high water mark to a point where the property line of the Fairfield land company intersects the same; thence with the property line of the said Fairfield land company along the mountain in rear of Midelburg addition until said line again intersects with the high water mark of Guyandotte river; thence with the said high water mark to a point opposite the Bill Ellis hollow; and thence crossing Guyandotte river at the mouth of the Bill Ellis hollow and running up the bank to the center of the railroad right of way, the place of beginning."

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entire cost thereof, excluding the cost of intersections
interest, or any part thereof, against the owners of the
ting or benefitted properties in accordance with an ordi-
nance that shall permit the payment of said assessments in
annual installments and may in anticipation of the levying
of said assessments, issue and sell its bonds, as hereinbefore
provided, to the estimated amount of the cost of said improve-
ments, and apply said assessments as same are paid to the
liquidation of said bonds and interest thereon; may appropri-
ate the money of the city for all lawful purposes; may create,
provide for, construct, regulate, and maintain all things of
the nature of public works and improvements; may direct the
laying out of lots and opening of streets and roadways; may
license and regulate persons, corporations and associations
engaged in any business, occupation, profession or trade; may
define, prohibit, abate, suppress and prevent all things detri-
mental to the health, morals, comfort, safety, convenience and
welfare of the inhabitants of the city, and all nuisances and
causes thereof; may regulate the construction, height and
materials used in all buildings and structures of every kind,
and the maintenance, occupancy and use thereof; may regu-
late and control the use, for whatever purpose, of the streets
and other public places; may make and enforce local police,
sanitary and other regulations, and prescribe, impose and en-
force reasonable fines and penalties including imprisonment,
and shall have the right to use the jail of said county when
necessary; and may pass such ordinances and resolutions as
may be expedient or necessary for maintaining and promot-
ing the peace, good government and welfare of the city, and
for the performance of the functions thereof. The City of
Logan as constituted by this Act [Charter], shall retain, keep
and succeed to all rights, privileges, property, interest, claims
and demands heretofore acquired by, vested in or transferred
to the said city as heretofore constituted and shall have all
powers that now are or hereafter may be granted to mu-
nicipalities by the Constitution or laws of West Virginia; or
that are herein by implication conferred, or are necessary to

or consistent with the purposes of this Act [Charter], and all such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed by this Act [Charter], or where not prescribed herein, in such manner as shall be provided by ordinances or resolutions of the governing body herein provided for.

Sec. 2. Composition of municipal authorities.

The municipal authorities of the said City of Logan shall consist of a mayor and five councilmen, who shall constitute the council of said city, in the corporate name of said city, unless otherwise provided by state law or municipal ordinance.

Sec. 3. Exercise of corporate powers generally.

All the corporate powers and functions pertaining to said city shall be exercised by its council, or under its authority.

Sec. 4. Nomination by primary election of candidates for mayor and councilmen to be voted on at municipal elections; election of municipal executive committeemen by political parties; application of state election laws; duties of secretary to the mayor, etc., under state law.

Candidates to be voted for at all general municipal elections at which a mayor and councilmen are to be elected under the provisions of this Charter shall be nominated at a primary election, and no other names shall be printed on the ballots used at the general election except those selected in the manner prescribd by this amendment[2] to the Charter.

The first primary election for mayor and councilmen under this amendment to the Charter shall be held on the second Tuesday in March, one thousand nine hundred thirty-five, and every primary election for mayor and councilmen shall be held biennially thereafter on the second Tuesday in March.

At a meeting of the city council to be held on the last Tuesday in February preceding every primary and general election

2. Editor's note.—Acts 1933, ch. 124, § 4, was amended in toto by Acts 1935, ch. 135.

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the officers of mayor and councilmen there shall be appointed three judges and two poll clerks for said primary and general election for each voting precinct in the city in the manner herein provided.

One judge and one poll clerk shall be appointed from each of the two political parties which at the last preceding state and county election cast the highest number of votes in Logan County, and if at any time during said meeting of council the city executive committee of either political party from which said judges and poll clerks are to be selected or appointed shall present to said council a writing signed by them, or by the chairman of said committee in their behalf, requesting the appointment of qualified voters of their political party who are otherwise qualified to act as such officers under the laws of West Virginia, it shall be the duty of said council to appoint the persons named in such writing as such election officers.

The remaining judge for each election precinct in the city may be of either of the above named political parties, and shall be appointed by the council.

The said city executive committees, or the chairman thereof, may appoint a challenger for each election precinct in the city, subject to the same provisions governing the appointment, qualifications and duties of challengers as set forth in the election laws of the State of West Virginia.

The city executive committees now existing shall continue in office and to function until their successors are elected under this Act [section].

Such judges, poll clerks and challengers shall receive for their services the same compensation that is provided by state law for compensation for such similar officers and said election officers shall have the same duties and responsibilities, and shall take and subscribe to the same oaths, and shall conduct the elections in conformity with and be subject to the same regulations and penalties as are provided by the state law governing elections and offenses against the same in so far as the same may be applicable.

Any person who is eligible to hold the office of mayor or councilman may file in the mayor's office a certificate declaring himself a candidate for the nomination of such, which certificate shall be in the form and effect as follows:

I, ..., hereby certify that I am a candidate for the nomination for the office of mayor (or councilman), to

represent the ..... party, and desire my name printed on the official ballot of said party to be voted at the primary election to be held on the second Tuesday in March, 19....; that I am a qualified voter of the City of Logan, County of Logan, and State of West Virginia; that my residence is in the City of Logan; that I am eligible to hold the said office; that I am a member of and affiliated with said political party; that I am a candidate for said office in good faith.

.....
(Signature of Candidate)

Subscribed to and acknowledged before me this ..... day of ....., 19.....

.....
(Signature of officer taking affidavit)

Such certificate shall be filed in the mayor's office at least ten days before the primary election day, and shall be signed and acknowledged by the candidate before some officer qualified to administer oaths, who shall certify the same.

Immediately upon the expiration of the time for filing the above certificates the mayor shall cause to be published for one week in two newspapers of opposite politics in said city the names of the persons as they are to appear upon the respective primary ballots of each political party, and the said mayor shall thereupon have the primary ballots printed and authenticated with a facsimile of his signature. There shall be a separate primary ballot of candidates for each political party who have filed their petition as required by this Act [section] on different color of paper, and the primary ballot of no two political parties shall be of the same color or tint. The same color shall be used for sample primary ballots of each party, but there shall be printed across the face of such sample ballot in large words "sample ballot" but no sample ballot shall be voted or counted. Said official primary ballots shall be printed in accordance with the election laws of West Virginia governing the printing of ballots for state and county elections, and shall be of the form and effect as follows:

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OFFICIAL BALLOT OF

The ..... Party

The City of Logan, Primary Election, March ....., 19.....

(To vote for a candidate mark an "X" in the square opposite the left of his name.)

FOR MAYOR.
(Vote for One)

☐ A B
☐ C D
☐ E F

FOR COUNCILMEN
(Vote for Five)

☐ A B
☐ C D
☐ E F
Etc.

Official ballot, attest:
Facsimile of the signature, ..., Mayor.

On the back of the ballot there shall be printed in black ink, plain and legible, the name of the political party as contained in the heading followed by the word "ballot." Under this designation shall be printed two blank lines, followed by the words "poll clerks."

At said primary election to be held on the second Tuesday in March, one thousand nine hundred thirty-five, and biennially on the second Tuesday in March thereafter, the said political parties of the city shall elect one committeeman from each voting prencinct in the city to serve until the next primary election, or until their successors are elected and qualified.

Candidates for the office of committeeman shall file in the mayor's office a certificate declaring themselves as in the case of candidates for the nomination of mayor and councilman and their names shall be placed upon separate ballots for each voting precinct as in the primary ballot. Upon the result of the election of committeemen being declared, the successful candidates shall qualify by taking an oath to faith-

fully perform the duties of their office to the best of their skill and judgment.

Unless otherwise provided in this amendment to the Charter all primary and general elections held in said city shall be conducted and the results thereof certified and returned, and officially determined in accordance with the provisions of the election laws of the State of West Virginia in force at the time of holding said elections, and the penalties therein prescribed for offenses relating to said elections shall be enforced against the defenders of said municipal election. On the day following a primary election of the city council shall canvass the returns received from the polling precincts, and declare the results thereof. The candidate on each ticket receiving the highest number of votes for mayor and the five candidates on each ticket receiving the highest number of votes for councilman shall be the candidates whose names shall be placed upon the ballots at the next ensuing general election, and the committeeman from each voting precinct for each party receiving the highest number of votes shall be declared elected.

If two or more persons on the same ticket receive an equal number of votes for the nomination of the same office, or in case of committeemen for the same office, and more than the other candidates, so that there is no choice at the primary, or election of committeemen, the city council shall determine by lot the name out of those voted on at the primary and tied as aforesaid to be placed on the ballots for the next ensuing general election, or as the case may be, the committeeman elected.

The necessary and legitimate expenses of the holding of any such primary, as well as of any regular or special municipal election in said city, for ballots, stationary forms, ballot boxes, booths, voting places, registrars, judges, clerks and challengers and notices of the election shall be paid by the city. At every such primary or general election the polls shall open at six-thirty a. m. and close at six-thirty p. m.

In the event of a demand by any candidate for a recount of the votes cast at any primary or general election held in said city or in the event of the institution of a proceeding to contest said election, the council in office at the time of said election shall pass on and decide such recount or contest of election in like manner as provided for in contests for state, county

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aid council shall continue in session from day to day until
recount is completed, and the result declared, using due
nce to the end that the result of the primary election be
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allot for the general election as herein provided for.

Unless otherwise herein provided in this amendment to the Charter, the secretary to the mayor shall be charged with all the duties and responsibilities which under the general election laws of West Virginia devolve upon the clerks of the county court and the circuit court, and the mayor and council shall be charged with all the duties and responsibilities which under the general election laws of West Virginia devolve upon the board of canvassers, and upon the county court, and they shall be subject to all the penalties therein prescribed for offenses relating to elections.

The candidates thus nominated by each of said political parties for the office of mayor and councilman receiving the largest vote in the ensuing city election shall be declared elected. On the Thursday next following any election hereunder the council shall meet and canvass, ascertain, declare and record the results of said election. The general election laws governing the ascertainment and declaration of the results of election of county officers and relating to appeals and proceedings for review or reversal of decisions of the board of canvassers concerning the same are hereby made applicable to all elections of officers held under this Act [Charter]. (Acts 1933, ch. 124, § 4; Acts 1935, ch. 135.)

Sec. 5. When elections held; when officers to begin terms; voting places.

The first election of officers under this Charter shall be held on the first Tuesday in April, one thousand nine hundred thirty-three; and on the first Tuesday in April in every second year thereafter, an election for all elective officers under this charter shall likewise be held. The officers elected at such elections shall take their offices and enter upon the discharge of their duties on the first day of May following their

election. Any special election authorized hereunder shall be held as provided in the order of the council calling the same. All general and special elections held hereunder shall be held at places already designated as voting places and used as voting places in national and state elections, namely: Logan graded school building, Logan junior high school building, Logan courthouse, Logan fire station, and Logan senior high school building; unless said voting precincts are changed by the city council.

Sec. 6. Who may vote for officers elected under Charter.

Every person residing in said city shall be entitled to vote for all officers elected under this Act [Charter]; but no person who is a minor, or of unsound mind, or pauper, or who is under conviction of treason, or bribery in an election, or who has not been a resident of this State for one year and of said city for six months next preceding the election at which he desires to vote, shall be permitted to vote therein.

Sec. 7. Registration of voters.

All qualified voters within City of Logan entitled to vote in the municipal election held therein shall be registered in like manner as are the qualified voters in national and state elections, and the laws of the State of West Virginia in effect at the time of such registration shall in all things apply thereto; except the fee for such registration shall be five cents for each qualified voter so registered, and the powers conferred upon the county court by the laws of the State of West Virginia in reference to registration of voters are hereby conferred upon the council of said City of Logan: *Provided, however,* That for the first election held under this Charter the commissioners of the said city shall have the voters of the City of Logan registered prior to the nominating conventions and in subsequent elections to be held under this Charter, the city council may adopt and use the registration list used in the last national or state election.

Sec. 8. Oaths and compensation of officers elected or appointed under Charter.

Every person elected or appointed to any office under this

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harter before proceeding to exercise any of the duties of ch office, shall make oath or affirmation that he or she will pport the Constitution of the United States and the Con-tution of the State and will faithfully and impartially dis-harge the duties of his or her office to the best of his or her ill and judgement. Said officers shall be paid a monthly alary, the amount of which except as herein otherwise pro-ided, shall be fixed by said council as soon as may be after the councilmen thereof have entered upon the duties of their office, except that the members of said council shall receive no salary other than a salary of twenty-five dollars apiece for each meeting of said council attended, but in no event shall the total compensation received by any member exceed twenty-five dollars for services rendered in any calendar month. (1-23-68.)

Sec. 9. Filling vacancies in council generally.

Vacancies in the office of the council, including mayor, shall be filled by the remaining members of the council, who shall appoint to such vacancy a person having the same politics as the member whose office is vacant.

Sec. 10. Organization of council; mayor as presiding officer, etc.; quorum; appointment of city solicitor.

Immediately after their induction into office said council shall meet and organize. The mayor shall preside at all meetings and shall sign the minutes and records required to be kept by the council. Three members of the council shall constitute a quorum to do business and the mayor shall have no vote except in case of a tie vote by the council. The council shall, at their first meeting, appoint a city solicitor.

Sec. 11. Qualifications, duties and compensation of city solicitor; taxable attorneys' fees in criminal prosecutions; appointment, salary and duties of secretary to the mayor; admissibility in evidence of transcripts of ordinances, etc.

The city solicitor shall be an attorney-at-law, authorized to practice law in the courts of Logan County, and he shall

be the legal adviser of the city and of all its officers respecting legal matters. He shall prosecute all suits, actions and proceedings instituted on behalf of the city, and defend all suits, actions and proceedings against the city, and when requested in writing shall give his written opinion to any officer of the city upon such legal questions affecting the interest of the city or the duties of such officer as may be referred to him for an opinion. He shall also perform such other duties as may be required by the council, or mayor. It shall be his duty to attend the sessions of the council, and to attend and prosecute all trials of civil and criminal actions pending in the municipal court of said city. Said solicitor shall receive as compensation for his services the sum of one hundred dollars per month. In all criminal prosecutions conducted by the city solicitor wherein there is a conviction of the defendant, there shall be taxed as a part of the costs of the suit, a fee of not less than five dollars nor more than ten dollars which shall be collected, paid into the city treasury, and by it disbursed for the general expenditures of the city.

The mayor, with the consent of the council, shall appoint and employ a secretary to the mayor. The council shall cause to be kept by the secretary to the mayor in a well-bound book to be called "minute book," an accurate record of all its proceedings, ordinances, acts, orders, and resolutions, and in another to be called "ordinance book," accurate copies of all general ordinances adopted by the council; both of which shall be accurately indexed and open to the inspection of any one required to pay taxes in the city, or who may be otherwise interested therein. All oaths and bonds of officers in the city, and all papers of the council shall be endorsed, filed and securely kept by the secretary to the mayor. The bonds of officers shall be recorded in a well-bound book to be called "records of bonds."

The secretary to the mayor shall perform such other duties as by ordinance of the council may be prescribed. The transcript of ordinances, acts, orders, and resolutions certified by the secretary to the mayor under the seal of the city shall be admissible in evidence in any court or before any justice. (Acts 1933, ch. 124, § 11; amended by ordinance adopted February 10, 1947 and ratified April 1, 1947; 1-23-68.)

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Sec. 12. Filling temporary vacancy in office of mayor.

case of temporary vacancy in the office of mayor, for cause whatsoever, the said mayor shall select one of the members of the council to serve in the capacity of mayor during the said temporary vacancy.

Sec. 13. Election and terms of mayor and councilmen; eligibility for office of mayor or councilman.

Said mayor and councilmen shall be elected by the qualified voters of the said city, and shall serve for a term of two years, and thereafter until their successors in office shall have been elected and qualified. No person shall be eligible to the office of mayor or councilman except a qualified voter of said city, who has resided therein for at least one year next before his or her election.

Sec. 14. Salary, powers and duties of mayor.

The salary of the mayor shall be fixed by the council and shall not exceed the sum of four thousand eight hundred dollars per year. The duties of the mayor shall be: Pg 41

(a) To see that the laws and ordinances of the city are enforced;

(b) To appoint all officers of the city, subject to the approval of the council, except the city solicitor and members of the council, and to employ, or cause to be employed, all such employees of the city as may be found necessary to properly perform the functions and duties required but all appointments and employments so made by said mayor shall be made upon merit and fitness alone, and approved by the council;

(c) To exercise supervision and control over all departments and divisions created herein or that may be hereafter created by the council, except over the city solicitor;

(d) To attend all meetings of the council with the right to take part in its discussions, but without the right to vote, except in case of a tie vote;

(e) To recommend to the council for adoption such measures as he may deem necessary or expedient;

(f) To keep the council fully advised as to the financial condition and needs of the city;

(g) To supervise and conduct the performance of their du-

ties by all officers and employees by the city except city solicitor;

(h) Determine and decide on the plan and program for paving, sewering, and otherwise improving the different streets and alleys in the city, and fix and determine the time in which such streets and alleys shall be paved, sewered and otherwise improved;

(i) Determine and decide upon the kind and make of pavement, sidewalks, curbs, sewers and other improvements which shall be constructed and made upon and in any of the streets and alleys of the city;

(j) Act as purchasing agent and purchase all supplies and materials for all departments of the city government: *Provided, however,* That he shall not make any contract or purchase involving an expenditure in excess of three hundred dollars, without first obtaining the assent of the council so to do;

(k) Make and execute on behalf of the city all writings, contracts, deeds and agreements, the making of which shall be authorized by this Charter, or by any ordinance, resolution or statute;[3]

(l) To call attention of the council and the city solicitor to the violation of any law or ordinance that may come to the knowledge of said city mayor;

(m) To perform and carry out all other duties that may be assigned to him. (1-23-68.)

Sec. 15. Assessments by county assessor; power of council as to method of collecting taxes.

The mayor by and with the consent of the said council may direct the county assessor to make all assessments within the corporate limits of said city according to the laws and regulations governing assessments in general throughout the county, and the county assessor shall be paid a fee out of the city treasury to be fixed by the council, but not to exceed three hundred dollars annually: *Provided, however,* That the

3. For further charter provisions as to execution, etc., of deeds, etc., see Char., § 43.

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Sec. 16. Annual estimate and levy; dog tax.

On the same day that the law requires county courts to meet and make up their estimates under the provisions of article eight, chapter eleven of the Code of West Virginia, the council of the City of Logan, acting in conjunction with the mayor, shall meet and make up a similar estimate, in a similar manner, pertaining to fiscal affairs of the said City of Logan, and shall publish said estimates in the same manner and for the same length of time as the said county courts are required to publish their estimates. At the same time that county courts are required to meet and lay the various county levies upon taxable property for county purposes, the council shall in like manner meet and lay a levy upon all taxable property, both real and personal, situated within and subject to taxation within the said City of Logan, including property assessed by the board of public works.

The rate of levy, however, shall not exceed fifty cents on each one hundred dollars' valuation of the taxable property in said city, unless a higher rate of levy be authorized by a two-thirds vote of the voters of said City of Logan, in an election held for that purpose. At the same time said council shall levy a special annual tax of three dollars on each female dog, and of one dollar on each male dog within said city over three months old at the time said estimate is made, and the tax thus levied shall be collected and paid into the city treasury for use in general current expenses.

Sec. 17. Lien on real estate for taxes, etc.

There shall be a lien on all real estate within said city for the city taxes assessed therein, and for all fines and penalties assessed against or imposed upon the owners thereof by the authorities of the city, including expenses for making, maintaining, repairing, paving or macadamizing sidewalks, drains, gutters and streets from the time the same are assessed or imposed, which lien shall have priority over all other liens, except taxes due the United States and the lien for taxes due the state, county and district, and such lien may be enforced in the name of the city upon order of the council or the order of the mayor in the manner provided by law for the enforcement of liens upon real property for county taxes.

Sec. 18. Power of council as to licenses and license tax.

The council may by ordinance impose special license tax in all cases where the State of West Virginia imposes such license tax, except that no license tax shall be levied in said city under clauses (s), (t), and (y) of section one, article twelve, chapter eleven of the Code of West Virginia.

The council shall prescribe by ordinance the time and manner in which license of all kinds shall be applied for and granted, and shall require the payment of the taxes thereon to the city treasurer on the delivery to the person applying therefor, which tax shall include the same fees for the issuing of the license as are charged for similar services for state and county officers, and which fees shall be paid into the city treasury. The council may for good cause refuse to issue any license applied for, and for like good cause may revoke any license granted by it. But the person holding such license must first have reasonable notice of time and place of hearing and adjudicating the matter as well as the cause alleged, and shall be entitled to be heard in person or by counsel in opposition to such revocation. The term for which any license provided for in this Charter shall be granted shall be governed by the general laws providing for state license and the rate of such license tax shall be fixed by the council, but shall not be greater than the state license for similar purposes.

Sec. 19. Municipal court and municipal judge.

The judicial power of the city shall be vested in a municipal court to be presided over by the mayor, and the word "mayor" shall be taken to include and mean the words "municipal judge" whenever the same are used in this Act [Charter]. Said court shall have exclusive jurisdiction over all criminal proceedings for the violation of any city ordinance, and for the collection of any license or tax imposed by any city ordinance, and shall have concurrent jurisdiction with justices of the peace of Logan County, of the following offenses committed within said city, to-wit, petit larceny, assault and battery, breaches of the peace, rioting, wilful injury to property, and all misdemeanors committed within said city which are made punishable by fine or imprisonment or both, under the general laws of this state: *Provided*, That the punishment for

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peace. A conviction or acquittal on such misdemeanor
in said municipal court shall operate as a bar to
further prosecution on the same charges before any justice or
the circuit court of Logan County.

The municipal judge shall be a conservator of the peace within the limits of said city, and shall also have the same power to issue attachments in civil suits as a justice of the peace has, although the cause of action arose outside of the city. Said attachments shall be returnable to and all issues thereon tried before some justice of the County of Logan. Said municipal judge shall, upon proper complaint and information on oath made before him, have authority to issue warrants for the arrest of any persons for any class of offenses over which said municipal judge is herein given jurisdiction, and said warrants may be executed anywhere within the limits of this state. If said warrants are executed by the officer to whom directed, or by any member of the department of public safety, no endorsement or other authentication thereof shall be required than the signature of the municipal judge issuing same. Said municipal judge shall have power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof, and in default of such payment he may commit the party in default to the jail of Logan County, until such fine, penalties and costs are paid or bonded, but the term of imprisonment for fine and costs alone shall not exceed thirty days. The expense of maintaining any person committed to the county jail by the municipal judge shall be borne by the city, except as to any person who shall be bound over to await the action of the grand jury of the circuit court of Logan County, in which event the expense of maintaining such person shall be borne by the County of Logan. The municipal judge shall not receive any money belonging to the city or to individuals, unless he shall give bond and security as is required by justices of the peace, and all provisions of chap-

ter fifty of the Code of West Virginia, relating to monies received by justices shall apply in like manner to said municipal judge.

He shall have authority to sentence male offenders over the age of sixteen years to labor upon the streets and public works of the City of Logan during the term of their imprisonment, and thereafter until the fine and costs imposed upon the offender are paid or bonded. The compensation for said labor shall be paid to the offender's dependents, if any, in conformity with such regulations as the council may by ordinance provide. The municipal judge may also sentence offenders to labor upon the public roads of Logan County in like manner and with like effect as such offenders may now be sentenced to work upon said public roads by the circuit court of Logan County, West Virginia. In case such offender so sentenced by said municipal judge shall be worked upon said public roads under the direction of the county court of Logan County, or the county road engineer of said county, or of some officer designated by said county court, the cost of maintaining such prisoners in jail shall be borne by the County of Logan for such period as they are worked upon said public roads, and such compensation as shall be allowed said prisoners by said county court shall be paid to offender's dependents, if any, and if no dependents, then such compensation shall be credited upon said offender's fine and costs, including the cost of boarding said offender while in jail.

Appeals shall lie from the judgment of said municipal court to the circuit court of Logan County in accordance with law in the same manner as appeals are allowed from the judgment of justices of the peace.

It shall be the duty of the municipal judge and the city solicitor to see that all fines, costs and penalties imposed upon offenders are collected and paid into the city treasury to be used for the city purposes in the same manner as moneys raised by said city through taxation are used. However, said city solicitor and municipal judge shall assume no personal liability for the collection of any fines, costs or penalties which they are unable to collect through the exercise of reasonable diligence.

At the expiration of his term of office the municipal judge shall make an account and settlement for all moneys coming

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A well-bound book indexed and denominated "police docket" ll be kept in the office of the municipal judge, in which shall noted each case brought before or tried by him, together with the proceedings therein, including the statement of the complaint, the warrant or summons, the return, the fact of appearance, or nonappearance, the defense, the hearing, the judgment, the amount of fine and costs separately stated, and in cases of conviction, the action taken to enforce the same. The record of each case shall be signed by the municipal judge and the original papers thereof, if no appeal be taken, shall be kept together and preserved in his office.

Sec. 20. Mayor as ex officio treasurer; powers and duties of treasurer; disbursements from city treasury.

The mayor shall also be ex officio treasurer of the said city and it shall be the duty of the treasurer to collect the city taxes, license, levies, assessments, and other such city claims as are placed in his hands for collection by the council, and he may distrain and sell therefor in like manner as a sheriff may distrain and sell for state taxes; and he shall, in all other respects, have the same power as a sheriff to enforce the payment and collection thereof. The mayor, as treasurer, and the custodian of the moneys and funds of the city, shall keep faithful and accurate records and accounts thereof, in such manner as to show the true status of said accounts at all times, and shall exhibit his said records to the council at each of their regular meetings. Such records shall also at all times be open to the inspection of any taxpayer of the city.

No money shall be disbursed from the city treasury except upon order of the council, and a complete record showing the purpose, name of payee, and the amount shall be kept by the mayor's secretary in a permanent record for the council. All drafts on the treasury shall be signed by the mayor and at least three members of the council. It shall be the duty of the secretary to the mayor to keep a record of such drafts, which

shall be open to the inspection of the public at all times. A permanent record shall also be kept of all drafts drawn on the treasury, and at each meeting of the council such records shall be laid before it, and an examination be made of all drafts drawn, or expenditures incurred since the last preceding meeting. The mayor, as collector of taxes and as treasurer of the municipal corporation, shall be required to settle annually with the council at the same time, and in the same manner as is prescribed by general law for the settlement of their accounts with the county court by the sheriffs as treasurers of the several counties of the state.

Sec. 21. Mayor as superintendent of streets; streets to be kept clean, etc.; sewers to be kept in repair, etc.; disposition of garbage.

The mayor shall also be superintendent of streets and within the limits of the money provided for such work all public streets and alleys shall be kept clean and in constant repair, and all sewers within the city shall be kept in good repair and operating condition. All garbage of the city shall be removed and burned or otherwise disposed of as directed by the mayor, and full authority is hereby conferred upon him to purchase, subject to the approval of the council, or to acquire by lease or otherwise a site or location within or without the City of Logan on which to deposit and dispose of all city garbage. The police of the City of Logan shall have full and complete authority to prevent camping or trespassing upon any location acquired for the disposal of such garbage, whether such location be within the city limits or not.

Sec. 22. Mayor's oath and bond.

The mayor, who before entering upon the discharge of his duties as such, shall take and subscribe before a notary public, or other person competent to administer an oath, and file same with city council, an oath that he will support the Constitution of the United States and of the State of West Virginia, that he will faithfully account for, as required by law, all moneys, funds and properties which shall come into his custody or under his control by virtue of his office, and that he will faithfully perform the duties of mayor to the best of his

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Sec. 24. Removal

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in the penalty of at least fifty thousand dollars, and in
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and responsible surety or bonding company, authorized to
business in this state as surety therein, conditioned that
will faithfully perform the duties of his said office. The
premium on such bond shall be paid by the city out of the
funds in the city treasury, and when said bond is delivered to
the council they shall record the same and then deliver it to
the clerk of the county court of Logan County, who shall re-
cord it in his office in the same book in which the bonds of
county officers are recorded. A certified copy of said bond as
recorded by either the said mayor or said clerk shall be ad-
mitted and considered in evidence the same as the original
would be in all courts and before all public bodies in this state.

Sec. 23. Mayor's settlement at expiration of term; audit and inspection of mayor's books; monthly reports.

At the expiration of his term of office the mayor shall make an account and settlement for all monies coming into his hands, and an annual audit shall be made of his books, records, and accounts, as provided by general law respecting county offices. His books and records shall be at all times open for inspection by the council. The mayor shall make a monthly report to the council of all arrests and fines, which reports shall be examined and approved before the salary of said official is paid for such month.

Sec. 24. Removal of officers, etc.

The mayor, councilmen, and city solicitor may be removed for the same causes and in the same manner as provided by general law for the removal of county officers. All other officers or agents appointed hereunder may be removed at the pleasure of the mayor, without cause, subject however, to the approval of the majority vote of the council at their next regular meeting, whenever the mayor deems such removal for the best interest of the city.

Sec. 25. City to construct, etc., its own roads, etc.

The city shall construct, keep repaired and maintain its own roads, streets and alleys and by reason thereof the property located within the limits of said city shall not be subject to district road levies for the magisterial district in which said city is located except levies to pay the bonded indebtedness, if any, of the County of Logan, and of the magisterial district of Logan, now outstanding.

Sec. 26. City to maintain poor persons and paupers.

The city shall provide for and maintain as required by law all poor persons and paupers within the city limits, and shall by reason thereof be released from paying any county or district levies for the maintenance of the poor or paupers.

Sec. 27. Authority of city to issue bonds; limitation on aggregate indebtedness.

The city is hereby authorized to issue its bonds in the manner provided by general law, and in that way become indebted for the following purposes only, to-wit:

(a) For the acquisition of a site and the construction thereon of a city incinerator complete;

(b) For the paving, repaving, curbing, recurbing, grading, regrading, sewering, resewering, or otherwise permanently improving any street or alley or roadway within the city limits or the acquisition of land or rights-of-way for the establishment of new streets, alleys or roadways or rights-of-way for the building of city sewers;

(c) For the construction and installing of a water plant or works to supply the City of Logan and the residents thereof with water, or for the acquisition of the water plants or works now installed in said city, and the improving, reconstruction or rebuilding of the same.

But the city shall not become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate, exceeding five per cent on the valuation of the taxable property therein to be ascertained by the last assessment for state, county and municipal taxes, previous to the incurring of such indebtedness; nor without at the same

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Sec. 28. Power of city to co

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Sec. 28. Power of city to construct streets, etc.

The city through its officers, shall have plenary power to construct, maintain and keep in constant repair, all streets, alleys, roadways, sidewalks, gutters, and sewers of the city, and to lay out, construct and maintain, and keep in repair, new streets, alleys, roadways, sidewalks, gutters, and sewers, and to apportion such amount of monies raised by taxation to that purpose as may be requisite: *Provided, however,* That such construction and repair, as is herein mentioned, cannot be made by the county court upon an agreement regarding said construction and repair, and cost of same, by the said county court, the mayor, and the city council.

Sec. 29. Duty of owner of abutting property with reference to sidewalks, etc.

It shall be the duty of the owner of any real property abutting on or next adjacent to or on any sidewalk, footway, or gutter, to lay and construct proper sidewalks, and to curb, recurb, pave, repave, or repair, and keep the same in constant good and clean condition in the manner and within the time required by the council. And if any owner of any such real estate shall fail or refuse to lay and construct such sidewalks, and to do such curbing, recurbing, paving, repaving, or repairing, or to keep the same constantly in good condition and clean, in the manner and within the time required by the said council, it shall be the duty of the said county to cause the same to be done at the expense of the city, and to assess the amount of such expense against said property, and upon the owner thereof, and the amount so assessed against said property shall constitute a lien thereon and shall be collected by the city treasurer in the same manner and at the same time that city taxes on property assessed within the city are collected.

If the owner of the property upon which such lien exists fails to pay the same within six months after said lien is perfected, then such real estate may be sold to satisfy said lien in a suit in equity brought for that purpose on behalf of the City of Logan as plaintiff.

Sec. 30. Condemnation of real estate for streets, drains, sewers, etc.

The council shall have the right in the name of the City of Logan, to institute and prosecute in the circuit court of Logan County, West Virginia, condemnation proceedings for the purpose of condemning real estate for streets, alleys, roadways, drains, sewers, market grounds, city halls, incinerator plants and other city purposes. Said condemnation proceedings shall conform to and be governed by the general laws of West Virginia relating to condemnation of real estate for public uses.

Sec. 31. Public utility franchises.

Public utility franchises shall be granted for a period of not exceeding twenty-five years, and it shall be provided in every franchise that upon the annexation of new territory to the city, said franchise shall also apply within said annexed territory. No exclusive franchise or monopoly shall be granted, and all franchises or privileges for the occupation or use of the streets, alleys and roadways of the city shall be construed strictly in favor of the city. All such franchises shall be granted subject to the right of the city to control by resolution or ordinance the operation of said franchise, whether so expressed in the franchise or not.

Sec. 32. Authority of council to control construction, etc., of buildings.

The council of the city shall have power by ordinance to control and regulate the construction and repair of all houses and other structures or buildings within the city, and provide for the granting of building permits; to cause the removal of all unsafe walls or buildings and may upon the petition of any person or persons owning the greater amount of the front-

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Sec. 34. Succession to Charters.

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Sec. 33. Power to make ordinances, etc., and to provide for enforcement by fines, etc.

In order to carry into effect all the specific and implied powers conferred upon the City of Logan by this Charter or any other or general law, the said council shall have and possess full power and authority to make all needful ordinances, bylaws, orders and resolutions not repugnant to the laws and Constitution of the United States and of this state, and to provide for the proper enforcement of the same by fines, penalties and imprisonment.

Sec. 34. Succession to rights and liabilities under former Charters.

The City of Logan under this Charter shall succeed to all the rights and liabilities of the City of Logan, under the Charter granted by the Acts herein amended, or repealed, and it shall be liable for all the debts and obligations of said city, the same as if said indebtedness or liability were created or incurred by the City of Logan under this Charter.

Sec. 35. Continuation in effect of ordinances, etc., in effect at effective date of Charter.

All ordinances, bylaws, orders and resolutions of the City of Logan in force at the time this Act [Charter] goes into effect, so far as they are not inconsistent with this Charter, shall continue in force as ordinances, bylaws and resolutions of the City of Logan, until amended or repealed by the council of said city.

Sec. 36. Application to city of chapter 8 of Code of West Virginia.

The provisions of chapter eight of the Code of West Virginia, so far as the same are not repugnant to the provisions of this chapter [Charter], or to any bylaws or ordinance passed by the council under powers conferred upon them by this Charter, shall be applicable to the said City of Logan.

Sec. 37. Executive committees of political parties generally.

At the time they hold their mass convention for the purpose of nominating candidates to be voted for as mayor and councilmen under the provisions hereof, the voters of the respective politician parties may select a city executive committee to represent them. Such committees shall consist of a chairman, a secretary, and six other members; and the powers and duties of such chairman, secretaries and committees, as respects municipal conventions, elections, affairs and matters, shall be the same as are respectively held and performed by county executive committees, chairman and secretaries of said political parties, in respect to county conventions, elections, affairs and matters.

Editor's note.—This section should be read in the light of section 4 of the Charter, as amended by Acts 1935, ch. 135.

Sec. 38. Regular and special meetings of council; compelling attendance of absent council members; decisions on questions put to vote.

The regular meetings of the council shall be publicly held at such time and in such places in the city as they shall from time to time ordain and appoint; and it shall be lawful for the council by ordinance to vest in any officer of the city, or in any member, or number of members of its own body the authority to call special meetings and prescribe the mode in which notice of such special meetings shall be given; if a majority of the members of the council do not attend any regular or special meetings, those in attendance shall have authority to compel the attendance of absent members under such reasonable penalties as they may think proper to impose by ordinance. All questions put to vote, except such matters as are herein other-

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Sec. 39. Police and police

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Sec. 39. Police and police protection.

The mayor, with the consent of the council, shall appoint employ a chief of police and such other police officers as be necessary, who shall be ex officio constables within the corporate limits of the city and as such may execute any writ or process issued by the mayor, or by any justice of the peace in any place in Logan County; said police shall have all the powers, rights and privileges within the corporate limits of the city in regard to the arrest of persons, the collection of fines, and the execution and return of process, that are vested by law in a constable of a magisterial district, and shall be liable for all fines, penalties and forfeitures that a constable of a magisterial district is liable to, to be recovered in the same manner, and in the same court that fines, penalties and forfeitures may be recovered against such. All other police officers employed by said city shall perform their duties under the several [general] direction of the chief of police, and they shall be charged with the same duties and shall have and possess the same powers as the chief except insofar as they are herein placed under the supervision of said chief of police: *Provided, however,* That all police officers, other than that of chief of police, necessary for the protection and safety of the inhabitants of the City of Logan, cannot be made by the sheriff of the county upon an agreement regarding the duties and cost of same, said sheriff, mayor and city council.[4] On special occasions, the council may designate and appoint additional policemen to act temporarily and they shall be charged with the same duties and clothed with the same powers as regular police officers hereunder. All police officers appointed hereunder shall before entering upon the discharge of their duties execute a bond in the penalty of at least five thousand dollars, conditioned for the faithful discharge of their duties as such officers, that they will account for and pay over as required by law all moneys which shall come into their hands

4. Editor's note.—The language of this proviso is as it appears in the enrolled copy of section 39 of House Bill No. 266, passed February 21, 1933, which is found in Acts 1933, ch. 124.

by virtue of their office and further conditioned for the payment of all damages sustained or incurred by anyone by reason of injury through the wilful illegal use of any weapons which said police are authorized to carry. Upon the execution of such bond such chief of police and other police shall be authorized to carry anywhere within the limits of the said City of Logan, and anywhere else within the limits of the State of West Virginia while engaged in the actual performance of their duties as such, any weapons now authorized by law to be carried by the sheriff of Logan County. Said chief of police and other policemen appointed hereunder shall be paid such compensation as is fixed by the mayor and approved by the council, which compensation shall be paid out of the city treasury monthly.

Sec. 40. Fire department.

The mayor, with the consent of the council, shall appoint a chief of fire department and such number of firemen as in its opinion are necessary to the creation and maintenance of a fire-fighting force sufficient for the needs of the said City of Logan; the mayor, with the consent of the council, shall prescribe the duties and fix the compensation of said chief and other firemen and shall promulgate and adopt such rules and regulations for the government of said fire-fighting force, and for the use, maintenance and care of the city's fire-fighting equipment, as may, in his opinion, be necessary or needful. The chief of the fire department, and each fireman so appointed, shall, while in the necessary performance of their duties, or while going to or returning from any fire, be vested with the same powers of arrest as are conferred upon the chief of police by this charter. The council may by ordinance also promulgate and enforce such rules and regulations governing traffic over a street on which fire-fighting equipment is being moved to the scene of a fire, as will in its opinion properly safeguard and expedite the moving of such equipment. The chief of the fire department shall be an ex officio constable within the corporate limits of the city and shall qualify as such in the manner provided herein for police officers. While engaged as such police officer he shall serve under the direction of the chief of police.

Sec. 41. City engineer.

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Sec. 42. Determination of

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Sec. 41. City engineer.

The mayor may appoint a city engineer subject to approval of the council, whose duty it shall be to perform such engineering services as are required of him from time to time by order of the council or the mayor. And in case any permanent improvements are being made upon any of the existing streets or alleys, or to any sewers of the city, or in case any new streets are hereafter planned, laid out or dedicated for the public use of the city, or any new sewer lines are hereafter planned, laid out or put in use in said city, before the same are dedicated and laid out they shall be correctly surveyed by such engineer and a map and plan of the same filed with the mayor as a part of the records of said city. In case the city should install a waterworks or a water plant, or purchase the one now in operation in said city (either or any of which the said city is hereby authorized to do), all the lines installed by the city for carrying water, and all improvements made to said plant, shall first be submitted to the city engineer, and approved by him and the mayor before the same shall be acted upon by the council.

Sec. 42. Determination of contested elections.

All contested elections shall be heard and determined by the council in existence at the time the election is held, and the contest shall be made and conducted in the manner as provided for in contests for county and district officers, and the council by their proceedings in such cases shall as nearly as practicable, conform with like proceedings of the county court in such cases.

Editor's note.—This section should be read in the light of section 4 of the Charter, as amended by Acts 1935, ch. 135.

Sec. 43. Execution, etc., of deeds, etc.; compensation of election officials.

The mayor shall sign, execute and acknowledge, for and on behalf of the city, all deeds, releases, writings, and documents not herein required to be signed, executed and acknowledged by some other official.[5]

5. For further charter provisions as to execution, etc., of deeds, etc., see Char., § 14, item (k).

All election officers, who perform their services under the provisions of this Charter, shall be paid the same compensation as is provided by law for similar services performed by election officers under the appointment of the county court of Logan County.

Editor's note.—The provisions of this section relative to the compensation of election officials should be read in the light of section 4 of this Charter, as amended by Acts 1935, ch. 135.

Sec. 44. Holding more than one office in city government.

No member of the council, including the mayor, the secretary to the mayor, and the city solicitor shall be entitled to hold any other office in the city government.

Sec. 45. State or county officer ineligible as mayor.

No person holding a lucrative or appointive office under this state, or the County of Logan, shall be eligible to hold the office as mayor of the City of Logan.

Sec. 46. End of term of officers as of May 1, 1933.

All officers of the City of Logan shall remain in office and hold their offices and discharge the duties thereof under the provisions of the present Charter of the City of Logan until the first day of May, one thousand nine hundred thirty-three, and thereafter, until their successors are qualified, and all existing offices not provided by this Act [Charter] shall be abolished as of the first day of May, 1933.

Sec. 47. Repeal of former Charter, etc.

The act of the legislature of West Virginia passed March eight, one thousand nine hundred twenty-nine, known as house bill number three hundred seventeen, relating to the Charter of the City of Logan, and being chapter twenty of the Acts of the Legislature of West Virginia, one thousand nine hundred twenty-nine, relating to Municipal Charters, and all acts and parts of acts inconsistent with this Act [Charter], are hereby repealed.

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GENERA

§ 1-1. How Code designated an
§ 1-2. Definitions and rules of
§ 1-3. Effect of repeal or expir
§ 1-4. Provisions considered as
§ 1-5. Catchlines of sections.
§ 1-6. Severability of parts of
§ 1-7. Official flower.
§ 1-8. Official city time.
§ 1-9. Official copy of Code to
§ 1-10. Copy of Code to be kep
§ 1-11. Sale of Code.

Sec. 1-1. How Code design

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Computation of time.[1]

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Code, 1961, § 26.

CERTIFICATE

Certified to be a true and correct copy as to the Rules and Order of Business of the City Council of The City of Logan.

Given under my hand and the official seal of The City of Logan, West Virginia, this 25th day of September, 1987.

[SEAL]

Scott Miller
City Clerk

7537B

CHAPTER 2.

ADMINISTRATION.

Article I. In General.

§ 2-1. City solicitor to hold position of city attorney.
§ 2-2. Secretary of mayor to hold position of city clerk.
§ 2-2.1. Location of the city building.

Article II. City Council.

Division 1. Generally.

§ 2-3. Where regular and special meetings held.
§ 2-4. When regular meetings held.
§ 2-5. Calling special meetings; transaction of business at special meeting.
§ 2-6. Time of filing ordinances to be submitted to council.
§ 2-7. Departure from order of business.
§ 2-8. Suspension of rules.

Division 2. Rules of Order.

§ 2-9. Generally.
§ 2-10. Order of business generally.
§ 2-11. Special order of business.
§ 2-12. Procedure in absence of quorum.
§ 2-13. Enforcement of rules; preservation of decorum.
§ 2-14. Decision on questions of order.
§ 2-15. Statement of questions; declaration of results.
§ 2-16. Members not to withdraw.
§ 2-17. Conduct of members.
§ 2-18. Recognition of members.
§ 2-19. Limitation on number and length of speeches.
§ 2-20. Calling members to order.
§ 2-21. Addresses by nonmembers.
§ 2-22. Motions—Generally.
§ 2-23. Same—Amendments to be relevant.
§ 2-24. Same—Precedence.
§ 2-25. Same—When motion to adjourn in order.
§ 2-26. Same—Previous question.
§ 2-27. Same—To reconsider.
§ 2-28. Same—To lay on the table.
§ 2-29. Voting procedure; interested members not to vote.
§ 2-30. Recordation of dissent.
§ 2-31. Robert's Rules of Order.

Article III. City-Owned Vehicles and Mobile Equipment.

§ 2-32. Name of city, etc., to be displayed.
§ 2-33. To be used on city business only.

Article IV. Comprehensive Plan.

§ 2-34. Adopted by reference.
§ 2-35. Submission of plans to planning commission for approval.

Article V. Sick Leave Pay Plan for City Employees.

§ 2-36. Qualifications.
§ 2-37. Waiting period; certain reductions.
§ 2-38. Total sick pay allowable per year.

FOR
TAUNJA WILLIS MILLER

Article I. In General.[1]

Sec. 2-1. City solicitor to hold position of city attorney.[2]

The city solicitor shall be the city attorney.

Sec. 2-2. Secretary of mayor to hold position of city clerk.[3]

The secretary to the mayor shall be the city clerk.

Sec. 2-2.1. Location of the city building.

The former Chesapeake & Ohio Railway Company passenger depot building, located at the junction of the western side of Dingess Street and the southern right-of-way line of the Chesapeake & Ohio railway, in the city, shall be known as the city building, and the offices of the mayor, city clerk, city treasurer and municipal court shall be located therein. (2-17-70.)

Article II. City Council.[4]

DIVISION 1. GENERALLY.

Sec. 2-3. Where regular and special meetings held.[5]

All meetings of the city council, regular or special, shall be held in the city building, except as otherwise directed by council upon notice given as provided in section 2-5. (5-13-35.)

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1. As to resisting, obstructing, etc., officers of city, see § 19-27 of this Code. As to refusal to aid of officers of city, see § 19-28.

2. For charter provision as to appointment of city solicitor, see Char., § 10. For Charter provision as to qualifications, duties and compensation of city solicitor, see Char., § 11.

3. For charter provision as to appointment, salary and duties of secretary of the mayor, see Char., § 11.

4. For charter provision as to compensation of municipal authority, see Char., § 2. For charter provision as to exercise of public powers by council, see Char., § 3. For charter provision as to nomination of candidates for mayor and councilmen, see Char., § 4. For charter provision as to filling vacancies in council, see Char., § 9. For charter provision as to organization of council, see Char., § 10.

5. For charter provision as to where regular meetings of council are to be held, see Char., § 38.

Sec. 2-4. When regular meetings held.[6]

The council shall hold its regular meetings on the second Tuesday of each month at 8:00 P. M., except as otherwise provided by council upon notice given as provided in section 2-5. In the event the second Tuesday of the month falls on a holiday, the meeting shall be held on the following day.

Sec. 2-5. Calling special meetings; transaction of business at special meeting.[7]

The mayor may call a special meeting of the council by giving at least twenty-four hours' written notice to each member of the council and by posting the notice in at least three public places, which notice shall be posted at least twenty-four hours before the meeting. Any three councilmen may call a special meeting by giving twenty-four hours' written notice to the mayor and council and by posting the notice in at least three public places at least twenty-four hours before the meeting. The notice for a special meeting shall state the purpose for which the meeting is called and no business shall be transacted at a special meeting except that business which is stated in the special call. (9-26-49.)

Sec. 2-6. Time of filing ordinances to be submitted to council.

All ordinances to be submitted for approval or disapproval of the council shall be filed with the city clerk not less than five days before such submission.

Sec. 2-7. Departure from order of business.

There shall be no departure from the order of business, as set out in section 2-10, except upon unanimous consent of the members of the council present and voting.

Sec. 2-8. Suspension of rules.

No rule of order of the council shall be suspended except by

6. For charter provision as to when regular meetings of council are to be held, see Char., § 38.

7. For charter provision as to calling special meetings, see Char., § 38.

consent of a majority of the members of the council present and voting. Any such suspension of rules may be made upon a motion.

DIVISION 2. RULES OF ORDER.[8]

Sec. 2-9. Generally.

The rules of order of the city council for the government of the council, the transaction of its business and the conduct of its meetings shall be as provided in this division.

Sec. 2-10. Order of business generally.

At every regular meeting of the council the order of business shall be as follows:

(a) Roll call.
(b) Reading of minutes.
(c) Miscellaneous and unfinished business.
(d) Petitions and communications.
(e) Reports from city officials.
(f) Original resolutions, orders and ordinances.

Sec. 2-11. Special order of business.

When any matter is made the special order for a future meeting, it shall at such meeting take priority over all other business, except the reading of the minutes of the previous meeting.

Sec. 2-12. Procedure in absence of quorum.

If a quorum fail to attend a meeting within twenty minutes after the appointed time for such meeting, those present may adjourn to such time as they deem proper, after the names of those present shall have been entered on the journal.

Sc. 2-13. Enforcement of rules; preservation of decorum.[9]

The mayor shall enforce the rules of the council and preserve order and decorum.

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8. For state law as to power of council to adopt rules for the transaction of business and the government and regulations of its own body, see Michie's W. Va. Code, 1961, § 494.

For charter provision as to filling temporary vacancy in office of mayor, see Char., § 12.

9. For charter provision as to mayor as presiding officer at meetings of council and as to quorum, see Char., § 10.

Sec. 2-14. Decision on questions of order.

The mayor shall decide questions of order and may, without vacating his chair, give his reasons for his decisions.

From any such decision of the chair an appeal may be made to the council, the question being, "Shall the decision of the chair be sustained as the decision of the council?" Upon such appeal, no debate shall be allowed, if it refers to a question of decorum; but, if it relates to the priority of business or to the relevancy or applicability of propositions, the appeal may be debated.

Sec. 2-15. Statement of questions; declaration of results.

Questions shall be distinctly put substantially in the following form, namely: "As many as agree that, etc. (as case may be), say 'aye' and after the affirmative vote is given: "Those opposed say 'no'." The mayor shall declare all votes.

Sec. 2-16. Members not to withdraw.

After a member of the council has, at any meeting been recorded as present, he shall not, without permission of the council, absent himself from such meeting until its adjournment.

Sec. 2-17. Conduct of members.

Every member of the council shall confine himself to the question before the council and avoid personal, or indecorous language. No discussion of a sectarian or political nature shall be allowed. No member shall interrupt another while speaking, except to make a point of order, the point to be briefly stated to the presiding officer. No member shall, while the council is sitting, interrupt or hinder its business by standing, moving about, talking, expressing approval or disapproval of any of the proceedings or by any conduct tending to disorder or confusion.

Sec. 2-18. Recognition of members.

When two members of the council rise at the same time, the mayor shall name the one to speak. In all cases, the member

of the council first rising and addressing the chair shall speak first.

Sec. 2-19. Limitation on number and length of speeches.

No member of the council shall speak more than once on the same question until every member choosing to speak shall have done so, nor more than twice, nor for a longer time than fifteen minutes on any question, without permission of the council.

Sec. 2-20. Calling members to order.

If, in speaking, any member of the council transgress the rules of the council, the mayor shall call him to order. If there be no appeal, the decision of the chair shall be submitted to. If the decision be in favor of the member called to order, he may proceed; if otherwise, he shall not proceed, except by leave of the council.

Sec. 2-21. Addresses by nonmembers.

No person who is not a member of the council shall orally address it, until leave to do so has been applied for, through a member of the council, and granted by it, or until invited so to do by the presiding officer.

Sec. 2-22. Motions—Generally.

When a motion is made and seconded, it shall be stated by the presiding officer before it is debated. A motion may be withdrawn by the mover, with consent of the second, at any time before it is decided, amended or otherwise acted upon by the council.

Sec. 2-23. Same—Amendments to be relevant.

No motion different from that under consideration shall be admitted under color of amendment.

Sec. 2-24. Same—Precedence.

When a question is under debate, no motion shall be en-

tertained, unless specially provided for, except the following, which shall take precedence in the order given:

(a) To adjourn, to be made without preliminary remarks and decided without debate.

(b) To lay on the table, to be decided without debate.

(c) For the previous question, to be decided without debate.

(d) To postpone, either indefinitely or to a certain day or hour.

(e) To refer or recommit.

(f) To substitute or amend.

(g) To adopt or approve.

Sec. 2-25. Same—When motion to adjourn in order.

A motion to adjourn shall always be in order, except when a member of the council has the floor, when the council is engaged in voting, when the previous question has been ordered, or when the motion to adjourn has been put and lost and no other business has intervened.

Sec. 2-26. Same—Previous question.

Any member who obtains the floor during debate, and submits no other motion or remark, may move for the previous question, which motion, if seconded, shall forthwith be put to the council. The previous question shall be in this form: "Shall the main question now be put?" If carried, its effect shall be to end all debates and bring the council to a direct vote upon a motion to commit, if pending; then upon pending amendment, if any; and then, upon the main question. If the motion for the previous question be not carried, debate may continue as if the motion had not been made.

Sec. 2-27. Same—To reconsider.

In all cases a motion to reconsider will be entertained only when made by a member who voted with the prevailing side. A majority of those present can reconsider any vote, but the motion to do so shall be made at the same session of the council during which such vote was taken. A motion to reconsider shall have precedence over all other questions, and when it has once been put and lost, it shall not be renewed.

Sec. 2-28. Same—To lay on the table.

A three-fifths vote of the members of the council present at any meeting of the council shall be required for the adoption or passage of the parliamentary motion "to lay on the table" as employed or applicable in the conduct of meetings and affairs of the council.

Sec. 2-29. Voting procedure; interested members not to vote.[1]

On the call of any member of the council, the vote on any question may be taken by ayes and noes, and recorded; provided the demand be made before other business has been taken up. A member who is present and fails to vote when the ayes and noes are taken, shall be entered on the journal as present and not announcing his vote. No member who has an immediate personal or pecuniary interest in the result of the question shall either vote or be counted upon it.

Sec. 2-30. Recordation of dissent.

Any member of the council shall have the liberty to dissent from or protest against, any ordinance, resolution or order of the council, and have the reason of his dissent entered upon the record.

Sec. 2-31. Robert's Rules of Order.

The proceedings of the council, except as otherwise provided, shall be governed by Robert's Rules of Order.

Article III. City-Owned Vehicles and Mobile Equipment.

Sec. 2-32. Name of city, etc., to be displayed.

All city-owned motor vehicles and mobile equipment shall be plainly marked with the name "City of Logan" together with the department to which assigned. Such lettering or marking shall be of a conspicuous color and the letters thereof shall be not less than two inches high and not less than one

1. For charter provision as to right of mayor to vote, see Char., §§ 10, 14.

inch wide and shall follow a general pattern or type of lettering as designated by the mayor.

All cruiser cars and other motor vehicles or mobile equipment used by the police department shall also be so marked.

Sec. 2-33. To be used on city business only.

No city-owned motor vehicle or piece of mobile equipment shall be used except on business of the city.

Article IV. Comprehensive Plan.

Sec. 2-34. Adopted by reference.

The comprehensive plan entitled "Comprehensive Plan for the City of Logan, West Virginia," as prepared by Sargent-Webster-Crenshaw & Folley, a copy of which is on file in the office of the city clerk, which comprehensive plan is incorporated in this article by reference, is hereby adopted as the comprehensive plan of the city. (9-13-66, § 1.)

Sec. 2-35. Submission of plans to planning commission for approval.

All plans for the location and erection of community buildings, fire stations, city buildings, parks, playgrounds, streets and other community facilities to be erected or located by the city or other public facilities such as schools, churches, etc. shall be submitted to the planning commission of the city for its recommendations; and the location of all urban renewal projects and public housing projects shall be submitted to the planning commission of the city for its approval. (9-13-66, § 2.)

Article V. Sick Leave Pay Plan for City Employees.

Sec. 2-36. Qualifications.

Any person to be eligible for sick leave pay shall meet the following qualifications:

(1) Must be a regular employee.

(2) Must have completed six months service.

(3) Must present satisfactory evidence of inability to work due to illness or injury.

(4) Shall submit to examination by a doctor named by the mayor, if requested to do so.

(5) Must report reason for absence prior to the end of the first working day he is off.

(6) This plan is not to be considered in effect for injury or illness sustained prior to the effective date of this plan. (4-28-69.)

Sec. 2-37. Waiting period; certain reductions.

Payment of sick pay will be subject to a four day waiting period less the following reductions:

If last absence due to sickness or injury exceeds:

	Waiting Period Reduced	*Pay starts on*
12 Months	4 days	1st day off
9 Months but less than 12 months	3 days	2nd day off
6 Months but less than 9 months	2 days	3rd day off
3 Months but less than 6 months	1 day	4th day off

(4-28-69.)

Sec. 2-38. Total sick pay allowable per year.

Total sick pay shall not exceed twenty days per year. (4-28-69.)

CHAPTER 3.

ALCOHOLIC BEVERAGES.

Article I. In General.

§ 3-1. Tax on purchase at retail of intoxicating liquors.

Article II. Alcoholic Liquors.

§ 3-2. Definitions.

The City of Logan
INCORPORATED 1852
LOGAN, WEST VIRGINIA 25601
DINGESS ST.
304/752-4044

MAYOR'S OATH OF OFFICE

STATE OF WEST VIRGINIA
COUNTY OF LOGAN, to wit:

I, Thomas E. Esposito, before entering upon the discharge of my duties as Mayor of the City of Logan, solemnly swear that I will support the Constitution of the United States and of the State of West Virginia, that I will faithfully account for, as required by law, all monies, funds, and properties which shall come into my custody or under my control by virtue of my office, and that I will faithfully perform the duties of Mayor to the best of my skill and judgment, so help me God.

Thomas E. Esposito
Mayor

Sworn to, taken and subscribed before me this 1st. day of May, 1987.

My Commission expires _____

Notary

A Swearing-In Ceremony was held in the Guyandotte Room of Logan City Hall on May 1, 1987 at 7:00 O'clock p.m.

Oath of Office for Thomas E. Esposito, Mayor was administered by Circuit Judge J. Ned Grubb, Circuit Judge Eric H. O'Briant then administered the Oaths of Office to Council Members Ruth Ware, Kelly Gilmore Codispoti, Levie Caudill, Woodrow Lowe and R. L. McCormick.

A Reception was held for the new administration in the Council Chambers.

The City Council of the City of Logan met in Council Chambers of City Hall on Tuesday, May 12, 1987 at 7:30 O'clock p.m.

Those in attendance were: Thomas E. Esposito, Mayor; Levie Caudill, Ruth Ware and Woodrow Lowe, Council Members; Edward I. Eiland, City Attorney; Violet Miller, City Clerk; L.M. Vasarhelyi, Acting Chief of Police; Benny Eplin, Street Commissioner; William Saunders, Fire Chief; Members of the Press.

Meeting was called to order by Thomas E. Esposito, Mayor.

Motion was made by Councilwoman Ware to approve the appointment of Edward I. Eiland as City Attorney, seconded by Councilman Woodrow Lowe and carried unanimously.

Request to Council by Mayor Esposito to approve the appointment of Violet Miller as City Clerk was moved upon by Ruth Ware, seconded by Woodrow Lowe and carried unanimously.

Request to Council by Mayor Esposito to approve the appointment of William Saunders as Fire Chief was moved upon by Ruth Ware, seconded by Woodrow Lowe and carried unanimously.

Request to Council by Mayor Esposito to approve the appointment of L. Michael Vasarhelyi as Acting Chief of Police was moved upon by Woodrow Lowe, seconded by Levie Caudill and carried unanimously.

Request to Council by Mayor Esposito to approve the appointment of Benny Eplin as Street Commissioner was moved upon by Levie Caudill, seconded by Ruth Ware and carried unanimously.

City Clerk, Violet Miller, executed the Oath of Office to Edward I. Eiland, City Attorney.

City Attorney, Edward I. Eiland, executed the Oath of Office to the appointed Department Heads.

Upon motion by Levie Caudill, seconded by Woodrow Lowe, the following Resolution was adopted:

BE IT RESOLVED that the City Budget for the Fiscal Year 1986-1987 be amended, subject to approval of State Tax Commissioner, as follows:

RECEIPTS

General Fund

By increasing estimated receipts as follows:

Account No. 352 - Fire Fees, from $40,000.00 to $50,000.00

Total change in Receipts - $10,000.00

The City of Logan
INCORPORATED 1852
LOGAN, WEST VIRGINIA 25601
DINGESS ST.
304/752-4044

OATH OF OFFICE

STATE OF WEST VIRGINIA
COUNTY OF LOGAN, to wit:

I, Robert L. McCormick, hereby swear that I will support the Constitution of the United States, and the Constitution of the State of West Virginia, and will faithfully and impartially discharge the duties of my office as Councilman of the City of Logan, West Virginia, to the best of my skill and judgment, so help me God.

R. L. McCormick
Councilman

Sworn to, taken and subscribed before me this 1st. day of May, 1987.

My Commission expires _____.

Eric H. O'Brant Circuit Judge
Notary

The City of Logan
INCORPORATED 1852
LOGAN, WEST VIRGINIA 25601
DINGESS ST.
304/752-4044

OATH OF OFFICE

STATE OF WEST VIRGINIA
COUNTY OF LOGAN, to wit:

I, Kelly Gilmore Codispoti, hereby swear that I will support the Constitution of the United States, and the Constitution of the State of West Virginia, and will faithfully and impartially discharge the duties of my office as Councilwoman of the City of Logan, West Virginia, to the best of my skill and judgment, so help me God.

Kelly Gilmore Codispoti
Councilwoman

Sworn to, taken and subscribed before me this 1st. day of May, 1987.

My Commission expires _____.

Eric H. O'Briant Circuit Judge
Notary

The City of Logan
INCORPORATED 1852
LOGAN, WEST VIRGINIA 25601
DINGESS ST.
304/752-4044

OATH OF OFFICE

STATE OF WEST VIRGINIA
COUNTY OF LOGAN, to wit:

I, Levie "Duke" Caudill, hereby swear that I will support the Constitution of the United States, and the Constitution of the State of West Virginia, and will faithfully and impartially discharge the duties of my office as Councilman of the City of Logan, West Virginia, to the best of my skill and judgment, so help me God.

Levie Caudill
Councilman

Sworn to, taken and subscribed before me this 1st. day of May, 1987.

My Commission expires _____.

Eric H. O'Briant Circuit Judge
Notary

The City of Logan
INCORPORATED 1852
LOGAN, WEST VIRGINIA 25601
DINGESS ST.
304/752-4044

OATH OF OFFICE

STATE OF WEST VIRGINIA
COUNTY OF LOGAN, to wit:

I, Woodrow Lowe, hereby swear that I will support the Constitution of the United States, and the Constitution of the State of West Virginia, and will faithfully and impartially discharge the duties of my office as Councilman of the City of Logan, West Virginia, to the best of my skill and judgment, so help me God.

Woodrow Lowe
Councilman

Sworn to, taken and subscribed before me this 1st. Day of May, 1987,

May Commission expires _____.

Eric H. Bryant Circuit Judge
Notary

The City of Logan
INCORPORATED 1852
LOGAN, WEST VIRGINIA 25601
DINGESS ST.
304/752-4044

OATH OF OFFICE

STATE OF WEST VIRGINIA
COUNTY OF LOGAN, to wit:

I, Ruth "Sis" Ware, hereby swear that I will support the Constitution of the United States, and the Constitution of the State of West Virginia, and will faithfully and impartially discharge the duties of my office as Councilwoman of the City of Logan, West Virginia, to the best of my skill and judgment, so help me God.

Ruth Ware
Councilwoman

Sworn to, taken and subscribed before me this 1st. day of May, 1987.

My Commission expires _____.

Eric H. O'Briant Circuit Judge
Notary

THE CITY OF LOGAN, WEST VIRGINIA

$623,087 Subordinate Sewerage System Revenue Bonds, Series 1987

$152,833 Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987

GENERAL CERTIFICATE OF INCUMBENCY AND PROPER NAME

I, Violet Miller, Clerk of The City of Logan, West Virginia (the "City"), hereby certify as follows:

1. The names of the Mayor and of the members of the Council of the City (the "Council") holding office when the Ordinance authorizing issuance of the above-referenced bonds (the "Bonds") was introduced on July 28, 1987, and was passed on August 11, 1987 (the "Bond Ordinance"), when the resolution authorizing publication of an abstract and notice of the Bond Ordinance was adopted on August 11, 1987, when the resolution regarding the public hearing on the Bond Ordinance was adopted on September 8, 1987, and when the supplemental resolution authorizing the sale of the Bonds to the West Virginia Water Development Authority was adopted on September 8, 1987, the dates of their respective elections or appointments and the dates of commencement and expiration of their respective terms of office are as follows:

Office	Name	Date of Election or Appointment	Date of Commencement of Term	Date of Expiration of Term
Mayor	Thomas E. Esposito	04-07-87	05-01-87	05-01-91

Council Members

Levie ("Duke") Caudill	04-07-87	05-01-87	05-01-91
Kelly Gilmore Codispoti	04-07-87	05-01-87	05-01-91
Woodrow Lowe	04-07-87	05-01-87	05-01-91
Robert L. McCormick	04-07-87	05-01-87	05-01-91
Ruth ("Sis") Ware	04-07-87	05-01-87	05-01-91

Edward I. Eiland and Violet Miller are and have at all times since May 12, 1987, been the duly appointed and acting City Attorney and City Clerk, respectively.

The members of the Sanitary Board of the City and their terms of office are as follows:

Office	Name	Date of Appointment	Date of Commencement of Term	Date of Expiration of Term
Chairman	Thomas E. Esposito	05-01-87	05-01-87	05-01-91
Member	William W. Wagner, Jr.	03-01-87	03-01-86	03-01-89
[Engineer] Member	Chin J. Fot	09-24-87	10-13-87	03-01-90

2. All of the foregoing officers required to do so took, subscribed to and filed their oaths of office in accordance with law prior to entering upon their official duties; all of those required to give bonds or undertakings filed such bonds or undertakings at the place and in the manner required by law; all of them have otherwise duly qualified for office and are the acting officers for the respective periods above-stated except as described below; and no proceedings for the removal from office of any such officer have been taken or are pending or threatened. The engineer member of the Sanitary Board has been appointed and this appointment will be ratified prior to the start of construction of the Project.

3. The corporate name of the City is "The City of Logan." Said corporate name has not been changed by any election or any ordinance or resolution.

4. The Council meetings held on August 11, 1987 and September 8, 1987, were regularly scheduled meetings of Council. The Council meeting held on July 28, 1987, was a duly called and held special meeting of Council. A quorum of members of the Council was present and acting throughout each of said meetings.

IN WITNESS WHEREOF, I have hereunto set my hand and impressed the corporate seal of the The City of Logan, West Virginia, this 25th day of September, 1987.

Violet Miller

Violet Miller, Clerk

[SEAL]

5961B

CERTIFICATE

Certified to be a true and correct copy of the Ordinance creating the Sanitary Board of The City of Logan, adopted by the City Council of The City of Logan, West Virginia, on April 12, 1948 duly filed and of record in the Office of the City Clerk of The City of Logan.

Given under my hand and the official seal of The City of Logan, West Virginia, this 25th day of September, 1987.

[SEAL]

Violet Miller
City Clerk

7537B

seconded by Mr. Glick, the meeting adjourned.

Ruth Montague
Ruth Montague, Secretary

R M Wilson
R. M. Wilson, Mayor

A REGULAR MEETING OF THE COMMON COUNCIL OF THE CITY OF LOGAN WAS HELD IN THE OFFICE OF THE MAYOR AT 7:30 P. M. ON THE 12TH DAY OF APRIL 1948.

The Council was called to order with Mayor R. M. Wilson presiding and the following elected and acting members of Council present:

H. M. White, W. M. Newsom, R. H. Justice and W. L. Burdette, also W. E. Flannery, City Attorney and Ruth Montague City Clerk.

Minutes of the last regular meeting of March 8th and special meeting of March 25th were read and approved.

City Attorney, W. E. Flannery, presented the following ordinance creating a Sanitary Board for the custody, supervision, control, administration, operation and maintenance of the sewage system of the City of Logan, as permitted and provided by Article 13 of Chapter 16 of the West Virginia Code of 1943, said Board to be composed of Mayor R. M. Wilson, J. E. Settle a registered professional engineer, and Fred Haislip a resident of Logan:

WHEREAS preliminary investigations have heretofore been taken for certain necessary extensions to the sewer system of the City of Logan, West Virginia and for repairs to the general sewer system, under the provisions of Article 13 of Chapter 16 of the West Virginia Code of 1943, and it is provided by said enabling law that a sanitary board shall be created for the custody, supervision, control, administration, operation and maintenance of said system;

NOW, THEREFORE, Be It Ordained by the Council of the City of Logan, West Virginia, as follows;

Section 1. That there shall be and there is hereby created in and for the City of Logan, West Virginia, a sanitary board for the custody, supervision, control, administration, operation and maintenance of the sewage system, all as permitted and provided by Article 13 of Chapter 16 of the West Virginia Code of 1943, and said sanitary board shall be composed of the Mayor of said City and two persons, one of whom is a registered professional engineer, namely, J. E. Settle for a term of two years, and Fred Haislip for a term of three years.

Section 2. That the Mayor of said City shall act as Chairman of said sanitary board, and that upon organization said board shall elect a vice chairman and also designate a secretary and treasurer (who may be separate persons or one and the same), and the Council of said city hereby reserves the right and privilege from time to time by ordinance to fix compensation of the members of said board and the secretary and treasurer thereof, and also to require and fix the amount of bonds which any or all of said officials may be required to furnish.

Section 3. That this ordinance be in full force and effect immediately upon its adoption.

Such ordinance was read and its adoption moved by Councilman White, Councilman Newsom seconding the motion. On roll call the following voted in the affirmative:

R. H. Justice, W. L. Burdette, H. M. White and W. M. Newsom.

Nay: None.

The Mayor, thereupon, declared the ordinance duly passed and approved.

R. M. Wilson.
R. M. Wilson, Mayor

Attest:

Ruth Montague
Ruth Montague, City Clerk.

Mr. Wilson having received certification from the Civil Service Commission of the eligibility of Winchester Queen to serve as Patrolman, presented his name for approval by the Council for his appointment. Upon motion of Mr. Burdette, seconded by Mr. White, motion carrying, the appointment was approved as of the 1st day of April, 1948.

Mr. Wilson presented a bill from the American La France Foamite Corporation in the amount of $896.72 for a new pumper for the fire truck. It was explained that this bill represents an exchange price, the old pumper having been returned for credit. On motion of Mr. Burdette, seconded by Mr. Newsom, motion carrying, the Mayor was authorized to pay this bill.

A certified report on the condition of the Policemen's Pension Fund was pre-

CERTIFICATE

Certified to be a true and correct copy of an Ordinance authorizing $308,000 in aggregate principal amount of Sewerage Revenue Bonds, dated March 1, 1964 of The City of Logan, adopted by the City Council of The City of Logan, West Virginia, on February 11, 1964 duly filed and of record in the Office of the City Clerk of The City of Logan.

Given under my hand and the official seal of The City of Logan, West Virginia, this 25th day of September, 1987.

[SEAL]

Violet Miller
City Clerk

7537B

File 9600

AN ORDINANCE AUTHORIZING THE ISSUANCE OF $308,000 PRINCIPAL AMOUNT OF SEWER REVENUE BONDS FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING BONDS AND TO PAY PART OF THE COST OF CONSTRUCTION AND ACQUISITION OF ADDITIONS, EXTENSIONS AND IMPROVEMENTS TO THE EXISTING SEWER SYSTEM OF THE CITY OF LOGAN, WEST VIRGINIA.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LOGAN, WEST VIRGINIA:

ARTICLE I

STATUTORY AUTHORITY AND DEFINITIONS

1. AUTHORITY OF THIS ORDINANCE. This ordinance is adopted pursuant to the provisions of Article 13, Chapter 16 of the Code of West Virginia, and other applicable provisions of law.

It is hereby found and determined as follows:

(a) That the City of Logan now owns and operates a municipal sewer system.

(b) That the City of Logan, pursuant to the provisions of said Article 13, Chapter 16 of the Code of West Virginia, heretofore by ordinance finally adopted on the 12th day of April, 1948, duly created and established the Sanitary Board of the City of Logan, and that said Sanitary Board has duly filed with the Council of the City its petition praying for the adoption of an ordinance authorizing the issuance of bonds to finance the cost of additions, extensions and improvements to said sewer system in the manner provided herein.

(c) That it is necessary and imperative for the protection of the health and welfare of the inhabitants of the City of Logan that said City construct additions, extensions and improvements to its municipal sewer system substantially in accordance with the plans and specifications prepared by Kelley, Gidley, Staub, Inc., Consulting Engineers, of Charleston, West Virginia, heretofore filed in the office of the City Clerk, and now open to inspection by any inhabitant of

the City of Logan.

(d) That the net revenues derived from the operation and management of the City Sewer System are not pledged or encumbered in any manner except for the payment of the principal of and interest on the outstanding Sewer Revenue Bonds, dated October 1, 1948, heretofore issued by the City, of which there are $184,000 presently outstanding.

(e) That it is deemed advisable and in the best financial and economic interest of the City to provide such funds so that together with moneys presently on hand in the Sinking Fund and Reserve Account created by the proceedings which authorized the outstanding Bonds of 1948 there will be sufficient moneys available to pay the principal of and interest on and to refund and refinance said outstanding Bonds of 1948, said refunding to be made on April 1, 1964 or as soon thereafter as practicable.

(f) That it is now necessary for the City of Logan to issue bonds in the sum of Three Hundred Eight Thousand Dollars ($308,000.00) to finance part of the cost of the construction of said additions, extensions and improvements to its sewer system and to refund said outstanding Bonds.

(g) That the estimated cost of the construction of said improvements is the sum of Three Hundred Forty-Three Thousand Dollars ($343,000.00), which said estimate has been duly made pursuant to statute by Kelley, Gidley, Staub, Inc., Consulting Engineers, of Charleston, West Virginia.

(h) Said cost shall be deemed to include the cost of the construction of said additions, extensions and improvements to said sewer system, including, without being limited to, the construction, acquisition and installation of interceptor sewers, pumping station and sewage treatment plant, the acquisition of any necessary property, real, personal or intangible, or interests therein, and any other

purposes necessary, incidental, desirable or appurtenant to such construction of additions, extensions and improvements to said sewer system; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; expenses for fiscal or other agents in connection with the issuance of the Bonds, and such other expenses as may be necessary or incidental to said improvements and the financing authorized by this ordinance.

2. ORDINANCE TO CONSTITUTE CONTRACT. In consideration of the acceptance of the Bonds authorized to be issued hereunder by those who shall hold the same from time to time, this ordinance shall be deemed to be and shall constitute a contract between the City of Logan, West Virginia, and such Bondholders, and the covenants and agreements herein set forth to be performed by said City shall be for the equal benefit, protection and security of the legal holders of any and all of such Bonds, and the coupons attached thereto, all of which shall be of equal rank without preference, priority and distinction of any of the Bonds or coupons over any other thereof, except as expressly provided therein and herein.

3. DEFINITIONS. The following terms shall have the following meanings in this ordinance unless the text otherwise expressly requires:

(a) "City" shall mean the City of Logan, West Virginia.

(b) "Sanitary Board" shall mean the Sanitary Board created pursuant to Article 13, Chapter 16 of the Code of West Virginia by the ordinance finally adopted on April 12, 1948, which said Sanitary Board shall have supervision and control of the custody, administration, operation and maintenance of said sewer system in the manner provided in said Article 13, Chapter 16 of the Code of West Virginia.

All of the covenants and agreements contained in this ordinance shall be valid and legally binding covenants and obligations of both the City and said Sanitary Board, and wherever the

term "City" is used herein, it shall be deemed to refer also to said Sanitary Board to the full extent of the powers relating to said sewer system conferred upon said Sanitary Board.

(c) "Act" shall mean Article 13, Chapter 16 of the Code of West Virginia, as amended.

(d) "Bonds" shall mean the $308,000 Sewer Revenue Bonds originally authorized to be issued pursuant to this ordinance and shall also be deemed to include the interest coupons attached to said Bonds; and shall also include any pari passu additional Bonds hereafter issued within the terms, restrictions and conditions contained in this ordinance, and the interest coupons attached to said pari passu additional Bonds.

(e) "Holder of the Bonds" or "Bondholder" or any similar term shall mean any person who shall be the bearer or owner of any outstanding Bond or Bonds registered to bearer or not registered, or the registered owner of any outstanding Bond or Bonds which shall at the time be registered other than to the bearer or to any coupons representing interest accrued or to accrue on said Bonds.

(f) "Sewer System" shall mean the complete sewer system of the City, including all sewer facilities now owned by the City, the additions, extensions and improvements to be constructed pursuant to this ordinance, including all mains, plants or other property of any nature, real, personal or intangible, used for said sewer system, and all sewer facilities hereafter constructed or acquired from funds obtained from any sources whatsoever,

(g) "Facilities" shall mean all the facilities of said Sewer System heretofore constructed or acquired and those constructed or acquired pursuant to this ordinance and also any facilities which may hereafter be added to said Sewer System by any additions, betterments, extensions, improvements thereto, furniture, fixtures or equipment therefor, hereafter at any time constructed or acquired.

(h) "Revenues" or "gross revenues" shall mean all rates, rents, fees, charges or other income received by the City of Logan, or accrued to the City, or any board or agency thereof in control of the management and operation of said Sewer System, from the operation of said Sewer System, and all parts thereof, all as calculated in accordance with sound accounting practice.

(i) "Operating Expenses" shall mean the current expenses paid or accrued, of operation and maintenance of said Sewer System and its facilities, and shall include, without limiting the generality of the foregoing, insurance premiums, and salaries, wages and administrative expenses of the City relating solely to said Sewer System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting practices.

"Operation and Maintenance" shall not include any allowance for depreciation except to the extent expressly herein provided.

(j) "Net revenues" shall mean the balance of the gross revenues, as defined in subsection (h) above, remaining after deduction only of operating expenses, as defined in subsection (i) above.

(k) "Outstanding Bonds" shall mean the One Hundred Eighty-Four Thousand Dollars ($184,000) principal amount of City of Logan, West Virginia, Sewer Revenue Bonds, dated October 1, 1948 presently outstanding.

(l) Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

ARTICLE II

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF BONDS.

4. AUTHORIZATION OF BONDS. Subject and pursuant to the provisions of this ordinance, Bonds of the City of Logan, to be known as "Sewer Revenue Bonds", are hereby authorized to be issued in the aggregate principal amount of not exceeding Three Hundred Eight Thousand Dollars ($308,000).

5. DESCRIPTION OF BONDS. The Bonds shall be dated the first day of March, 1964, shall be in the denomination of $1,000 each, shall be numbered 1 to 308, inclusive, and shall bear interest at a rate or rates not exceeding the legal rate, payable semi-annually on September 1 and March 1 of each year. The Bonds maturing in the years 1966 to 1975, inclusive, shall not be redeemable prior to their stated dates of maturity. The Bonds maturing in the years 1976 and thereafter shall be redeemable prior to maturity, at the option of the City, in whole on March 1, 1975 or on any date thereafter, or in part in inverse order of maturities and by lot if less than a full maturity on March 1, 1975 or on any interest payment date thereafter, at the price of 103 per centum of the par value thereof from March 1, 1975 to February 29, 1984, inclusive; at the price of 102 per centum of the par value thereof from March 1, 1984 to February 28, 1990, inclusive; at the price of 101 per centum of the par value thereof from March 1, 1990 to February 28, 1995, inclusive, and without premium thereafter, provided, however, that a notice of such intended redemption shall have been published at least once not less than thirty days prior to the date fixed for redemption in a financial paper published in the City of New York, New York.

Said Bonds shall mature serially, in numerical order, lowest numbers first, on the first day of March of each year, as follows:

Year	Amount	Year	Amount
1966	$4,000	1983	$ 9,000
1967	5,000	1984	9,000
1968	5,000	1985	10,000
1969	5,000	1986	10,000
1970	5,000	1987	11,000
1971	5,000	1988	11,000
1972	6,000	1989	12,000
1973	6,000	1990	12,000
1974	6,000	1991	13,000
1975	6,000	1992	13,000
1976	7,000	1993	14,000
1977	7,000	1994	14,000
1978	7,000	1995	15,000
1979	8,000	1996	15,000
1980	8,000	1997	16,000
1981	8,000	1998	17,000
1982	9,000		

Said Bonds shall be issued in coupon form, shall be payable with respect to both principal and interest in lawful money of the United States of America at the office of the State Sinking Fund Commission, Charleston, West Virginia, or at the option of the holder at The Chase Manhattan Bank, New York, New York, and shall bear interest from their date, payable in accordance with and upon the surrender of the appurtenant interest coupons as they severally mature.

6. EXECUTION OF BONDS AND COUPONS. Said Bonds shall be executed in the name of the City by its Mayor and its corporate seal shall be affixed thereto and attested by its City Clerk. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the City before the Bonds so signed and sealed shall have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bond may be signed and sealed on behalf of the City by such person as at the actual time of the execution of such Bonds shall hold the proper office in the City, although at the date of such Bonds such person may not

have held such office or may not have been so authorized.

The coupons to be attached to the Bonds shall be authenticated with the facsimile signatures of the present or any future Mayor and City Clerk of said City, and the City may adopt and use for that purpose the facsimile signature of any person who shall have been such Mayor or City Clerk at any time on or after the date of the Bonds, notwithstanding that he may have ceased to be such Mayor or City Clerk at the time when said Bonds shall be actually sold and delivered.

7. NEGOTIABILITY AND REGISTRATION. The Bonds shall be and have all the qualities and incidents of negotiable instruments under the Negotiable Instruments Law of the State of West Virginia. The Bonds shall pass by delivery except when registered as hereinafter provided.

The Bonds may be registered at the option of the holder as to principal only in the Bond Register of the Treasurer of the State of West Virginia, Charleston, West Virginia, such registration to be noted on the Bonds in the space provided therefor and thereafter no transfer of the Bonds shall be valid unless made at said office by the registered owner, or by his duly authorized agent or representative, and similarly noted on the Bonds but the Bonds may be discharged from registration by being in like manner transferred to bearer and thereupon transferability by delivery shall be restored. At the option of the holder, the Bonds may thereafter again from time to time be registered or transferred to bearer as before. Such registration shall not affect the negotiability of the coupons which shall continue to pass by delivery.

8. BONDS MUTILATED, DESTROYED, STOLEN OR LOST. In case any Bond shall become mutilated or be destroyed, stolen, or lost, the City may in its discretion issue and deliver a new Bond with all unmatured coupons attached of like tenor as the Bond and attached

coupons, if any, so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated and attached coupons, if any, or in lieu of and substitution for the Bond and attached coupons, if any destroyed, stolen, or lost, and upon the holder furnishing the City proof of his ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the City may prescribe and paying such expenses as the City may incur. All Bonds and coupons so surrendered shall be cancelled by the City Clerk and held for the account of the City. If any such Bond or coupon shall have matured or be about to mature, instead of issuing a substituted Bond or coupon, the City may pay the same, upon being indemnified as aforesaid, and, if such Bond or coupon be lost, stolen, or destroyed, without surrender thereof.

Any such duplicate Bonds and coupons issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the City, whether or not the lost, stolen or destroyed Bonds or coupons be at any time found by anyone, and such duplicate Bonds and coupons shall be entitled to equal and proportionate benefits with all other Bonds and coupons issued hereunder.

9. FORM OF BONDS AND COUPONS. Subject to the provisions of this ordinance, the text of the Bonds, the provision for registration to be endorsed thereon, and coupons shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted by this ordinance or any subsequent ordinance or resolution adopted prior to the issuance thereof:

No. UNITED STATES OF AMERICA $1,000

STATE OF WEST VIRGINIA
CITY OF LOGAN
COUNTY OF LOGAN
SEWER REVENUE BOND

The City of Logan, in the County of Logan, and State of West Virginia, a municipal corporation created and existing under the laws of the State of West Virginia, for value received, hereby promises to pay to the bearer or, if this Bond be registered, to the registered holder as herein provided, on the first day of March, 19 , from the revenues hereinafter mentioned, the principal sum of

ONE THOUSAND DOLLARS

with interest thereon at the rate of per centum (%) per annum, payable semi-annually on the first day of September and the first day of March of each year, upon the presentation and surrender of the annexed coupons as they severally fall due. Both principal of and interest on this Bond are payable in lawful money of the United States of America at the office of the State Sinking Fund Commission, Charleston, West Virginia, or at the option of the holder at The Chase Manhattan Bank, New York, New York.

The Bonds of this issue maturing in the years 1966 to 1975, both inclusive, are not redeemable prior to their stated dates of maturity. The Bonds of this issue maturing in the years 1976 to 1998, both inclusive, are redeemable prior to their stated dates of maturity, at the option of the City, in whole on March 1, 1975 or on any date thereafter, or in part but in inverse order of maturities if less than all on March 1, 1975, or on any interest payment date thereafter at the price of 103 per centum of the par value thereof from March 1, 1975 to February 29, 1984, inclusive; at the price of 102 per centum of the par value thereof from March 1, 1984 to February 28, 1990, inclusive; at the price of 101 per centum of the par value thereof from March 1, 1990 to February 28, 1995, inclusive, and without premium thereafter, provided, however, that a notice of such intended redemption shall have been published at least once not less than thirty days prior to the date of

redemption in a financial paper published in the City of New York.

This Bond is one of an authorized issue of Bonds in the aggregate principal amount of Three Hundred Eight Thousand Dollars ($308,000) of like date, tenor and effect, except as to number and date of maturity, issued to finance part of the cost of the construction of additions, extensions and improvements to the municipally owned Sewer System of said City, and to refund certain outstanding Bonds under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including Article 13, Chapter 16 of the Code of West Virginia, and other applicable statutes, and an ordinance duly adopted by the Mayor and Council of said City, and is subject to all the terms and conditions of said ordinance.

This Bond and the coupons appertaining hereto are payable solely from, and secured by a lien upon and pledge of the net revenues derived from the operation of the municipally owned Sewer System of said City, and do not constitute an indebtedness of the City of Logan within the meaning of any constitutional, statutory or charter provisions or limitations, and the City of Logan shall not be obligated to pay this Bond or the interest thereon except from the net revenues of said Sewer System as provided in said ordinance. The credit or taxing power of said City shall not be deemed to be pledged to, nor shall a tax ever be levied for, the payment of the principal of or interest on this Bond. The City covenants with the holders of the Bonds of this issue to establish and at all times maintain such rates and collect such charges for the services and other facilities rendered by said Sewer System, and to revise the same from time to time, whenever necessary, as will always provide revenues sufficient to pay, and out of said revenues shall pay as the same shall become due, the principal and interest on the Bonds of this issue, and to create a reserve therefor, in addition to paying, as the same shall become due, the necessary expenses of operating and maintaining the said

Sewer System and all other obligations payable out of said revenues, and said City has entered into certain other covenants with the holders of the Bonds of this issue, for the terms of which reference is made to said ordinance.

It is hereby certified and recited that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of this Bond, exist, have happened and have been performed in regular and due form and time as required by the laws and Constitution of the State of West Virginia applicable thereto, and that the total indebtedness of said City, including this Bond, does not exceed any constitutional or statutory limitation.

This Bond, under the provisions of the Code of West Virginia, is and has all the qualities and incidents of, a negotiable instrument under the Negotiable Instruments Law of the State of West Virginia.

This Bond may be registered as to principal alone in accordance with the provisions endorsed hereon.

This Bond, together with the income thereon, is exempt from taxation by the State of West Virginia or any county or municipality therein.

IN WITNESS WHEREOF the City of Logan has caused this Bond to be signed by its Mayor and its corporate seal affixed hereto, attested by its City Clerk, and the annexed interest coupons to be executed with the facsimile signatures of said officers, all as of the first day of March, 1964.

_____
Mayor

Attest:

_____
City Clerk

No. (FORM OF COUPON) $

On the first day of , 19 , unless the Bond hereinafter mentioned shall have been duly called for prior redemption and payment of the redemption price has been duly made or provided for, the City of Logan, West Virginia, will pay to the bearer at the office of the State Sinking Fund Commission, Charleston, West Virginia, or at the option of the holder at The Chase Manhattan Bank, New York, New York, from the revenues described in the Bond to which this coupon is attached the sum of

in lawful money of the United States of America, upon presentation and surrender of this coupon, being six months' interest then due on its' Sewer Revenue Bond, dated , 19 . No.

Mayor

Attest:

City Clerk

PROVISION FOR REGISTRATION

This Bond may be registered in the name of the holder as to principal only on books kept by the Treasurer of the State of West Virginia, such registration being noted hereon in the registration blank below, after which no transfer shall be valid unless made on said books by the registered holder or his agent or representative duly authorized, and similarly noted in said registration blank below, but it may be discharged from registration by being transferred to bearer after which it shall again be transferable by delivery. At the option of the holder, this Bond shall again be subject to successive registrations and transfers as before. The principal of this

Bond, if registered shall be payable only to the registered owner or his legal representative. Notwithstanding the registration of this Bond, the coupons shall remain payable to bearer and shall continue to be transferable by delivery merely.

(No writing on this Bond except by The Treasurer of the State of West Virginia as Registrar.)

Date of Registration	In Whose Name Registered	Registrar

ARTICLE III

REVENUES AND APPLICATION THEREOF

10. BONDS NOT TO BE INDEBTEDNESS OF THE CITY OF LOGAN. Neither the Bonds nor coupons shall be or constitute an indebtedness of the City of Logan, but shall be payable solely from the net revenues of said Sewer System as herein provided. No holder or holders of any Bonds issued hereunder shall ever have the right to compel the exercise of the taxing power of the City to pay said Bonds or the interest thereon.

11. BONDS SECURED BY PLEDGE OF NET REVENUES. The payment of the debt service of all of the Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the net revenues derived from said Sewer System. The net revenues derived from said Sewer System in an amount sufficient to pay the principal of and interest on the Bonds herein authorized, and to make the payments into the Sinking Fund hereinafter provided for, are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds herein authorized as the same become due.

12. APPLICATION OF BOND PROCEEDS. The proceeds, including accrued interest, if any, received from the Sale of the Sewer Revenue Bonds issued under the provisions of this ordinance shall be deposited as follows:

(1) Accrued interest shall be transferred to the State Sinking Fund Commission for deposit in the Sinking Fund hereinafter created.

(2) Such amount of the proceeds as shall be sufficient, together with moneys now on deposit in the Sinking Fund and Reserve Account established by the proceedings which authorized the outstanding Bonds, to pay principal of and interest on and redemption premium on the Outstanding Bonds on the first day of April, 1964, or as soon thereafter as is practicable, shall be transferred to the Sinking Fund Commission for deposit in a special Fund known as "Outstanding Bond Redemption Fund".

(3) All the other moneys received from the sale of any or all of the Bonds issued pursuant to this ordinance, shall be deposited by the City of Logan with the State Sinking Fund Commission to be used only for the purposes provided for in this ordinance, in a trust fund which shall be known as the "Construction Trust Fund". The moneys in the Construction Trust Fund shall be used only for the purpose of paying the cost of the additions, extensions and improvements to the Sewer System, and no expenditures shall be made from said Construction Trust Fund, except for engineering and legal expenses and the cost of the issuance of the Bonds authorized herein, without the written approval of the Consulting Engineer. Any moneys in said Construction Trust Fund not immediately needed for said purposes may be invested in direct obligations of the United States of America having a maturity not more than one year from date of purchase. Any balance in the Construction Trust Fund after the completion of the improvements provided for in this ordinance shall be deposited in the Reserve Account hereinafter created to the extent necessary to make the amount deposited therein equal to the largest amount required to be on deposit and the balance if any shall be deposited in the Sinking Fund.

The monies on deposit in the Bond Redemption Fund, shall be used and applied by the State Sinking Fund Commission solely for the redemption of the outstanding bonds on April 1, 1964 or as soon thereafter as is practicable. Pending such application such monies may be invested in direct obligations of the United States Government maturing not later than six months after date of purchase.

13. COVENANTS OF THE CITY. So long as any of the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Sinking Fund, and Reserve Account therein, hereafter established, a sum sufficient to pay, when due, the entire principal of the Bonds remaining unpaid, together with interest accrued and to

accrue thereon, the City covenants with the holders of any and all of the Bonds issued pursuant to this ordinance as follows:

A. RATES. That the City will, in the manner provided in the Act, fix such rates and collect such rentals, fees or other charges for the services and facilities of said Sewer System, and revise same from time to time whenever necessary, as will always provide revenues sufficient to make the payments provided for in Section 13 (D) of this ordinance, and out of said revenues shall pay, as the same shall become due, the principal of and interest on the Bonds, in addition to paying, as the same shall become due, the necessary expenses of operating and maintaining such Sewer System and all reserve and sinking fund and other payments required by this ordinance, and all other obligations and indebtedness payable out of the revenues of said Sewer System, and that such rates, fees, rentals and other charges shall not be reduced so as to be insufficient to provide adequate revenues for such purposes.

B. SEWER REVENUE FUND. That the entire gross revenues derived from the operation of said Sewer System, and all parts thereof, shall be deposited in a special fund which fund is hereby designated as the "Sewer Revenue Fund". Said Sewer Revenue Fund shall constitute a trust fund for the purposes provided in this ordinance and shall be kept separate and distinct from all other funds of the City and used only for the purposes and in the manner provided in subsection D of this Section 13.

C. OPERATION AND MAINTENANCE. That it will maintain in good condition said Sewer System and will operate the same in an efficient and economical manner, making such expenditures for equipment and for renewals, repairs and replacements as may be proper for the economical operation and maintenance thereof from the Sewer Revenue Fund.

D. DISPOSITION OF REVENUES. That all revenues at any time remaining on deposit in the Sewer Revenue Fund shall be disposed of only in the following order and priority:

(1) Moneys in the Sewer Revenue Fund shall first be used for the payment of all current operating expenses of the Sewer System, as defined in Section 3 (i) hereof.

(2) Thereafter from the moneys remaining in the Sewer Revenue Fund the City shall next transfer to the State Sinking Fund Commission for deposit into a fund to be known as the Sinking Fund, which is hereby created, on the first day of each month, one-sixth (1/6) of the amount of interest which will mature and become due on the next semi-annual interest payment date and one-twelfth (1/12) of the amount of principal which will mature and become due on the next principal maturity date; provided, that if there shall be less than six (6) months between the date of delivery of the bonds and the next semi-annual interest payment date and less than twelve (12) months between the date of delivery of the bonds and the next principal payment date, such deposits shall be increased to the extent necessary to provide the full amount required to pay the semi-annual interest and such principal maturing and becoming due.

The City shall also, from the Sewer Revenue Fund, transfer to the State Sinking Fund Commission, on the first day of each month one-twelfth (1/12) of the amount of the necessary fiscal agency charges of the Commission for paying Bonds and interest.

The City shall next, from the Sewer Revenue Fund, transfer to the State Sinking Fund Commission, for deposit in a Reserve Account in said Sinking Fund, on the first day of each month an amount equal to one-twelfth (1/12) of twenty per centum of the largest amount of principal and interest maturing and becoming due on the Bonds in any succeeding year; provided, however, that no further payments need be made into said Reserve Account when there shall have been deposited therein, and as long as there shall remain therein, an amount equal to the largest amount of principal and interest maturing and becoming due on the Bonds in any succeeding year.

Monies in the Reserve Account shall be used only for the purpose of the payment of maturing principal of or interest on the

Bonds when the other moneys in the Sinking Fund are insufficient therefor, and for no other purpose. Any moneys withdrawn from said Reserve Account for payment of principal of and interest on the Bonds shall be restored thereto from the first revenues available after the payment of all sums required for principal of and interest on the Bonds.

The State Sinking Fund Commission is hereby designated as the Fiscal Agent for the administration of the Sinking Fund created hereunder, and all amounts required for said Sinking Fund created hereunder shall be remitted to the State Sinking Fund Commission from said Sewer Revenue Fund by the City at the times provided herein.

Moneys in the Sinking Fund shall be used only for the purpose of paying principal of and interest on the Bonds as the same mature and become due. The City may, in its discretion, direct the State Sinking Fund Commission to invest any moneys in the Sinking Fund, Reserve Account and Renewal and Replacement Fund in the manner permitted by law.

(3) Thereafter from the revenues remaining in said Sewer Revenue Fund, the City shall next, on the first day of each month, beginning with March 1, 1965, pay into a fund known as the "Renewal and Replacement Fund", a sum equal to not less than five per centum (5%) of the gross revenues derived during the preceding calendar month from the operation of said Sewer System. The moneys in said Renewal and Replacement Fund shall be used only for the construction or acquisition of enlargements, improvements and extensions of said Sewer System, or any unusual or extraordinary maintenance or repairs, provided, however, that upon the certificate of the Consulting Engineers that funds in said Renewal and Replacement Fund are not needed for such purposes, such excess funds may be used for the redemption prior to maturity of bonds of the last maturity then outstanding on the next ensuing redemption date, on the purchase at not more than the then redemption price of bonds of the five (5) last maturities then outstanding.

(4) Thereafter the revenues remaining shall be used as provided by law.

(5) All of the funds provided for above shall constitute trust funds and shall be used only for purposes provided herein. The monies in said Sewer Revenue Fund and in said Renewal and Replacement Fund unless invested as herein provided shall be secured, to the full extent thereof, in excess of said sum which is covered by insurance, by such obligations as shall be eligible as security for deposits of State and Municipal funds under the laws of the State of West Virginia.

(6) If on any semi-annual payment date the revenues are insufficient to place the required amount in any of the funds as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds on the subsequent payment dates.

E. SALE OF THE SEWER SYSTEM. That the Sewer System may be sold, mortgaged, leased or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient fully to pay off or redeem at or prior to maturity all of the Bonds issued pursuant to this ordinance. The proceeds from such sale, mortgage, lease or other disposition of said Sewer System shall immediately be remitted to the State Sinking Fund Commission and the City shall direct said Commission to apply such proceeds to the payment at maturity of Bonds then due, or the redemption prior to maturity, at the redemption price on the next ensuing redemption date of all outstanding Bonds.

The foregoing provision notwithstanding, the City shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of said Sewer System hereafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of said property, the general manager or other duly authorized officer in charge of such Sewer System shall

make a finding, in writing, determining that such property comprising a part of such Sewer System is no longer necessary, useful or profitable in the operation thereof, and the governing body of the City shall, by resolution duly adopted, concur in the finding of the general manager or other duly authorized officer, and authorize such sale, lease or other disposition of said property. The proceeds from any sale, lease or other disposition of such property, if not in excess of five thousand dollars ($5,000), shall be deposited in the Renewal and Replacement Fund heretofore created and used as provided herein for said fund. If the proceeds from any such sale, lease or other disposition of such property shall be in excess of five thousand dollars ($5,000), then such proceeds shall be remitted by the City to the State Sinking Fund Commission for deposit in the Sinking Fund and applied only to the redemption of Bonds of the last five maturities then outstanding, or to the purchase of Bonds of the last maturity then outstanding at prices not greater than the redemption price on the next ensuing Redemption date. All Bonds so purchased or redeemed shall be forthwith cancelled and shall not again be issued.

F. COVENANT AGAINST ENCUMBRANCES. That the City shall not issue any obligations whatsoever, except pari passu additional Bonds hereinafter provided for, payable from the revenues of the Sewer System which rank prior to or equally, as to lien on and source and security for payment from such revenues, with Bonds issued pursuant to this ordinance; and all obligations hereafter issued by the City payable from the revenues of said Sewer System, except such pari passu additional Bonds hereinafter provided for, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source and security for payment from such revenues and in all other respects, to the Bonds issued pursuant to this ordinance.

That the City shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge, having priority to or being on a parity with the lien of the Bonds issued pursuant to this ordinance, except pari passu additional Bonds hereinafter provided for, and the interest thereon, upon any of the income and revenues of said Sewer System pledged as security therefor in this ordinance.

G. ISSUANCE OF PARI PASSU ADDITIONAL BONDS. That no pari passu additional Bonds, as in this subsection defined, payable out of the Sewer System Revenue Fund, shall be issued after the issuance of any Bonds pursuant to this ordinance, except under the conditions and in the manner herein provided. Prior to the completion date of the additions, extensions and improvements to said Sewer System authorized by this ordinance, as certified to by the Consulting Engineer, pari passu additional Bonds may be issued solely for the purpose of paying the cost, as defined herein, of such additions, extensions and improvements authorized by this ordinance, to the extent that the proceeds of the Bonds originally authorized by this ordinance are insufficient therefor. Prior to the issuance of such pari passu additional obligations prior to such completion date the Consulting Engineer shall file a certificate in writing with the Sanitary Board stating that the issuance of such pari passu additional obligations is necessary to complete the additions, extensions and improvements to said Sewer System authorized by this ordinance.

After the completion of the improvements to said Sewer System authorized by this Ordinance, no such additional pari passu obligations shall be created or issued unless the net revenues, as defined herein, or adjusted net revenues, as defined below, derived, or which would have been derived in the case of adjusted net revenues, from the operation of said Sewer System as then existing during any twelve (12) consecutive months of the eighteen (18) months preceding the issuance of such proposed pari passu additional Bonds plus the net revenues which the Consulting Engineers estimate will be derived from

additions, extensions and improvements of said Sewer System, for the construction of which the proceeds of such proposed pari passu additional Bonds are to be expended, during the twelve (12) complete calendar months succeeding the date of completion of such said additions, extensions and improvements, shall be not less than one hundred thirty-five per centum (135%) of the largest amount of principal and interest which will become due in any succeeding year on the Bonds originally authorized by this Ordinance then outstanding, and on any pari passu additional Bonds theretofore issued and then outstanding and on the pari passu additional Bonds proposed to be issued.

"Adjusted net revenues" as used in this subsection (G) shall mean the net revenues which would have been received from the operation of said then existing Sewer System during said twelve complete months preceding the issuance of such pari passu additional Bonds, if any increase in the rates, rentals or other charges for the services and facilities of said then existing Sewer System which has been made and put into effect in such twelve months period, had been in full force and effect for such full period of said twelve complete months preceding the issuance of such proposed pari passu additional Bonds.

For the purposes of this subsection (G), the net revenues referred to above shall be determined in accordance with a certificate in writing filed in the office of the City Clerk by a certified public accountant not in the regular employ of the City, the adjusted net revenues referred to above shall be determined in accordance with a certificate in writing filed in the office of the City Clerk by such certified public accountant and approved in writing by the Consulting Engineer and the estimated net revenues referred to above shall be determined in accordance with a certificate in writing filed in the office of the City Clerk by the Consulting Engineers.

Any such pari passu additional Bonds issued after the completion of the improvements to said Sewer System authorized by this ordinance shall bear interest payable semi-annually on March 1 and September 1 of each year and shall mature on March 1 of each year in which any of such pari passu additional Bonds mature.

a similar Sewer System, with a reputable insurance carrier or carriers against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks, which insurance shall at all times be in an amount or amounts equal to the fair appraisal value of the buildings, properties, furniture, fixtures and equipment of said Sewer System. In time of war, the City shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war.

I. BOOKS AND RECORDS. That the City will keep books and records of said Sewer System, which shall be separate and apart from all other books, records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to said Sewer System, and any holder of a Bond or Bonds issued pursuant to this ordinance shall have the right at all reasonable times to inspect said Sewer System and all records, accounts and data of the City relating thereto.

The City shall, at least once a year, if in any year the State Tax Commissioner fails to make an audit of the books, records and accounts of said Sewer System, cause said books, records and accounts of said Sewer System to be properly audited by an independent competent firm of certified public accountants, and shall make available the report of said accountants at all reasonable times to any holder or holders of Bonds issued pursuant to this ordinance, any taxpayer or citizen of said City, or any person receiving services from said Sewer System, or anyone acting for and in behalf of such taxpayer, citizen or Bondholder or Bondholders.

J. MAINTENANCE OF SEWER SYSTEM. That the City will construct said additions, extensions and improvement to said Sewer System in an economical and efficient manner with all practicable dispatch, and thereafter will maintain said Sewer System in good

condition and continuously operate the same in an efficient manner and at a reasonable cost.

K. STATUTORY MORTGAGE LIEN CREATED. That the holders of the Bonds and coupons issued pursuant to this ordinance shall have a statutory mortgage lien upon said Sewer System pursuant to the provisions of Article 13 of Chapter 16 of the Code of West Virginia, which statutory mortgage lien shall exist in favor of, and shall be enforceable in any lawful manner by the holders of said Bonds, and each of them, and to and in favor of the holders of the coupons, and said Sewer System shall remain subject to such statutory mortgage lien until payment in full of the principal and interest of the Bonds issued pursuant to this ordinance has been duly made or provided for.

L. APPOINTMENT OF A RECEIVER. That any holder or holders of Bonds issued pursuant to this ordinance may by proper action, either at law or in equity, compel the performance of the duties of the City under this ordinance, and the applicable statutes relating to the issuance of such Bonds hereunder. If there be default in the payment of principal or interest upon any of the Bonds or coupons issued hereunder or in the performance of any covenant contained in this ordinance, any holder or holders of said Bonds shall, in addition to all other remedies or rights of the holders of any of said Bonds or coupons, have the right by appropriate proceedings at law or in equity to obtain the appointment of a Receiver to administer said Sewer System on behalf of the City, with power to charge rates, rentals, fees, or other charges sufficient to provide for the payment of said Bonds and the interest thereon and for the payment of operating expenses and to apply such rentals, fees, charges or other revenues in conformity with the provisions of this ordinance and Article 13 of Chapter 16 of the Code of West Virginia.

M. SERVICES RENDERED TO THE CITY OF LOGAN. That the City of Logan will not render or cause to be rendered any free services,

or services at reduced rates, by said Sewer System, and shall transfer from its general funds and pay into the Sewer System Fund hereunder any sums necessary and sufficient to pay for any services and facilities of said Sewer System rendered or furnished to the City of Logan, or any department, agency or officer thereof at the same rates applicable to others availing themselves of the services and facilities of said Sewer System under similar conditions, and such sums so derived shall be treated as all other revenues of said Sewer System.

N. ANNUAL BUDGET. That the City shall annually, at least forty-five days preceding each of its fiscal years, prepare a detailed budget of the estimated expenditures for operation and maintenance of said Sewer System during such succeeding fiscal year, and file a copy thereof with the City Clerk and furnish a copy thereof to any Bondholder requesting same. No expenditures for the operation and maintenance of the Sewer System shall be made in any fiscal year in excess of ten per centum of the amounts provided therefor in the budget for such fiscal year, except upon the certification of the Consulting Engineer that such excess expenditures are due to causes not foreseeable at the time of the adoption of such budget, and that such excess expenditures are necessary in order to keep said Sewer System in operation during the remainder of such fiscal year.

ARTICLE IV

RATES, CONSULTING ENGINEER AND LIEN FOR CHARGES

14. CONSULTING ENGINEERS. That the City will retain Kelley, Gidley, Staub, Inc., Consulting Engineers of Charleston, West Virginia, or other qualified and independent engineers, as consulting engineers for the construction of additions, extensions and improvements to said Sewer System authorized by this ordinance, and such construction shall be completed and placed in operation under the continuous supervision of said Kelley, Gidley, Staub, Inc., Consulting Engineers, or other qualified and independent Consulting Engineers.

That from time to time as required for the purpose of making any of the certifications or performing the duties of the Consulting Engineers as required by this Ordinance, the City will retain Kelley, Gidley, Staub, Inc., Consulting Engineers of Charleston, West Virginia, or other qualified and independent Consulting Engineers, for the purpose of making such certifications or performing such other duties.

15. MANDATORY CONNECTIONS. That to the full extent permitted by the law the City will require all owners or occupants of all land or real estate in said City which can use the services and facilities of said Sewer System to connect with and use such services and facilities of said Sewer System.

ARTICLE V

MISCELLANEOUS

16. MODIFICATION OR AMENDMENT. No material modification or amendment of this ordinance or of any ordinance or resolution amendatory hereof or supplemental hereto, may be made without the consent in writing of the holders of two-thirds or more in principal amount of the Bonds then outstanding, provided, however, that no modification or amendment shall permit a change in the maturity of such Bonds or a reduction in the rate of interest thereon, or in the amount of the principal obligation thereof or affecting the unconditional promise of the City to pay the principal of and interest on the Bonds as the same shall come due, without the consent of the holder of such Bonds. Notwithstanding the above, no amendment or modification shall be made which would reduce the percentage of the principal amount of Bonds required for consent to the above permitted amendments or modifications.

17. SEVERABILITY OF INVALID PROVISION. If any one or more of the covenants, agreements or provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements and provisions, and in no way affect the validity of all the other provisions of this ordinance or of the Bonds or coupons issued hereunder.

18. All ordinances, resolutions and orders, or parts thereof, in conflict with the provisions of this ordinance, are, to the extent of such conflicts, hereby repealed.

19. This ordinance shall take effect at the time and in

the manner provided in Article 13 of Chapter 16 of the Code of West Virginia.

ADOPTED AND APPROVED, February 11, 1964.

/s/ Dr. H.H. Cudden
Mayor

s/s Elinor W. Hale
City Clerk

I, Elinor W. Hale, Clerk of the City of Logan do hereby certify that the foregoing is a true copy of the Ordinance adopted by the City Council on the 11th day of February, 1964.

Given under my hand and the seal of the City of Logan this 11th day of February, 1964.

s/ Elinor W. Hale
Clerk of the City of Logan

(SEAL)

CERTIFICATE

Certified to be a true and correct copy of an Ordinance establishing rates and charges for the services of the sewerage system of The City of Logan, adopted by the City Council of The City of Logan, West Virginia, on July 28, 1987 duly filed and of record in the Office of the City Clerk of The City of Logan.

Given under my hand and the official seal of The City of Logan, West Virginia, this 25th day of September, 1987.

[SEAL]

Violet Miller
City Clerk

7537B

Filed with me this 6th, day of July 1987
Violet Miller, City Clerk

AN ORDINANCE CHANGING AND READJUSTING RATES AND CHARGES FOR FURNISHING SEWER SERVICE BY THE CITY OF LOGAN

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LOGAN, WEST VIRGINIA:

I. **FINDINGS**. The Council hereby finds as follows:

A. The Sanitary Board of the City of Logan has reported and an Accounting Exhibit dated July 10, 1987, prepared by Vallet & Associates, C.P.A., which is incorporated herein by reference, demonstrates and the Council hereby finds that the rates and charges now in effect for sewer service furnished and provided by the City of Logan are not sufficient in each year for (1) the payment of the proper and reasonable expense of operation, repair, replacement, and maintenance of the City's sewage collection system and sewage treatment plant, (2) the payment of the sums required by an ordinance finally enacted on March 3, 1964, to be paid into the State Sinking Fund for the retirement and security of the City's Sewer Revenue Bonds dated the 1st day of March, 1964, and (3) the financing of certain improvements and betterments to said system, consisting primarily of rehabilitating approximately 9,000 feet of interceptors and a pump station, all in accordance with the preliminary report and plans and specifications prepared and filed by Kelley, Gidley, Blair & Wolfe, Inc., the engineers chosen by the Sanitary Board.

B. The rates and charges hereinafter established for sewer service furnished and provided by the City of Logan will be sufficient in each year for the payment of the aforementioned expense and the sums required to be paid into the State Sinking Fund for the retirement and security of the aforementioned bonds and for the financing of those improvements and betterments, and are just and equitable.

II. RATES AND CHARGES. The rates and charges for sewer service furnished and provided by the City of Logan are hereby changed and readjusted so that, on and after the date established in Section 3 of this Ordinance, they will be as follows:

CITY OF LOGAN - SANITARY BOARD

RATES

Applicable in the entire territory served.

AVAILABILITY OF SERVICE

Available for general domestic, commercial, and industrial service.

RATE

(based upon the metered amount of water furnished)

First 2,000 gallons used per month	$3.60 per 1,000 gallons
Next 3,000 gallons used per month	2.54 per 1,000 gallons
Next 25,000 gallons used per month	1.78 per 1,000 gallons
Next 70,000 gallons used per month	1.41 per 1,000 gallons
Next 100,000 gallons used per month	0.80 per 1,000 gallons
All over 200,000 gallons used per month	0.31 per 1,000 gallons

MINIMUM CHARGE

The above schedule is subject to a minimum charge of $7.20.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full within thirty (30) days of the date of the bill, ten percent (10%) will be added to the net amount shown. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

III. **EFFECTIVE DATE OF RATES AND CHARGES.** The rates and charges hereby established shall be effective upon receipt of a certificate of the aforesaid engineers that the construction of those improvements and betterments has been completed.

CERTIFICATE

Certified to be a true and correct copy* of the minutes of a special meeting of the City Council of The City of Logan, West Virginia, held on July 28, 1987 duly filed and of record in the office of the City Clerk of The City of Logan.

Given under my hand and the official seal of The City of Logan, West Virginia, this 25th day of September, 1987.

(SEAL)

Violet Miller
City Clerk

* Note page 7A is not included. Page 7A contains approximately 100 pages of documents reviewed by Council on July 28, 1987.

The City Council of The City of Logan met in a Special Meeting on July 28, 1987. at 7:30 O'clock P.M. in the Council Chambers of the City Building in said City pursuant to the following notice given as required by law:

NOTICE OF SPECIAL COUNCIL MEETING

TO: Levie Caudill, Member of Council
Kelly Gilmore Codispoti, Member of Council
Woodrow Lowe, Member of Council
R. L. "Bob" McCormick, Member of Council
Ruth Ware, Member of Council
Violet Miller, City Clerk
All Members of the Public

I hereby call a special meeting of the Council of The City of Logan, West Virginia, on Tuesday, July 28, 1987, at 7:30 p.m., in the Council Chambers of the City Building in said city for the following purposes:

1. To read and finally adopt the following Ordinances which were first read at the Council's meeting on July 14, 1987:

A. An ORDINANCE supplementing an Ordinance passed by the Council of the City of Logan, West Virginia, on February 11, 1964, entitled, "AN ORDINANCE AUTHORIZING THE ISSUANCE OF $380,000. PRINCIPAL AMOUNT OF SEWER REVENUE BONDS FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING BONDS AND TO PAY PART OF THE COST OF CONSTRUCTION AND ACQUISITION OF ADDITIONS, EXTENSIONS AND IMPROVEMENTS TO THE EXISTING SEWER SYSTEM OF THE CITY OF LOGAN, WEST VIRGINIA"; authorizing the acquisition and construction of certain improvements and betterments to the existing sewerage system of The City of Logan; authorizing a revolving line of credit from The National Bank of Logan in the amount of $250,000. to provide funds for such acquisition and construction to the extent bond proceeds, grant receipts, or other funds are not timely available therefor and an agreement with respect to said line of credit; authorizing the issuance of a sewerage system construction note of The City of Logan, in the stated principal amount of $250,000., to evidence the City's obligation to repay any draws upon said line of credit and the issuance, if necessary, of subordinante sewerage system revenue bonds of The City of Logan to provide for the payment of the principal of and interest on said note; determining The City of Logan's intention to issue one or more series of sewerage system revenue bonds to the West Virginia Water Development Authority to permanently finance a portion of the cost of such acquisition and construction; and enacting other provisions related thereto.

B. An ORDINANCE Changing and Readjusting Rates and Charges for Furnishing Sewer Service by The City of Logan.

2. To receive and consider a petition of the Sanitary Board of The City of Logan for the enactment of the following Ordinance:

An Ordinance supplementing an Ordinance adopted by the Council of The City of Logan, West Virginia, on February 11, 1964, entitled, "AN ORDINANCE AUTHORIZING THE ISSUANCE OF $308,000. PRINCIPAL AMOUNT OF SEWER REVENUE BONDS FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING BONDS AND TO PAY PART OF THE COST OF CONSTRUCTION AND ACQUISITION OF ADDITIONS, EXTENSIONS AND IMPROVEMENTS TO THE EXISTING SEWER SYSTEM OF THE CITY OF LOGAN, WEST VIRGINIA"; authorizing the acquisition and construction of certain extensions, improvements, and betterments to the existing public sewerage facilities of The City of Logan; authorizing issuance of not more than $720,000. in aggregate principal amount of Subordinate Sewerage System Revenue Bonds, Series 1987, and not more than $180,000. in aggregate principal amount of Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987, of The City of Logan to be used, along with other funds and monies of or available to The City of Logan that may be lawfully expended for such purposes, to finance the cost of such acquisition and construction; providing for the sale of such Bonds to the West Virginia Water Development Authority and for the rights and remedies of and security for the registered owners of such Bonds; authorizing issuance of not more than $1,000,000. in aggregate principal amount of Sewerage System Grant Anticipation Notes, Series 1987, to be used to finance the cost of such acquisition and construction pending the receipt of certain grant proceeds; and enacting other provisions relating thereto.

and to conduct the first reading of said Ordinance.

3. To take such further action as may be necessary and/or appropriate in relation to those Ordinances.

The Public is invited to the meeting.

Thomas E. Esposito, Mayor

The following persons were present:

Thomas E. Esposito, Mayor; Violet Miller, Clerk; Levie Caudill, Kelly Codispoti, and Ruth Ware, Members of the Council; James Ferzacca and W.W. Wagner, Jr. members of the Sanitary Board; Jeff Vallet, Accountant for the Sanitary Board; Melody Kinzer, reporter for the Logan Banner; Dianne Dewey and Gary Hylton, citizens; Taunja Willis Miller, Attorney; Edward I. Eiland, City Attorney.

The meeting was called to order by the Mayor, Thomas E. Esposito, who presided.

Upon motion by Councilwoman Ware, seconded by Councilwoman Codispoti, the following Ordinance, which had been filed with the Clerk on July 8, 1987, and had been first read at the Council's meeting of July 14, 1987, after being again read by title, was unanimously adopted:

ORDINANCE NO. _____, supplementing an ordinance passed by the Countil of The City of Logan, West Virginia, on February 11, 1964, entitled "An Ordinance authorizing the issuance of $308,000 principal amount of Sewer Revenue Bonds for the purpose of refunding certain outstanding bonds and to pay part of the cost of construction and acquisition of additions, extensions and improvements to the existing sewer system of The City of Logan, West Virginia"; authorizing the acquisition and construction of certain improvements and betterments to the existing sewerage system of The City of Logan; authorizing a revolving line of credit from The National Bank of Logan in the amount of $250,000 to provide funds for such acquisition and construction to the extent bond proceeds, grant receipts or other funds are not timely available therefor and an agreement with respect to said line of credit; authorizing the issuance of a sewerage system construction note of The City of Logan, in the stated principal amount of $250,000 to evidence the City's obligation to repay any draws upon said line of credit and the issuance, if necessary, of subordinate sewerage revenue bonds of The City of Logan to provide for the payment of the principal of and interest on said note; determining The City of Logan's intention to issue one or more series of sewerage system revenue bonds to the West Virginia Water Development Authority to permanently finance a portion of the cost of such acquisition and construction; and enacting other provisions related thereto.

(REFER TO PAGES 7-A)

9. Provided for the security for and the rights and remedies of the rights and remedies of the owners of the Note and the Subordinate Bonds, if any.

The City of Logan contemplates the Line of Credit and the Line of Credit Agreement, the issuance of the Note and the issuance, if any, of the Subordinate Bonds described in, and under the conditions set forth in, the Ordinance abstracted above. Any person interested may appear before the Council of the City at a meeting thereof at 7:30 p.m. on Tuesday, the 11th of August, 1987, in Council Chambers in the City Building, Dingess Street, Logan, West Virginia, and present protests and be heard as to whether the Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council of the City on July 28, 1987, is on file in the office the the City Clerk of the City for review by interested persons during the regular office hours of such office, to-wit: 8:30 a.m. to 4:30 p.m., Mondays through Fridays.

_____
City Clerk of The City
of Logan, West Virginia

(3) The City Clerk, as provided in the Notice shall maintain in her office a certified copy of the Ordinance for review by interested persons during the regular office hours of such office.

(4) The Council, as provided in the Notice, shall meet on August 11, 1987, at 7:30 p.m., in Council Chambers in the City Building, for the purpose of hearing all objections and suggestions regarding whether the Ordinance shall be put into effect.

(5) The City Clerk is hereby authorized and directed to cause the Abstract, together with the Notice, to be published as a Class II legal advertisement in The Logan Banner, a newpaper of general circulation in the City, and the first publication of the Abstract and Notice shall be not less than ten days before the date set aforesaid at which interested persons may appear before the Council of the City and present protests, and the last publication of the Abstract and Notice shall be prior to said date set aforesaid.

(6) At such hearing, all objections and suggestions shall be heard, and the Council shall take such action as it shall deem proper in the premises: Provided, however, that, if at such hearing written protest is filed by thirty percent (30%) or more of the owners of real estate situate in the City, then the Council shall not take further action unless four-fifths (4/5) of the qualified members of the Council assent thereto.

(7) This Resolution shall take effect immediately upon adoption.

Resolution adopted this _____ day of _____, 1987

THE CITY OF LOGAN, WEST VIRGINIA

By: _____
Mayor

(Seal)

_____
City Clerk

Approved as to Form:

_____
Edward I. Eiland City Attorney

AN ORDINANCE CHANGING AND READJUSTING RATES
AND CHARGES FOR FURNISHING SEWER SERVICE
BY THE CITY OF LOGAN,

which had been filed with the clerk on July 8, 1987, and had been first read at the Council's meeting of July 14, 1987, was again read by title.

(Refer to pages 7-A)

Upon motion by Councilman Caudill, seconded by Councilwoman Codispoti, the following Resolution was unanimously adopted:

A RESOLUTION finding that an ordinance was adopted by the Council of The City of Logan, West Virginia, on July 28, 1987, supplementing an ordinance by said Council on February 11, 1964, and authorizing the acquisition and construction of certain improvements and betterments to the existing sewerage system of The City of Logan a revolving line of credit from The National Bank of Logan in the amount of $250,000 to provide funds for such acquisition and construction to the extent bond proceeds, grant receipts or other funds are not timely available therefor, an agreement with respect to said line of credit, the issuance of a sewerage system construction note of The City of Logan in the stated principal amount of $250,000 to evidence the City's obligation to repay any draws upon said line of credit and the issuance, if necessary, of subordinate sewerage system revenue bonds of The City of Logan to provide for the payment of the principal of and interest on said note, all as more fully set out therein; finding that an abstract of said ordinance, together with a notice that said ordinance has been adopted, that The City of Logan contemplates the revolving line of credit and the agreement related thereto, the issuance of the note and the issuance, if necessary, of the subordinate sewerage system revenue bonds described in said ordinance and that any person interested may appear before the Council of The City of Logan upon a certain date and present protests, must be published; reviewing the abstract prepared on behalf of the City Clerk and determining that such abstract contains sufficient information as to give notice of the contents of said ordinance; and directing the publication of such abstract, together with said notice.

WHEREAS, the Council of The City of Logan (the "Council") on July 28, 1987, adopted an ordinance supplementing an ordinance passed by the Council on February 11, 1964, and authorizing the acquisition and construction of certain improvements and betterments to the existing sewerage system of The City of Logan, West Virginia (the "City"), a revolving line of credit from The National Bank of Logan in the amount of $250,000 to provide funds for such acquisition and construction to the extent bond proceeds, grant receipts or other funds are not timely available therefor, an agreement with respect to said line of credit, the issuance of a sewerage system construction note of the city in the stated principal amount of $250,000 to evidence the City's obligation to repay any draws upon said line of credit and the issuance, if necessary, of subordinate sewerage system revenue bonds of the City, all as more fully set out therein (said ordinance is hereinafter referred to as the "Ordinance"); and

WHEREAS, Chapter 16, Article 13, Section 6 of the Code of West Virginia, 1931, as amended (the "Act"), requires that an abstract of the Ordinance, together with a notice that the Ordinance has been adopte, that the City contemplates the issuance of the "bonds" described in the Ordinance and that any person interested may appear before the Council upon a certain date and present protests, be published; and

WHEREAS, the Act further requires that such abstract of the Ordinance be determined by the Council to contain sufficient information as to give notice of the contents of the Ordinance; and

WHEREAS, the City Clerk presented to this meeting an abstract of the Ordinance (the "Abstract"), together with a notice as described above (the "Notice as hereinafter set forth; and

WHEREAS, the Council of the City has reviewed the Abstract and has found and determined that such Abstract contains sufficient information as to give notice of the contents of the Ordinance;

NOW, THEREFORE, Be It Resolved by the Council of The City of Logan, West Virginia, as follows:

(1) It is hereby found and determined that the Ordinance was duly opted by the Council at its special meeting held on July 28, 1987, and that the t requires that the Abstract, together with the Notice, be published.

(2) The Abstract, together with the Notice, as perpared on behalf of e City Clerk in the following form and substance, contains sufficient information to give notice of the contents of the Ordinance:

Notice is hereby given to any person interested that on July 28, 1987, the Council of The City of Logan adopted an ordinance that

1. Determined that it is in the best interests of The City of Logan, West Virginia (the "City"), to acquire and construct and authorized the acquisition and construction of, certain improvements and betterments to the sewerage system of the City (the "Sewer System"), consisting primarily of rehabilitating approximately 9,000 feet of interceptor and a pump station, all in accordance with the plans and specifications prepared by Kelly, Gidley, Blair and Wolfe, Inc. (the "Consulting Engineers"), and on file withe the Sanitary Board of the City (the "Phase I Project"), at a cost estimated by the Consulting Engineers and set forth in the petition of the Sanitary Board of $1,570,000 for a portion of which the City has received a grant from the United States Environmental Protection Agency.

2. Determined that it is in the best interests of the City to issue, and generally authorized the issuance of, one or more series of sewerage system revenue bonds, to the West Virginia Water Development Authority (the "Authority Bonds") to permanently finance the cost of acquisition and construction of Phase I Project.

3. Determined that it is in the best interests of the City to have established, and authorized establishment of, a revolving line of credit in the amount of $250,000 (the "Line of Credit") to provide funds for the acquisition and construction of the Phase I Project to the extent Authority Bond proceeds, grant receipts or other funds are not timely available therefor.

4. Authorized and directed the Mayor of the City to execute an agreement with The National Bank of Logan regarding the Line of Credit (the "Line of Credit Agreement").

5. Authorized the issuance by the City of a sewerage system construction note (the "Note") in the stated principal amount of $250,000 for the purpose of evidencing the City's obligation to repay any draw upon the Line of Credit and, thus, of financing a portion of the cost of the acquisition and construction of the Phase I Project.

6. Provided that the Note shall evidence only the indebtedness recorded on the Record of Advances and Payments attached thereto, shall bear interest at a rate not to exceed 12 percent per annum, shall mature not later than 30 months from the date thereof, subject to prepayment, and shall be subject to further terms set forth by the Line of Credit Agreement or supplemental resolution.

7. Provided for the payment of the principal of and interest on the Note from grant receipts and for the further payment of principal of and interest on the Note from the net proceeds of the Subordinate Bonds, as hereinafter defined, if any, and the net revenues derived from the operation of the Sewer System.

8. Authorized the subsequent issuance by the City, if necessary, of certain subordinate sewerage system revenue bonds of the City (the "Subordinate Bonds") in a principal amount not to exceed $275,000. The Subordinate Bonds shall be issued at such time and in such amount, bear interest at such rate or rates not to exceed 12 per cent per annum and be subject to such terms, all as shall be determined by supplemental resolution, and shall be payable on a subordinant basis from the net revenues derived from the operation of the Sewer System.

9. Provided for the security for and the rights and remedies of the rights and remedies of the owners of the Note and the Subordinate Bonds, if any.

The City of Logan contemplates the Line of Credit and the Line of Credit Agreement, the issuance of the Note and the issuance, if any, of the Subordinate Bonds described in, and under the conditions set forth in, the Ordinance abstracte above. Any person interested may appear before the Council of the City at a meeting thereof at 7:30 p.m. on Tuesday, the 11th of August, 1987, in Council Chambers in the City Building, Dingess Street, Logan, West Virginia, and present protests and be heard as to whether the Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council of the City on July 28, 1987, is on file in the office the the City Clerk of the City for review by interested persons during the regular office hours of such office, to-wit: 8:30 a.m. to 4:30 p.m., Mondays through Fridays.

_____
City Clerk of The City
of Logan, West Virginia

(3) The City Clerk, as provided in the Notice shall maintain in her office a certified copy of the Ordinance for review by interested persons during the regular office hours of such office.

(4) The Council, as provided in the Notice, shall meet on August 11, 1987, at 7:30 p.m., in Council Chambers in the City Building, for the purpose of hearing all objections and suggestions regarding whether the Ordinance shall be put into effect.

(5) The City Clerk is hereby authorized and directed to cause the Abstract, together with the Notice, to be published as a Class II legal advertisement in The Logan Banner, a newpaper of general circulation in the City, and the first publication of the Abstract and Notice shall be not less than ten days before the date set aforesaid at which interested persons may appear before the Council of the City and present protests, and the last publication of the Abstract and Notice shall be prior to said date set aforesaid.

(6) At such hearing, all objections and suggestions shall be heard, and the Council shall take such action as it shall deem proper in the premises: Provided, however, that, if at such hearing written protest is filed by thirty percent (30%) or more of the owners of real estate situate in the City, then the Council shall not take further action unless four-fifths (4/5) of the qualified members of the Council assent thereto.

(7) This Resolution shall take effect immediately upon adoption.

Resolution adopted this _____ day of _____, 1987

THE CITY OF LOGAN, WEST VIRGINIA

By: _____
Mayor

(Seal)

_____
City Clerk

Approved as to Form:

_____
Edward I. Eiland City Attorney

The Sanitary Board of The City of Logan presented the following Petiti dated July 28, 1987, signed by its members:

PETITION OF THE SANITARY BOARD
OF
THE CITY OF LOGAN, WEST VIRGINIA

TO: THE COUNCIL OF THE CITY OF LOGAN, WEST VIRGINIA:

Pursuant to the provisions of Section 5 of Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended (the "Act"), the Sanitary Board (the "Sanitary Board") of The City of Logan, West Virginia (the "City"), which was established pursuant to an ordinance passed by the Council of the City (the "Council") on April 12, 1948, hereby petitions the Council to enact an Ordinance in substantially the form attached as Exhibit A hereto, which shall:

(a) set forth a brief and general description of the extensions, improvements and betterments to be made to the sewerage system of the City, consisting primarily of rehabilitating approximately 9,000 feet of interceptor (including slip lining and repairing selected lines) and a pump station (the "Phase I Project"), in accordance with the preliminary report and plans and specifications prepared and filed by Kelly, Gidley, Blair & Wolfe, Inc., the engineers chosen by the Sanitary Board (the "Consulting Engineers");

(b) set forth the cost of the Phase I Project as currently estimated by the Consulting Engineers, being $1,570,000:

(c) order the construction and acquisition of the Phase I Project;

(d) direct that one or more series of revenue bonds of the City be issued pursuant to the Act in an aggregate amount not to exceed $900,000 or such other amount as may be found necessary to pay the costs of the Phase I Project an make other necessary provisions;

(e) direct that, if it is then deemed in the best interests of the Cit grant anticipation notes of the City be issued pursuant to the Act in an amount not to exceed $1,000,000 or such other amount as may be found necessary to pay the costs of the Phase I Project pending the receipt of certain grant receipts and make other necessary provisions; and

(f) contain such other provisions as may be necessary in the premises.

This petition was duly authorized at a meeting of the Sanitary Board duly called and held on the 28th day of July, 1987.

WITNESS our signatures on the 28th day of July, 1987.

THE SANITARY BOARD OF THE CITY
OF LOGAN, WEST VIRGINIA

BY: Thomas E. Esposito
Mayor of the City and
Ex-Officio Chairman

V.J. Ferzacca
Member

William W. Wagner, Jr.
Member

Thereupon the following ordinance, which had been filed with the Clerk on July 23, 1987, and a copy of which was attached to said petition, was read by title:

> AN ORDINANCE supplementing an ordinance adopted by the Council of The City of Logan, West Virginia, on February 11, 1964, entitled "An Ordinance authorizing the issuance of $308,000 principal amount of Sewer Revenue Bonds for the purpose of refunding certain outstanding bonds and to pay part of the cost of construction and acquisition of additions, extensions and improvements to the existing sewer of The City of Logan,West Virginia"; authorizing the acquisition and construction of certain extensions, improvements and betterments to the existing public sewerage facilities of The City of Logan; authorizing issuance of not more than $720,000 in aggregate principal amount of Subordinate Sewerage System Revenue Bonds, Series 1987, and not more than $180,000 in aggregate principal amount of Supplementa Subordinate Sewerage System Revenue Bonds, Series 1987, of The City of Logan to be used, along with other funds and moneys of or available to The City of Logan that may be lawfully expended for such purposes, to finance the cost of such acquisition and construction; providing for the sale of such Bonds to the West Virginia Water Development Authority and for the rights and remedies of and security for the registered owners of such Bonds; authorizing issuance of not more than $1,000,000 in aggregate principal amount of Sewerage System Grant Anticipation Notes, Series 1987, to be used to finance the cost of such acquisition and construction pending the receipt of certain grant proceeds; and enacting other provisions relating thereto.

The purposes for which the meeting was called having been accomplished, the meeting was adjourned.

Violet Miller
City Clerk

Thomas E. Esposito
Thomas E. Esposito, Mayor

I, Celia Bailey Classified Manager of THE LOGAN BANNER, a newspaper in Logan County, West Virginia, do hereby certify that the annexed Notice was published in said newspaper for ....2............ successive times on the following dates July 31 & August 7, 1987

....

Given under my hand this ....19th....... day of ......August......, 19..87................

Celia Bailey .Classified Manager

State of West Virginia)

County of Logan) to wit:

Subscribed and sworn to before me this ....19th... day of .....August..., 19..87.............

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
BARBARA J. SMITH
P.O. Box 149
Man, WV 25635

Barbara J. Smith
Notary Public

CERTIFICATE

Certified to be a true and correct copy of the Petition of the Sanitary Board requesting adoption of the Bond and Note Ordinance, presented to the City Council of The City of Logan, West Virginia, on July 14, 1987 duly filed and of record in the Office of the City Clerk of The City of Logan.

Given under my hand and the official seal of The City of Logan, West Virginia, this 25th day of September, 1987.

[SEAL]

7537B

Violet Miller
City Clerk

PETITION OF THE SANITARY BOARD
OF
THE CITY OF LOGAN, WEST VIRGINIA

TO: THE COUNCIL OF THE CITY OF LOGAN, WEST VIRGINIA:

Pursuant to the provisions of Section 5 of Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended (the "Act"), the Sanitary Board (the "Sanitary Board") of The City of Logan, West Virginia (the "City"), which was established pursuant to an ordinance passed by the Council of the City (the "Council") on April 12, 1948, hereby petitions the Council to enact an Ordinance in substantially the form attached as Exhibit A hereto, which shall:

(a) set forth a brief and general description of the extensions, improvements and betterments to be made to the sewerage system of the City, consisting primarily of rehabilitating approximately 9,000 feet of interceptor (including slip lining and repairing selected lines) and a pump station (the "Phase I Project"), in accordance with the preliminary report and plans and specifications prepared and filed by Kelly, Gidley, Blair & Wolfe, Inc., the engineers chosen by the Sanitary Board (the "Consulting Engineers");

(b) set forth the cost of the Phase I Project as currently estimated by the Consulting Engineers, being $1,570,000:

(c) order the construction and acquisition of the Phase I Project;

(d) direct that one or more series of revenue bonds of the City be issued pursuant to the Act in an aggregate amount not to exceed $900,000 or such other amount as may be found necessary to pay the costs of the Phase I Project and make other necessary provisions;

(e) direct that, if it is then deemed in the best interests of the City grant anticipation notes of the City be issued pursuant to the Act in an amount not to exceed $1,000,000 or such other amount as may be found necessary to pay the costs of the Phase I Project pending the receipt of certain grant receipts and make other necessary provisions; and

(f) contain such other provisions as may be necessary in the premises.

This petition was duly authorized at a meeting of the Sanitary Board duly called and held on the 28th day of July, 1987.

WITNESS our signatures on the 28th day of July, 1987.

THE SANITARY BOARD OF THE CITY
OF LOGAN, WEST VIRGINIA

BY: Thomas E. Esposito
Mayor of the City and
Ex-Officio Chairman

V.J. Ferzacca
Member

William W. Wagner, Jr.
Member

EXHIBIT A

See Bond and Note Ordinance -- Index No. 12

CERTIFICATE

Certified to be a true and correct copy of the Ordinance authorizing the Subordinate Sewerage System Revenue Bonds, Series 1987 and the Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987 adopted by the City Council of The City of Logan, West Virginia, on August 11, 1987 duly filed and of record in the Office of the City Clerk of The City of Logan.

Given under my hand and the official seal of The City of Logan, West Virginia, this 25th day of September, 1987.

[SEAL]

Violet Miller
City Clerk

7537B

THE CITY OF LOGAN, WEST VIRGINIA

BOND AND NOTE ORDINANCE

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BOND AND NOTE ORDINANCE

An Ordinance supplementing an ordinance adopted by the Council of The City of Logan, West Virginia, on February 11, 1964, entitled "An Ordinance authorizing the issuance of $308,000 principal amount of Sewer Revenue Bonds for the purpose of refunding certain outstanding bonds and to pay part of the cost of construction and acquisition of additions, extensions and improvements to the existing sewer system of The City of Logan, West Virginia"; authorizing the acquisition and construction of certain extensions, improvements and betterments to the existing public sewerage facilities of The City of Logan; authorizing issuance of not more than $720,000 in aggregate principal amount of Subordinate Sewerage System Revenue Bonds, Series 1987, and not more than $180,000 in aggregate principal amount of Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987, of The City of Logan to be used, along with other funds and moneys of or available to The City of Logan that may be lawfully expended for such purposes, to finance the cost of such acquisition and construction; providing for the sale of such Bonds to the West Virginia Water Development Authority and for the rights and remedies of and security for the registered owners of such Bonds; authorizing issuance of not more than $1,000,000 in aggregate principal amount of Sewerage System Grant Anticipation Notes, Series 1987, to be used to finance the cost of such acquisition and construction pending the receipt of certain grant proceeds; and enacting other provisions relating thereto.

Be It Enacted and Ordained by the Council of The City of Logan, West Virginia:

ARTICLE I

DEFINITIONS, STATUTORY AUTHORITY AND FINDINGS

Section 1.01. Definitions. The following terms shall have the following meanings in this Ordinance unless the context expressly requires otherwise:

A. "Act" means Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended and in effect on the date of enactment of this Ordinance.

B. "Authority" means the West Virginia Water Development Authority, which shall be the original purchaser of the Original Bonds, as hereinafter defined, or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

C. "Authorized Officer" means the Mayor of The City of Logan or any acting mayor duly appointed or any other officer duly so authorized by the Council of The City of Logan.

D. "Bond Construction Trust Fund" means the Bond Construction Trust Fund established by Section 5.01(3).

E. "Bondholder" or "Owner of the Bonds" or "Registered Owner" or "Owner" or any similar term means any person who shall be the registered owner of any outstanding Bond or Bonds.

F. "Bond Registrar" means the bank to be designated as such in the Supplemental Resolution, as hereinafter defined, and its successors or assigns.

G. "Bonds" means the Original Bonds, as hereinafter defined, and any additional parity bonds hereafter issued within the terms, restrictions and conditions contained in this Ordinance.

H. "City" means The City of Logan, a municipal corporation of the State of West Virginia, and, where appropriate, the Council thereof.

I. "Clerk" or "City Clerk" means the Clerk of the City, designated by the Charter of the City as Secretary to the Mayor.

J. "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.

K. "Consulting Engineers" means Kelley, Gidley, Blair & Wolfe, Inc., Consulting Engineers, Charleston, West Virginia, or any engineer or firm of engineers of reputation for skill and experience with respect to the design and construction of sewerage facilities that shall at any time hereafter be retained by the City as Consulting Engineers for the System, as hereinafter defined.

L. "Costs" or "Costs of the Project" means those costs described in Subsection 1.03(E) hereof to be a part of the costs of the construction and acquisition of the Phase I Project, as hereinafter defined.

M. "Council" means the Council of the City or any other governing body of the City that succeeds to the functions of the Council as presently constituted and shall be deemed to refer also to the Sanitary Board of the City to the full extent of the powers relating to the System, as hereinafter defined, conferred upon said Sanitary Board.

N. "Depository Bank" means the bank, eligible under the laws of the State of West Virginia to receive deposits of state and municipal funds and insured by the FDIC, as hereinafter defined, designated as such in the Supplemental Resolution, as hereinafter defined, and any successors thereto.

O. "EPA" means the United States Environmental Protection Agency or any successor to the functions of the EPA.

P. "EPA Grant" means the grant from the EPA awarded as of September 30, 1985, pursuant to an EPA Assistance Agreement, as supplemented and amended.

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

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

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

T. "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, including (i) such obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations or interest coupons stripped from such obligations, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian and (iii) obligations, the sole source of the payment of the principal of and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

U. "Grant Receipts" means all moneys received by the City on account of the EPA Grant or any other grant to pay Costs of the Project after the date of issuance of the Notes, as hereinafter defined.

V. "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) or any Tap Fees, as hereinafter defined, and for the furnishing by the City of miscellaneous service.

W. "Indenture" or "Trust Indenture" means the Trust Indenture between the City and a trustee to be appointed by the Supplemental Resolution, as hereinafter defined, relating to the Notes, as hereinafter defined, and all supplements or amendments thereto.

X. "Independent Accountants" means any certified public accountant or firm of certified public accountants that shall be retained by the City to prepare an independent annual or special audit of the accounts of the System, as hereinafter defined, or for any other purpose except keeping the accounts of such System in the usual operations of its business and affairs.

Y. "Loan Agreement" means the Loan Agreement between the Authority and the City, in substantially the form attached as Exhibit A hereto and incorporated herein by reference, with any changes, insertions or deletions as may be requested by the Authority and approved by the Supplemental Resolution, as hereinafter defined, providing for the purchase of the Original Subordinate Bonds from the City by the Authority.

Z. "Mayor" means the Mayor of the City.

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

BB. "Noteholder," "Holder of the Notes," "Holder of the GANs" or any similar term means any person who shall be the registered owner of any outstanding Note or Notes, as hereinafter defined.

CC. "Notes" or "GAN" means the not more than $1,000,000 in aggregate principal amount of Sewerage System Grant Anticipation Notes, Series 1987, originally authorized hereby, and, unless the context clearly indicates otherwise, the terms "Notes" and "GAN" include any refunding grant anticipation notes of the City.

DD. "Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System, as hereinafter defined, and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those

capitalized as part of the Costs, fees and expenses of the Authority, any fiscal agents, Bond and Note registrars and paying agents, the trustee for any Notes and the Depository Bank, other than those capitalized as part of the Costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds or Notes, 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.

EE. "Ordinance" means this Ordinance, as hereafter amended or supplemented.

FF. "Original Bonds" or "Bonds authorized hereby" or any similar phrase means, collectively, the Original Subordinate Bonds and the Original Supplemental Bonds, both as hereinafter defined.

GG. "Original Subordinate Bonds" means the not more than $720,000 in aggregate principal amount of Subordinate Sewerage System Revenue Bonds, Series 1987, originally authorized hereby to pay a portion of the Costs of the Project.

HH. "Original Supplemental Bonds" means the not more than $180,000 in aggregate principal amount of Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987, originally authorized hereby to pay a portion of the Costs of the Project.

II. "Outstanding," when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being issued 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, with interest to the date of maturity, shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Article X hereof; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any Bonds registered to the City.

JJ. "Parity Bonds" means, collectively, Parity Subordinate Bonds and Parity Supplemental Bonds.

KK. "Parity Subordinate Bonds" means any additional bonds issued under the provisions and within the limitations

prescribed by Section 7.08 hereof, payable from Net Revenues on a parity with the Original Subordinate Bonds.

LL. "Parity Supplemental Bonds" means any additional bonds issued under the provisions and within the limitations prescribed by Section 7.08 hereof, payable from Net Revenues on a parity with the Original Supplemental Bonds.

MM. "Paying Agent" means the West Virginia Municipal Bond Commission or any successor to the functions thereof.

NN. "Phase I Project" means the extensions, improvements and betterments to the existing sewerage system of the City described in Exhibit B attached hereto and incorporated herein by reference.

OO. "Prior Bonds" means the City's Sewer Revenue Bonds dated as of March 1, 1964, issued in the aggregate principal amount of $308,000 and outstanding as of the date of enactment of this Ordinance in the aggregate principal amount of $152,000, the lien of which Prior Bonds on the Net Revenues is prior and superior to that of the Bonds.

PP. "Prior Ordinance" means the ordinance entitled "An Ordinance authorizing the issuance of $308,000 principal amount of Sewer Revenue Bonds for the purpose of refunding certain outstanding bonds and to pay part of the cost of construction and acquisition of additions, extensions and improvements to the existing sewer system of The City of Logan, West Virginia," adopted by the Council on February 11, 1964, and finally enacted as of March 3, 1964, authorizing the issuance of the Prior Bonds.

QQ. "Program" means the Authority's loan program, under which the Authority purchases the water development revenue bonds of local government entities satisfying certain legal and other requirements with the proceeds of water development revenue bonds of the Authority, or any successor to said program as currently constituted.

RR. "Project" means the extensions, improvements and betterments to the existing sewerage system of the City as described in connection with the EPA Grant and includes the Phase I Project.

SS. "PSC" means the Public Service Commission of West Virginia or any other agency of the State of West Virginia that succeeds to the functions of the PSC.

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

(a) Government Obligations;

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

(c) Any bond, debenture, note, participation certificate or other similar obligation issued by the Federal National Mortgage Association to the extent such 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;

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

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

(f) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (d) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said 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 <u>provided further</u> that the owners of said 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; and

(g) The "consolidated fund" (or any distinct portion thereof) managed by the West Virginia State Board of Investments pursuant to Article 6, Chapter 12 of the Code of West Virginia, 1931, as amended.

UU. "Renewal and Replacement Fund" means the Renewal and Replacement Fund established by Section 5.01(2).

VV. "Reserve Account" means the account in the Sinking Fund, as hereinafter defined, created by Section 5.02(1)(a).

WW. "Reserve Account Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Subordinate Bonds in any year.

XX. "Revenue Fund" means the revenue fund created by Section 5.01(1).

YY. "Sanitary Board" or "Board" means the Sanitary Board of the City established by an ordinance duly enacted by the Council of the City on April 12, 1948, and any successors to the functions thereof.

ZZ. "Sinking Fund" means the Sinking Fund established for the Subordinate Bonds by Section 5.02(1).

AAA. "State" means the State of West Virginia.

BBB. "Subordinate Bonds" means, collectively, the not more than $720,000 in aggregate principal amount of Original Subordinate Bonds and any Parity Subordinate Bonds hereafter issued.

CCC. "Supplemental Bonds" means, collectively, the not more than $180,000 in aggregate principal amount of Original Supplemental Bonds and any Parity Supplemental Bonds hereafter issued.

DDD. "Supplemental Loan Agreement" means the Supplemental Loan Agreement between the Authority and the City, in substantially the form attached as Exhibit C hereto and incorporated herein by reference, with any changes, insertions or deletions requested by the Authority and approved by the Supplemental Resolution, providing for the purchase of the Original Supplemental Bonds from the City by the Authority.

EEE. "Supplemental Reserve Account" means the account established in the Supplemental Sinking Fund, as hereinafter defined, pursuant to Section 5.02(2)(a).

FFF. "Supplemental Reserve Requirement" means the maximum amount of principal and interest, if any, which will become due on the Supplemental Bonds in any year.

GGG. "Supplemental Resolution" means any ordinance or resolution of the Council amending or supplementing this

Ordinance and, when preceded by the article "the," refers specifically to the Supplemental Resolution authorizing the sale of the Original Bonds or the Supplemental Resolution approving a trust indenture pursuant to which the Notes shall be issued and specifically authorizing the Notes; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Bonds or the Notes, as the case may be, and not so included may be included in another Supplemental Resolution.

HHH. "Supplemental Sinking Fund" means the Supplemental Sinking Fund established for the Supplemental Bonds by Section 5.02(2).

III. "Surplus Revenues" means the Net Revenues not required by the Prior Ordinance or this Ordinance to be set aside and held (including but not limited to in sinking funds, reserve accounts and renewal and replacement funds) for the payment of or security for the Prior Bonds or for the Bonds or any other obligations of the City, the proceeds of which Bonds or other obligations are used to pay Costs of the Project.

JJJ. "System" means the works for the collection and/or treatment, purification and disposal of sewage, in its entirety or any integral part thereof, owned by the City and under the supervision and control of the Sanitary Board, and any additions, improvements or betterments thereto hereafter constructed or acquired from any sources whatsoever and includes the Project.

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

LLL. "WDA Loan Agreements" means, collectively, the Loan Agreement and the Supplemental Loan Agreement.

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

NNN. Words importing singular number include the plural number in each case and vice versa, and words importing persons shall include firms and corporations. Words importing the masculine gender include all other genders.

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

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

Section 1.02. Authority of this Ordinance. This Ordinance is enacted pursuant to the provisions of the Act and other applicable provisions of law and, so long as any of the Prior Bonds is outstanding, is supplemental to the Prior Ordinance.

Section 1.03. Findings. It is hereby found, determined and declared as follows:

A. The City now owns and operates public works for the collection and treatment, purification and disposal of sewage.

B. In accordance with Section 18 of the Act, the System is under the supervision and control of the Sanitary Board.

C. The Sanitary Board has presented a petition to the City for acquisition and construction of the Phase I Project, enactment of this Ordinance and the issuance of the Bonds and Notes.

D. It is deemed necessary and desirable for the health, welfare and safety of the inhabitants of the City that the Phase I Project be acquired and constructed at an estimated cost of $1,570,000, in accordance with the plans and specifications prepared by Kelley, Gidley, Blair & Wolfe, Inc., Consulting Engineers, Charleston, West Virginia, which plans and specifications are on file with the Sanitary Board and the City Clerk, and which Phase I Project is generally described in Exhibit B hereto.

E. It is deemed necessary for the City to issue its Original Subordinate Bonds in the aggregate principal amount of not more than $720,000 and its Original Supplemental Bonds in the aggregate principal amount of not more than $180,000 and contemporaneously therewith, or as soon as practicable thereafter if and when the Council shall determine it to be in the best interests of the City, to issue its Notes in the aggregate principal amount of not more than $1,000,000, all to finance costs of construction and acquisition of the Phase I Project. Said costs shall be deemed to include the cost of all

property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Bonds prior to and during construction or acquisition and for six months after completion of construction of the Phase I Project; interest upon the Notes during the term thereof; engineering, fiscal and legal expenses; expenses for estimates of cost and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense, any fees of the Authority, commitment fees, discount, initial fees for the service of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Bonds and Notes and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the Phase I Project and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof, including, with respect to the Notes, any commitment fees to a bank or banks for the issuance of letters of credit and any costs of obtaining insurance thereon; provided, that reimbursement to the City for any amounts expended by it for allowable costs prior to the issuance of the Bonds or Notes or the repayment of indebtedness incurred by the City for such purposes shall be deemed Costs of the Project.

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

G. There are outstanding on the date of enactment of this Ordinance $152,000 in aggregate principal amount of Prior Bonds. The holders of the Prior Bonds shall have a lien on the Net Revenues prior and superior to that of the Bondholders. Other than the Prior Bonds, there are no obligations of the City outstanding which will rank prior to or on a parity with the Original Bonds as to their respective liens and sources of and security for payment.

H. The issuance of the Original Bonds on a basis subordinate to the Prior Bonds is being authorized in an effort to aid in the abatement or reduction of the pollution of waters and streams situate in and about the City, including the Guyandotte River.

I. The City derives revenues from the System, and said revenues are pledged or encumbered only in connection with the Prior Bonds.

J. The estimated revenues to be derived in each year after the enactment of this Ordinance from the operation of the System will be sufficient to pay all the costs of the operation and maintenance of the the System, the principal of and

interest on the Prior Bonds and the Bonds and all sinking fund and other payments provided for in the Prior Ordinance and this Ordinance.

K. It is in the best interests of the City that its Original Bonds be sold to the Authority pursuant to the terms and provisions of the WDA Loan Agreements.

L. The City has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Original Bonds and the Notes, or will have so complied prior to issuance of any thereof, including, among other things, the obtaining of a Certificate of Convenience and Necessity from the PSC by final order not subject to appeal or rehearing.

M. The Internal Revenue Code of 1986, as amended and including the rules and regulations promulgated pursuant thereto or to any predecessors or successors thereto (collectively, the "Code"), provides exceptions from the rebate provisions for issues of small governmental units meeting certain requirements.

N. It is in the best interests of the City and its inhabitants to qualify for the small governmental unit exception from the rebate provisions.

O. The City is a governmental unit with general taxing powers.

P. The Original Bonds are not private activity bonds as defined by the Code.

Q. Ninety-five percent (95%) or more of the net proceeds (as defined with respect to the Code) of the Original Bonds will be used for local governmental activities of the City.

R. The City reasonably expects that the aggregate face amount of all tax-exempt bonds (other than private activity bonds) issued by the City and all subordinate entities thereof during the calendar year in which the Original Bonds will be issued, being 1987, will not exceed $5,000,000.

S. The City shall not permit at any time any of the proceeds of the Bonds or other funds of the City 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 Code.

T. The City will file all statements, instruments and returns necessary to assure the tax-exempt status of the Bonds.

U. The Bonds will not be federally guaranteed within the meaning of the Code.

V. It is reasonably anticipated that all proceeds of the Original Bonds will be spent within three years from May 22, 1986.

Section 1.04. Ordinance Constitutes Contract. In consideration of the acceptance of the Bonds and the Notes authorized to be issued hereunder by those who shall respectively hold the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the City and such Bondholders or Noteholders, and the covenants and agreements herein set forth to be performed by said City shall be for the equal benefit, protection and security of the legal Holders of any and all of such Bonds or Notes, as the case may be, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

ARTICLE II

AUTHORIZATION OF PHASE I PROJECT

Section 2.01. Authorization of Phase I Project. There is hereby authorized the acquisition and construction of the Phase I Project in accordance with the plans and specifications therefor prepared by the Consulting Engineers.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF WDA LOAN AGREEMENTS

Section 3.01. Authorization of Original Bonds. For the purposes of financing a portion of the costs of acquisition and construction of the Phase I Project not otherwise provided for, of paying the costs of issuance of the Original Bonds and, if authorized by the Supplemental Resolution, of funding the Reserve Account and the Supplemental Reserve Account or for providing for interest during construction or both, there shall be issued the Original Bonds of the City. Such Original Bonds shall be issued contemporaneously with or prior to any issuance of the Notes. The proceeds of the Original Bonds shall be applied as provided in Section 6.01.

Section 3.02. Terms of Original Bonds. The Original Subordinate Bonds shall be originally issued in the form of a single bond, designated Subordinate Sewerage System Revenue Bond, Series 1987, numbered P-1, fully registered to the Authority, in the principal amount of not more than $720,000 as shall be set forth in the Supplemental Resolution. The Original Subordinate Bonds shall be dated the date of delivery thereof; shall bear interest at the rate per annum, not to exceed 12%, as shall be set forth in the Supplemental Resolution, payable semiannually on April 1 and October 1 of each year, beginning with the date set forth in the Supplemental Resolution; shall be subject to redemption only with the written consent of the Authority and upon payment of the interest and redemption premium, if any, and subject to the other requirements and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Original Subordinate Bonds; and shall mature in principal installments on October 1 of each of the years and in the amounts set forth in the Loan Agreement "Schedule X" to be approved by the Supplemental Resolution.

The Original Supplemental Bonds shall be originally issued in the form of a single bond, designated Supplemental Subordinate Sewerage System Revenue Bond, Series 1987, numbered SR-1, fully registered to the Authority, in the principal amount of not more than $180,000, as shall be set forth in the Supplemental Resolution. The Original Supplemental Bonds shall be dated the date of delivery thereof; shall bear no interest; shall be subject to redemption only with the written consent of the Authority and otherwise in compliance with the Supplemental Loan Agreement, so long as the Authority shall be the registered owner of the Original Supplemental Bonds; and shall mature in principal installments on October 1 of each of the years and in the amounts set forth in the Supplemental Loan Agreement "Schedule X" to be approved by the Supplemental Resolution.

The Bonds shall be payable as to principal at the principal 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, provided, that so long as the Authority is the Owner thereof, interest on the Bonds may be paid by wire transfer or other methods satisfactory to the City, the Paying Agent and the Authority.

Bonds shall be exchangeable at the option and expense of the Owner for other fully registered Bonds of the same

series in aggregate principal amount equal to the amount of said Bonds then Outstanding, 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 may be issued within the terms and restrictions hereinafter set forth as provided by a Supplemental Resolution.

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

Section 3.04. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Ordinance unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.09, 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 Ordinance. 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 or 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 Owner 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 instru-

ments under the Uniform Commercial Code of the State of West Virginia, and each successive Owner shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as any of the Bonds remain outstanding, the City, through the Bond Registrar, shall keep and maintain books for the registration and transfer of the Bonds.

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

In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, Bonds shall be delivered in accordance with the provisions of this Ordinance. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer or 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 charges and expenses for any Bonds owned by the Authority, in the event of partial redemption of any Bond or in connection with the first transfer of any Bond from the original purchaser thereof shall be paid by the City and, otherwise, shall be paid by the Owner requesting such transfer or exchange. The Registrar shall not be obliged to make any such exchange or transfer of Bonds during the period beginning with the 15th day of the month preceding an interest payment date and ending on the day preceding such interest payment date or, in the case of any proposed redemption of Bonds, during the 15 days next preceding the date of the selection of Bonds to be redeemed.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the City may, at the discretion of the Council, issue, and the Bond Registrar shall authenticate and deliver, a new Bond or Bonds of like tenor as the Bond or Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond or Bonds, upon surrender and cancellation of such mutilated Bond or Bonds, or in lieu of and substitution for the Bond or Bonds destroyed, stolen or lost, and upon the Owner's furnishing the City proof of his ownership thereof and satisfactory indemnity and complying with

such other reasonable regulations and conditions as the City may prescribe and paying such expenses as the City may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the City. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the City may pay the same, upon being indemnified as aforesaid, and, if such Bond be lost, stolen or destroyed, without surrender thereof.

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

Section 3.07. Bonds Not To Be Indebtedness of the City. The Bonds shall not, in any event, be or constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues and otherwise as provided herein. No Owner or Owners of any of the Bonds shall ever have the right to compel the exercise of the taxing power of the City to pay the Bonds or the interest thereon.

Section 3.08. Bonds Secured by Subordinate Pledge of Net Revenues. The payment of the debt service of all the Subordinate Bonds shall be secured forthwith equally and ratably with each other by a lien on the Net Revenues derived from the System, which lien is junior, subordinate and inferior to that on account of the Prior Bonds. The payment of the debt service of all the Supplemental Bonds shall also be secured forthwith equally and ratably with each other by a lien on the Net Revenues derived from the System, but junior, subordinate and inferior to the lien on the Net Revenues in favor of both the Prior Bonds and the Subordinate Bonds. Such Net Revenues, in an amount sufficient, after paying the principal of and interest on the Prior Bonds and making the other payments required under the Prior Ordinance, to pay the principal of and interest on the Bonds and to make the payments required into the Sinking Fund and the Reserve Account therein, the Renewal and Replacement Fund and the Supplemental Sinking Fund and the Supplemental Reserve Account therein, all hereinafter established, are hereby irrevocably pledged to the payment of the principal of and any interest on the Bonds as the same become due.

Section 3.09. Form of Original Bonds. The text of the Original Bonds shall be in substantially the following

tenor, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Ordinance or by any Supplemental Resolution adopted or enacted prior to the issuance thereof:

[Form of Original Subordinate Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF LOGAN
SUBORDINATE SEWERAGE SYSTEM REVENUE BOND, SERIES 1987

No. R-_____ $_____

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF LOGAN, a municipal corporation of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ ($_____), 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.

Interest on each installment shall run from the date of this Bond and until payment of such installment, and such interest shall be payable on the 1st day of April and the 1st day of October in each year beginning _____ 1, 198__. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, 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, as Paying Agent (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 _____, as registrar (the "Registrar") on the 15th day of the month 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 as otherwise provided by the Loan Agreement, dated as of _____, between the City and the Authority.

This Bond is issued (i) to pay costs of acquisition and construction of certain extensions, improvements and

betterments to the existing public sewerage system of the City (the "Project") (said existing system, together with the Project and any further extensions, improvements or betterments thereto, is hereinafter referred to as the "System")[; (ii) to pay interest on the Bonds during and for six months after completion of construction of the Project; (iii) to fund the Reserve Account, as hereinafter defined; and (iv)] and (ii) to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), and the Ordinance duly enacted by the Council of the City on the ____ day of _____, 1987, as supplemented by a resolution duly adopted by the Council of the City on _____, 19__ (collectively, the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Ordinance) to be derived from the operation of the System[, moneys in the Reserve Account created under the Ordinance (the "Reserve Account")] and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations, nor shall the City be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues[, the moneys in the Reserve Account] and unexpended Bond proceeds. Pursuant to the Ordinance, the City 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 to provide for the proper and reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any year of principal of and interest on the Bonds, on the Supplemental Bonds, as hereinafter defined, and on all obligations secured by or payable from such revenues prior to or on a parity with the Bonds and said Supplemental Bonds, including the Prior Bonds, as hereinafter defined; provided, however, that so long as there exists in the Reserve Account sufficient moneys to pay the maximum amount of principal and interest which will become due on the Bonds in any year, there exists in the reserve

account for said Supplemental Bonds sufficient moneys to pay the maximum amount of principal and interest, if any, which will become due on said Supplemental Bonds in any year, and the reserve accounts for any such obligations prior to or on a parity with the Bonds or said Supplemental Bonds, including said Prior Bonds, are funded at the respective requirements therefor, such percentage may be reduced to 110%. The City has entered into certain further covenants with the Registered Owners of the Bonds for the terms of which reference is made to the Ordinance. Remedies provided the Registered Owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Ordinance, only upon the books of the Registrar kept for that purpose at the office of the Registrar by the Registered Owner or by its attorney or legal representative 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 or legal representative duly authorized in writing.

Subject to registration requirements, 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.

This Bond is issued contemporaneously with the Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987, of the City (the "Supplemental Bonds"), issued in the aggregate principal amount of $_____, which Supplemental Bonds are junior and subordinate with respect to liens and sources of and security for payment to the Bonds of this issue.

THIS BOND IS JUNIOR, SUBORDINATE AND INFERIOR AS TO LIEN ON AND SOURCE AND SECURITY FOR PAYMENT FROM THE NET REVENUES AND IN ALL OTHER RESPECTS TO THE CITY'S SEWER REVENUE BONDS DATED AS OF MARCH 1, 1964, OUTSTANDING AS OF THE DATE HEREOF IN THE AGGREGATE PRINCIPAL AMOUNT OF $_____.

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 described in the Ordinance, 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 City, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the City for the prompt payment of the principal of and interest on this Bond.

All provisions of the Ordinance, 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 LOGAN has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Clerk, and has caused this Bond to be dated _____, 1987.

[SEAL]

_____
Mayor

ATTEST:

_____
City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Subordinate Sewerage System Revenue Bonds, Series 1987, described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above on the date set forth below.

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 said Bond on the books kept for registration of the within Bond of said City with full power of substitution in the premises.

Dated: _____, ____.

_____

In the presence of:

_____

[Form of Original Supplemental Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF LOGAN
SUPPLEMENTAL SUBORDINATE SEWERAGE SYSTEM REVENUE BOND,
SERIES 1987

No. SR- _____ $_____

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF LOGAN, a municipal corporation of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ ($_____), 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.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, 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, as paying agent (the "Paying Agent"). This Bond bears no interest.

This Bond may be redeemed prior to its stated date of maturity in whole or in part at any time, but only with the express written consent of the Authority and as otherwise provided by the Supplemental Loan Agreement, dated as of _____, between the City and the Authority.

This Bond is issued to pay costs of acquisition and construction of certain extensions, improvements and betterments to the existing public sewerage system of the City (the "Project") (said existing system, together with the Project and any further extensions, improvements and betterments thereto, is hereinafter referred to as the "System")[, to fund the Supplemental Reserve Account, as hereinafter defined,] and to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), an Ordinance duly enacted by the Council of the City on the _____ day of _____, 1987, and

a supplemental resolution duly adopted by the Council of the City on the _____ day of _____, 19___ (collectively called the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance.

This Bond is issued contemporaneously with the Subordinate Sewerage System Revenue Bonds, Series 1987, of the City (the "Subordinate Bonds") issued in the aggregate principal amount of $_____, which Subordinate Bonds rank prior with respect to liens and sources of and security for payment to the Bonds of this issue.

THIS BOND AND THE SUBORDINATE BONDS ARE JUNIOR, SUBORDINATE AND INFERIOR AS TO LIEN ON AND SOURCE AND SECURITY FOR PAYMENT FROM THE NET REVENUES AND IN ALL OTHER RESPECTS TO THE CITY'S SEWER REVENUE BONDS DATED AS OF MARCH 1, 1964, OUTSTANDING AS OF THE DATE HEREOF IN THE AGGREGATE PRINCIPAL AMOUNT OF $_____(THE "PRIOR BONDS"). THE LIEN ON ACCOUNT OF THIS BOND ON SUCH NET REVENUES IS ALSO JUNIOR, SUBORDINATE AND INFERIOR TO THE LIEN THEREON CREATED ON ACCOUNT OF THE SUBORDINATE BONDS.

This Bond is payable only from and secured by a lien, subordinate only to that of the Prior Bonds and the Subordinate Bonds, on the Net Revenues (as defined in the Ordinance) to be derived from the operation of the System[, moneys in the Supplemental Reserve Account created under the Ordinance (the "Supplemental Reserve Account")] and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations, nor shall the City be obligated to pay the same except from said special fund provided from the Net Revenues[, the moneys in the Supplemental Reserve Account] and unexpended Bond proceeds. Pursuant to the Ordinance the City 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 to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any year of principal of and interest on the Bonds, the Subordinate Bonds and all other obligations secured by or payable from the revenues of the System prior to

or on a parity with the Bonds and the Subordinate Bonds, including the Prior Bonds; provided however, that so long as there exists in the Supplemental Reserve Account and in the reserve account for the Subordinate Bonds amounts at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds and on the Subordinate Bonds, respectively, in any year, and the reserve accounts for any such obligations prior to or on a parity with the Bonds or the Subordinate Bonds, including the Prior Bonds, are funded at the respective requirement therefor, such percentage may be reduced to 110%. The City has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Ordinance, only upon the books of _____, _____, West Virginia, as registrar (the "Registrar"), kept for that purpose at the office of the Registrar by the registered owner, or by its attorney or legal representative 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 or legal representative duly authorized in writing.

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

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Ordinance, 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; provided, that such lien on moneys deposited in the Bond Construction Trust Fund created by the Ordinance shall be subordinate to that of the Subordinate Bonds.

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

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

All provisions of the Ordinance, 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 LOGAN has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Clerk, and has caused this Bond to be dated _____, 1987.

[SEAL]

_____
Mayor

ATTEST:

_____
City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987, described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above on the date set forth below.

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 said Bond on the books kept for registration of the within Bond of said City with full power of substitution in the premises.

Dated: _____, _____.

_____

In the presence of:

_____

Section 3.10. Sale of Original Bonds; Execution of WDA Loan Agreements. The Original Bonds shall be sold to the Authority pursuant to the terms and conditions of the WDA Loan Agreements. Execution and delivery to the Authority of the WDA Loan Agreements by the Mayor and the Clerk are hereby specifically authorized, confirmed and ratified. The WDA Loan Agreements are specifically incorporated in this Ordinance.

ARTICLE IV

NOTES

Section 4.01. Authorization and General Terms. In order to pay certain Costs of the Project pending receipt of the Grant Receipts, the City shall issue and sell its Notes in the aggregate principal amount of not to exceed $1,000,000. The Notes shall bear interest from the date or dates, at such rate or rates, not to exceed 12% per annum, payable on such dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the Supplemental Resolution, including in the Indenture. The Notes shall be issued, within the restrictions set forth in this Ordinance, at the time and otherwise as shall be determined by the Council in the Supplemental Resolution to be in the best interests of the City.

Section 4.02. Terms of Notes; Trust Indenture. The Notes shall be issued in fully registered form, in the denomination of $5,000 or any integral multiple thereof, with such terms and secured in the manner set forth below and in the Supplemental Resolution, including in the Indenture. The Indenture shall be approved by the Supplemental Resolution.

Section 4.03. Notes Are Special Obligations. The Notes shall be special obligations of the City payable as to principal and interest solely from the Grant Receipts, moneys, included unexpended Note proceeds and investment earnings, in the funds and accounts to be established by the Indenture, the net proceeds of a draw under a letter of credit as described below or of any refunding notes, Surplus Revenues, if any, and any other source set forth in the Supplemental Resolution, including in the Indenture. The Notes do not and shall not constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations. The general funds of the City are not liable, and neither the full faith and credit nor the taxing power of the City is pledged for the payment of the Notes. The Noteholders shall never have the right to compel the forfeiture of any property of the City. The Notes shall not be a debt of the

City, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the City or upon any of its income, receipts or revenues except as set forth in the Supplemental Resolution, including in the Indenture.

Section 4.04. Letters of Credit. As additional security for the Notes, the City may obtain a letter or letters of credit from a bank or banks, pursuant to which such bank or banks would agree to pay to the Trustee under the Indenture, upon presentation by such Trustee of certain certificates, the sum or sums set forth therein but not to exceed $500,000 in the aggregate. In the event of a draw under any such letter of credit, the City shall issue its refunding notes to the bank issuing such letter of credit. Any such letter of credit shall be authorized and shall have such terms as shall be set forth in the Supplemental Resolution.

ARTICLE V

SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created with and shall be held by the Depository Bank:

(1) Revenue Fund;

(2) Renewal and Replacement Fund; and

(3) Bond Construction Trust Fund.

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

(1) Sinking Fund; and

(a) Within the Sinking Fund, the Reserve Account;

(2) Supplemental Sinking Fund; and

(a) Within the Supplemental Sinking Fund, the Supplemental Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. So long as the Prior Bonds are outstanding, the Gross Revenues shall be deposited in the sewer revenue fund established by Section 13(B) of the Prior Ordinance (the "Prior Revenue

Fund"). Moneys in the Prior Revenue Fund shall first be disposed of as provided by Section 13(D)(1) through (3) of the Prior Ordinance.

B. After payment or defeasance of the Prior Bonds, 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 Ordinance and shall be kept separate and distinct from all other funds of the City and the Depository Bank and used only for the purposes and in the manner herein provided. From the Revenue Fund, the City shall first each month pay the current Operating Expenses of the System.

C. (1) Thereafter, from the moneys remaining in the Prior Revenue Fund or, after payment or defeasance of the Prior Bonds, in the Revenue Fund, the City shall next, on the first day of each month, commencing seven (7) months prior to the first day of payment of interest on the Subordinate 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 Sinking Fund, a sum equal to one-sixth (1/6) of the amount of interest which will become due on said Subordinate Bonds on the next ensuing semiannual interest payment date, with an adjustment for the first interest payment date from revenues less than seven (7) months after the issuance of the Subordinate Bonds or completion of construction of the Phase I Project, as applicable.

(2) The City shall also, on the first day of each month, commencing thirteen (13) months prior to the first date of payment of principal on the Subordinate Bonds, apportion and set apart out of the Prior Revenue Fund or, after payment or defeasance of the Prior Bonds, out of the Revenue Fund, and remit to the Commission for deposit in the Sinking Fund, a sum equal to one-twelfth (1/12) of the amount of principal which will mature and become due on said Subordinate Bonds on the next ensuing principal payment date.

(3) The City shall next from the Prior Revenue Fund or, after payment or defeasance of the Prior Bonds, from the Revenue Fund, on the first day of each month commencing thirteen (13) months prior to the first date of payment of the Subordinate Bonds, remit to the Commission for deposit in the Reserve Account an amount equal to 1/120 of the Reserve Account Requirement; provided, that no further payments shall be made into the Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Reserve Account Requirement. Once the Reserve Account has been funded at the Reserve Account Requirement, the City shall next remit to the Commission for

deposit in the Reserve Account an amount equal to any deficiency in the Reserve Account Requirement. Any withdrawals from the Reserve Account which result in a reduction in the balance of the Reserve Account to below the Reserve Account Requirement shall be subsequently restored from the first Net Revenues available after all required payments prescribed above have been made in full.

(4) Moneys in the Sinking Fund shall be used only for the purposes of paying principal of and interest on the Subordinate Bonds as the same shall become due. Moneys in the Reserve Account in the Sinking Fund shall be used only for the purpose of paying principal of or interest on the Subordinate Bonds, as the same shall come due, when other moneys in the Sinking Fund are insufficient therefor, and for no other purpose. All investment earnings on moneys in the Sinking Fund and the Reserve Account shall be transferred, not less than once each year, to the Bond Construction Trust Fund prior to completion of the Phase I Project and thereafter to the Revenue Fund or the Prior Revenue Fund, as the case may be.

(5) The City shall not be required to make any further payments into the Sinking Fund or into the Reserve Account therein when the aggregate amount of funds in said Sinking Fund and said Reserve Account is at least equal to the aggregate principal amount of and interest to come due on the Subordinate Bonds issued pursuant to this Ordinance then Outstanding.

D. After payment or defeasance of the Prior Bonds, from the moneys remaining in the Revenue Fund, the City shall next, on the first day of each month, commencing with the month succeeding the first full calendar month after completion of the Project, deposit in the Renewal and Replacement Fund a sum equal to two and one-half percent (2 1/2%) of the Gross Revenues each month, exclusive of payments for account of the Reserve Account in the Sinking Fund. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the City or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, enlargements, emergency repairs, improvements and extensions to the System; provided, that if any deficiency occurs in the amount that should be on deposit in the Reserve Account it shall be promptly eliminated with moneys from the Renewal and Replacement Fund. So long as the Prior Bonds are outstanding, the renewal and replacement fund created by Section 13(D)(3) of the Prior Ordinance (the "Prior Renewal and Replacement Fund") shall be funded in accordance with said section, provided that said deposit shall always at least equal 2 1/2% of the Gross Revenues each month, exclusive

of payments for account of the Reserve Account, and provided, further, that only the amount in the Prior Renewal and Replacement Fund exceeding the amount that should be deposited on account of the Bonds may be used to purchase or redeem Prior Bonds.

E. (1) The City shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Supplemental Bonds, apportion and set apart out of the Prior Revenue Fund or, after payment or defeasance of the Prior Bonds, out of the Revenue Fund and remit to the Commission for deposit in the Supplemental Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Supplemental Bonds on the next ensuing principal payment date.

(2) The City shall next from the Prior Revenue Fund or, after payment or defeasance of the Prior Bonds, from the Revenue Fund, on the first day of each month commencing 13 months prior to the first date of payment of the Supplemental Bonds, remit to the Commission for deposit in the Supplemental Reserve Account an amount equal to 1/120 of the Supplemental Reserve Requirement; provided, that no further payments shall be made into the Supplemental Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Supplemental Reserve Requirement. Once the Supplemental Reserve Account has been funded at the Supplemental Reserve Requirement, the City shall next remit to the Commission for deposit in the Supplemental Reserve Account an amount equal to any deficiency in the Supplemental Reserve Requirement. Any withdrawals from the Supplemental Reserve Account which result in a reduction in the balance of the Supplemental Reserve Account to below the Supplemental Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments prescribed above have been made in full.

F. (1) As and when additional Bonds ranking on a parity with the Bonds are issued, provision shall be made for additional payments into the Sinking Fund or Supplemental 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 Reserve Account or Supplemental Reserve Account in an amount equal to the respective Reserve Requirement.

(2) The Commission is hereby designated as the fiscal agent for the administration of the Sinking Fund and the Supplemental Sinking Fund created hereunder, and all amounts required for said Sinking Fund and said Supplemental Sinking Fund shall be remitted to the Commission from the Prior Revenue

Fund or the Revenue Fund, as the case may be, by the City at the times provided herein.

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

G. Whenever all of the required and provided transfers and payments from the Prior Revenue Fund or the Revenue Fund, as the case may be, into the several special funds, as hereinbefore provided, are current and there remains in said Prior Revenue Fund or the Revenue Fund, as the case may be, a balance in excess of the estimated amount required to be so transferred and retained and paid into the funds and accounts established by the Prior Ordinance and into the Sinking Fund, including the Reserve Account therein, the Supplemental Sinking Fund, including the Supplemental Reserve Account therein, and the Prior Renewal and Replacement Fund or the Renewal and Replacement Fund, as the case may be, during the following month or such longer period as shall be required by the Act, such excess shall be considered as surplus revenues and may be used for any lawful purpose of the System, including for pledge to and payment of the GANs.

H. The City shall remit from the Prior Revenue Fund or the Revenue Fund, as the case may be, to the Commission, the Bond Registrar or the Depository Bank, on such dates as the Commission, the Bond Registrar or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay the Depository Bank's charges, the Bond Registrar's fees and the Paying Agent fees then due.

I. The moneys in excess of the sum insured by the maximum amounts insured by FDIC in the Prior Revenue Fund or the Revenue Fund, as the case may be, shall at all times be secured, to the full extent thereof in excess of such insured sum, as required by the Prior Ordinance for the Prior Revenue Fund and by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the law of the State for the Revenue Fund.

J. 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.

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

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

ARTICLE VI

APPLICATION OF ORIGINAL BOND PROCEEDS; FUNDS AND ACCOUNTS; TRANSFERS AND EXISTING FUNDS

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

A. If required by the Supplemental Resolution, the amount of the proceeds which shall be at least sufficient to pay interest on the Original Subordinate Bonds for the period specified in the Supplemental Resolution shall be deposited in the Sinking Fund at the Commission; provided, that such period may not extend beyond the date which is six (6) months after the estimated date of completion of construction of the Project.

B. If required by the Supplemental Resolution, the amount of the proceeds which shall be at least sufficient to fund the Reserve Account Requirement and the Supplemental Reserve Requirement shall be first credited to the Bond Construction Trust Fund and then deposited in the Reserve Account and the Supplemental Reserve Account, respectively, with the Commission; provided, that such amounts shall not exceed in the aggregate ten percent (10%) of the proceeds of the Original Bonds.

C. The remaining moneys derived from the sale of the Original Bonds shall be deposited by the City in the Bond Construction Trust Fund and applied to the Costs of the Project, including but not limited to payment of the costs of issuance, repayment of any Authority Step I or Step II loan and, if determined to be in the best interests of the City, repayment of any amounts drawn under the line of credit established for the City by The National Bank of Logan.

Section 6.02. Bond Construction Trust Fund. The Bond Construction Trust Fund shall be kept separate and apart from all other funds of the City and used and applied by the City solely for the payment of the Costs of the Project, which include but are not limited to the cost of the issuance of the

Original Bonds as well as construction of the Phase I Project, as more fully set forth in Section 1.03(E), and for no other purposes whatsoever. Unless invested in Qualified Investments, the moneys in said fund shall be secured at all times by the deposit in the Depository Bank, as security, of direct obligations of the United States of America having a fair market value at least equal to the balance in said fund in excess of the amount insured by the FDIC. Any moneys not needed immediately for said purposes shall be invested in Qualified Investments having maturities so as to enable the moneys to be available as deemed necessary by the Consulting Engineers and otherwise in accordance Article VIII. If for any reason such proceeds, or any part thereof, are not necessary for, or are not applied to, such purposes, then such unapplied proceeds (i) may, during the period of three years from May 22, 1986, be used for construction and acquisition of the remainder of the Project or other capital construction or acquisition needs of the System; (ii) thereafter, shall be used to make up any deficiency in the Reserve Account or the Supplemental Reserve Account or to fund the Reserve Accounts at the respective requirements therefor; and (iii) if the Reserve Accounts are fully funded and no deficiencies exist, shall be deposited by the City in escrow with an escrow trustee and used to redeem Original Bonds at the first redemption date and, prior thereto, to pay a proportionate amount of principal of the Original Bonds by depositing into the Sinking Fund and the Supplemental Sinking Fund, respectively, an amount which bears the same ratio to the principal coming due in that year as the excess proceeds bore to the initial aggregate principal amount of the Original Subordinate Bonds and the Original Supplemental Bonds, as the case may be. All such proceeds shall constitute a trust fund for such purposes, and there is hereby created a lien upon such moneys until so applied in favor of the Owners of the Original Bonds; provided, that the lien in favor of the Owners of the Original Subordinate Bonds shall be prior to the lien in favor of the Owners of the Original Supplemental Bonds.

Expenditures or disbursements by the Depository Bank from the Bond Construction Trust Fund, except for legal, fiscal and engineering expenses, expenses in connection with the issuance and sale of the Original Bonds and repayment to the Authority of any Step I or Step II loans, shall be made only after such expenditures or disbursements shall have been approved in writing by the Sanitary Board and the Consulting Engineers.

ARTICLE VII

ADDITIONAL COVENANTS OF THE CITY

Section 7.01. General Covenants of the City. All the covenants, agreements and provisions of this Ordinance shall be and constitute valid and legally binding covenants of the City and shall be enforceable in any court of competent jurisdiction by any Owner or Owners of the Bonds. In addition to the covenants, agreements and provisions of this Ordinance, the City hereby covenants and agrees with the Owners 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.

Until the payment in full of the principal of and interest on the Notes when due, the covenants, agreements and provisions contained in this Ordinance shall, where applicable, also inure to the benefit of the Owners of the Notes and the Trustee therefor and constitute valid and legally binding covenants of the City, enforceable in any court of competent jurisdiction by the Trustee or any Owner or Owners of said Notes as prescribed in the Indenture; provided, that Section 7.04 shall not be applied to the Notes.

Section 7.02. Bonds and Notes Not To Be Indebtedness of the City. Neither the Bonds nor the Notes shall be or constitute a corporate indebtedness of the City within the meaning of any constitutional, statutory or charter provision or limitation of indebtedness, but shall be payable, with respect to the Bonds, solely from the Net Revenues of the System or from the respective Reserve Account or unexpended Bond proceeds as herein provided or, with respect to the Notes, solely from the specific sources pledged by the Supplemental Resolution, including the Indenture. No Owner or Owners of any Bonds or Notes issued hereunder shall ever have the right to compel the exercise of the taxing power of the City to pay said Bonds or Notes or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Subordinate Bonds issued hereunder shall be secured forthwith equally and ratably by a lien on the Net Revenues derived from the operation of the System, on a basis junior and subordinate to the Prior Bonds. The payment of the debt service of the Supplemental Bonds issued hereunder shall be secured forthwith equally and ratably by a lien on the Net Revenues derived from the operation of the System, on a basis junior and subordinate to both the Prior Bonds and the Subordinate Bonds. The Net

Revenues derived from the System, in an amount sufficient, after paying the principal of and interest on the Prior Bonds and making the payments into the funds and accounts created under the Prior Ordinance, to pay the principal of and interest on the Bonds and to make the payments into the Sinking Fund, including the Reserve Account therein, and into the Supplemental Sinking Fund, including the Supplemental Reserve Account therein, and all other payments provided for in this Ordinance, are hereby irrevocably pledged in the manner provided in this Ordinance to the payment of the principal of and interest on the Bonds as the same become due and for other purposes provided in this Ordinance.

Section 7.04. Rates. Prior to issuance of the Original Bonds, equitable rates or charges for the use of and services rendered by the System will be established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the City Clerk, which copies will be open to inspection by all interested parties. The rates and charges shall be effective as prescribed by State statutes and the rules and regulations of the PSC. 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 and accounts created under the Prior Ordinance and created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the City hereby covenants and agrees that the schedule of rates or charges for the services of the System from time to time in effect shall be sufficient to provide funds which, along with other revenues of the System, (i) will pay for all Operating Expenses of the System and (ii) leave a balance each year equal to at least 115% of the maximum amount required in any year to pay the principal of and interest on the Bonds and all other obligations secured by or payable from the revenues of the System prior to or on a parity with the Bonds, including the Prior Bonds; provided, however, in the event that an amount at least equal to the Reserve Account Requirement is on deposit in the Reserve Account, an amount at least equal to the Supplemental Reserve Requirement is on deposit in the Supplemental Reserve Account and any reserve account for any such prior or parity obligations, including the Prior Bonds, is funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest on the Bonds and any such prior or parity obligations, including the Prior Bonds.

Section 7.05. Completion, Operation and Maintenance. The City will expeditiously complete the Phase I Project and will maintain the System in good condition and will operate the same as a revenue-producing enterprise in an efficient and economical manner, making such expenditures for equipment and for renewal, repair and replacement as may be proper for the economical operation and maintenance thereof from the revenues of said System in the manner provided in this Ordinance.

Section 7.06. Sale of the System. The System may be sold, mortgaged, leased or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient fully to pay or redeem at or prior to maturity all the Prior Bonds outstanding and the Bonds Outstanding. The proceeds from such sale, mortgage, lease or other disposition of the System shall first be applied on account of the Prior Bonds, and any excess shall immediately be remitted to the Commission for deposit in the Sinking Fund and the Supplemental Sinking Fund, and the City shall direct the Commission to apply such proceeds to the payment of principal and any interest at maturity of the Bonds about to mature and to the redemption prior to maturity, at the earliest date permitted hereby and at the redemption price, of all other outstanding Bonds. Any balance remaining after the redemption or payment of all the Bonds and interest thereon shall be remitted to the City by the Commission unless necessary for the payment of other obligations of the City payable out of the revenues of the System.

The foregoing provision notwithstanding, the City shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor is not in excess of $10,000, the City shall first, in writing, determine that such property comprising a part of the System is longer necessary, useful or profitable in the operation thereof and the Council may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Prior Renewal and Replacement Fund or the Renewal and Replacement Fund, as the case may be. If the amount to be received from such sale, lease or other disposition of said property shall be in excess of $10,000 but not in excess of $50,000, the Council shall first, in writing, determine with the written approval of the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Council may then, if it be advised, by resolution duly adopted, approve and concur in such finding and authorize such

sale, lease or other disposition of such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, in excess of $10,000 and not in excess of $50,000, shall be remitted by the City and applied on account of the Prior Bonds, with any excess to be remitted to the Commission for deposit in the Sinking Fund and the Supplemental Sinking Fund and applied only to the redemption or purchase, at prices not greater than the applicable redemption price or, if not redeemable, par, of Bonds of the last maturities then Outstanding (upon receipt of approval of the Authority, if needed) or, otherwise, to the Renewal and Replacement Fund. Such payments of such proceeds in the Sinking Fund and the Supplemental Sinking Fund or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Ordinance.

No sale, lease, or other disposition of the properties of the System shall be made by the City if the proceeds to be derived therefrom shall be in excess of $50,000 and insufficient to pay or redeem prior to maturity all the Prior Bonds then outstanding and the Bonds then Outstanding; provided, the prior approval and consent in writing of the Owners, or their duly authorized representatives, of sixty-six and two-thirds percent (66 2/3%) in amount of the Bonds then Outstanding may be obtained for such purpose. The City shall prepare the form of such approval and consent for execution by the then Owners of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.07. Issuance of Other Obligations Payable out of Revenues and General Covenant Against Encumbrances. The City shall not issue any other obligations whatsoever, except Parity Bonds provided for in Section 7.08 hereof, payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that additional Parity Bonds may be issued as provided for in Section 7.08. All obligations hereafter issued by the City payable from the revenues of the System, except such additional Parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Bonds to the extent such are Outstanding; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the Reserve Account, the Supplemental Reserve Account and the Renewal and Replacement Fund at the time of the issuance of such subordinate obligations have been made and are current.

Except as provided above, the City shall not create or cause or permit to be created any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or, except with respect to said Parity Bonds, being on a parity with the respective liens of the Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Ordinance or upon the System or any part thereof.

Section 7.08. Parity Bonds. No Parity Bonds payable out of the revenues of the System shall be issued after the issuance of any Bonds pursuant to this Ordinance, except under the conditions and in the manner herein provided. Except as expressly provided herein, no Parity Subordinate Bonds shall be issued so long as any Supplemental Bond remains Outstanding.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the extensions, improvements and betterments to the System or refunding all or a part of one or more issues or series of Bonds or both such purposes.

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Clerk a written statement by the Independent Accountants, based upon the necessary investigation and certification by the Consulting Engineers, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided, from the System during any twelve (12) consecutive months within the eighteen (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 three (3) succeeding years after the completion of the improvements to be financed by such Parity Bonds, shall not be less than 115% of the maximum debt service in any succeeding year on the following:

(A) The Prior Bonds and any other obligations secured by or payable from the Revenues prior to or on a parity with the Bonds.

(B) The Bonds then Outstanding;

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

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

The "estimated average increased annual Net Revenues to be received in each of the three (3) succeeding years," as that term is used in the computation provided in the above

paragraph, shall refer only to the increased Net Revenues estimated to be derived from any increase in rates enacted by the City, the time for appeal of which shall have expired without any successful appeal or rehearing prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the Clerk prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the twelve (12) consecutive month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Consulting Engineers and the Independent Accountants, as stated in a certificate jointly made and signed by the Consulting Engineers and said Independent Accountants, on account of increased rates, rentals, fees and charges for the System enacted by the City, the time for appeal of which shall have expired without any successful appeal or rehearing prior to issuance of such Parity Bonds.

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

All the covenants and other provisions of this Ordinance (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Owners of the Original Subordinate Bonds and the Owners of any Parity Subordinate Bonds and of the Owners of the Original Supplemental Bonds and the Owners of any Parity Supplemental Bonds subsequently issued from time to time within the limitations of and in compliance with this section. All the Subordinate Bonds, 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 Subordinate Bond over any other. All the Supplemental Bonds, 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 Supplemental Bond over any other. The City shall comply fully with all the increased payments into the various funds created in this Ordinance required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Ordinance.

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 Outstanding Bonds on such revenues. The City shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, 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 Bonds.

Parity Bonds shall not be issued at any time, however, unless all the payments into the respective funds and accounts provided for in this Ordinance on account of the Bonds then Outstanding, and any other payments provided for in this Ordinance, shall have been made in full as required to the date of delivery of the Parity Bonds.

Notwithstanding the foregoing, the City may issue Parity Bonds without compliance with any other conditions for the purpose of refunding prior to maturity all or a part of any issues or series of Bonds provided that the annual debt service required on account of the refunding Bonds and the Bonds which are not refunded shall not be greater in any year in which the Bonds not refunded and the refunding Bonds are to be Outstanding than the annual debt service required in such year if the Bonds to be refunded were not so refunded.

With the written consent in advance of the Authority and anything to the contrary in Section 7.07 and in this Section 7.08 notwithstanding, Parity Bonds may be authorized and issued by the City pursuant to a Supplemental Resolution solely to complete the Phase I Project as described in the City's Program application to the Authority as of the date of the WDA Loan Agreements and in accordance with the plans and specifications, in the event that the Original Bonds should be insufficient, together with other funds lawfully available therefor, to pay all costs of acquisition and construction of the Phase I Project; provided, however, that, prior to the issuance of such Parity Bonds and under the provisions of this paragraph, the Consulting Engineers shall file with the Clerk a certificate to the effect that additional funds are necessary for such purpose. All such Parity Bonds authorized and issued under the provisions of this paragraph shall be limited to the aggregate principal amount required to make up any deficiency in funds for payment of the construction costs to complete the Phase I Project, and the maturities of any such Parity Bonds shall be in years and amounts suggested by the Authority.

Section 7.09. Insurance. The City will carry such insurance and in such amounts as is customarily carried with

respect to works and properties similar to the System, with a reputable insurance carrier or carriers, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks. The City will 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, so long as the Authority is the Owner of the Original Bonds. The City 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 City, the Authority, the prime contractor and all subcontractors as their interests may appear, in accordance with the WDA Loan Agreements, during construction of the Phase I Project in the full insurable value thereof. In time of war, the City shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war. The proceeds of all such insurance policies shall be disposed of as provided in the Prior Ordinance and otherwise shall be placed in the Renewal and Replacement Fund and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The City will also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the System. The City shall carry such other insurance as is required by the Authority, including but not limited to flood insurance and business interruption insurance, to the extent available at reasonable cost to the City.

Section 7.10. Services Rendered to the City. The City will not render or cause to be rendered any free services of any nature by its System; and in the event the City, or any department, agency, instrumentality, officer or employee of the City, shall avail itself of the facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the City and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the City shall transfer from its general funds sufficient sums to pay such charges for services to any of its departments or properties. The revenues so received shall be deemed to be Revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.11. Enforcement of Collections. The City will diligently enforce and collect all fees, rates, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement

and collection of such fees, rates, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the laws of the State and the rules and regulations of the PSC. All such rates and charges, if not paid when due, shall become a lien on the premises served by the System.

Whenever any rates, rentals or charges for the services and facilities of the System shall remain unpaid for a period of thirty (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. The City further covenants and agrees that it will, to the full extent permitted by applicable law and the rules and regulations promulgated by the PSC, discontinue and shut off the services and facilities of the System and, in the event the City owns a water facility (the "Water System"), the Water System to all users of the System delinquent in payment of charges for the services of the System and will not restore such services of either system until all delinquent charges for the services of the System have been paid in full.

Section 7.12. No Competing Franchise. To the extent allowable by law, the City 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. Books and Records. The City will keep books and records of the System, which shall be separate and apart from any other books, records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to the System, and any Owner of a Bond or Bonds or of a Note or Notes issued pursuant to this Ordinance or the Trustee shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the City relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles in accordance with the rules and regulations of the PSC and the Act. Separate control accounting records shall be maintained by the City. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books and along with other bookkeeping records as prescribed by the City. The City shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the City shall be reported to such agent of the City as the Council shall direct.

The City shall file with the Consulting Engineers, the Trustee and the Authority, and shall mail in each year to any

Owner or Owners of Bonds or Notes, as the case may be, 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 Ordinance and the Indenture with respect to said Bonds or Notes, as the case may be, and the status of all said funds and accounts.

The City shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Accountants, shall mail upon request, and make available generally, the report of said Independent Accountants, or a summary thereof, to any Owner or Owners of Bonds or Notes, as the case may be, and shall submit said report to the Authority and the Trustee. The report of said audit shall include a statement that the City is in compliance with the terms and provisions of the WDA Loan Agreements and this Ordinance.

Section 7.14. Operating Budget. The City shall annually, at least forty-five (45) days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed budget of the estimated expenditures for operation and maintenance of the System during the succeeding Fiscal Year. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Council shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of ten percent (10%) of the amount of such budget shall be made except upon further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The City shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and the Trustee and to any Owners of any Bonds or Notes, as the case may be, who request in writing that copies of all such budgets and resolutions be furnished and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Owners of any Bonds or Notes, as the case may be, or anyone acting for and in behalf of such Owners of any Bonds or Notes, as the case may be.

Section 7.15. Connection. 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.

Section 7.16. Convenant To Amend Ordinance. The City retains the right to make any amendments, insertions or deletions by Supplemental Resolution to this Ordinance as the City deems desirable or necessary prior to the issuance of the Bonds, including but not limited to amendments, insertions and deletions to comply with the Code. Notwithstanding the provisions of Section 11.01 hereof, the City shall without consent of the Owners of any Bonds or Notes, as the case may be, amend or supplement this Ordinance by a resolution supplemental hereto or any amendatory ordinance to comply with the Code if such amendment or supplement is necessary to preserve the tax-exempt status of the Bonds or Notes. The Council of the City hereby retains the specific authority to amend this Ordinance or supplement it by resolution to comply with the Code. In its determination to amend or supplement this Ordinance, the City may rely on the opinion of nationally recognized bond counsel.

Section 7.17. Public Purpose Bonds. The City shall use the Original Bond proceeds solely for the Project and as otherwise set forth herein, and the Project will be operated solely for a public purpose and as a local governmental activity of the City.

Section 7.18. Private Activity Bond Covenant. The City shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the City to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Code by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The City will take all actions necessary to comply with the Code in order to assure the tax-exempt status of the Bonds.

Section 7.19. Filing Covenant. The City will file all statements, instruments and returns necessary to assure the tax-exempt status of the Bonds, including, without limitation, the information return required under Section 149(e) of the Code.

Section 7.20. Federal Guarantee Covenant. The Bonds, in whole or in part, are not and will not be, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

Section 7.21. Rebate Covenant. The City is a governmental unit with general taxing powers to finance operations of or facilities of the nature of the Project and the System. As covenanted pursuant to Sections 7.17 and 7.18, the Original Bonds are not private activity bonds within the meaning of the Code, and 95% or more of the net proceeds (as defined with respect to the Code) of the Original Bonds will be used for local governmental activities of the City. The City reasonably expects it and all its subordinate entities to issue less than $5,000,000 in aggregate face amount of tax-exempt bonds (other than private activity bonds) during the calendar year, being 1987, in which the Original Bonds are to be issued. Therefore, the City believes that it is excepted from the rebate requirements of Section 148(f) of the Code. Notwithstanding the foregoing, if the City is in fact subject to such rebate requirement, the City hereby covenants to rebate to the United States the amounts required by the Code and to take all steps necessary to make such rebates. In the event the City fails to make such rebates as required, the City shall pay any and all penalties and obtain a waiver from the Internal Revenue Service in order to maintain the tax-exempt status of the interest on the Bonds.

ARTICLE VIII

INVESTMENT OF FUNDS

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

Except as otherwise specifically provided, 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, including but not limited to those in the Bond Construction Trust Fund, and used for the purpose of such fund or account. The interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. Interest earnings on the Sinking Fund, including the Reserve Account therein, and on the Supplemental Sinking Fund, including the Supplemental Reserve Account therein, shall be transferred at least annually, prior to completion of the Phase I Project, to the Bond Construction

Trust Fund and, thereafter, to the Prior Revenue Fund or the Revenue Fund, as the case may be. 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 Owner, including the value of accrued interest and giving effect to the amortization of discount. Investments in the "consolidated fund" of the West Virginia Board of Investments shall be valued at par. The Commission or the Depository Bank, 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 shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any account is insufficient to make the payments required from such fund or account, regardless of the loss of such liquidation. Such Depository Bank 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.

Section 8.02. Restrictions as to Arbitrage Bonds. The City shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the City to be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause any Bond to be an "arbitrage bond" as defined in Section 148 of the Code, and the Mayor of the City shall deliver his certificate, based upon this covenant, with regard thereto.

Section 8.03 Restriction of Yield on Bond Proceeds. The City shall comply with the yield restriction on Bond proceeds as set forth in Section 148 of the Code.

ARTICLE IX

DEFAULT AND REMEDIES

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

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

(B) If default occurs in the City's observance of any of the covenants, agreements or conditions on its part relating to the Bonds set forth in this Ordinance, the

Supplemental Resolution or the Bonds, and such default shall have continued for a period of 30 days after the City shall have been given written notice of such default by the Depository Bank holding any fund or account hereunder or an Owner of a Bond; or

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

An "Event of Default" with respect to the Bonds shall not constitute an event of default with respect to the Notes and vice versa.

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 rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the City to perform its duties under the Act and this Ordinance 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 City to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of this Ordinance with respect to the Bonds or the rights of such Registered Owners.

Section 9.03. Appointment of Receiver. Any Owner of a Bond may, by proper legal action, compel the performance of the duties of the City under this Ordinance and the Act, including 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 is any default in the payment of interest on any Bonds when the same shall become due, or in the payment of the principal of any Bond or Bonds, either at the specified date of maturity thereof or at a date set for redemption thereof, or otherwise in the performance of any covenant contained in this Ordinance other than as to such payment and such default shall continue for a period of thirty (30) days after written notice of the City of such default, any Owner shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System on behalf of the City with power to charge rates, rentals, fees and other charges sufficient to

provide for the payment of the Bonds and any interest thereon, the deposits into the funds and accounts herein provided and the payment of Operating Expenses of the System and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Ordinance and the Act.

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

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

Such receiver, in the performance of the powers hereinabove conferred upon him, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver 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 City and for the joint protection and benefit of the City and Owners of Bonds issued pursuant to this Ordinance. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System, for the sole purpose of the protection of both the City and the Owners, and the curing and making good of any default under the provisions of this Ordinance, and the title to and ownership of said System shall remain in the City, and no court shall have

any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage, or otherwise dispose of any assets of the System.

The receiver shall recognize that the lien of the Subordinate Bonds is prior and superior to that of the Supplemental Bonds, and that the lien of any outstanding Prior Bonds is prior and superior to that of the Bonds, and shall act accordingly.

ARTICLE X

DEFEASANCE

Section 10.01. Defeasance. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the respective Owners of any Bonds the principal thereof, and redemption premium, if applicable, and any interest due or to become due thereon, at the times and in the manner respectively stipulated therein and in this Ordinance, then the respective pledges of Net Revenues, reserve accounts, unexpended Bond proceeds, and any other moneys and securities pledged under this Ordinance, and all covenants, agreements and other obligations of the City to the Owners of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Paying Agent and the Commission shall, upon the request of the City, execute and deliver to the City all such instruments as may be desirable to evidence such discharge and satisfaction, and any fiduciaries shall pay over or deliver to the City all moneys, securities and funds held by them pursuant to this Ordinance which are not required for the payment of redemption.

Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due the respective principal of and interest on such Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section. If there shall have been been deposited with the Commission either moneys in an amount which shall be sufficient or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Commission at the same or earlier time, shall be sufficient, to pay as and when due the respective principal of and interest on said Bonds on and prior to the

maturity or redemption dates, as applicable, thereof, such Bonds shall also be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. 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 respective principal of and interest on said Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the respective principal of and interest to become due on said Bonds on and prior to such redemption date or maturity dates thereof as the case may be, and interest earned from such investments shall be paid over the City, as received by the Commission, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations. Also for the purposes of the section, the Commission may act by an agent.

Anything in this Ordinance to the contrary notwithstanding, any moneys held by the Commission or any of its agents in trust for the payment and discharge of any of the Bonds which remain unclaimed for two years after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by Commission at such date, or for two years after the date of deposit of such moneys if deposited with the Commission after said date when such Bonds became due and payable, shall, at the written request of the City, be repaid by the Commission to the City, as its absolute property and free from trust, and the Commission shall thereupon be released and discharged with respect thereto, and the Bondholders shall look only to the City for the payment of such Bonds; provided, however, that before being required to make any such payment to the City, the Commission shall, at the expense of the City, cause to be published at least twice, at an interval of not less than seven days between publications, in a financial journal or newspaper published daily (except Saturday, Sunday and holidays) in the English language and in circulation in New York, New York, a notice that said moneys remain unclaimed and that, after a date named in said notice, which date shall be not less than 30 days after the date of the first publication of such notice, the balance of such moneys then unclaimed will be returned to the City.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Modification or Amendment. No material modification of amendment of this Ordinance, or of any ordinance or resolution amendatory hereof or supplemental hereto that would materially and adversely affect the respective rights of Owners of the Bonds shall be made without the consent in writing of the Owners of two-thirds percent (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 City to pay such principal and interest out of the revenues of the System without the consent of the respective 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.

Section 11.02. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance.

Section 11.03. Repeal of Conflicting Ordinance. All ordinances, orders or resolutions, or parts thereof, in conflict with this Ordinance are, to the extent of such conflict, repealed; provided, that no provision of the Prior Ordinance shall be repealed hereby so long as the Prior Bonds are outstanding. So long as any of the Prior Bonds is outstanding, in the event of an otherwise irreconcilable conflict between the Prior Ordinance and this Ordinance, the Prior Ordinance shall govern; provided, that a conflict shall be deemed reconcilable if satisfaction of the more conservative provision at least complies with the conflicting provision.

Section 11.04. Covenant of Due Procedure. The City covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the final enactment and passage of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State applicable thereto; and that the Mayor, Clerk and members of the City Council were at all times when any actions in connection with this Ordinance occurred, and are, duly in office and duly qualified for such office.

Section 11.05. Effective Date. This Ordinance shall take effect after notice and public hearing hereon and otherwise in accordance with the Act.

First Reading: July 28, 1987

Second Reading and Passage: August 11, 1987

Public Hearing and Effective Date: September 8, 1987

THE CITY OF LOGAN, WEST VIRGINIA

Thomas E. Esposito

Mayor

ATTEST:

[SEAL]

Violet Miller

City Clerk

This Ordinance
Approved as to Form:

By: Edward D. Eiland

City Attorney

EXHIBIT A

See Loan Agreement--Index No. 19

Exhibit B
Phase I Project Description

The Phase I Project, phase one of a two-phase project, consists primarily of rehabilitating approximately 9,000 feet of interceptor (including slip lining and repairing selected lines) and a pump station.

EXHIBIT C

See Supplemental Loan Agreement--Index No. 20

CERTIFICATE

Certified to be a true and correct copy of the Resolution, authorizing publication of an abstract and notice of the Bond and Note Ordinance, adopted by the City Council of The City of Logan, West Virginia, on August 11, 1987 duly filed and of record in the Office of the City Clerk of The City of Logan.

Given under my hand and the official seal of The City of Logan, West Virginia, this 25th day of September, 1987.

[SEAL]

Violet Miller
City Clerk

7537B

NOW, THEREFORE, Be It Resolved by the Council of The City of Logan, West Virginia, as Follows:

1) It is hereby found and determined that the Ordinance was duly adopted by the Council at its regular meeting held on August 11, 1987, and that the Act requires that the Abstract, together with the Notice, be published.

2) The Abstract, together with the Notice as prepared on behalf of the City Clerk in the following form and substance, contains sufficient information as to give notice of the contents of the Ordinance:

Notice is hereby given to any person interested that on August 11, 1987, the Council of The City of Logan, West Virginia (the "City"), adopted an ordinance that

> 1. Determined that it is necessary and desirable for the health, welfare and safety of the inhabitants of the City that there be acquired and constructed certain extensions, improvements and betterments to the existing public sewerage facilities of the City, consisting primarily of rehabilitating approximately 9,000 feet of interceptor and a pump station (the "Phase I Project") (the existing facilities, together with the Phase I Project and any further extensions, improvements and betterments thereto, are hereinafter referred to as the "System"). The estimated cost of the Phase I Project is $1,570,000, in accordance with the plans and specifications prepared therefor by Kelley, Gidley, Blair and Wolfe, Inc., Charleston, West Virginia (the "Consulting Engineers"), which plans and specifications are on file with the City.
>
> 2. Upon petition of the Sanitary Board of the City, the City authorized the acquisition and construction of the Phase I Project and the financing of the costs, not otherwise provided, for the Phase I Project through the issuance by the City of not more than $720,000 in aggregate principal amount of Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Subordinate Bonds"), and not more than $180,000 in aggregate principal amount of Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Supplemental Bonds";

together with the Subordinate Bonds, the "Bonds").

3. Provided for the sale of the Bonds to the West Virginia Water Development Authority (the "Authority"), pursuant to the terms and provisions of the respective loan agreements to be entered into between the City and the Authority.

4. Determined that the City currently has outstanding $152,000 in Sewer Revenue Bonds, dated March 1, 1964 (the "Prior Bonds"), which will rank superior to the Bonds as to lien and source of and security for payment.

5. Authorized the issuance of not more than $1,000,000 in aggregate principal amount of Sewerage System Grant Anticipation Notes, Series 1987 (the "Notes"), and the payment thereof from certain grant receipts, moneys, including unexpended Note proceeds and investment earnings in the funds and accounts established by a trust indenture to be entered with respect to the Notes, the net proceeds of a draw under a letter of credit authorized by the Ordinance and of any refunding notes and surplus revenues of the System.

6. Authorized the continuation or establishment of a Revenue Fund and provided for the disposition of System revenues; provided for the payment of operation and maintenance expenses; provided for the monthly deposit of funds into the respective Sinking Funds for the payment of principal of and interest on the Subordinate Bonds and the payment of principal of the Supplemental Bonds; provided for the creation of Reserve Accounts for the Bonds, respectively; provided for the continuation or establishment of a Renewal and Replacement Fund and the deposit of revenues therein and use thereof; and provided for the use of excess funds of the System.

7. Provided for the disposition of Bond proceeds; created the Bond Construction Trust Fund to hold the Bond proceeds pending their use for Phase I Project costs and

provided for liens by the owners of the Bonds on the funds held in the Bond Construction Trust Fund until expended for Phase I Project costs; and provided for the disposition of excess Bond proceeds.

8. Provided that the Bonds shall not be or constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter limitation of indebtedness but shall be payable solely from the revenues of the System or from the respective Reserve Account.

9. Provided that the Subordinate Bonds shall have a lien on the net revenues of the System which is subordinate and inferior to the lien of the Prior Bonds, but senior and superior to the lien of the Supplemental Bonds.

10. Required that the rates and charges for the System always be sufficient to pay operation and maintenance expenses and all the prescribed payments into the funds created by the ordinance authorizing the Prior Bonds and the Ordinance and, specifically, that the rates and charges produce revenues sufficient to pay all reasonable expenses of operation, repair and maintenance of the System and leave a balance each year equal to at least 115% of the maximum principal and interest due on the Bonds, the Prior Bonds and any other bonds prior to or on a parity with either series of Bonds in any year.

11. Provided for the sale, mortgage or lease of the System under certain terms and conditions.

12. Authorized the issuance of additional bonds on a parity with the Bonds only upon compliance with certain terms and conditions.

13. Provided for insurance coverage on the System; provided that the City will render no free service; provided for the enforcement of collection of fees, rates, rentals or other charges for service.

14. Provided for the investment of the Bond proceeds and limitations thereon; provided for covenants against making the Bonds "arbitrage bonds."

15. Established the terms for defaults and the remedies of the owners of the Bonds.

16. Provided for the method of respectively defeasing the Bonds.

17. Provided a restrictive method of modification or amendment of the Ordinance.

The City contemplates the issuance of the Subordinate Bonds, the Supplemental Bonds and the Notes described in, and under the conditions set forth in, the Ordinance abstracted above. Any person interested may appear before the Council of The City of Logan at a meeting thereof at 7:30 p.m. on Tuesday, September 8, 1987, in the Council Chambers in the City Building, Dingess Street, Logan, West Virginia, and present protests and be heard as to whether the above described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council of the City on August 11, 1987, is on file in the office of the City Clerk of the City for review by interested persons during the regular office hours of such office, to-wit: 8:00 a.m. to 4:30 p.m., Mondays through Fridays.

Violet Miller

Violet Miller
City Clerk of The City of
Logan, West Virginia

(3) The City Clerk, as provided in the Notice, shall maintain in her office a certified copy of the Ordinance for review by interested persons during the regular office hours of such office.

(4) The Council of the City, as provided in the Notice, shall meet on Tuesday, September 8, 1987, at 7:30 p.m., in Council Chambers in the City Building, for the purpose of hearing all objections and suggestions regarding whether the Ordinance shall be put into effect.

(5) The City Clerk is hereby authorized and directed to cause the Abstract, together with the Notice, to be published as a Class II legal advertisement in The Logan Banner, a newspaper of general circulation in the City, and the

first publication of such Abstract and Notice shall be not less than ten days before the date set aforesaid at which interested persons may appear before the Council of the City and present protests, and the last publication of such Abstract and Notice shall be prior to said date set aforesaid.

(6) At such hearing, all objections and suggestions shall be heard, and the Council of the City shall take such action as it shall deem proper in the premises; provided, however, that, if at such hearing written protest is filed by thirty percent (30%) or more of the owners of real estate situate in the City, then the Council of the City shall not take further action unless four-fifths (4/5) of the qualified members of said Council assent thereto.

(7) This Resolution shall take effect immediately upon adoption.

Resolution adopted this 11th day of August, 1987.

THE CITY OF LOGAN, WEST VIRGINIA

Thomas E. Esposito

Thomas E. Esposito, Mayor

[SEAL]

Violet Miller

Violet Miller, City Clerk

Approved as to Form:

Edward I. Eiland

Edward I. Eiland, City Attorney

4087B

CERTIFICATE

Certified to be a true and correct copy of the minutes of a meeting of the City Council of The City of Logan, West Virginia, held on August 11, 1987 duly filed and of record in the office of the City Clerk of The City of Logan.

Given under my hand and the official seal of The City of Logan, West Virginia, this 25th day of September, 1987.

(SEAL)

Violet Miller
City Clerk

The City Council of The City of Logan, West Virginia, met in regular session on Tuesday, August 11, 1987 at 7:30 O'clock p.m. in Council Chambers.

Those in attendance were: Thomas E. Esposito, Mayor; Ruth Ware, Woodrow Lowe, Levie Caudill, Kelly Codispoti, R. L. McCormick, members of Council Edward I. Eiland, City Attorney; Violet Miller, City Clerk; Melody Kinser and Speedy Bevins, members of the press.

The meeting was called to order by Mayor Esposito, who presided.

Motion to approve monthly bills was made by Councilman McCormick, seconded by Councilwoman Ware and passed unanimously.

Motion to approve any personnel changes was made by Councilman Caudill; seconded by Councilwoman Ware and passed unanimously.

Motion to adopt the following RESOLUTION was made by Councilwoman Ware, seconded by Councilman Caudill and passed unanimously.

R E S O L U T I O N

Motion was made by Woodrow Lowe and seconded by Levie Caudill, councilmen to organize the First Annual Chief Logan Day which will be scheduled for September 24, 1988. The chairman of the organization will be Charles Murphy.

The following Ordinance on Unsafe Buildings had its first reading. Ruth Ware, Councilwoman, made the motion to accept this ordinance, seconded by Woodrow Lowe, Councilman and passed unanimously.

AN ORDINANCE AMENDING CHAPTER 5 OF THE LOGAN CITY CODE BY ADDING THERETO ARTICLE III-A, ENTITLED "UNSAFE BUILDINGS," DECLARING THAT ANY DWELLING OR BUILDING UNFIT FOR HUMAN HABITATION BECAUDE OF DILAPIDATION, DEFECTS INCREASING THE HAZARD OF FIRE, ACCIDENTS OR OTHER CALAMITIES, LACK OF VENTILATION, LIGHT OR SANITARY FACILITIES, OR ANY BUILDING OR STRUCTURE WHICH, BECAUSE OF CONDITIONS PREVAILING THEREIN, IS UNSAFE, UNSANITARY, DANGEROUS OR DETRIMENTAL TO THE PUBLIC WELFARE, IS A NUISANCE AND MAY BE REPAIRED, CLOSED, OR DEMOLISHED; ESTABLISHING A BUILDINGS COMMISSION AND EMPOWERINT IT TO MAKE RULES AND REGULATIONS, ISSUE COMPLAINTS, HOLD HEARINGS, ISSUE ORDERS FOR ABATING THE UNISANCE AND, IF THE OWNER FAILS TO ABATE IT, EMPOWERING SUCH COMMISSION TO ABATE IT AND ASSESS THE COST THEREOF AND IMPOSE A LIEN AGAINST THE REAL PROPERTY; MAKING VIOLATIONS OF ORDERS OF SAID COMMISSION MISDEMEANORS AND PROVIDING PENALTIES FOR SUCH VIOLATIONS.

BE IT ORDAINED AS FOLLOWS:

ARTICLE III-A. UNSAFE BUILDINGS

Sec. 5-9.1 Declaration of nuisance.

Any dwelling or other building unfit for human habitation due to dilapidation, defects increasing the hazard of fire, accidents or other calamities lack of ventilation, light or sanitary facilities or other conditions, or any building or structure, whether used for human habitation or not, which, because of conditions prevailing therein, is unsafe, unsanitary, dangerous or detrimental to the public welfare is declared to be a nuisance, and may be repaired, altered, improved, vacated, closed, removed or demolished, or any combination thereof and such nuisance abated as provided in this ordinance.

Sec. 5-9.2. Buildings commission - Created, organization, etc.

There is created an enforcement agency to be known as the buildings commission. Such agency shall be composed of the mayor, the building inspector, and one member at large, to be selected by and to serve at the will and pleasure of the mayor. The health officer or his representative and the fire chief shall serve as ex-officio members of the commission. The mayor shall serve as chairman and the commission shall elect a vice chairman. The city clerk shall serve as secretary of the commission. A majority of the commission shall constitute a quorum. A permanent record shall be kept in the city clerk's office and shall be open to inspection by any party in interest. The commission shall have authority to make rules and regulations, not contrary to law, for the purpose of carrying into effect the purpose of this ordinance, but such rules and regulations shall be approved by the Council.

Sec. 5-9.3. Same - Right of entry.

In order to perform its duties effectively and protect the public interests, the buildings commission, or any member thereof, or any person delegated by the commission for the purpose, shall have authority to go upon and inspect any dwelling or other building or any part thereof, provided that such entrance and inspection shall be made in such a manner as to cause the least possible inconvenience to the persons in possession.

Sec. 5-9.4. Hearing before.

Upon information received from any person or as a result of its own investigation, the buildings commission may issue a complaint against any building and the owner thereof. Such complaint shall definitely locate the building, shall describe the conditions complained of, and shall set a date and place for a hearing on the question of whether the building is unfit for human habitation or is unsafe, unsanitary, dangerous or detrimental to the public welfare. The complaint shall be served upon the owner in accordance with the law of the state concerning the service of process in civil actions, and shall, in addition thereto, be

posted in a conspicuous place on the premises affected by the complaint. Service shall be made at least ten (10) days prior to the hearing, except that, in case of an emergency endangering the life or health of the occupants of the building or other parties, the time amy be specifically shortened. At such hearing the owner may appear in person or by agent or counsel and may examine any witness who testify and may offer evidence in his own behalf. Either the commission or the owner may have the entire evidence recorded at their own expense, but the question of who shall be finally liable therefor shall await the final determination of the cause. A lessee whose intereste are substantially affected may appear and be heard in the same manner as the owner. The City of Logan under no circumstances will have a financial obligation to the lessee.

Sec. 5-9.5. Same - Findings; remedial order; performance.

(a) If the majority of the members of the buildings commission present at such hearing shall be of the opinion that the building in question is unfit for human habitation or is unsafe, unsanitary, unsightly, dangerous, or detrimental to the public welfare, the commission shall enter an order requiring that such building be closed or demolished, or, in a proper case, setting forth such repairs as are considered necessary in order to make the building reasonably suited for human habitation, or to make it safe and sanitary and not dangerous or detrimental to the public. The order shall fix a date when such work shall be begun and a date for its completion, which latter date may, for cause, be extended. The owner may within the time fixed in the order for beginning the work notify the commission of his intention to comply with the order, in which case the work shall be done under the supervision of the city building official. When the work has been completed in accordance with the order of the commission, an order shall be entered approving the work and closing the case. If the owner shall fail to proceed with the work in the manner or according to the schedule set forth in the order, it shall be the duty of the commission to take the work in hand and complete it as though the owner had never elected to perform it himself.

(b) If within the time provided in the order the owner fails to notify the commission of his election to do the work required, the commission shall proceed to have such work done, either by contract or by the purchase of necessary material and the employment of workers and equipment.

Sec. 5-9.6. Same - Assessing and collecting cost.

After the completion of the work, the buildings commission shall fix a date when the costs of such repairs, alterations, improvements, or vacating and closing or removal or demolition shall be assessed and shall give the owner or his agent at least ten (10) days notice thereof, who may appear in person or by agent or attorney, examine the account, and question the whole or any item thereof. Such costs, after the sale of salvaged material is credited to the account, shall be a lien against the real property upon which such costs were incurred. A copy of the order making such assessment may be certified by the city clerk and recorded in the office of the Clerk of the County Commission. Upon payment of the cost and interest, the owner shall be entitled to a release which may be recorded in the County Clerk's office.

Sec. 5-9-7. Injunction hearing by circuit court.

The owner or lessee of the property shall have the right to apply to the circuit court of the county for a temporary injunction restraining the buildings commission pending the final disposition of the cause, and a hearing shall be had by the court within twenty (20) days, or as soon thereafter as possible, and the court shall enter such final order or decree as law and justice may require. Costs shall be imposed in such manner as in the discretion of the court shall seem meet and proper.

Sec. 5-9.8. Regulations not exclusive.

The authority and the procedure set forth in this ordinance shall not be construed as exclusive, but shall be in addition to the other police powers possessed by the city for dealing with conflagrations, health conditions, and other problems affecting the safety and welfare of the inhabitants of the city.

Sec. 5-9.9. Penalties.

(a) Any person who shall violate or fail to comply with any order of the buildings commission shall, for each and every such violation and noncompliance respectively, be deemed guilty of a misdemeanor and punished as provided in section 17-1 of the Logan City Code. Provided, that no conviction shall be had hereunder without such order having been entered at an open session of the buildings commission wherein the violator was present, or without personal service

of the order having been made upon the violator. The imposition of one penalty f any violation shall not excuse the violaion or permit it to continue, and all violators shall be required to correct or remedy such violations or defects in a reasonable time. When not otherwise specifiied, each ten (10) days that prohibited conditions continue shall constitute a separate offense.

(b) Where any such structure is owned by a corporation rather than by an individual, then the officer of the corporation responsible for the maintenanc of the structure shall be jointly and severally liable with the corporation hereunder.

(c) The above penalties shall be in addition to other remedies of the building commission.

A meeting will be scheduled for September 1, 1987 at 7:00 P.M. in order for Council to talk with owners of these building.

Motion was made by Bob McCormick, seconded by Woodrow Lowe, and carried unanimously to establish an Urban Renewal Authority. Kelly Gilmore Codispoti, Councilwoman, will chair the organization. This group will oversee the renovatio of downtown Logan.

The following ORDINANCE which had been filed with the Clerk on July 8, 1987, and had been read at the Council's meetings of July 14 and July 28, 1987 was again read in full:

AN ORDINANCE CHANGING AND READJUSTING RATES AND CHARGES FOR FURNISHING SEWER SERVICE BY THE CITY OF LOGAN.

(Refer to Page 7 - Book 8)

Thereupon the Council conducted a public hearing upon said ORDINANCE, and the mayor announced that persons would be heard concerning it. No person asked to be heard concerning said ordinance. Thereupon, said ordinance was, upon motion by Bob McCormick, seconded by Ruth Ware, unanimously adopted.

The Council conducted a public hearing upon the following ORDINANCE, which had been filed with the Clerk on July 8, 1987, and had been read at the Council's meeting of July 14, 1987, and had been finally adopted at the Council's meeting of July 28, 1987:

ORDINANCE, SUPPLEMENTING AN ORDINANCE PASSED BY THE COUNCIL OF THE CITY OF LOGAN, WEST VIRGINIA, ON FEBRUARY 11, 1964, ENTITLED "AN ORDINANCE AUTHORIZING THE ISSUANCE OF $308,000 PRINCIPAL AMOUNT OF SEWER REVENUE BONDS FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING BONDS AND TO PAY PART OF THE COST OF CONSTRUCTION AND ACQUISITION OF ADDITIONS, EXTENSIONS AND IMPROVEMENTS TO THE EXISTING SEWER SYSTEM OF THE CITY OF LOGAN, WEST VIRGINIA"; AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND BETTERMENTS TO THE EXISTING SEWERAGE SYSTEM OF THE CITY OF LOGAN; AUTHORIZING A REVOLVING LINE OF CREDIT FROM THE NATIONAL BANK OF LOGAN IN THE AMOUNT OF $250,000. TO PROVIDE FUNDS FOR SUCH ACQUISITION AND CONSTRUCTION TO THE EXTENT BOND PROCEEDS, GRANT RECEIPTS OR OTHER FUNDS ARE NOT TIMELY AVAILABLE THEREFOR AND AN AGREEMENT WITH RESPECT TO SAID LINE OF CREDIT; AUTHORIZING THE ISSUANCE OF A SEWERAGE SYSTEM CONSTRUCTION NOTE OF THE CITY OF LOGAN, IN THE STATED PRINCIPAL AMOUNT OF $250,000. TO EVIDENCE THE CITY'S OBLIGATION TO REPAY ANY DRAWS UPON SAID LINE OF CREDIT AND THE ISSUANCE, IF NECESSARY, OF SUBORDINATE SEWERAGE REVENUE BONDS OF THE CITY OF LOGAN TO PROVIDE FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SAID NOTE; DETERMINING THE CITY OF LOGAN'S INTENTION TO ISSUE ONE OR MORE SERIES OF SEWERAGE SYSTEM BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY TO PERMANENTLY FINANCE A PORTION OF THE COST OF SUCH ACQUISITION AND CONSTRUCTION; AND ENACTING OTHER PROVISIONS RELATED THERETO.

Thereupon the Council conducted a public hearing upon said ordinance and the Mayor announced that persons would be heard concerning it. No person asked to be heard concerning siad ordinance and upon motion by Bob McCormick, seconded by Levie Caudill, said ordinance was again unanimously adopted.

The following ORDINANCE, which had been filed with the Clerk on July 23, 1987, and had been read by title at the Council's meeting of July 28, 19 was read in full:

AN ORDINANCE SUPPLEMENTING AN ORDINANCE ADOPTED BY THE COUNCIL OF THE CITY OF LOGAN, WEST VIRGINIA, ON FEBRUARY 11, 1964, ENTITLED "AN ORDINANCE AUTHORIZING THE ISSUANCE OF $308,000. PRINCIPAL AMOUNT OF SEWER REVENUE BONDS FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING BONDS AND TO PAY PART OF THE COST OF CONSTRUCTION AND ACQUISITION OF ADDITIONS, EXTENSIONS AND IMPROVEMENTS TO THE EXISTING SEWER SYSTEM OF THE CITY OF LOGAN, WEST VIRGINIA"; AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, IMPROVEMENTS AND BETTERMENTS TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF THE CITY OF LOGAN; AUTHORIZING ISSUANCE OF NOT MORE THAN $720,000 IN AGGREGATE PRINCIPAL AMOUNT OF SUBORDINATE SEWERAGE SYSTEM REVENUE BONDS, SERIES 1987, AND NOT MORE THAN $180,000. IN AGGREGATE PRINCIPAL AMOUNT OF SUPPLEMENTAL SUBORDINATE SEWERAGE SYSTEM REVENUE BONDS, SERIES 1987, OF THE CITY OF LOGAN TO BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF OR AVAILABLE TO THE CITY OF LOGAN THAT MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, TO FINANCE THE COST OF SUCH ACQUISITION AND CONSTRUCTION; PROVIDING FOR THE SALE OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY AND FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING ISSUANCE OF NOT MORE THAN $1,000,000. IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM GRANT ANTICIPATION NOTES, SERIES 1987, TO BE USED TO FINANCE THE COST OF SUCH ACQUISITION AND CONSTRUCTION PENDING THE RECEIPT OF CERTAIN GRANT PROCEEDS; AND ENACTING OTHER PROVISIONS RELATING THERETO. (Refer to Book 8 - Beginning page 7)

Upon motion by Bob McCormick, seconded by Woodrow Lowe, said Ordinance was unanimously adopted

Thereupon, upon motion by Bob McCormisk, seconded by Ruth Ware, the following RESOLUTION was unanimously adopted:

A RESOLUTION finding that an ordinance was adopted by the Council of The City of Logan, West Virginia, on August 11, 1987, supplementing an ordinance adopted by the Council of the City of Logan, West Virginia, on February 11, 1964, entitled "An Ordinance authorizing the issuance of $308,000 principal amount of Sewer Revenue Bonds for the purpose of refunding certain outstanding bonds and to pay part of the cost of construction and acquisition of additions, extensions and improvements to the existing sewer system of The City of Logan, West Virginia authorizing the acquisition and construction of certain extensions, improvements and betterments to the existing public sewerage facilities of The City of Logan, authorizing the issuance of not more than $720,000. in aggregate principal amount of Subordinate Sewerage System Revenue Bonds, Series 1987, and not more than $180,000. in aggregate principal amount of Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987, of The City of Logan to be used along with other funds and moneys of or available to The City of Logan that may be lawfully expended for such purposes, to finance the cost of such acquisition and construction, providing for the sale of such Bonds to the West Virginia Water Development Authority and for the rights and remedies of and security for the registered owners of such Bonds and authorizing the issuance of not more than $1,000,000. in aggregate principal amount of Sewerage System Grant Anticipation Notes, Series 1987, to be used to finance the cost of such acquisition and construction pending the receipt of certain grant proceeds, all as more fully set out therein; finding that an abstract of said ordinance, together with a notice that said ordinance has been adopted, that The City of Logan contemplates the issuance of the Subordinate Sewerage System Revenue Bonds, Series 1987, the Supplemental Subordin Sewerage Revenue Bonds, Series 1987, and the Sewerage System Grant Anticipation Notes, Series 1987, all as described in said ordinance, and that any person interested may appear before the Council of The City of Logan upon a certain date and present protests, must be published; reviewing the abstract prepared on behalf of the City Clerk and determining that such abstract contains sufficient information as to give notice of the contents of said ordinance; and directing the publication of such abstract, together with said notice.

WHEREAS, the Council of The City of Logan, West Virginia (the "Council" on August 11, 1987, adopted an ordinance supplementing an ordinance passed by the Council on February 11, 1964, entitled "An Ordinance authorizing the issuance of $308,000 principal amount of Sewer Revenue Bonds for the purpose of refunding certain outstanding bonds and to pay part of the cost of construction and acquisition of additions, extensions and improvements to the existing sewer system of The City of Logan, West Virginia," and authorizing the acquisition and construction of certain improvements and betterments to the existing public sewerage facilities of The City of Logan (the "City"); authorizing the issuance of not mor than $720,000. in aggregate principal amount of Subordinate Sewerage System Reven Bonds, Series 1987, and not more than $180,000. in aggregate principal amount of Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987, of the City to be used, along with other funds and moneys of or available to the City that may be lawfully expended for such purposes, to finance the cost of such acquisiti

4. Determined that the City currently has outstanding $152,000 in Sewer Revenue Bonds, dated March 1, 1964 (the "Prior Bonds"), which will rank superior to the Bonds as to lien and source of and security for payment.

5. Authorized the issuance of not more than $1,000,000. in aggregate principal amount of Sewerage System Grant Anticipation Notes, Series 1987 (the "Notes"), and the payment thereof from certain grant receipts, moneys, including unexpended Note proceeds and investment earnings in the funds and accounts established by a trust indenture to be entered with respect to the Notes, the net proceeds of a draw under a letter of credit authorized by the Ordinance and of any refunding notes and surplus revenues of the System.

6. Authorized the continuation or establishment of a Revenue Fund and provided for the disposition of System revenues; provided for the payment of operation and maintenance expenses; provided for the monthly deposit of funds into the respective Sinking Funds for the payment of principal of and interest on the Subordinate Bonds and the payment of principal of the Supplemental onds; provided for the creation of Reserve Accounts for the Bonds, respectively; provided for the continuation or establishment of a Renewal and Replacement Fund and the deposit of revenues therein and use thereof; and provided for the use of excess funds of the System.

7. Provided for the disposition of Bond proceeds; created the Bond Construction Trust Fund to hold the Bond proceeds pending their use for Phase I Project costs and provided for liens by the owners of the Bonds on the funds held in the Bond Construction Trust Fund until expended for Phase I Project costs; and provided for the disposition of excess Bond proceeds.

8. Provided that the Bonds shall not be or constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter limitation of indebtedness byt shall be payable solely from the revenues of the System or from the respective Reserve Account.

9. Provided that the Subordinate Bonds shall have a lien on the net revenues of the System which is subordinate and inferior to the lien of the Prior Bonds, but senior and superior to the lien of the Supplemental Bonds.

10. Required that the rates and charges for the System always be sufficient to pay operation and maintenance expenses and all the prescribed payments into the funds created by the ordinance authorizing the Prior Bonds and the Ordinance and, specifically, that the rates and charges produce revenues sufficient to pay all reasonable expenses of operation, repair and maintenance of the System and leave a balance each year equal to at least 115% of the maximum principal and interest due on the Bonds, the Prior Bonds and any other bonds prior to or on a parity with either series of Bonds in any year.

11. Provided for the sale, mortgage or lease of the System under certain terms and conditions.

12. Authorized the issuance of additional bonds on a parity with the Bonds only upon compliance with certain terms and conditions.

13. Provided for insurance coverage on the System; provided that the City will render no free service; provided for the enforcement of collection of fees, rates, rentals or other charges for service.

14. Provided for the investment of the Bond proceeds and limitations thereon; provided for covenants against making the Bonds "arbitrage bonds."

15. Established the terms for defaults and the remedies of the owners of the Bonds.

16. Provided for the method of respectively defeasing the Bonds.

17. Provided a restrictive method of modification or amendment of the Ordinance.

and construction; providing for the sale of such Bonds to the West Virginia Water Development Authorith and for the rights and remedies of and security for the registered owners of such Bonds; and authorizing the issuance of not more than $1,000,000. in aggregate principal amount of Sewerage System Grant Anticipation Notes, Series 1987, to be used to finance the cost of such acquisition and construction pending the receipt of certain grant proceeds, all as more fully set out therein (said ordinance is hereinafter referred to as the "Ordinance"); and

WHEREAS, Chapter 16, Article 13, Section 6 of the Code of West Virginia 1931, as amended (the "Act") requires that an abstract of the Ordinance, together with a notice that the Ordinance has been adopted, that the City contemplates the issuance of the Subordinate Sewerage System Revenue Bonds, Series 1987, the Supplenental Subordinate Sewerage System Revenue Bonds, Series 1987, and the Sewer System Grant Anticipation Notes, Series 1987, all as described in the Ordinance and that any person interested may appear before the Council upon a certain date and present protests, be published; and

WHEREAS, the Act further requires that such abstract of the Ordinance be determined by the Council to contain sufficient information to give notice of the contents of the Ordinance; and

WHEREAS, the City Clerk presented to this meeting an abstract of the Ordinance (the "Abstract"), together with a notice as described above (the "Notice as hereinafter set forth; and

WHEREAS, the Council of the City has reviewed the Abstract and has foun and determined that such Abstract contains sufficient information as to give notic of the contents of the Ordinance;

NOW, THEREFORE, Be It Resolved by the Council of The City of Logan, West Virginia, as follow:

1) It is hereby found and determined that the Ordinance was duly adopt by the Council at its regular meeting held on August 11, 1987, and that the Act requires that the Abstract, together with the Notice, be published.

2) The Abstract, together with the Notice as prepared on behalf of The City Clerk in the following form and substance, contains sufficient informatio as to give notice of the contents of the Ordinance:

Notice is hereby given to any person interested that on August 11, 1987 the Council of The City of Logan, West Virginia (the "City"), adopted an ordinance that

1. Determined that is is necessary and desirable for the health, welfa and safety of the inhabitants of the City that there be acquired and constructed certain extensions, improvements and betterments to the existing public sewerage facilities of the City, consisting primarily of rehabilitating approximately 9,000 feet of interceptor and a pump station (the "Phase I Project") (the existing facilities, together with the Phase I Project and any further extensions, improvements and betterments thereto, are hereinafter referred to as the "System). The estimated cost of the Phase I Project is $1,570,000. in accordance with the plans and specifications prepared therefor by Kelly, Gidley, Blair and Wolfe, Inc., Charleston, West Virginia (the "Consulting Engineers"), which plans and specifications are on file with the City.

2. Upon petition of the Sanitary Board of the City, the City authoriz the acquisition and construction of the Phase I Project and the financing of the costs, not otherwise provided, for the Phase I Project through the issuance by the City of not more than $720,000. in aggregat principal amount of Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Subordinate Bonds"), and not more than $180,000. in aggregat principal amount of Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Supplemental Bonds" together with the Subordinate Bonds, the "Bonds").

3. Provided for the sale of the Bonds to the West Virginia Water Development Authority (the "Authority"), pursuant to the terms and provisions of the respective loan agreements to be entered into between the City and the Authority.

The City contemplates the issuance of the Subordinate Bonds, the Supplemental Bonds and the Notes described in, and under the conditions set forth in, the Ordinance abstracted above. Any person interested may appear before the Council of The City of Logan at a meeting thereof at 7:30 p.m. on Tuesday, September 8, 1987, in the Council Chambers in the City Building, Dingess Street, Logan, West Virginia, and present protests and be heard as to whether the above described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council of the City on August 11, 1987, is on file in the office of the City Clerk of the City for review by interested persons during the regular office hours of such office, to-wi 8:30 a.m. to 4:30 p.m., Mondays through Fridays.

Violet Miller
City Clerk of The City of Logan

(3) The City Clerk, as provided in the Notice, shall maintain in her office a certified copy of the Ordinance for review by interested persons during the regular office hours of such office.

(4) The Council of the City, as provided in the Notice, shall meet on Tuesday, September 8, 1987, at 7:30 p.m., in Council Chambers in the City Building, for the purpose of hearing all objections and suggestions regarding whether the Ordinance shall be put into effect.

(5) The City Clerk is hereby authorized and directed to cause the Abstract, together with the Notice, to be published as a Class II legal advertisement in The Logan Banner, a newspaper of general circulation in the City, and the first publication of such Abstract and Notice shall be not less than ten (10) days before the date set aforesaid at which interested persons may appear before the Council of the City and present protests, and the last publication of such Abstract and Notice shall be prior to said date set aforesaid.

(6) At such hearing, all objections and suggestions shall be heard, and the Council of the City shall take such action as it shall deem proper in the premises; provided, however, that, if at such hearing written protest is filed by thirty percent (30%) or more of the owners of real estate situate in the City, then the Council of the City shall not take further action unless four-fifths (4/5) of the qualified members of said Council assent thereto.

(7) This Resolution shall take effect immediately upon adoption.

RESOLUTION adopted this 11th day of August, 1987.

THE CITY OF LOGAN, WEST VIRGINIA

Thomas E. Esposito, Mayor

Violet Miller, City Clerk

Approved as to Form:

Edward I. Eiland, City Attorney

Upon motion by Bob McCormick, seconded by Woodrow Lowe, the following RESOLUTION was unanimously adopted:

A RESOLUTION finding that the Council of The City of Logan, West Virginia, on July 28, 1987, adopted an Ordinance supplementing an ordinance passed by said Council on February 11, 1964, and a Resolution directing that an abstract of said Ordinance, together with a notice that said Ordinance has been adopted, that The City of Logan contemplates the establishment of a revolving line of credit, an agreement with respect to said line of credit, the issuance of a sewerage system construction note to evidence the City's obligation to repay any draws upon said line of credit and the issuance, if necessary, of subordinate sewerage system revenue bonds, as described in said Ordinance, and that any person interested may appear before the Council of The City of Logan upon a certain date and present protests, be published; finding that said abstract and notice have been duly published; finding that the Council of The City of Logan met and heard all objections and suggestions regarding whether said Ordinance should be put into effect; and ordering that said Ordinance be put into effect and that the revolving line of credit be established as provided therein, that the agreement with respect to said line of credit be entered as provided therein, that a sewerage system construction note be issued as provided therein and that subordinante sewerage system revenue bonds, if necessary, be issued as provided therein.

WHEREAS, the Council of The City of Logan, West Virginia (the "Council") on July 28, 1987, adopted an ordinance supplementing an ordinance passed by the Council on February 11, 1964, authorizing the acquisition and construction of certain improvements and betterments to the existing sewerage system of The City of Logan, West Virginia (the "City"), a revolving line of credit from The National Bank of Logan in the amount of $250,000 to provide funds for such acquisition and construction to the extent bond proceeds, grant receipts or other funds are not timely available therefor, an agreement with respect to said line of credit, the issuance of a sewerage system construction note of the City in the stated principal amount of $250,000 to evidence the City's obligation to repay any draws upon said line of credit and the issuance, if necessary, of subordinante sewerage system revenue bonds of the City, all as more fully set out therein (said ordinance is hereinafter referred to as the "Ordinance); and

WHEREAS, the Council of the City, on July 28, 1987, adopted a resolution (the "Resolution") which, pursuant to Chapter 16, Article 13, Section 6, of the Code of West Virginia, 1931, as amended (the "Act"), directed the Clerk of the City to publish an abstract of the Ordinance (the "Abstract"), together with a notice that the Ordinance has been adopted, that the City contemplates the revolving line of credit and the agreement related thereto, the issuance of the sewerage system construction note described in the Ordinance and the issuance, if necessary, of the subordinate sewerage system revenue bonds described in the Ordinance, and that any person interested may appear before the Council upon a certain date and present protests (the "Notice"):

WHEREAS, the Resolution required that the Abstract and Notice be published as a Class II legal advertisement in The Logan Banner, and the first publication of such Abstract and Notice was to be not less than ten (10) days before the date set by the Resolution and the Notice at which interested persons might appear before the Council and present protests, and the last publication of such Abstract and Notice was to be prior to said date set by the Resolution and the Notice;

WHEREAS, the Resolution and the Notice provided for a public hearing to be held in the Council Chambers, at 7:30 p.m. prevailing time on Tuesday, August 11, 1987;

NOW, THEREFORE, Be It Resolved by the Council of The City of Logan, West Virginia, as follows:

(1) It is hereby found and determined:

(A) That the Abstract and Notice were duly published in The Logan Banner, a newspaper of general circulation in the City, with the first publication thereof being on July 30, 1987, which first publication date was not less than ten (10) days before the date set by the Resolution and the Notice for the public hearing at which interested persons might appear before the Council of the City and present protests, and with the last publication thereof being on August 6, 1987, which last publication date was prior to said date set by the Resolution and the Notice for the public hearing, and a copy of the affidavit of publication reflecting such publication shall be attached hereto and incorporated herein;

(B) That, in accordance with the Resolution and the Notice, the Clerk has maintained in her office a certified copy of the Ordinance for review by interested persons during the regular office hours of such office;

(C) That, in Council Chambers in the City Building, Dingess Street, on August 11, 1987 at 7:30 p.m., in accordance with the Resolution and the Notice, the Council met for the purpose of hearing all objections and suggestions regarding whether the Ordinance should be put into effect, and heard all objections and suggestions with regard thereto; and

(D) That, at said public hearing, no significant reasons were presented that could require modification or amendment that could require modification or amendment of the Ordinance, and no written protest with regard thereto was filed by thirty percent (30%) or more of the owners of real estate situate in the City.

(2) The Ordinance shall be put into effect as of the date hereof, and the line of credit shall be established as provided therein, the line of credit agreement shall be entered as provided therein, the sewerage system construction note described therein shall be issued as provided therein and, if necessary, the subordinate sewerage system revenue bonds described therein shall be issued as provided therein.

(3) This Resolution shall be effective immediately upon its adoption:

RESOLUTION adopted August 11, 1987

THE CITY OF LOGAN

Thomas E. Esposito, Mayor

Violet Miller, City Clerk

Approved as to form:

Edward I. Eiland, City Attorney

Upon motion by Bob McCormick, seconded by Levie Caudill, the following RESOLUTION was unanimously adopted:

A RESOLUTION supplementing an ordinance passed by the Council of The City of Logan on July 28, 1987, authorizing among other things a revolving line of credit and the issuance of a sewerage system construction note to evidence said City's obligation to repay any draws upon said line of credit; providing as to maturity, interest rate and interest payment date of said sewerage system construction note; and making other provisions as to said note.

WHEREAS, the Council (the "Council") of The City of Logan, West Virginia (the "City") has duly and officially passed an Ordinance on July 28, 1987, effective August 11, 1987, (the "Ordinance"), entitled:

An Ordinance supplenenting an Ordinance passed by the Council of The City of Logan, West Virginia, on February 11, 1964, entitled "An Ordinance authorizing the issuance of $308,000. principal amount of Sewer Revenue Bonds for the purpose of refunding certain outstanding bonds and to pay part of the cost of construction and acquisition of additions, extensions and improvements to the existing sewer system of The City of Logan, West Virginia"; authorizing the acquisition and construction of certain improvements and betterments to the existing sewerage system of The City of Logan; authorizing a revolving line of credit from The National Bank of Logan in the amount of $250,000 to provide funds for such acquisition and construction to the extent bond proceeds, grant receipts or other funds are not timely available therefor and an agreement with respect to said line of credit; authorizing the issuance of a sewerage system construction note of The City of Logan,

in the stated principal amount of $250,000 to evidence the City's obligation to repay any draws upon said line of credit and the issuance, if necessary, of subordinante sewerage system revenue bonds of The City of Logan to provide for the payment of the principal of and interest on said note; determining The City of Logan's intention to issue one or more series of sewerage system revenue bonds to the West Virginia Water Development Authority to permanently finance a portion of the cost of such acquisition and construction; and enacting other provisions related thereto.

WHEREAS, the Ordinance provides for the establishment of a revolving line of credit from The National Bank of Logan (the "Bank") in the amount of $250,000. and the issuance of a sewerage system construction note (the "Note) of the City in the stated principal amount of $250,000; and

WHEREAS, in the Ordinance, it is provided that the maturity date, interest rate, interest payment dates and other terms of the Note should be established by a supplemental resolution; and

WHEREAS, the Council deems it essential and desirable that this resolution (the "Supplemental Resolution") be adopted and that the maturity date, the interest rate and the interest payment dates of the Note be fixed hereby in the manner stated herein and that other matters relating to the Note be herein provided for;

NOW THEREFORE, Be It Resolved by the Council of The City of Logan, West Virginia, as follows:

(1) Pursuant to the Ordinance, this Supplemental Resolution is adopted and there is hereby authorized and ordered to be issued the Note in the stated principal amount of $250,000. The Note shall be dated as of the date of delivery thereof; shall mature one year from the date thereof but not later than August 31, 1988; and shall bear interest at the rate per annum equal to the rate announced by Chemical Bank, New York, New York, as its "prime" rate, to be adjusted from time to time, as often as daily if necessary, so that it shall at all times equal said prime rate. The Bank shall advise the City and the Registrar, as defined in the Ordinance (the "Registrar"_), of the interest rate that is in effect from time to time, no less often than monthly. Any payments by the City shall be applied first to interest accrued to the date of payment and then to principal outstanding. Notwithstanding, the City shall pay all interest accrued on the Note and then unpaid at least once each quarter, not later than the three-month anniversary of the date of the Note. Payments on account of interest only shall be made by check or draft of the Registrar, mailed to the registered owner of the Note or, if the Bank owns all the Notes, by wire transfer or such other method as may be agreeable to the Bank and the Registrar.

(2) The Note shall have a first lien on the Grant Receipts, as defined by the Ordinance; provided, that grant anticipation notes may be issued on account of the Project, as defined by the Ordinance, with a lien on said Grant Receipts on parity with that of the Note.

(3) The Council hereby authorizes draws upon the line of credit from the Bank as the Sanitary Board of the City shall deem necessary and expedient for the acquisition and construction of the Phase I Project, as defined in the Ordinance.

(4) All other provisions relating to the Note shall be as provided in the Ordinance, and the Note shall be in substantially the form provided in the Ordinance with such changes, insertions and omissions as may be approved by the Mayor of the City. The execution of the Note by the Mayor shall be conclusive evidence of such approval.

(5) The Mayor and City Clerk and other appropriate officers and employees of the City and said Sanitary Board are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the establishment of a revolving line of credit with the Bank, including entering into an agreement with respect thereto and issuing the Note, to the extent that said line of credit may be established on or about August 18, 1987.

(6) This Supplemental Resolution is adopted under and shall be governed by the laws of the State of West Virginia.

(7) This Supplemental Resolution shall be effectibe immediately upon adoption.

RESOLUTION adopted August 11, 1987.

ATTEST: THE CITY OF LOGAN

Violet Miller, City Clerk By: Thomas E. Esposito, Mayor

Approved as to Form: Edward I. Eiland, City Attorney

There being no further business, the meeting was adjourned. Motion to adjourn was made by Bob Mcormick, seconded by Ruth Ware.

Thomas E. Esposito, Mayor

Violet Miller
City Clerk

The City Council of The City of Logan met in regular session on September 8, 1987 at 7:30 O'clock p.m. in Council Chambers.

Those in attendance were: Thomas E. Esposito, Mayor; Ruth Ware, Kelly G. Codispoti, R. L. McCormick and Woodrow Lowe, Councilpersons; Edward I. Eiland, City Attorney; Violet Miller, City Clerk; Ann D. Vickers, Asst. City Clerk; L. M. Vasarhelyi, Chief of Police; Kathleen Gross, Attorney for Jackson, Kelly, Holt and O'Farrell; Melody Kinser and Robert Wisner, News People.

The meeting was called to order by Mayor Esposito, who presided.

Upon motion by Ruth Ware, seconded by Woodrow Lowe, Council unanimously approved the minutes of the July 14, 1987 meeting.

Upon motion by Woodriw Lowe, seconded by Kelly Gilmore Codispoti, Counc unanimously approved the minutes of July 28, 1987 meeting.

Motion to approve all bills for the month of August was made by Robert L. McCormick, seconded by Woodrow Lowe and passed unanimously.

The following letter of resignation from Robert Ward, Policeman, was read and motion to accept his resignation was made by Bob McCormick, seconded by Ruth Ware and passed unanimously.

The following list of eligible applicants was presented to Council fro the Police Civil Service Commission:

Bernie Queen, Jr.
Tom R. Henritze
Virgil Browning, III

Upon motion by Bob McCormick, seconded by Woodrow Lowe, Council unanimously approved the hiring of Bernie Queen, Jr. as the new police officer. Violet Miller, City Clerk, then administered the Oath of Office to Mr. Queen. Queen will begin his service as a NEW Police Office, having been off the force for more than two (2) years.

Ruth Ware, Chairperson for the new Promotional Committee, was asked to give a report on the progress of this group. The following persons were chosen to serve:

Melody Kinser, Speedy Bevins, Tom Orr, Eric O'Briant, Frankie Esposito. Liz Spurlock, Jim Barber, Kenny Jeffrey, Jucy McCormick, David McCormick, Bea Sias, Don Browning, Martha Cody and Sandy Trader.

Motion was made by Robert McCormick, seconded by Kelly G. Codispoti, and passed unanimously, to approve the above list.

THE LOGAN BANNER

CLASSIFIED ADVERTISING

INVOICE

19 87

P. O. BOX 720 LOGAN, WEST VIRGINIA

PHONE 752-6950

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	INCHES	RATE	TIMES	COST	DISCOUNT	NET
	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	34 3/4	$2.75 per in. 1st publication			$167.15
Aug.				X							X						LINES	$2.06 per in. 2nd publication			

AD-TAKER

ADVERTISER

JACKSON, KELLY, HOLT & O'FARRELL
Att: Ms. Gross
P.O. Box 553
Charleston, WV 25322

NOTE
AMOUNT IN NET COLUMN APPLIES IF PAYMENT IS MADE WITHIN 10 DAYS.

CLASSIFICATION

Re: Notice of public hearing concerning sewerage system revenue bonds

Notice is hereby given to any person interested that on August 11, 1987, the Council of The City of Logan, West Virginia (the "City"), adopted an ordinance that

1. Determined that it is necessary and desirable for the health, welfare and safety of the inhabitants of the City that there be acquired and constructed certain extensions, improvements and betterments to the exisitng public sewerage facilities of the City, consisting primarily of rehabilitating approximately 9,000 feet of interceptor and a pump station (the "Phase I Project") (the existing facilities, together with the Phase I Project and any further extensions, improvements and betterments thereto, are hereinafter referred to as the "System"). The estimated cost of the Phase I Project is $1,570,000, in accordance with the plans and specifications prepared therefor by Kelley, Gidley, Blair and Wolfe, Inc., Charleston, West Virginia (the "Consulting Engineers"), which plans and specifications are on file with the City.

2. Upon petition of the Sanitary Board of the City, the City authorized the acquisition and construction of the Phase I Project and the financing of the costs, not otherwise provided, for the Phase I Project through the issuance by the City of not more than $720,000 in aggregate principal amount of Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Subordinate Bonds"), and not more than $180,000 in aggregate principal amount of Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Supplemental Bonds"; together with the Subordinate Bonds, the "Bonds").

3. Provided for the sale of the Bonds to the West Virginia Water Development Authority (the "Authority"), pursuant to the terms and provisions of the respective loan agreements to be entered into between the City and the Authority.

4. Determined that the City currently has outstanding $152,000 in Sewer Revenue Bonds, dated March 1, 1964 (the "Prior Bonds"), which will rank superior to the Bonds as to lien and source of and security for payment.

5. Authorized the issuance of not more than $1,000,000 in aggregate principal amount of Sewerage System Grant Anticipation notes, Series 1987 (the "Notes"), and the payment thereof from certain grant receipts, moneys, including unexpended Note proceeds and investment earnings in the funds and accounts established by a trust indenture to be entered with respect to the Notes, the net proceeds of a draw under a letter of credit authorized by the Ordinance and of any refunding notes and surplus revenues of the System.

6. Authorized the continuation or establishment of a Revenue Fund and provided for the disposition of Sytem revenues; provided for the payment of operation and maintenance expenses; provided for the monthly deposit of funds into the respective Sinking Funds for the payment of principal of and interest on the subordinate Bonds and the payment of principal of the Supplemental Bonds; provided for the creation of Reserve Accounts for the Bonds, respectively; provided for the continuation or establishment of a Renewal and Replacement fund and the deposit of revenues therein and use thereof; and provided for the use of excess funds of the System.

7. Provided for the disposition of Bond proceeds; created the Bond construction Trust Fund to hold the Bond proceeds pending their use for Phase I Project costs and provided for liens by the owners of the Bonds on the funds held in the Bond Construction Trust Fund until expended for Phase I Project costs; and provided for the disposition of excess Bond proceeds.

8. Provided that the Bonds shall not be or constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter limitation of indebtedness but shall be payable solely from the revenues of the System or from the respective Reserve Account.

9. Provided that the Subordinate Bonds shall have a lien on the net revenues of the System which is subordinate and inferior to the lien of the Prior Bonds, but senior and superior to the lien of the Supplemental Bonds.

10. Required that the rates and charges for the system always be sufficient to pay operation and maintenance expenses and all the prescribed payments into the funds created by the ordinance authorizing the Prior Bonds and the Ordinance and, specifically, that the rates and charges produce revenues sufficient to pay all reasonable expenses of operation, repair and maintenance of the System and leave a balance each year equal to at least 115 percent of the maximum principal and interest due on the Bonds, the Prior Bonds and any other bonds prior to or on a parity with either series of Bonds in any year.

11. Provided for the sale, mortgage or lease of the system under certain terms and conditions.

12. Authorized the issuance of additional bonds on a parity with the Bonds only upon compliance with certain terms and conditions.

13. Provided for insurance coverage on the System; provided that the city will render no free service; provided for the enforcement of collection of fees, rates, rentals or other charges

CERTIFICATE

Certified to be a true and correct copy of a Resolution putting the Bond and Note Ordinance into effect, adopted by the City Council of The City of Logan, West Virginia, on September 8, 1987 duly filed and of record in the Office of the City Clerk of The City of Logan.

Given under my hand and the official seal of The City of Logan, West Virginia, this 25th day of September, 1987.

[SEAL]

Violet Miller
City Clerk

7537B

Resolution Putting Bond and Note
Ordinance Into Effect

A Resolution finding that the Council of The City of Logan, West Virginia, on August 11, 1987 passed an Ordinance supplementing an ordinance adopted by said Council on February 11, 1964 and a Resolution directing that an abstract of said Ordinance, together with a notice that said Ordinance has been adopted, that The City of Logan contemplates the issuance of the Subordinate Sewerage System Revenue Bonds, Series 1987, the Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987, and the Sewerage System Grant Anticipation Notes, Series 1987, as described in said Ordinance and that any person interested may appear before the Council of The City of Logan upon a certain date and present protests, be published; finding that said abstract and notice have been duly published; finding that the Council of The City of Logan met and heard all objections and suggestions regarding whether said Ordinance should be put into effect; and ordering that said Ordinance be put into effect and that the Subordinance Sewerage System Revenue Bonds, Series 1987, and the Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987, and the Sewerage System Grant Anticipation Notes, Series 1987, be issued as provided therein.

WHEREAS, the Council of The City of Logan, West Virginia (the "Council"), on August 11, 1987, passed an Ordinance supplementing an ordinance adopted by the Council on February 11, 1964 (the "Ordinance"), which authorized the acquisition and construction of certain extensions, improvements and betterments to the existing public sewerage facilities of The City of Logan, West Virginia (the "City"); authorized the issuance of not more than $720,000 in aggregate principal amount of Subordinate Sewerage System Revenue Bonds, Series 1987, and not more than $180,000 in aggregate principal amount of Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987 (collectively, the "Bonds"), of the City to be used, along with other funds and moneys of or available to the City which may be lawfully expended for such purposes, to finance the cost of such acquisition and construction, and to pay other costs in connection therewith; provided for the sale of the Bonds to the West Virginia Water Development Authority (the "Authority") and for the rights and remedies of and security for the registered owners of such Bonds; authorized the issuance of not more than $1,000,000 in aggregate principal amount of Sewerage System Grant Anticipation Notes, Series 1987 (the "Notes"), to be used to finance the cost of such acquisition and construction pending the receipt of certain grant proceeds, all as more fully set out therein;

WHEREAS, the Council of the City, on August 11, 1987, adopted a resolution (the "Resolution") which, pursuant to Chapter 16, Article 13, Section 6, of the Code of West Virginia, 1931, as amended (the "Act"), directed the Clerk of the City to publish an abstract of the Ordinance (the "Abstract"), together with a notice that the Ordinance has been adopted, that the City contemplates the issuance of the Bonds and Notes as described in the Ordinance, and that any person interested may appear before the Council upon a certain date and present protests (the "Notice"); and

WHEREAS, the Resolution required that the Abstract and Notice be published as a Class II legal advertisement in The Logan Banner, and the first publication of such Abstract and Notice was to be not less than ten (10) days before the date set by the Resolution and the Notice at which interested persons might appear before the Council and present protests, and the last publication of such Abstract and Notice was to be prior to said date set by the Resolution and the Notice; and

WHEREAS, the Resolution and the Notice provided for a public hearing to be held in Council Chambers in the City Building at 7:30 p.m. on Tuesday, September 8, 1987;

NOW, THEREFORE, Be It Resolved By the Council of The City of Logan, West Virginia, as follows:

(1) It is hereby found and determined:

(A) That the Abstract and Notice were duly published in The Logan Banner, a newspaper of general circulation in The City of Logan, with the first publication thereof being on August 19, 1987, which first publication date was not less than ten (10) days before the date set by the Resolution and the Notice for the public hearing at which interested persons might appear before the Council of the City and present protests, and with the last publication thereof being on August 26, 1987, which last publication date was prior to said date set by the Resolution and the Notice for the public hearing, and a copy of the affidavit of publication reflecting such publication shall be attached hereto and incorporated herein;

(B) That, in accordance with the Resolution and the Notice, the Clerk has maintained in her office a certified copy of the Ordinance for review by interested persons during the regular office hours of such office;

(C) That, in Council Chambers in the City Building, Dingess Street, on September 8, 1987, at 7:30 p.m., in accordance with the Resolution and the Notice, the Council

met for the purpose of hearing all objections and suggestions regarding whether the Ordinance should be put into effect, and heard all objections and suggestions with regard thereto; and

(D) That, at said public hearing, no significant reasons were presented that could require modification or amendment of the Ordinance, and no written protest with regard thereto was filed by thirty percent (30%) or more of the owners of real estate situate in the City.

(2) The Ordinance shall be put into effect as of the date hereof, and the Bonds described therein shall be issued to the Authority as provided therein, and the Notes described therein shall be issued at the time and otherwise as shall be determined by the Council to be in the best interests of the City, all as provided in the Ordinance.

(3) This resolution shall be effective immediately upon its adoption.

Resolution dated September 8, 1987

The City of Logan, West Virginia

[Seal]

Thomas E. Esposito, Mayor

Violet Miller, City Clerk

Approved as to form:

Edward I. Eiland, City Attorney

I, Celia Bailey, CLASSIFIED MANAGER of THE LOGAN BANNER, a newspaper published in Logan County, West Virginia, do hereby certify that the annexed NOTICE was published in said paper for 2 successive times on the following dates:

August 19 & 26, 1987

Given under my hand this 31st day of August, 19 87.

Celia Bailey
CLASSIFIED MANAGER

State of West Virginia:
County of Logan, to-wit

Subscribed and sworn before me this 31st day of August, 19 87.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
BARBARA J. SMITH
P.O. Box 147
Man, WV 25635
My Comm. Exp. Jan. 7, 1997

Barbara J. Smith
NOTARY PUBLIC

COPY OF PUBLICATION

otice is hereby given ny person interested on August 11, 1987, Council of The City of on, West Virginia "City"), adopted an nance that

Determined that it is essary and desirable the health, welfare safety of the sbitants of the City there be acquired constructed certain ensions, im- vements and bet- nents to the exisitng olic sewerage ilities of the City, sisting primarily of abilitating ap- ximately 9,000 feet of rceptor and a pump ion (the "Phase I ject") (the existing ilities, together with Phase I Project and further extensions, rovements and erments thereto, are inafter referred to he "System"). The nated cost of the se I Project is 0,000, in accordance the plans and fications prepared efor by Kelley, Gidley, Blair and Wolfe, Inc., Charleston, West Virginia (the "Consulting Engineers"), which plans and specifications are on file with the City.

2. Upon petition of the Sanitary Board of the City, the City authorized the acquisition and construction of the Phase I Project and the financing of the costs, not otherwise provided, for the Phase I Project through the issuance by the City of not more than $720,000 in aggregate principal amount of Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Subordinate Bonds"), and not more than $180,000 in aggregate principal amount of Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Supplemental Bonds"; together with the Subordinate Bonds, the "Bonds").

3. Provided for the sale of the Bonds to the West Virginia Water Development Authority (the "Authority"), pursuant to the terms and provisions of the respective loan agreements to be entered into between the City and the Authority.

4. Determined that the City currently has outstanding $152,000 in Sewer Revenue Bonds, dated March 1, 1964 (the "Prior Bonds"), which will rank superior to the Bonds as to lien and source of and security for payment.

5. Authorized the issuance of not more than $1,000,000 in aggregate principal amount of Sewerage System Grant Anticipation notes, Series 1987 (the "Notes"), and the payment thereof from certain grant receipts, moneys, including unexpended Note proceeds and investment earnings in the funds and accounts established by a trust indenture to be entered with respect to the Notes, the net proceeds of a draw under a letter of credit authorized by the Ordinance and of any refunding notes and surplus revenues of the System.

6. Authorized the continuation or establishment of a Revenue Fund and provided for the disposition of Sytem revenues; provided for the payment of operation and maintenance expenses; provided for the monthly deposit of funds into the respective Sinking Funds for the payment of principal of and interest on the subordinate Bonds and the payment of principal of the Supplemental Bonds; provided for the creation of Reserve Accounts for the Bonds, respectively; provided for the continuation or establishment of a Renewal and Replacement fund and the deposit of revenues therein and use thereof; and provided for the use of excess funds of the System.

7. Provided for the disposition of Bond proceeds; created the Bond construction Trust Fund to hold the Bond proceeds pending their use for Phase I Project costs and provided for liens by the owners of the Bonds on the funds held in the Bond Construction Trust Fund until expended for Phase I Project costs; and provided for the disposition of excess Bond proceeds.

8. Provided that the Bonds shall not be or constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter limitation of indebtedness but shall be payable solely from the revenues of the System or from the respective Reserve Account.

9. Provided that the Subordinate Bonds shall have a lien on the net revenues of the System which is subordinate and inferior to the lien of the Prior Bonds, but senior and superior to the lien of the Supplemental Bonds.

10. Required that the rates and charges for the system always be sufficient to pay operation and maintenance expenses and all the prescribed payments into the funds created by the ordinance authorizing the Prior Bonds and the Ordinance and, specifically, that the rates and charges produce revenues sufficient to pay all reasonable expenses of operation, repair and maintenance of the System and leave a balance each year equal to at least 115 percent of the maximum principal and interest due on the Bonds, the Prior Bonds and any other bonds prior to or on a parity with either series of Bonds in any year.

11. Provided for the sale, mortgage or lease of the system under certain terms and conditions.

12. Authorized the issuance of additional bonds on a parity with the Bonds only upon compliance with certain terms and conditions.

13. Provided for insurance coverage on the System; provided that the city will render no free service; provided for the enforcement of collection of fees, rates, rentals or other charges for service.

14. Provided for th investment of the Bor proceeds and limitatior thereon; provided f covenants again: making the Bond "arbitrage bonds."

15. Established th terms for defaults an the remedies of th owners of the bonds.

16. Provided for th method of respectivel defeasing the Bonds.

17. Provided restrictive method c modification or amer dment of the Ordinance.

The city contemplate the issuance of th Subordinance Bonds, th Supplemental Bonds an the Notes described in and under the condition set forth in, the Or dinance abstracte above. Any person in terested may appea before the Council of Th City of Logan at meeting thereof at 7:3 p.m. on Tuesday, Sep tember 8, 1987, in th Council Chamber in th City Building, Dinges Street, Logan, Wes Virginia, and presen protests and be heard a to whether the above described Ordinanc shall be put into effect.

A certified copy of th Ordinance as adopted b the Council of the City or August 11, 1987, is on file in the office of the City Clerk of the City fo review by interestec persons during th regular office hours o such officee, to-wit: 8:0 a.m. to 4:30 p.m. Mondays throug Fridays.

Violet Miller, City Clerk of The City o Logan, West Virginia

Supplemental Resolution
re Bond and Note Ordinance

A Resolution supplementing the Ordinance passed by the Council of The City of Logan on August 11, 1987, and effective September 8, 1987; providing as to principal amounts, maturities, interest rate and other terms of the Subordinate Sewerage System Revenue Bonds, Series 1987, and Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987, of The City of Logan; providing for capitalized interest; designating a registrar, paying agent and depository bank; and making other provisions with respect to the Bonds.

WHEREAS, the Council (the "Council") of The City of Logan, West Virginia (the "City"), has duly and effectively passed as of August 11, 1987 and effective September 8, 1987, an Ordinance (the "Ordinance"), entitled:

> An Ordinance supplementing an ordinance adopted by the Council of The City of Logan, West Virginia, on February 11, 1964, entitled "An Ordinance authorizing the issuance of $308,000 principal amount of Sewer Revenue Bonds for the purpose of refunding certain outstanding bonds and to pay part of the cost of construction and acquisition of additions, extensions and improvements to the existing sewer system of The City of Logan, West Virginia"; authorizing the acquisition and construction of certain extensions, improvements and betterments to the existing public sewerage facilities of The City of Logan; authorizing the issuance of not more than $720,000 in aggregate principal amount of Subordinate Sewerage System Revenue Bonds, Series 1987, and not more than $180,000 in aggregate principal amount of Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987, of The City of Logan to be used, along with other funds and moneys of or available to The City of Logan that may be lawfully expended for such purposes, to finance the cost of such acquisition and construction; providing for the sale of such Bonds to the West Virginia Water Development Authority and for the rights and remedies of and security for the registered owners of such Bonds; authorizing issuance of not more than $1,000,000 in aggregate principal amount of Sewerage System Grant Anticipation Notes,

Series 1987, to be used to finance the cost of such acquisition and construction pending the receipt of certain grant proceeds; and enacting other provisions related thereto;

and

WHEREAS, capitalized terms used and not otherwise defined in this Supplemental Resolution have the respective meanings given them in the Ordinance; and

WHEREAS, the Ordinance provides for the issuance of not more than $720,000 in aggregate principal amount of Subordinate Sewerage System Revenue Bonds, Series 1987, and not more than $180,000 in aggregate principal amount of Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987, of the City (the "Bonds"), and the sale of the Bonds pursuant to the terms of the Loan Agreement and the Supplemental Loan Agreement, both dated August 21, 1987, entered into between the City and the West Virginia Water Development Authority (the "Authority"); and

WHEREAS, in the Ordinance, it is provided that the principal amounts, maturities, interest rate and other terms of the Bonds should be established by a Supplemental Resolution and that approval of Schedule X to the Loan Agreement and the Supplemental Loan Agreement and other matters relating to the Bonds be herein provided for; and

WHEREAS, the Ordinance also provides for the issuance of not more than $1,000,000 in aggregate principal amount of Sewerage System Grant Anticipation Notes, Series 1987 (the "Notes"); and

WHEREAS, the Council deems that it is not in the best interest of the City to issue the Notes at this time; and

WHEREAS, the Council deems it essential and desirable that this resolution (the "Supplemental Resolution") be adopted and that the principal amounts, maturities, interest rate, and other terms of the Bonds be fixed hereby in the manner stated herein and that approval of Schedule X to the Loan Agreement and the Supplemental Loan Agreement and other matters relating to the Bonds be herein provided for;

NOW, THEREFORE, Be It Resolved by the Council of The City of Logan, West Virginia, as follows:

(1) Pursuant to the Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Subordinate Bonds"), of the City in the aggregate principal amount of $623,087 and the

Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Supplemental Bonds"), of the City in the aggregate principal amount of $152,833, all in the form and having the provisions set forth below and in the Ordinance.

(a) The Subordinate Bonds shall be orginally issued in the form of a single bond, numbered R-1, fully registered to the Authority, in the principal amount of $623,087. The Subordinate Bonds shall be dated the date of delivery thereof; shall bear interest at the rate of 8.38 percent per annum, payable semiannually on April 1 and October 1 of each year, beginning April 1, 1988; shall be subject to redemption only with the written consent of the Authority and upon payment of the interest and redemption premium, if any, and subject to the other requirements and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Subordinate Bonds; and shall mature in principal installments on October 1 of each of the years from 1989 through 2026, inclusive, in the amounts set forth in Loan Agreement "Schedule X" attached as Exhibit A hereto, specifically approved hereby and incorporated herein by reference.

(b) The Supplemental Bonds shall be originally issued in the form of a single bond, numbered SR-1, fully registered to the Authority, in the principal amount of $152,833. The Supplemental Bonds shall be dated the date of delivery thereof; shall bear no interest; shall be subject to redemption only with the written consent of the Authority and otherwise in compliance with the Supplemental Loan Agreement so long as the Authority shall be the registered owner of the Supplemental Bonds; and shall mature in principal installments on October 1 of each of the years from 1989 through 2026, inclusive, in the amounts set forth in Supplemental Loan Agreement "Schedule X" attached as Exhibit B hereto, specifically approved hereby and incorporated herein by reference.

(c) The Bonds shall be sold to the Authority at the price of 100 percent of par, there being no accrued interest.

(2) All other provisions relating to the Bonds shall be as provided in the Ordinance, and the Bonds shall be in substantially the respective forms provided in the Ordinance, with such changes, insertions and omissions as may be approved by the Mayor of the City. The execution of the Bonds by the Mayor shall be conclusive evidence of such approval.

(3) The City does hereby ratify, approve and accept the Loan Agreement and the Supplemental Loan Agreement, including the "Schedule X" attached to each, copies of which are incorporated herein by reference, and the execution and

delivery by the Mayor of the Loan Agreement and the Supplemental Loan Agreement, and the performance of the obligations contained therein, on behalf of the City have been and are hereby authorized, approved and directed.

(4) The City hereby appoints and designates The National Bank of Logan, Logan, West Virginia, as the Depository Bank.

(5) The City hereby appoints and designates the West Virginia Municipal Bond Commission as the Paying Agent.

(6) The City hereby appoints and designates One Valley Bank, National Association, Charleston, West Virginia, as the Registrar. The Mayor is hereby authorized and directed to execute and deliver the Registrar's Agreement in substantially the form attached as Exhibit C hereto and incorporated herein by reference, with such changes, insertions and omissions as may be approved by the Mayor. The execution of the Registrar's Agreement by the Mayor shall be conclusive evidence of such approval.

(7) The Mayor and City Clerk and other appropriate officers and employees of the City and the Sanitary Board are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the issuance of the Bonds.

(8) Interest on the Subordinate Bonds shall be payable from proceeds of the Subordinate Bonds in the approximate amount of $26,322.00, which amount shall be sufficient to pay interest on the Subordinate Bonds to and including March 1988, and thereafter interest shall be paid as provided in the Ordinance. The City hereby directs that such capitalized interest be deposited with the West Virginia Municipal Bond Commission and instructs the Commission to make the interest payments when due and payable.

(9) The Council hereby determines not to fund the Reserve Account or the Supplemental Reserve Account. Accordingly, the City hereby directs that no proceeds of the Bonds be placed in said reserve accounts.

(10) The financing of the Project in part with the proceeds of the Bonds is in the public interest, serves a public purpose of the City and will promote the health, welfare and safety of the residents of the City.

(11) This Supplemental Resolution shall be effective immediately upon adoption.

Resolution adopted September 8, 1987

THE CITY OF LOGAN, WEST VIRGINIA

By: Thomas E. Esposito

Thomas E. Esposito, Mayor

ATTEST:

[Seal]

Violet Miller

Violet Miller, City Clerk

This resolution approved as to form:

Edward I. Eiland

Edward I. Eiland, City Attorney

WDA-5X
(October 1986)

SCHEDULE X
DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds $623,087

Purchase Price of Local Bonds $623,087

Interest on the Local Bonds is payable on April 1 and October 1 in each year, beginning with the first semi-annual interest payment date after delivery of the Local Bonds to the Authority, until the Local Bonds are paid in full, at the rate of 8.38 % 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:

None.

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:

$308,000.00 Sewer Revenue Bonds dated March 1, 1964

EXHIBIT A

CITY OF LOGAN
ANALYSIS OF 7.00% BORROWING COST FOR LOCAL ISSUER
---------- 1986 SERIES A BONDS ----------

PERIOD ENDING 10/1	COUPON	PRIN.	INTEREST	SERVICE
1988	8.38		52,650.06	52,650.06*
1989	8.38	2,574	52,214.94	54,788.94
1990	8.38	2,790	51,999.24	54,789.24
1991	8.38	3,024	51,765.44	54,789.44
1992	8.38	3,277	51,512.03	54,789.03
1993	8.38	3,552	51,237.42	54,789.42
1994	8.38	3,849	50,939.76	54,788.76
1995	8.38	4,172	50,617.21	54,789.21
1996	8.38	4,521	50,267.60	54,788.60
1997	8.38	4,900	49,888.74	54,788.74
1998	8.38	5,311	49,478.12	54,789.12
1999	8.38	5,756	49,033.06	54,789.06
2000	8.38	6,238	48,550.70	54,788.70
2001	8.38	6,761	48,027.96	54,788.96
2002	8.38	7,327	47,461.39	54,788.39
2003	8.38	7,942	46,847.38	54,789.38
2004	8.38	8,607	46,181.85	54,788.85
2005	8.38	9,328	45,460.58	54,788.58
2006	8.38	10,110	44,678.89	54,788.89
2007	8.38	10,957	43,831.67	54,788.67
2008	8.38	11,876	42,913.48	54,789.48
2009	8.38	12,871	41,918.27	54,789.27
2010	8.38	13,950	40,839.68	54,789.68
2011	8.38	15,118	39,670.67	54,788.67
2012	8.38	16,385	38,403.78	54,786.78
2013	8.38	17,758	37,030.72	54,788.72
2014	8.38	19,247	35,542.60	54,789.60
2015	8.38	20,859	33,929.70	54,788.70
2016	8.38	22,607	32,181.71	54,788.71
2017	8.38	24,502	30,287.25	54,789.25
2018	8.38	26,555	28,233.98	54,788.98
2019	8.38	28,781	26,008.67	54,789.67
2020	8.38	31,193	23,596.82	54,789.82
2021	8.38	33,806	20,982.85	54,788.85
2022	8.38	36,639	18,149.91	54,788.91
2023	8.38	39,710	15,079.56	54,789.56
2024	8.38	43,037	11,751.86	54,788.86
2025	8.38	46,644	8,145.36	54,789.36
2026	8.38	50,553	4,236.59	54,789.59
		623,087	1,511,547.50	2,134,634.50

This amount of interest assume closing Sept. 2 1987 and is subject to chan depending on th closing date

EXHIBIT I

WDA-Supp. 5X
(November 1985)

SCHEDULE X
DESCRIPTION OF SUPPLEMENTAL BONDS

Principal Amount of Supplemental Bonds	$ 152,833
Purchase Price of Supplemental Bonds	$ 152,833

Principal of the Supplemental 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 Supplemental Loan Agreement, the Supplemental Bonds are subordinate as to source of and security for payment to the following obligations, other than the Local Bonds:

$308,000 Sewer Revenue Bonds dated March 1, 1964

EXHIBIT B

CITY OF LOGAN
ANALYSIS OF 7.00% BORROWING COST FOR LOCAL ISSUER
---------- 1986 SERIES A BONDS ----------

PERIOD ENDING 10/1	ZERO COUPON BONDS
1987	.00
1988	.00
1989	4,024.92
1990	4,021.84
1991	4,021.84
1992	4,021.84
1993	4,021.84
1994	4,021.84
1995	4,021.84
1996	4,021.84
1997	4,021.84
1998	4,021.84
1999	4,021.84
2000	4,021.84
2001	4,021.84
2002	4,021.84
2003	4,021.84
2004	4,021.84
2005	4,021.84
2006	4,021.84
2007	4,021.84
2008	4,021.84
2009	4,021.84
2010	4,021.84
2011	4,021.84
2012	4,021.84
2013	4,021.84
2014	4,021.84
2015	4,021.84
2016	4,021.84
2017	4,021.84
2018	4,021.84
2019	4,021.84
2020	4,021.84
2021	4,021.84
2022	4,021.84
2023	4,021.84
2024	4,021.84
2025	4,021.84
2026	4,021.84
	152,833.00

EXHIBIT 1

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the ____ day of _____, 1987, by and between THE CITY OF LOGAN, a municipal corporation and political subdivision of the State of West Virginia (the "Governmental Agency"), and ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association (the "Registrar").

WHEREAS, the Governmental Agency has contemporaneously with the execution hereof issued and sold its $623,087 in aggregate principal amount of Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Subordinate Bonds"), in the form of one bond numbered R-1, and its $152,833 in aggregate principal amount of Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Supplemental Bonds"), in the form of one bond numbered SR-1, and both in fully registered form (collectively, the "Bonds"), pursuant to the Ordinance, passed by the Council of the City on August 11, 1987, as supplemented on September 8, 1987 (the "Ordinance");

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 Ordinance, a copy of which has been received by the Registrar and is incorporated herein by reference;

WHEREAS, the Ordinance provides for the appointment by the Governmental Agency of a Registrar for the Bonds; and

WHEREAS, the Governmental Agency desires to appoint, and by the Ordinance and this Registrar's Agreement does appoint, the Registrar to act as registrar under the Ordinance and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Governmental Agency 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 Ordinance, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exemption of interest on the Subordinate Bonds from federal income taxation, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the

EXHIBIT C

Municipal Securities Rulemaking Board or similar regulatory bodies as the Governmental Agency advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Governmental Agency with appropriate records of all transactions carried out by it as Registrar and to furnish the Governmental Agency 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 Governmental Agency 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 Governmental Agency.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Governmental Agency hereby agrees to pay $500 to the Registrar upon the execution of this Registrar's Agreement and from time to time reimbursement for reasonable expenses incurred in connection therewith.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Ordinance with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Ordinance, the terms of the Ordinance shall govern.

6. The Governmental Agency 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 Ordinance 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 address:

GOVERNMENTAL AGENCY

The City of Logan
City Hall, Dingess Street
Logan, West Virginia 25601
Attention: Mayor

REGISTRAR:

One Valley Bank, National Association
Summers & Lee Streets
Box 1793
Charleston, West Virginia 25326
Attention: Corporate Trust Department

IN WITNESS WHEREOF, THE CITY OF LOGAN 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.

THE CITY OF LOGAN

By: _____
MAYOR

ONE VALLEY BANK, NATIONAL ASSOCIATION

By: _____
Its _____

5843z

CERTIFICATE

Certified to be a true and correct copy of the minutes of a meeting of the City Council of The City of Logan, West Virginia, held on September 8, 1987 duly filed and of record in the office of the City Clerk of The City of Logan.

Given under my hand and the official seal of The City of Logan, West Virginia, this 25th day of September, 1987.

(SEAL)

Violet Miller
City Clerk

The second and final reading of The Unsafe Building Ordinance was read by title only by Edward I. Eiland, City Attorney.

AN ORDINANCE AMENDING CHAPTER 5 OF THE LOGAN CITY CODE BY ADDING THERETO ARTICLE III-A, ENTITLED "UNSAFE BUILDINGS", DECLARING THAT ANY DWELLING OR BUILDING UNFIT FOR HUMAN HABITATION BECAUSE OF DILAPIDATION, DEFECTS INCREASING THE HAZARD OF FIRE, ACCIDENTS OR OTHER CALAMITIES, LACK OF VENTILATION, LIGHT OR SANITARY FACILITIES, OR ANY BUILDING OR STRUCTURE WHICH, BECAUSE OF CONDITIONS PREVAILING THEREIN, IS UNSAFE, UNSANITARY, DANGEROUS OR DETRIMENTAL TO THE PUBLIC WELFARE, IS A NUISANCE AND MAY BE REPAIRED, CLOSED OR DEMOLISHED; ESTABLISHING A BUILDINGS COMMISSION AND EMPOWERING IT TO MAKE RULES AND REGULATIONS, ISSUE COMPLAINTS, HOLD HEARINGS, ISSUE ORDERS FOR ABATING THE NUISANCE AND, IF THE OWNER FAILS TO ABATE IT, EMPOWERING SUCH COMMISSION TO ABATE IT AND ASSESS THE COST THEREOF AND IMPOSE A LIEN AGAINST THE REAL PROPERTY; MAKING VIOLATIONS OF ORDERS OF SAID COMMISSION MISDEMEANORS AND PROVIDING FOR SUCH VIOLATIONS.

Upon motion by Ruth Ware, seconded by Woodrow Lowe, Council unanimous approved this ORDINANCE to take effect immediately. (9/8/87)

The Mayor advised that a meeting with Unsafe Building Commissioners will take place at 6:00 p.m. on September 10, 1987.

Motion was made by Bob McCormick, seconded by Woodrow Lowe and unanimously approved by Council to make the following changes in the 1987-88 Budget.

GENERAL FUND - Receipts		
Acct. #299 - From $75,000.00	to	$79,429.00
Acct. #301/01 - From $147,018.00	to	$149,697.00
Increase		$ 7,108.00
GENERAL FUND - Expenses		
Acct. #415 - From $103,600.00	to	$110,708.00
Increase		7,108.00
COAL SEVERANCE - Receipts		
Acct. #299 - From -0-	to	$ 3,315.00
COAL SEVERANCE - Expenses		
Acct. #415 - From $1,800.00	to	$ 5,115.00
Increase of		3,115.00
REVENUE SHARING - Receipts		
Acct. #299 - From $ -0-	to	$ 51,396.00
REVENUE SHARING - Expenses		
Acct. #415 - From $ -0-	to	$ 51,396.00

Upon motion by Ruth Ware, seconded by Woodrow Lowe, Council unanimous approved two new parking spaces near 107-109 Stratton Street, one will be a regular meter and one for the handicapped.

Mayor advised there will be a meeting with the owners of the unsafe buildings on September 21, 1987 at 7:00 p.m. in City Hall.

Mayor Esposito said that by offering free services for three to six months (incl. B. & O, trash, fire fees), he hopes to encourage merchants to locate in some of the empty buildings. He also stated he would encourage owners of these buildings to give free rent for a few months in order for the tenant to fix up the building.

The Council conducted a public hearing upon the following ORDINANCE which had been filed with the Clerk on July 23, 1987, read by title at the Council's m-eting of July 28, 1987 and had been finally adopted at the Council's meeting of August 11, 1987:

ORDINANCE supplementing an ordinance passed by the Council of The City of Logan, West Virginia, on February 11, 1964, entitled "An Ordinance authorizing the issuance of $308,000. principal amount of Sewer Revenue Bonds fo the purpose of refunding certain outstanding bonds and to pay part of the cost o construction and acquisition of additions, extensions and improvements to the existing sewer system of The City of Logan, West Virginia"; authorizing the acquisition and construction of certain improvements and betterments to the existir sewerage system of The City of Logan; authorizing a revolving line of credit fro The National Bank of Logan in the amount of $250,000. to provide funds for such acquisition and construction to the extent bond proceeds, grant receipts or othe such funds are not timely available therefor and an agreement with respect to said line of credit; authorizing the issuance of a sewerage system construction note of The City of Logan, in the stated principal amount of $250,000. to eviden the City's ofligation to repay any draws upon said line of credit and the issuan if necessary, of subordinante sewerage revenue bonds of The City of Logan to provide for the payment of the principal of and interest on said note; determini The City of Logan's intention to issue one or more series of sewerage system revenue bonds to the West Virginia Water Development Authority to permanently finance a portion of the cost of such acquisition and construction; and enacting other provisions related thereto.

Thereupon, the Council conducted a public hearing upon the adoption o said ordinance and the Mayor announced that persons would be heard concerning it. No person asked to be heard concerning said ordinance. Thereupon, upon motion b Kelly Codispoti, seconded by Ruth Ware, the following Resolution was unanimously adopted:

Resolution Putting Bond and Note Ordinance
Into Effect

A Resolution finding that theCouncil of The City of Logan, West Virgi on August 11, 1987 passed an Ordinance supplementing an ordinance adopted by sai Council on February 11, 1964 and a Resolution directing that an abstract of siad Ordinance, together with a notice that said Ordinance has been adopted, that the City of Logan contemplates the issuance of the Subordinante Sewerage System Bond Series 1987, the Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987, and the Sewerage System Grant Anticipation Notes, Series 1987, as describe in said Ordinance and that any person interested may appear before the Council of The City of Logan upon a certain date and present protests, be published; finding that said abstract and notice have been duly published; finding that the Council of The City of Logan met and heard all objections and suggestions regard whether said Ordinance should be put into effect; and ordering that said Ordinan be put into effect and that theSubordinance Sewerage System Revenue Bonds, Series 1987, and the Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987, and the Sewerage System Grant Anticipation Notes, Series 1987, be issued as provided therein.

WHEREAS, the Council of The City of Logan, West Virginia (the "Counci on August 11, 1987, passed an Ordinance supplementing an ordinance adopted by the Council on February 11, 1964 (the "Ordinance"), which authorized the acquisition and construction of certain extensions, improvements and betterments to the existing public sewerage facilities of The City of Logan, West Virginia)the "City"); authorized the issuance of not more than $720,000. in aggregate principal amount of Subordinante Sewerage System Revenue Bonds, Series 1987, and not more than $180,000. in aggregate principal amount of Supplemental Subordinan Sewerage System Revenue Bonds, Series 1987, (collectively, the "Bonds"), of the City to be used, along with other funds and moneys of or available to the City which may be lawfully expended for such purposes, to finance the cost of such acquisition and construction, and to pay other costs in connection therewith; provided for the sale of the Bonds to the West Virginia Water Development Author

(the "Authority") and for the rights and remedies of and security for the registered owners of such Bonds; authorized the issuance of not more than $1,000.00 in aggregate principal amount of Sewerage System Grant Anticipation Notes, Series 1987 (the "Notes"), to be used to finance the cost of such acquisition and construction pending the receipt of certain grant proceeds, all as more fully set out therein;

WHEREAS, the Council of the City, on August 11, 1987, adopted a resolution (the "Resolution") which, pursuant to Chapter 16, Article 13, Section of the Code of West Virginia, 1931, as amended (the "Act"), directed the Clerk of the City to publish an abstract of the Ordinance (the "Abstract"), together with a notice that the Ordinance has been adlpted, that the City contemplates the issuance of the Bonds and Notes as described in the Ordinance, and that any perso interested may appear before the Council upon a certain date and present protests (the "Notice"); and

WHEREAS, the Resolution required that the Abstract and Notice be published as a Class II legal advertisement in The Logan Banner, and the first publication of such Abstract and Notice was to be not less than ten (10) days before the date set by the Resolution and the Notice at which interested persons might appear before the Council and present protests, and the last publication of such Abstract and Notice was to be prior to said date set by the Resolution and the Notice; and

WHEREAS, the Resolution and the Notice provided for a public hearing to be held in Council Chambers in the City Building at 7:30 P.M. on Tuesday September 8, 1987;

NOW, THEREFORE, Be It Resolved By The Council of The City of Logan, West Virginia, as follows:

(1) It is hereby found and determined:

(A) That the Abstract and Notice were duly published in the Logan Banner, a newspaper of general circulation in The City of Logan, with first publication thereof being on August 19, 1987, which first publication date was not less than ten (10) days before the date set by the Resolution and the Notice for the public hearing at which interested persons might appear before the Council of the City and present protests, and with the last publication thereof being on August 26, 1987, which last publication date was prior to said date set by the Resolution and the Notice for the public hearing, and a copy of the affidavit of publication reflecting such publication shall be attached hereto and incorporated herein;

(B) That, in accordance with the Resolution and the Notice, the Clerk has maintained in her offica a certified copy of the Ordinance for review by interested persons during the regular office hours of such office;

(C) That, in Council Chambers in the City Building, Dingess Street, on September 8, 1987, at 7:30 p.m., in accordance with the Resolution and the Notice, the Council met for the purpose of hearing all objections and suggestions regarding whether the Ordinance should be put into effect, and heard all objections and suggestions with regard thereto; and

(D) That, at said public hearing, no significant reasons were presented that could require modification or amendment of the Ordinance, and no written protest with regard thereto was filed by thirty percent (30%) or more of the owners of real estate situate in the City.

(2) The Ordinance shall be put into effect as of the date hereof, and the bonds described therein shall be issued to tha Authority as provided therein, and the Notes described therein shall be issued at the time and otherwise as shall be determined by the Council to be in the best interests of the City, all as provided in the Ordinance.

(3) This resolution shall be effective immediately upon its adoption.

Resolution dated September 8, 1987

The City of Logan, West Virginia

Thomas E. Esposito, Mayor

(SEAL)

Violet Miller, City Clerk

Approved as to form:

Edward I. Eiland, City Attorney

Thereupon, upon motion by Ruth Ware, seconded by Woodrow Lowe, the following resolution was unanimously adopted:

SUPPLEMENTAL RESOLUTION
re Bond and Note Ordinance

A Resolution supplementing the Ordinance passed by the Council of The City of Logan on August 11, 1987, and effective September 8, 1987; providing as to principal amounts, maturities, interest rate and other terms of the Subordinate Sewerage System Revenue Bonds, Series 1987, and Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987, of The City of Logan; providing for capitalized interest; designating a registrar, paying agent and depository bank; and making other provisions with respect to the Bonds.

WHEREAS, the Council (the "Council") of The City of Logan, West Virginia (the "City"), has duly and effectively passed as of August 11, 1987 and effective September 8, 1987, an Ordinance (the "Ordinance"), entitled:

> An Ordinance supplementing an ordinance adopted by the Council of The City of Logan, West Virginia, on February 11, 1964, entitled "An Ordinance authorizing the issuance of $308,000. principal amount of Sewer Revenue Bonds for the purpose of refunding certain outstanding bonds and to pay part of the cost of construction and acquisition of additions, extensions and improvements to the existing sewer system of The City of Logan, West Virginia"; authorizing the acquisition and construction of certain extensions, improvements and betterments to the existing public sewerage facilities of The City of Logan; authorizing the issuance of not more than $720,000. in aggregate principal amount of Subordinate Sewerage System Revenue Bonds, Series 1987, and not more than $180,000. in aggregate principal amount of Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987, of The City of Logan to be used along with other funds and moneys of or available to The City of Logan that may be lawfully expended for such purposes, to finance the cost of such acquisition and construction; providing for the sale of such Bonds to the West Virginia Water Development Authority and for the rights and remedies of and security for the registered owners of such Bonds; authorizing issuance of not more than $1,000,000. in aggregate principal amount of Sewerage System Grant Anticipation Notes Series 1987, to be used to finance the cost of such acquisition and construction pending the receipt of certain grant proceeds; and enacting other provisions related thereto;

and

WHEREAS, capitalized terms used and not otherwise defined in this Supplemental Resolution have the respective meanings given them in the Ordinance; and

WHEREAS, the Ordinance provides for the issuance of not more than $720,000. in aggregate principal amount of Subordinate Sewerage System Revenue Bonds, Series 1987, and not more than $180,000. in aggregate principal amount of Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987, of the City (the "Bonds"), and the sale of the Bonds pursuant to the terms of the Loan Agreement and the Supplemental Loan Agreement, both dated August 21, 1987, entered into between the City and the West Virginia Water Development Authority (the "Authority"); and

WHEREAS, in the Ordinance, it is provided that the principal amounts, maturities, interest rate and other terms of the Bonds should be established by a Supplemental Resolution and that approval of Schedule X to the Loan Agreement and the Supplemental Loan Agreement and other matters relating to the Bonds be herein provided for; and

WHEREAS, the Ordinance also provides for the issuance of not more than $1,000,000. in aggregate principal amount of Sewerage System Grant Anticipation Notes, Series 1987, (the "Notes"); and

WHEREAS, the Council deems that is is not in the best interest of the City to issue the Notes at this time; and

WHEREAS, the Council deems it essential and desirable that this resolution (the "Supplemental Resolution") be adopted and that the principal amounts, maturities, interest rate, and other terms of the Bonds be fixed hereby in the manner stated herein and that approval of Schedule X to the Loan Agreement and the Supplemental Loan Agreement and other matters relating to the Bonds be herein provided for;

NOW, THEREFORE, Be It Resolved by the Council of The City of Logan, West Virginia, as follows:

(1) Pursuant to the Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Subordinate Bonds"), of the City in the aggregate principal amount of $623,087. and the Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Supplemental Bonds"), of the City in the aggregate principal amount of $152,833. all in the form and having the provisions set forth below and in the Ordinance.

(a) The Subordinate Bonds shall be originally issued in the form of a single bond, numbered R-1, fully registered to the Authority, in the principal amount of $623,087. The Subordinante Bonds shall be dated the date of delivery thereof; shall bear interest at the rate of 8.38 percent per annum, payable semi-annually on April 1 and October 1 of each year, beginning April 1, 1988; shall be subject to redemption only with the written consent of the Authority and upon payment of the interest and redemption premium, if any, and subject to the other requirements and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Subordinate Bonds; and shall mature in principal installments on October 1 of each of the years from 1989 through 2026, inclusive, in the amounts set forth in Loan Agreement "Schedule X" attached as Exhibit A hereto, specifically approved hereby and incorporated herein by reference.

(b) The Supplemental Bonds shall be originally issued in the form of a single bond, numbered SR-1, fully registered to the Authority, in the principal amount of $152,833. The Supplemental Bonds shall be dated the date of delivery thereof; shall bear no interest; shall be subject to redemption only with the written consent of theAuthority and otherwise in compliance with the Supplemental Loan Agreement so long as the Authority shall be the registered owner of the Supplemental Bonds; and shall mature in principal installments on October 1 of each of the years from 1989 through 2026, inclusive, in the amounts set forth in Supplemental Loan Agreement "Schedule X" attached as Exhibit B hereto, specifically approved hereby and incorporated herein by reference.

(c) The Bonds shall be sold to the Authority at the price of 100 percent of par, there being no accrued interest.

(2) All other provisions relating to the Bonds shall be as provided in the Ordinance, and the Bonds shall be in substantially the respective forms provided in the Ordinance, with such changes, insertions and omissions as may be approved by the Mayor of the City. The execution of the Bonds by the Mayor shall be conclusive evidence of such approval.

(3) The City does hereby ratify, approve and accept the Loan Agreement and the Supplemental Loan Agreement, including the "Schedule X" attached to each, copies of which are incorporated herein by reference, and the execution and delivery by the Mayor of the Loan Agreement and the Supplemental Loan Agreement, and the performance of the obligations contained therein, on behalf of the City have been and are hereby authorized, approved and directed.

(4) The City hereby appoints and designates The National Bank of Logan, Logan, West Virginia, as theDepository Bank.

(5) The City hereby appoints and designates the West Virginia Municipal Bond Commission as the Paying Agent.

(6) The City hereby appoints and designates One Valley Bank, National Association, Charleston, West Virginia, as the Registrar. The Mayor is hereby authorized and directed to execute and deliver the Registrar's Agreement in substantially the form attached as Exhibit C hereto and incorporated herein by reference, with such changes, insertions, and omissions as may be approved by the Mayor. The execution of the Registrar's Agreement by the Mayor shall be conclusive evidence of such approval.

(7) The Mayor and City Clerk and other appropriate officers and employees of the City and the Sanitary Board are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the issuance of the Bonds.

(8) Interest on the Subordinate Bonds shall be payable from proceeds of theSubordinate Bonds in the approximate amount of $26,322.00, which amount shall be sufficient to pay interest on theSubordinate Bonds to and including March 1988, and thereafter interest shall be paid as provided in the Ordinance. The City hereby directs that such capitalized interest be deposited with the West Virginia Municipal Bond Commission and instructs the Commission to make the interest payments when due and payable.

(9) The Council hereby determines not to fund the Reserve Account or the Supplemental Reserve Account. Accordingly, the City hereby directs that no proceeds of the Bonds be placed in said reserve accounts.

(10) The financing of the Project in part with the proceeds of the Bond is in the public interest, serves a public purpose of the City and will promote the health, welfare and safety of the residents of the City.

(11) This Supplemental Resolution shall be effective immediately upon adoption.

Resolution adopted September 8, 1987.

THE CITY OF LOGAN, WEST VIRGINIA

BY: Thomas E. Esposito, Mayor

ATTEST:

(Seal)

Violet Miller, City Clerk

This resolution approved as to form:

Edward I. Eiland, City Attorney

Mayor Esposito appointed the following people to serve on a committee to review pay scales, benefits, etc., of all employees.

Robert L. McCormick, Chairman
Violet Miller
Michael Vasarhelyi
Benny Eplin
William Saunders

Debbie Alford, 123 Cassick Street, asked the City to check out the wall at her house. Says it is falling down. Mayor instructed the Street Commissioner and Mr. Eiland to check out and give a finding. He also said it may be necessary to call in our Engineer.

Andy Sedlock, Wilson Camp, requested that street lights be upgraded in this area. Application Power will be contacted to supply the City with an estimate to move these lights.

There being no further business, motion to adjourn was made by Ruth Ware, seconded by Kelly Codispoti and unanimously passed.

Violet Miller
Violet Miller, City Clerk

Thomas E. Esposito
Thomas E. Esposito, Mayor

WDA-5
(October 1986)

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").

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 or is constructing 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;

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 general resolution adopted by the Authority on May 22, 1985 (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 consulting engineer designated in the Application and any 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 "Operating Expenses" means the reasonable, proper and necessary costs of operation and maintenance of the System, as hereinafter defined, as should normally and regularly be included as such under generally accepted accounting principles.

1.8 "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.

1.9 "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.

1.10 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 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 Department of Natural Resources (or in the process of preparation by such Director), has been approved by the West Virginia Department of 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 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.

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 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 in respect of 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 representatives, to inspect all books, documents, papers and records relating to the Project 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 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 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.

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.

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 delivered to the Authority for purchase the Local Bonds described in this Article III and in Article IV hereof;

(c) The Governmental Agency shall have 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 the Authority shall have received a certificate of the Consulting Engineers to such effect;

(d) 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;

(e) 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 issuance of the Local Bonds, construction of the Project and imposition of rates and charges and shall have taken any other action required for the imposition of such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project), 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;

(f) 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

(g) 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) 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 five (5) 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 execute this Loan Agreement 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.

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 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 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 any 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 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 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 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 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 and shall submit the report of said audit to the Authority, which shall include a statement that the Governmental Agency is in compliance with the terms and provisions of the Local Act and this Loan Agreement;

(xii) That the Governmental Agency shall annually adopt a detailed budget of the estimated expenditures for operation and maintenance of the System during the succeeding fiscal year;

(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 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 owner 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); provided that, if the cost of acquisition and construction of the Project includes funded reserves for the Local Bonds, any requisite proceeds shall be credited to the construction fund and then deposited in the Reserve Account, on which the owner of the Local Bonds shall have a lien as provided herein; and

(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.

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 A.

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 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.

4.4 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.

4.5 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.

4.6 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 Governmental Agency hereby specifically authorizes the Authority to exercise the powers granted it by Section 9.06 of the General Resolution.

4.7 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 cove-

nants 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 tax-exempt status of the Local Bonds.

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 at the time of execution hereof by the Authority 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 Logan
[Proper Name of Governmental Agency]

(SEAL)

By Thomas E. Esposito
Its Thomas E. Esposito, Mayor

Attest:

Date: AUGUST 18, 1987

Violet Miller
Its City Clerk

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY

(SEAL)

By Edgar N. Henry
Director

Attest:

Date: AUG. 21, 1987

Daniel B. Yankovich
Secretary-Treasurer

EXHIBIT A

[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 exempt from federal income taxation.

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

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

Very truly yours,

SCHEDULE 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 pay Operating Expenses of the System;

(ii) to the extent not otherwise limited by an outstanding local resolution, 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, if the Reserve Account was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof in an amount equal to the Reserve Requirement, by depositing in the Reserve Account an amount equal to one-twelfth (1/12) of one-tenth (1/10) of the amount necessary to fund the Reserve Account at 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;

(iv) to provide debt service on and requisite reserves for any subordinate indebtedness of the Governmental Agency held or owned by the Authority; 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. "EPA" means the United States Environmental Protection Agency and any successors to the functions thereof.

2. "Local Statute" means Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended.

3. "System" means the works for the collection and/or treatment, purification and disposal of sewage, in its entirety or any integral part thereof, owned by the Governmental Agency and under the supervision and control of a sanitary board, and any extensions, improvements or betterments thereto hereafter constructed or acquired from any sources whatsoever and includes the Project.

Additional Conditions and Covenants

1. The Governmental Agency agrees that it will at all times provide operation and maintenance of the System to comply with, among other State and federal standards, the water quality standards established by the West Virginia Department of Natural Resources and EPA.

2. The Governmental Agency agrees that it will permit the EPA 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.

3. As a condition precedent to the Authority's making the Loan, the Governmental Agency shall have obtained, among other permits required, permits from the EPA and the West Virginia Department of Natural Resources and approval of the "Part B" supplement to its EPA grant agreement.

4. 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 and, in the event the Governmental Agency owns a water facility (the "Water System"), the Water 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 either system until all delinquent charges for the services of the System have been fully paid.

5. To the extent required by law, the Governmental Agency hereby covenants and agrees to secure approval of the Authority and all other State agencies having jurisdiction before applying for federal financial assistance for pollution abatement in order to maximize the amounts of such federal financial assistance received or to be received for all water development projects in the State.

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

7. The Governmental Agency shall comply with the provisions of the Internal Revenue Code of 1986, as amended. 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 of May 22, 1986;

(c) All of the proceeds from the sale of the Local Bonds which will be used for payment of costs of the Project, together with any investment earnings thereon, will be expended for such purpose by May 1, 1989;

(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; and

(e) The Governmental Agency will comply with the provisions of the Internal Revenue Code of 1986, as amended, for which the effective date precedes the date of delivery of its Local Bond to the Authority.

Exhibit B
Phase I Project Description

The Phase I Project, phase one of a two-phase project, consists primarily of rehabilitating approximately 9,000 feet of interceptor (including slip lining and repairing selected lines) and a pump station.

WDA-Supp. 5
(October 1986)

SUPPLEMENTAL LOAN AGREEMENT

THIS SUPPLEMENTAL 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").

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, including supplemental, subordinate revenue bonds, issued by the Governmental Agency;

WHEREAS, the Governmental Agency intends to construct or is constructing 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;

WHEREAS, on or prior to the date hereof, the Governmental Agency and the Authority entered a loan agreement with respect to the purchase by the Authority of certain Local Bonds of the Governmental Agency, all as more specifically described in Exhibit A attached hereto and incorporated herein by reference (the "Loan Agreement").

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 supplemental, subordinate revenue bonds of the Governmental Agency with certain available funds of the Authority (other than the 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 general resolution adopted by the Authority on May 22, 1985, as supplemented), subject to the Governmental Agency's satisfaction of certain legal and other requirements of the Authority's supplemental water development loan program (the "Supplemental 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; Loan Agreement

1.1 Capitalized terms used and not otherwise defined herein shall have the meanings respectively given them by the Loan Agreement.

1.2 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.

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

1.4 "Supplemental Bonds" means the revenue bonds to be issued by the Governmental Agency pursuant to the provisions of the Local Statute, to evidence the Supplemental Loan, as hereinafter defined, and to be purchased by the Authority with certain available funds (other than the proceeds of its water development revenue bonds), the lien of which on the revenues

of the System is junior, subordinate and inferior to that of the Local Bonds, all in accordance with the provisions of this Supplemental Loan Agreement.

1.5 "Supplemental Loan" means the loan to be made by the Authority to the Governmental Agency through the purchase of Supplemental Bonds pursuant to this Supplemental Loan Agreement.

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

1.7 This Supplemental Loan Agreement is supplemental to the Loan Agreement, the terms of which are incorporated herein by reference.

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 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 Department of Natural Resources (or in the process of preparation by such Director), has been approved by the West Virginia Department of 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 Supplemental 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 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.

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 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 in respect of 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 representatives, to inspect all books, documents, papers and records relating to the Project 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 and the administration of the Supplemental 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 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.

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 and maintained so long as any of the Supplemental Bonds is outstanding. Prior to commencing operation of the Project, the Governmental Agency must also obtain, and maintain so long as any of the Supplemental 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 Supplemental 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.

ARTICLE III

Conditions to Supplemental Loan; Issuance of Supplemental Bonds

3.1 The agreement of the Authority to make the Supplemental 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 Supplemental Bonds, which shall be the date established pursuant to Section 3.4 of the Loan Agreement for delivery of the Local Bonds. 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 Supplemental Loan Agreement;

(b) The Governmental Agency shall have authorized the issuance of and delivered to the Authority for purchase the Supplemental Bonds described in this Article III and in Article IV hereof and shall have delivered to the Authority for purchase the Local Bonds in accordance with the Loan Agreement;

(c) The Governmental Agency shall have 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 the Authority shall have received a certificate of the Consulting Engineers to such effect;

(d) 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;

(e) 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 issuance of the Supplemental Bonds, construction of the Project and imposition of rates and charges and shall have taken any other action required for the imposition of such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project), 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;

(f) 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

(g) The net proceeds of the Supplemental Bonds, together with the net proceeds of the Local Bonds and all other 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) 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 Supplemental 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 Supplemental Loan to the Governmental Agency and the Governmental Agency shall accept the Supplemental 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 Supplemental Loan by purchasing the Supplemental Bonds in the principal amount and at the price set forth in Schedule X hereto. The Supplemental Bonds shall have such further terms and provisions as described in Article IV hereof.

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

3.4 The Supplemental Loan will be made only in conjunction with the Loan. The Supplemental Bond shall be delivered to the Authority, at the offices of the Authority, simultaneously with the delivery of the Local Bond to 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 Supplemental Loan Agreement and the 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 under the conditions and in the manner described in the Loan Agreement. The Governmental Agency further understands and acknowledges that the Authority's obligation to make the Supplemental Loan is subject to the availability on the Date of Loan Closing of funds legally available therefor.

3.6 Anything in this Loan Agreement notwithstanding, if the Authority is unable to pay the proceeds of the Supplemental Bonds to the Governmental Agency on the Date of Loan Closing due to the time required for processing the purchase order or requisition for such moneys with the State,

the Authority may pay such proceeds as soon as received after the Date of Loan Closing; provided, that the Supplemental Bonds shall not evidence any debt to be repaid to the Authority until the proceeds thereof are received by the Governmental Agency.

ARTICLE IV

Supplemental Bonds; Security for Supplemental Loan; Repayment of Supplemental Loan; No Interest on Supplemental Loan; Fees and Charges

4.1 The Governmental Agency shall, as one of the conditions of the Authority to make the Supplemental Loan, authorize the issuance of and issue the Supplemental 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 Supplemental Bonds shall be secured by the revenues from the System, as more fully set forth in Schedules X and Y attached hereto, subject to the prior and senior security therefrom granted to the Local Bonds;

(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 the Supplemental Bonds and all other obligations secured by or payable from the revenues of the System prior to or on a parity with the Local Bonds and on a parity with the Supplemental Bonds or, if the reserve accounts established for the payment of debt service on the Local Bonds (the "Reserve Account") and for the payment of debt service on the Supplemental Bonds (the "Supplemental Reserve Account") are funded (whether by bond proceeds, monthly deposits or otherwise), respectively, at an amount at least equal to the maximum amount of principal and interest which will come due on the Local Bonds in any year (the "Reserve Requirement") or on the Supplemental Bonds in any year (the "Supplemental Reserve Requirement"), as the case may be, 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 the Supplemental 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 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 and Supplemental 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 Supplemental Bonds, except the Local Bonds and bonds on a parity with the Supplemental Bonds, which parity bonds 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 Supplemental Bonds and parity bonds theretofore and then being issued and on the Local Bonds and any other obligations secured by or payable from the revenues of the System prior to the Supplemental Bonds; provided, however, that additional parity Local Bonds and additional parity Supplemental 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 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 Supplemental Bonds, the right to obtain the

appointment of a receiver to administer the System as provided by law, subject to the prior and senior rights of the owner or owners of the Local Bonds;

(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 and shall submit the report of said audit to the Authority, which shall include a statement that the Governmental Agency is in compliance with the terms and provisions of the Local Act and this Supplemental Loan Agreement;

(xii) That the Governmental Agency shall annually adopt a detailed budget of the estimated expenditures for operation and maintenance of the System during the succeeding fiscal year;

(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 Supplemental Bonds, except any proceeds deposited in the Reserve Account or the Supplemental Reserve Account, must be deposited in a construction fund on which the owner of the Supplemental 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); provided, that said construction fund may be the one established for the Local Bonds, which shall have a prior and senior lien thereon, but shall otherwise be kept separate and apart from all other funds of the Governmental Agency; and

(xv) That, as long as the Authority is the owner of any of the Supplemental Bonds, the Governmental Agency shall not authorize redemption of any Supplemental Bonds by it without the written consent of the Authority.

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 Supplemental 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 Supplemental 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 the prior and senior security therefrom for the Local Bonds and 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 The principal of the Supplemental Loan shall be repaid by the Governmental Agency annually on the day and in the years provided in Schedule X hereto.

4.4 The Supplemental Loan shall not bear interest.

4.5 The Supplemental 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.

4.6 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 Supplemental Program, which administrative expenses shall be as determined by the Authority and shall include, but not be limited to, legal fees paid by the Authority.

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 Supplemental 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 Supplemental 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 and the Supplemental 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 Supplemental 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 rate of five percent (5%) per annum, 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 Supplemental Loan Agreement.

6.2 The Governmental Agency hereby warrants and represents that all information provided to the Authority in this Supplemental Loan Agreement, in the Application or in any other application or documentation with respect to financing the Project was at the time provided, 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 Supplemental Loan and receiving the Supplemental Bonds, the Authority shall have the right to cancel all or any of its obligations under this Supplemental Loan Agreement if (a) any representation made to the Authority by the Governmental Agency in connection with the Loan or the Supplemental 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 the Loan Agreement or this Supplemental Loan Agreement.

6.3 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 Supplemental Loan.

ARTICLE VII

Miscellaneous

7.1 Additional definitions, additional terms and provisions of the Supplemental 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 Supplemental Loan Agreement.

7.2 Schedule X shall be attached to this Supplemental Loan Agreement at the time of execution hereof by the Authority 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 Supplemental 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 Supplemental Loan Agreement, and this Supplemental Loan Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

7.4 This Supplemental 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 Supplemental Loan Agreement.

7.5 No waiver by either party of any term or condition of this Supplemental 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 Supplemental Loan Agreement.

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

7.7 By execution and delivery of this Supplemental Loan Agreement, notwithstanding the date hereof, the Governmental Agency specifically recognizes that it is hereby agreeing to sell its Supplemental 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 Supplemental Loan Agreement shall terminate upon the earlier of:

(i) termination by the Authority of the Loan Agreement pursuant to Subsections 7.8(i) or (ii) thereof;

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

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

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

City of Logan
[Proper Name of Governmental Agency]

(SEAL)

By Thomas E. Esposito
Its Thomas E. Esposito, Mayor

Attest:

Date: August 18, 1987

Violet Miller
Its City Clerk

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By Edgar N. Henry
Director

Attest:

Date: Aug 21, 1987

Daniel B. Lyonkosky
Secretary-Treasurer

EXHIBIT A

See Loan Agreement--Index No. 19

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 "Supplemental Loan Agreement"), between the Governmental Agency and the West Virginia Water Development Authority (the "Authority"), and (ii) the issue of a series of supplemental, subordinate revenue bonds of the Governmental Agency, dated _____, 19__ (the "Supplemental Bonds"), to be purchased by the Authority in accordance with the provisions of the Supplemental Loan Agreement. The Supplemental Bonds are in the principal amount of $_____, issued in the form of one bond registered as to principal to the Authority, without interest thereon, with principal payable in installments on October 1 in each of the years, as follows:

Year	Installment

The Supplemental Loan Agreement is supplemental to a loan agreement dated _____, _____, also between the Governmental Agency and the Authority (the "Loan Agreement"). The Supplemental Bonds are junior, subordinate and inferior as to lien and source of and security for payment to the bonds issued pursuant to the Loan Agreement (the "Local Bonds"), which Local Bonds are issued simultaneously herewith.

The Supplemental Bonds are issued, together with the Local Bonds, 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 Supplemental Bonds are authorized and issued, and the Supplemental Loan Agreement that has been undertaken. The Supplemental 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 Supplemental 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 Supplemental 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 Supplemental 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 Supplemental Loan Agreement and to issue and sell the Supplemental 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 Supplemental Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Supplemental Loan Agreement.

5. The Supplemental 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 lien on and pledge of the [net] revenues of said System, all in accordance with the terms of the Supplemental Bonds and the Local Act, and have been duly issued and delivered to the Authority. Said lien and pledge are junior, subordinate and inferior to that created for the Local Bonds [and _____].

6. The Supplemental Bonds are, by statute, exempt _____.

No opinion is given herein as to the effect upon enforceability of the Supplemental 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 Supplemental Bond numbered SR-1, and in our opinion the form of said bond and its execution and authentication are regular and proper.

Very truly yours,

SCHEDULE Y
REVENUES

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

(i) as prescribed by the Loan Agreement, to pay Operating Expenses of the System;

(ii) as prescribed by the Loan Agreement, to the extent not otherwise limited by an outstanding local resolution, 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, if the Reserve Account was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof in an amount equal to the Reserve Requirement, by depositing in the Reserve Account an amount equal to one-twelfth (1/12) of one-tenth (1/10) of the amount necessary to fund the Reserve Account at 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) as prescribed by the Loan Agreement, 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;

(iv) beginning thirteen (13) months prior to the first date of payment of principal of the Supplemental Bonds, to provide debt service on the Supplemental Bonds by depositing in a sinking fund one-twelfth (1/12) of the principal payment next coming due on the Supplemental Bonds and, if the Supplemental Reserve Account was not funded

concurrently with the issuance thereof in an amount equal to the Supplemental Reserve Requirement, by depositing in the Supplemental Reserve Account an amount equal to one-twelfth (1/12) of one-tenth (1/10) of the amount necessary to fund the Supplemental Reserve Account at the Supplemental Reserve Requirement or, if the Supplemental Reserve Account has been so funded (whether by Supplemental Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Supplemental Reserve Account at the Supplemental Reserve Requirement;

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

(vi) 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. "EPA" means the United States Environmental Protection Agency and any successors to the functions thereof.

2. "Local Statute" means Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended.

3. "System" means the works for the collection and/or treatment, purification and disposal of sewage, in its entirety or any integral part thereof, owned by the Governmental Agency and under the supervision and control of a sanitary board, and any extensions, improvements or betterments thereto hereafter constructed or acquired from any sources whatsoever and includes the Project.

Additional Conditions and Covenants

1. The Governmental Agency agrees that it will at all times provide operation and maintenance of the System to comply with, among other State and federal standards, the water quality standards established by the West Virginia Department of Natural Resources and EPA.

2. The Governmental Agency agrees that it will permit the EPA 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.

3. As a condition precedent to the Authority's making the Supplemental Loan, the Governmental Agency shall have obtained, among other permits required, permits from the EPA and the West Virginia Department of Natural Resources and approval of the "Part B" supplement to its EPA grant agreement.

4. 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 and, in the event the Governmental

Agency owns a water facility (the "Water System"), the Water 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 either system until all delinquent charges for the services of the System have been fully paid.

5. To the extent required by law, the Governmental Agency hereby covenants and agrees to secure approval of the Authority and all other State agencies having jurisdiction before applying for federal financial assistance for pollution abatement in order to maximize the amounts of such federal financial assistance received or to be received for all water development projects in the State.

6. Subject to any prior or parity obligations described in Schedules X and Y attached to the Supplemental Loan Agreement, and to the prior lien of the Local Bonds, the net revenues derived from the operation of the System are pledged to the payment of the principal of the Supplemental Bonds.

EXHIBIT A

See Loan Agreement -- Index No. 19

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

I, HOWARD M. CUNNINGHAM, Executive Secretary of the Public Service Commission of West Virginia, certify that the attached is a true and complete copy of an order entered by the Commission on August 25, 1987, Case No. 87-102-S-CN, The City of Logan, as the same appears on file and of record in my office.

Given under my hand and the Seal of The Public Service Commission of West Virginia, in the City of Charleston, this 22nd day of September, 1987.

Howard M. Cunningham
Executive Secretary

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: August 25, 1987

CASE NO. 87-102-S-CN

THE CITY OF LOGAN, a municipal corporation, Logan, Logan County.
Application for a certificate of convenience and necessity to rehabilitate the existing main sewer interceptor in the City of Logan, Logan County.

FINAL ORDER

On February 13, 1987, The City of Logan (City), a municipal corporation, Logan, Logan County, filed an application, duly verified, for a certificate of convenience and necessity to replace and/or repair existing deteriorating sewer interceptor lines and rehabilitate a pump station at Logan, Logan County. Specifically, The City of Logan expects to televise inspect, video tape and clean approximately 7,700 linear feet of existing interceptor sewer and river crossing; install approximately 7,550 linear feet of lining in the existing 18-inch interceptor; replace approximately 1,600 linear feet of 18-inch D.I.P. interceptor; construct seven (7) manholes and two (2) special manholes; install two (2) flap gates; replace 20 perforated manhole lids; renovate the existing sewage pump station; reconnect existing sewer laterals; plug existing outfalls; and install all appurtenances necessary for a complete and operative interceptor system. The City estimates that construction will cost approximately $1,192,931 and will be financed by a grant from the Environmental Protection Agency (EPA) in the amount of $638,528; a loan from the Water Development Authority (WDA) in the amount of $554,394; and interim financing in the amount of $250,000.

By order entered on February 16, 1987, the City was ordered to give notice of the filing of the application by publishing a copy of the Commission's order once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in the City of Logan, Logan County, making due return to the Commission of proper certification of publication immediately thereafter. Anyone desiring to make written objection to the application was given leave to do so, within thirty (30) days after publication of the notice. The order further provided that, if no protests were received within the 30-day period, the Commission could waive formal hearing and grant the application of The City of Logan, based upon the evidence and information submitted with the application and the Commission's review thereof.

On March 30, 1987, the City submitted a Rule 42 Exhibit to be incorporated in its application for a certificate of convenience and necessity, for the fiscal year ended June 30, 1986. On April 3, 1987, the City submitted the low bid on the project, from Coleman Trainor and Company, Inc., to the Public Service Commission.

On April 14, 1987, Commission Staff submitted an initial data request to the City of Logan requesting certain additional information. Also, on April 14, 1987, The City submitted proof of publication of the notice of filing, as required by the Commission's order entered on February 16, 1987, which indicated that the notice was published on March 4, 1987. The 30-day period in which to submit written protest to the application expired on April 3, 1987, with no written protests having been filed with the Public Service Commission either by the end of the 30-day period or as of the date of entry of this order.

On July 13, 1987, The City submitted a revised Rule 42 Exhibit and responses to the Staff Data Request filed on April 14, 1987. On July 16, 1987, The City submitted a proposed tariff for permanent rates, designated as Statement G, Schedule 2 of its Rule 42 Exhibit.

On August 17, 1987, Staff Attorney Robert M. Adkins submitted a Joint Staff Memorandum in this proceeding. Upon the submission of additional information requested in the Joint Staff Memorandum and attachments thereto, Commission Staff recommends that the City's application be granted without a hearing. According to the Staff memorandum, the revised Rule 42 Exhibit filed on July 13, 1987, indicates that the total cost of the project has increased to $1,603,654, to be funded by an EPA Grant in the amount of $827,734 and a WDA Loan in the amount of $775,920. Commission Staff requested letters of commitment regarding the changes in financing from the funding agencies. Mr. Adkins noted that, in the original filing, there was an award letter from the EPA in the amount of $1,846,510, which Staff understood to be applicable to both phases of the sewer project. The certificate application herein has been designated as Phase I of The City of Logan's sewer project. According to Mr. Adkins, if there is no set limit as to the amount of the EPA award which can be drawn down for Phase I of the project, then Staff will not need an additional commitment letter from the EPA. The City has already provided a line of credit letter from the National Bank of Logan for interim financing for the project in the amount of $250,000.

Mr. Adkins indicated that, on July 31, 1987, he received a copy of the City's rate ordinance and projected schedule for completion of the project. Public hearing on the rate ordinance was to be held on August 11, 1987. The ordinance states that rates will be in effect upon

receipt of the engineer's certificate that the construction has been completed.

Attached to Mr. Adkin's Joint Staff Memorandum is an internal memorandum dated August 4, 1987, to Mr. Adkins from J. D. Carr, Utilities Analyst, and C. E. Windham, Jr., P.E., Water and Sewer Section, Utilities Division. According to the internal memorandum, the proposed rates in the revised Rule 42 Exhibit should produce adequate revenue to cover all items set forth in the Rule 42 Exhibit. Staff has one concern with the capital expenditures, since it appears that, even though the project will renew most of the system, there may be other capital expenditures which are not provided for in the remaining surplus. Thus, the cash flow may end up short and require an adjustment to rates. Otherwise, Commission Staff believes that the application should be approved. The internal memorandum also indicates that the Staff analysis of the certificate application reveals that the project is needed and the Utilities Division representatives recommended that a certificate of convenience and necessity be issued without hearing.

On August 24, 1987, Staff Attorney Adkins submitted another Joint Staff Memorandum in this proceeding. According to Mr. Adkins, by telephone conversation with the project coordinator on August 19, 1987, Staff was informed that an amended loan application had been filed with the WDA on that date. The WDA will not formally commit funding to a project until the project is finally approved by the Commission, which means that the WDA does not finalize any loan until the expiration of the appeal period of a Commission order on a certificate application. A representative of the WDA contacted Mr. Adkins on August 20, 1987, to verify that the amended application had been filed by the City and to indicate that he saw

no problem with the City's application. A representative of the Department of Natural Resources contacted Commission Staff on August 19, 1987, to inform Staff that the EPA funding was awarded with the understanding that the project was a phased project, with no specific cap on Phase I. Therefore, the City can draw down whatever portion of the total EPA Grant it needs for Phase I of the two-phase Logan project. In light of all of the above, Commission Staff now recommends that the City's application be granted.

Also on August 24, 1987, the WDA submitted a letter to the Commission establishing the 90-day period during which WDA funds are committed to the project and during which the City must close on the WDA loan.

DISCUSSION

The certificate application filed on February 13, 1987, indicates that no new customers will be served by the project, which is primarily a renewal and rehabilitation of an existing system. (Data summary sheet and Exhibit 11 attached to application). According to the application, the present system is aging and broken in several sections with excessive infiltration and storm water inflows. Additionally, debris has been accumulated and trapped in the lines. One section of line is sloped uphill and several manholes are not accessible, while other manholes frequently overflow or take backflow from the river during moderately high water. The pump station to be rehabilitated is antiquated and not dependable and requires excessive maintenance expenditures. According to the application, the project will improve wastewater flow, reduce the infiltration and inflow of storm water, reduce wastewater bypass during increased flow periods and provide dependable and more economical pumping

capacity. Additionally, the overall effort to reduce infiltration and inflow will enable the City to design and construct a new secondary wastewater treatment plant of acceptable capacity. Included with the application was a siting map for the project; a facilities plan; various permits, including an updated West Virginia NPDES permit; plans and specifications; construction schedule; the advertisement for bids; projected rates; a budget; initial commitment letters from the EPA, WDA and for the interim financing; and a review of operating revenues and expenses.

Upon consideration of the Staff recommendations and the application and other documents submitted in this proceeding, the Administrative Law Judge (ALJ) is of the opinion that the public convenience and necessity require the proposed project, that the project is economically feasible, that all necessary permits and approvals have been received by the City of Logan and that the funding is reasonable and adequately committed to the project. Therefore, a certificate of convenience and necessity should be granted to the City of Logan for Phase I of its sewer project, as requested in its filing of February 13, 1987.

FINDINGS OF FACT

1. The current wastewater system for The City of Logan is aging and broken in many sections, experiences excessive infiltration and storm water inflow, has restricted wastewater flow due to accumulated debris in the lines and has undependable and uneconomical pumping capacity. (Application filed February 13, 1987, Exhibit 11; and Joint Staff Memorandum, August 17, 1987, and attachment).

2. The City of Logan has received a commitment letter from the Environmental Protection Agency committing $1,846,510 to both phases of its sanitary sewer wastewater treatment project, with no cap on the amount which can be drawn down from Phase I; the WDA sees no problem with the City's application for loan financing and has committed funds to the project; and the National Bank of Logan has established a line of credit for the City in the amount of $250,000, for its wastewater facilities project. (Application, filed February 13, 1987, Exhibits 8-1, 8-2 and 8-3; Joint Staff Memorandum filed August 24, 1987; WDA letter filed August 24, 1987).

3. No protests were received to the notice of the filing of the application in this proceeding, no new customers will be served by the project, and the City is in the process of enacting a new sewer ordinance to establish rates to be effective upon certification of completion of the project by the project engineers. (Publisher's certificate filed April 14, 1987; Joint Staff Memorandum filed August 17, 1987).

4. The City has received all necessary approvals and permits for the construction of Phase I of its wastewater facilities project. (Application filed February 13, 1987).

5. The proposed rates and charges for the sanitary board of the City of Logan will be sufficient to cover operation and maintenance and increase debt service expenses resulting from the project. (Revised Rule 42 Exhibit filed July 13, 1987; Joint Staff Memorandum filed August 17, 1987).

CONCLUSIONS OF LAW

1. In light of the condition of the system as set forth in Finding of Fact No. 1 and the lack of public protest to the application, it appears that the public convenience and necessity require that a certificate of convenience and necessity be granted to The City of Logan for the construction of Phase I of its wastewater facilities project, as requested in its application filed on February 13, 1987.

2. Phase I of The City of Logan's wastewater facilities project is economically feasible, since it is adequately funded through Federal and State grant and loan sources, including an interim line of financing, and since the proposed rates and charges adequately cover all increased costs associated with the project.

3. A certificate of convenience and necessity should be granted to the City of Logan for the construction of Phase I of its wastewater facilities project, as requested and set forth in its application filed in this proceeding on February 13, 1987.

ORDER

IT IS, THEREFORE, ORDERED that a certificate of convenience and necessity be, and it hereby is, granted to The City of Logan for the construction of Phase I of its wastewater facilities project, as set forth and detailed in its application filed in this proceeding on February 13, 1987.

IT IS FURTHER ORDERED that, at such time as the proposed rate ordinance is finally adopted, setting forth the increased rates and charges to be in effect upon completion of Phase I of this project, The City of Logan

shall immediately file a copy of that enacted rate ordinance with the Public Service Commission, as required by West Virginia Code §24-2-4b.

IT IS FURTHER ORDERED that the proposed financing set forth in the revised Rule 42 Exhibit filed in this proceeding on July 13, 1987, be, and it hereby is, approved.

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

This order is issued pursuant to General Order No. 212, dated December 16, 1982, which order designates the Division of Administrative Law Judges as the initial decision making body in the Public Service Commission and authorizes the Public Service Commission ALJs to issue orders on behalf of the Commission in all proceedings filed pursuant to Chapter 24 of the West Virginia Code, which proceedings are not set for hearing and which orders shall have the full force and effect of Commission orders, without the provision for the filing of exceptions thereto.

Leave is hereby granted to the parties to file a petition for further hearing, reopening, or rehearing pursuant to Rule 19 of the Commission's Rules of Practice and Procedure with the Executive Secretary of the Commission within ten (10) days after the date this order is mailed.

Melissa K. Marland

Melissa K. Marland
Deputy Chief Administrative Law Judge

MKM:mal

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

OCT 7 1985

CERTIFIED MAIL

RE: C-540292-02
City of Logan

Honorable Gary H. Hylton
Mayor, City of Logan
City Hall
Logan, West Virginia 25601

Dear Mayor Hylton:

We are pleased to inform you of the award of a Step II/III Federal grant for the preparation of construction drawings and specifications, and construction of wastewater treatment works for the referenced project, as described in your application and approved by the West Virginia Department of Natural Resources.

The grant award is for an amount not to exceed $1,846,510, and is subject to the conditions set forth in Part III of the Assistance Agreement.

Copies of the applicable Federal Regulations are forwarded for your reference.

The original and a copy of the Assistance Agreement are enclosed. The original copy of the Agreement should be signed and returned to Ms. Catherine Mastropieri, Chief, Grants Management Section, within twenty-one days of your receipt. The copy should also be signed and retained for your files.

Sincerely,

for Alvin R. Morris, Director
Water Management Division

Enclosures (2)

cc: Mr. Mike Johnson, WVDNR
Mr. Edgar Henry, WDA
Kelley, Gidley, Blair & Wolfe

PART II-APPROVED BUDGET

ASSISTANCE IDENTIFICATION NO. C-540292-02-0

TABLE A - OBJECT CLASS CATEGORY (Non-construction)	TOTAL APPROVED ALLOWABLE BUDGET PERIOD COST
1. PERSONNEL	
2. FRINGE BENEFITS	
3. TRAVEL	
4. EQUIPMENT	
5. SUPPLIES	
6. CONTRACTUAL	
7. CONSTRUCTION	
8. OTHER	
9. TOTAL DIRECT CHARGES	
10. INDIRECT COSTS RATE % BASE	
11. TOTAL (Share: Recipient ____% Federal ____%)	
12. TOTAL APPROVED ASSISTANCE AMOUNT	$ N/A

TABLE B - PROGRAM ELEMENT CLASSIFICATION (Non-construction)	
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12. TOTAL (Share: Recipient ____% Federal ____%)	
13. TOTAL APPROVED ASSISTANCE AMOUNT	$ N/A

TABLE C - PROGRAM ELEMENT CLASSIFICATION (Construction)	
1. ADMINISTRATION EXPENSE	15,000
2. ~~XXXXXXXXXXXXXXXX~~ Legal & Fiscal	5,000
3. LAND STRUCTURES, RIGHT-OF-WAY	
4. ARCHITECTURAL ENGINEERING BASIC FEES	87,799
5. OTHER ARCHITECTURAL ENGINEERING FEES	79,028
6. PROJECT INSPECTION FEES	128,164
7. LAND DEVELOPMENT	
8. RELOCATION EXPENSES	
9. RELOCATION PAYMENTS TO INDIVIDUALS AND BUSINESSES	
10. DEMOLITION AND REMOVAL	
11. CONSTRUCTION AND PROJECT IMPROVEMENT	2,627,980
12. EQUIPMENT	
13. ~~XXXXXXXXXXXX~~ Design Allowance	151,524
14. TOTAL (Lines 1 thru 13)	
15. ESTIMATED INCOME (If applicable)	
16. NET PROJECT AMOUNT (Line 14 minus 15)	
17. LESS: INELIGIBLE EXCLUSIONS	
18. ADD: CONTINGENCIES	262,805
19. TOTAL (Share: Recipient 45 % Federal 55 %)	3,357,300
20. TOTAL APPROVED ASSISTANCE AMOUNT	$ 1,846,510

EPA Form 5700-20A (Rev. 8-79)

GENERAL CONDITIONS

The recipient covenants and agrees that it will expeditiously initiate and timely complete the project work for which assistance has been awarded under this agreement, in accordance with all applicable provisions of 40 CFR Chapter I, Subpart B. The recipient warrants, represents, and agrees that it, and its contractors, subcontractors, employees and representatives, will comply with: (1) all applicable provisions of 40 CFR Chapter I, Subchapter B, INCLUDING BUT NOT LIMITED TO the provisions of Appendix A to 40 CFR Part 30, and (2) any special conditions set forth in this assistance agreement or any assistance amendment pursuant to 40 CFR 30.425.

SPECIAL CONDITIONS

(For cooperative agreements include identification or summarization of EPA responsibilities that reflect or contribute to substantial involvement.)

A. The grantee is subject to all the requirements of 40 CFR Part 35, Subpart I, Part 30, Part 33 and other pertinent regulations. The grantee is directed to certain following special considerations of those requirements.

"1. Regulations Affecting Federal Grant Payments

(a) Payments shall not be made for Step III professional services until the grantee complies with the procurement requirements of 40 CFR Part 33, Subpart A.

(b) The Regional Administrator shall not pay more than 50% of the Federal share unless the grantee has furnished a satisfactory final plan of operation, and shall not pay more than 90% unless the grantee has furnished a satisfactory operation and maintenance manual (40 CFR 35.2206).

(c) Payments shall be made in accordance with 40 CFR 35.2300.

(d) The grantee may submit requests for payment for allowable costs incurred in accordance with the following schedule:

Payment No.	Date	Payment	Cumulative Amount (not to be exceeded)
1	05/86	82,500	82,500
2	06/86	82,500	165,000
3	07/86	82,500	247,500
4	08/86	82,500	330,000
5	09/86	41,670	371,670
6	05/87	141,670	513,340
7	06/87	155,550	668,890
8	07/87	150,000	818,890
9	08/87	200,000	1,018,890
10	09/87	190,500	1,209,390
11	10/87	100,000	1,309,390
12	11/87	100,000	1,409,390
13	12/87	50,000	1,459,390
14	01/88	50,000	1,509,390
15	02/88	50,000	1,559,390
16	03/88	100,000	1,659,390
17	04/88	175,120	1,834,510
18	06/88	3,000	1,837,510
19	10/88	3,000	1,840,510
20	02/89	3,000	1,843,510
21	05/89	3,000	1,846,510

2. Project Schedule Changes

For any changes in the project which increase the cost, delay or accelerate the project or alter the project in other ways (40 CFR 35.2204), the grantee must receive a formal grant amendment from the Regional Administrator before implementing the changes. Of particular interest is any change in completion of final design drawings and specifications, date of advertisement for bids, the building completion date as referenced in 40 CFR 35.2216, and the initiation of project operation date. The latter date is considered, at the time of this grant, to be 05/88 . The grantee further agrees to provide the Regional Administrator, upon request, with a revised schedule for payment.

3. Project Initiation

The grantee agrees to initiate the building of all significant elements of the project within 12 months after authorization to advertise for bids has been given (40 CFR 35.2212). To the extent practicable this initiation should not occur before all sites, easements and rights-of-way are acquired. The grantee shall notify the Regional Administrator immediately upon award of the contracts.

4. Sewer Use Ordinance and User Charge System

The grantee agrees to adopt its sewer use ordinance and implement its user charge system before the treatment works is placed in operation (40 CFR 35.2208).

5. Project Performance

The grantee agrees to certify to the Regional Administrator on the date one year after the initiation of operation whether or not the project is capable of meeting the project performance standards (40 CFR 35.2218(c)).

6. Subagreements and Contracts

(a) The grantee agrees to negotiate a subagreement and contract for all services to be awarded under this grant. Such subagreements and contracts shall be in conformance with and incorporate the required clauses of 40 CFR Part 33.

(b) A copy of the proposed subagreements and contracts shall be submitted to the Regional Administrator for review and pre-award approval as appropriate under 40 CFR Part 33. The submittal of the proposed subagreements and contracts shall include the procurement records required in Appendix A to 40 CFR Part 33.

(c) The grantee shall submit to the Regional Administrator the proposed subagreement and contract cost or price data on EPA Form 5700-41 or on a form which contains similar information.

7. Flood Insurance

The grantee agrees to acquire and maintain at his own cost any flood insurance made available to it under the National Flood Insurance Act of 1968, as amended. This condition shall not be applicable if, on the date of execution of this Grant Agreement by both parties, flood insurance was not available pursuant to the Flood Insurance Act of 1968, as amended, for property in the project location.

8. Land Acquisition

The grantee shall not make any offer to acquire allowable real property until the Regional Administrator approves the price the grantee will offer the property owner (40 CFR 35.2210).

9. Review

The grantee recognizes that approval of any part of this grant, change orders, grant increase amendments, subagreements, any specific items, or eligibility of any other costs will be subject to final review, including project officer review, audit review, and final determination of the Grant Approving official.

10. Advertisement for Bids

Prior to the advertisement for construction bids, the grantee agrees to submit to the Regional Administrator for approval the following:

(a) A draft plan of operation (40 CFR 35.2106);

(b) A user charge system (40 CFR 35.2140); and

(c) Final design drawings and specifications (40 CFR 35.2040 (b)(5).

11. MBE/WBE Requirements

The recipient agrees to submit to the Chief, Construction Grants Branch, Attn: EEO Specialist, EPA Region III, a completed EPA Form 6005-1 within 30 days after the date the recipient begins building the project (see 40 CFR 35.2202). This 6005-1 will contain the information on subagreement awards to minority and women's businesses used during the design phase of the project.

The recipient further agrees to submit to the Chief, Construction Grants Branch, Attn: EEO Specialist, EPA-Region III, a completed Form 6005-1 within 15 days after the end of each Federal fiscal quarter during which the recipient or its contractors award any subagreements to a minority or women's business for building and building-related services and supplies.

12. Public Participation

Additional public participation is required to inform prospective users of the expected costs and rates. The grantee shall submit to the DNR project officer, within 2 months, a plan/schedule for conducting the additional public participation.

13. Audit Requirement

The recipient agrees that it will comply with the provisions of OMB Circular A-128 governing the audit of State and local government recipients of federal assistance for fiscal years that begin after December 31, 1984. (This requirement replaces 40 CFR 30.540(b) which is based on OMB Circular A-102, Attachment P.)

14. Flow Monitoring Program

The flow monitoring report shall be submitted to DNR at least one month prior to initial submission of plans and specifications for the wastewater treatment plant, but no later than December 1986.

15. Archeological Survey

An archeological survey shall be completed on the proposed treatment plant site and submitted to DNR for review and approval within 3 months of grant acceptance."

16. CAPDET

In accordance with 40CFR35.2123, EPA grant assistance is limited to eligible project costs for serving existing needs on the date of approval of the final plans and specifications for a Step 4 grant. All incremental costs associated with treatment works capacity beyond existing needs are to be paid for by the grantee. Prior to written authorization to advertise for construction bids, eligible/ineligible project costs will be redefined by employing the CAPDET (Computer Assisted Procedures for the Design and Evaluation of Wastewater Treatment Systems) method. The CAPDET ratio of existing needs eligible construction costs/total project construction costs will then be utilized to revise grant participation upon receipt and review of construction bids.

17. Treatment Plant Design

The wastewater treatment plant design shall be such as to easily accommodate expansion to include flows from the Copperas Mine Fork service area.

ASSISTANCE IDENTIFICATION NO. C-540292-02-0

SPECIAL CONDITIONS (Continued)

PART IV

NOTE: The Agreement must be completed in duplicate and the Original returned to the Grants Administration Division for Headquarters awards and to the appropriate Grants Administrations Office for State and local awards within 3 calendar weeks after receipt or within any extension of time as may be granted by EPA.

Receipt of a written refusal or failure to return the properly executed document within the prescribed time, may result in the withdrawal of the offer by the Agency. Any change to the Agreement by the recipient subsequent to the document being signed by the EPA Award Official which the Award Official determines to materially alter the Agreement shall void the Agreement.

OFFER AND ACCEPTANCE

The United States of America, acting by and through the U.S. Environmental Protection Agency (EPA), hereby offers assistance/~~amendment~~ to the City of Logan (RECIPIENT ORGANIZATION) for 55 % of all approved costs incurred up to and not exceeding $ 1,846,510 (ASSISTANCE AMOUNT) for the support of approved budget period effort described in application *(including all application modifications)* C-540292-02 City of Logan (DATE AND TITLE) included herein by reference.

ISSUING OFFICE *(Grants Administration Office)*	AWARD APPROVAL OFFICE
ORGANIZATION/ADDRESS Environmental Protection Agency Grants Management Section (3PM32) 841 Chestnut Building Philadelphia, Pennsylvania 19107	ORGANIZATION/ADDRESS Environmental Protection Agency Water Management Division (3WM00) 841 Chestnut Building Philadelphia, Pennsylvania 19107

THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY

SIGNATURE OF AWARD OFFICIAL	TYPED NAME AND TITLE	DATE
	James M. Seif, Regional Administrator	SEP 30 1985

This Agreement is subject to applicable U.S. Environmental Protection Agency statutory provisions and assistance regulations. In accepting this award or amendment and any payments made pursuant thereto, (1) the undersigned represents that he is duly authorized to act on behalf of the recipient organization, and (2, the recipient agrees (a) that the award is subject to the applicable provisions of 40 CFR Chapter I, Subchapter B and of the provisions of this agreement (Parts I thru IV), and (b) that acceptance of any payments constitutes an agreement by the payee that the amounts, if any found by EPA to have been overpaid will be refunded or credited in full to EPA.

BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION

SIGNATURE	TYPED NAME AND TITLE	DATE
	Gary H. Hylton, Mayor	OCT. 25, 1985

STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RESOURCES
1201 Greenbrier Street
Charleston, West Virginia 25311

ARCH A. MOORE, JR.
Governor

RONALD R. POTESTA
Director

ROBERT K. PARSONS
Deputy Director

September 25, 1987

The Honorable Thomas E. Esposito
Mayor, City of Logan
Dingess Street
Logan, West Virginia 25601

RE: City of Logan
C-540292-02

Dear Mayor Esposito:

This letter amends our letter of September 22, 1987, particularly paragraph 3. The EPA has awarded $1,846,510 to the City of Logan for a two-phased project, with no specific allocation between the two phases. Accordingly, no Part B documents will be processed until the contracts for Phase II of the project are out to bid.

Very truly yours,

CONSTRUCTION GRANTS BRANCH

By: Mike Johnson PE
Mike Johnson, P.E.
Branch Head

STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RESOURCES
1201 Greenbrier Street
Charleston, West Virginia 25311

ARCH A. MOORE, JR.
Governor

RONALD R. POTESTA
Director

ROBERT K. PARSONS
Deputy Director

September 22, 1987

Honorable Gary Hylton
Mayor, City of Logan
Dingess Street
Logan, West Virginia 25601

RE: City of Logan
C-540292-02

Dear Mayor Hylton:

You are hereby advised that the bidding procedures for Contract 1 of project C-540292-02 has been reviewed and approved. The contract may now be awarded to the low, responsive bidder, Coleman Trainor & Company, Incorporated as indicated by the proposal you have submitted.

Certain construction activities have been assigned to our Engineering Section. You will be contacted by a representative of this Section in the near future.

The Part B documents that you submitted have been reviewed by this office. The Environmental Protection Agency (EPA) Form 5780-1B has been approved with some revisions. The official approval letter and the grant amendment are currently being processed and will be forwarded under separate cover.

Should you have any questions, please contact Rosalie Ortega at (304) 348-0637 or Ramzi Hourani at (304) 348-0633.

Sincerely,

CONSTRUCTION GRANTS BRANCH

Mike Johnson

Mike Johnson, P.E.
Branch Head

MJ/ROa

cc: R. Fenton Roudabush, EPA
Ed Henry, WDA
Howard Cunningham, PSC
Kelley, Gidley, Blair & Wolfe

THE CITY OF LOGAN, WEST VIRGINIA

$623,087 Subordinate Sewerage System Revenue Bonds, Series 1987

$152,883 Subordinate Sewerage System Revenue Bonds, Series 1987

CERTIFICATE OF CITY CLERK AS TO TRUTH AND ACCURACY OF DOCUMENTS DELIVERED

I, the undersigned Violet Miller, Clerk of The City of Logan, West Virginia (the "City"), hereby certify that the copies of the following documents being delivered in connection with the closing of the sale of $623,087 in principal amount of the City's Subordinate Sewerage System Revenue Bonds, Series 1987 and the sale of $152,883 in principal amount of the City's Supplemental Sewerage System Revenue Bonds, Series 1987 (collectively, the "Bonds"), are, as of the date hereof, true and accurate copies of the originals of those documents maintained on file with the City and included in the Transcript of Proceedings, that said documents have been duly adopted, enacted or entered by the Council of said City (the "Council") (or by the Sanitary Board in its behalf), and that said documents are in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, recision, supersedence, amendment or modification is also listed below:

1. The Charter of the City.

2. Rules and Order of Business of The Council.

3. Current oaths of office of the following officials: Thomas E. Esposito, Mayor; Violet Miller, Clerk; Levie (Duke) Caudill; Kelly Gilmore Codispoti; Woodrow Lowe, Robert L. McCormick and Ruth (Sis) Ware, Councilmembers.

4. Ordinance passed by the Council on April 12, 1948 creating the Sanitary Board.

5. Prior Ordinance.

6. Ordinance passed by the Council on July 28, 1987 establishing rates and charges for the services of the sewerage system of the City (the "System") (the "Rate Ordinance").

7. Minutes of the July 28, 1987, meeting of the Council, wherein the Rate Ordinance was enacted and the Ordinance was introduced.

8. Affidavit of Publication of the abstract and notice of the Rate Ordinance in The Logan Banner on July 31, and August 7, 1987.

9. Petition of the Sanitary Board to the Council of the City.

10. Ordinance (without Exhibits B-D).

11. Resolution adopted August 11, 1987, authorizing publication of an abstract and notice of the Ordinance.

12. Minutes of the August 11, 1987, meeting of the Council, wherein the Ordinance was passed and a resolution authorizing Publication of an abstract and notice of the Ordinance was adopted.

13. Affidavit of Publication of the abstract and notice of the Ordinance in The Logan Banner on August 19, and 26, 1987.

14. Resolution adopted September 8, 1987, regarding the public hearing on the Ordinance and putting the Ordinance into effect.

15. Resolution adopted September 8, 1987, authorizing the sale of the Bonds to the Authority.

16. Minutes of the September 8, 1987, meeting of the Council, wherein the resolution regarding the public hearing on the Ordinance and the resolution authorizing the sale of the Bonds to the Authority were adopted.

17. Loan Agreement, dated August 21, 1987, with the Authority.

18. Supplemental Loan Agreement, dated August 21, 1987, with the Authority.

19. Assistance Agreement, awarded as of October 7, 1985, between the City and the United States Environmental Protection Agency (the "EPA").

20. Verification of the status of the EPA grant

Capitalized terms used and not otherwise defined herein have the respective meanings given them in the Ordinance, passed by the Council on August 11, 1987, and supplemented by the Council on September 8, 1987 (the "Ordinance").

WITNESS my signature and the official seal of The City of Logan, West Virginia, as of the 25th day of September, 1987.

Violet Miller

Violet Miller
City Clerk
The City of Logan

(SEAL)

7284

THE CITY OF LOGAN, WEST VIRGINIA

$623,087 Subordinate Sewerage System Revenue Bonds
Series 1987

$152,833 Supplemental Subordinate Sewerage System Revenue Bonds
Series 1987

GENERAL CERTIFICATE OF:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES
6. PUBLIC SERVICE COMMISSION ORDER
7. RATES
8. CAPITALIZED INTEREST
9. LAND AND RIGHTS-OF-WAY
10. MEETINGS
11. GRANTS
12. INSURANCE
13. LOAN AGREEMENTS
14. PRIVATE USE OF FACILITIES
15. SPECIMEN BONDS

We, the undersigned MAYOR and the undersigned Clerk of The City of Logan, West Virginia (herein called the "City"), the undersigned ATTORNEY for the City and the undersigned Project Manager for the City, hereby certify in connection with the single, fully registered Subordinate Sewerage System Revenue Bond, Series 1987, of the City, numbered R-1, dated the date hereof, in the principal amount of $623,087 and bearing interest at the rate of eight and thirty-eight hundredths percent (8.38%) per annum (the "Subordinate Bonds"), and the single, fully registered Supplemental Subordinate Sewerage System Revenue Bond, Series 1987, of the City, numbered SR-1, dated the date hereof, in the principal amount of $152,833 and bearing no interest (the "Supplemental Bonds") (collectively herein called the "Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meanings as in the Ordinance, passed by the Council of the City (the "Council") on August 11, 1987, and supplemented on September 8, 1987 (the "Ordinance"), authorizing the acquisition and construction of certain extensions, improvements and betterments to the existing sewerage system of the City and defined in the Ordinance as the Phase I Project (the "Project"), and the Loan Agreement and Supplemental Loan Agreement (collectively, the "Loan Agreement") entered into between the City and the West Virginia Water Development Authority (the "Authority"), both dated August 21, 1987.

2. NO LITIGATION: No controversy or litigation of any nature is now pending, or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting the issuance and delivery of the Bonds; nor questioning the proceedings and authority by which the Council authorized the issuance and sale of the Bonds; nor affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; nor questioning the existence of the City or the title of the members or officers of the City or of the Council thereof to their respective offices; nor questioning the construction and acquisition or financing of the Project nor operation by the City of the System as improved by the Project; nor challenging the collection or use of the revenues of the System, including the pledge of the Net Revenues to the payment of the Bonds, nor the receipt of Grant Receipts.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable approvals and certificates presently required by law for construction of the Project, operation of the System and issuance of the Bonds including the National Pollutant Discharge Elimination System permit and the certificate of convenience and necessity from the Public Service Commission of West Virginia (the "Public Service Commission") have been duly and timely obtained and remain in full force and effect, and competitive bids for construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1, of the Code of West Virginia, 1931, as amended, which bids remain in full force and effect.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the City or the System since August 21, 1987. Further, there has been no adverse change in the status of the grant from the EPA necessary to finance the acquisition and construction of the Project since such date. The only outstanding debt obligations of the City with a lien on the revenues of the System prior to

those of the Bonds are the City's Sewer Revenue Bonds dated March 1, 1964 currently outstanding in the amount of $940,000. The City also has outstanding a Construction Note dated August 19, 1987 in the sum of $250,000 or such lesser sum as reflected on the Record of Advances and Payments attached thereto, but such Note does not have a lien on the revenues prior to that of the Bonds.

5. SIGNATURES: The undersigned Mayor and Clerk are the duly elected or appointed, qualified and serving officers of the City as indicated by the official titles opposite their signatures below, and were duly authorized to execute and seal the Bonds for the City. The seal impressed upon the Bonds and this certificate is the duly authorized, proper and only seal of the City.

6. PUBLIC SERVICE COMMISSION ORDER: The undersigned City Attorney hereby covenants that he has filed any necessary information with the Public Service Commission and taken any other actions required to maintain the Public Service Commission order, dated August 25, 1987, in full force and effect and the period for appeal of the Public Service Commission order has expired without any appeal.

7. RATES: The existing rates and charges for the System were enacted by ordinance July 28, 1987 (the "Rate Ordinance") and will be placed into effect by March 1, 1988, and the City has complied with all requirements of the Public Service Commission and applicable law with the exception of the notice on monthly statements which will be timely given to make the rates valid and effective and the period for appeal for such ordinance has expired without any appeal.

8. CAPITALIZED INTEREST: The undersigned Project Manager hereby covenants that the amount set aside for capitalized interest on the Bonds is sufficient to pay interest on the Bonds for the estimated construction period.

9. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the 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 City and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions that would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties that may have to be acquired by condemnation are, in the opinion of all the undersigned, within the ability

of the City to pay for the same without jeopardizing the security of or payments on the Bonds.

10. MEETINGS: All actions, ordinances, resolutions, orders and agreements taken, passed, adopted and entered into by or on behalf of the City in any way connected with the construction, acquisition, operation and financing of the Project were authorized, passed or adopted at meetings of the Council duly and regularly or specially called and held pursuant to all applicable statutes and the rules of procedure of Council, and a quorum of duly appointed, qualified and acting members of the Council was present and acting at all times during all such meetings.

11. GRANTS: As of the date hereof, the United States Environmental Protection Agency ("EPA") has committed to the City the approximate amount of $1,846,510, of which the City has allocated $814,773 to the Project. The EPA funding was awarded with the understanding that the Project is a phased project with no specific cap on Phase I and the City can draw down whatever portion of the total EPA Grant needed for Phase I of the two phase project. Said commitment of EPA is in force and effect as of the date hereof.

12. INSURANCE: The City has maintained and will or, as appropriate, has required and will require all contractors to, maintain workers' compensation, public liability and property damage insurance, flood insurance, and builder's risk insurance where applicable, in accordance with the Ordinance and the Loan Agreements. Business interruption insurance is not available at a reasonable cost.

13. LOAN AGREEMENT: As of the date hereof, (i) the representations of the City 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 City 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 therein not misleading; and (iv) to the best knowledge of the undersigned, the City has not violated any commitment made by it in its Application or in any supporting documentation and has not violated any of the terms of the Loan Agreement.

14. PRIVATE USE OF FACILITIES: The City shall at all times take, and refrain from taking, and shall not fail to

take, any and all actions necessary in order to assure the initial and continued tax-exempt status of the Bonds. 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 on, 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 City) in respect of property, or borrowed money, used or to be used for a private business use. None of the proceeds of the Bonds will be used, directly or indirectly, for any private business use which is not related to the governmental use of the proceeds of the Bonds, including the disproportionate related business use of the proceeds of the Bonds, and none of the payment of principal on, or the interest on, such issue, under the terms of any underlying arrangement, is, directly or indirectly, secured by any interest in property used, or to be used for a private business use, payments in respect of such property or to be derived from payments (whether or not to the City) in respect of property, or borrowed money, used or to be used for a private business use with respect to such private business use, which is not related to any government use of such proceeds, including the disproportionate business use of the issue of the Bonds. None of the proceeds of the issue of the Bonds will be used, directly or indirectly, to make or finance loans to persons other than governmental units. For purposes of this paragraph, private business use means use, directly or indirectly, in a trade or business carried on by any person other than a governmental unit, other than use as a member of the general public, all within the meaning of Section 141 of the Internal Revenue Code of 1986.

15. SPECIMEN BONDS: Attached hereto as Exhibit A are specimens of the Bonds numbered R-1 and SR-1, respectively, which, except as to execution and authentication, are identical in all respects with such Bonds this day delivered to the Authority thereof and being substantially in the form prescribed in the Ordinance.

WITNESS our signatures and the official corporate seal of The City of Logan on this 25th day of September, 1987.

[CORPORATE SEAL]

Signature	Official Title
Thomas Esposito	Mayor
Violet Miller	Clerk
Edward J. Eiland	City Attorney
Frank E. Thompson	Project Manager

5923B

THE CITY OF LOGAN, WEST VIRGINIA

$623,087 Subordinate Sewerage System
Revenue Bonds, Series 1987

$152,833 Supplemental Subordinate Sewerage
System Revenue Bonds, Series 1987

CERTIFICATE AS TO NON-ARBITRAGE

I, Thomas E. Esposito, Mayor of The City of Logan, West Virginia (herein called the "City"), hereby certify and reasonably expect with respect to the issuance of the $623,087 in aggregate principal amount of the City's Subordinate Sewerage System Revenue Bonds, Series 1987, dated as of the date hereof (the "Subordinate Bonds") and with respect to the issuance of $152,833 in aggregate principal amount of the City's Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987, dated as of the date hereof (the "Supplemental Bonds"), (collectively, the "Bonds"), as follows:

1. Capitalized words not defined herein shall have the meanings defined in the Ordinance, passed by the Council of the City on August 11, 1987, and supplemented on September 8, 1987 (the "Ordinance").

2. The original proceeds of the Bonds, being $775,920, will be used as follows: (1) $739,742 for the financing of the cost of construction and acquisition of the Project, being Phase I of a two phase project of certain extensions, improvements and betterments to the existing sewerage system of the City; (2) $26,978 for paying interest on the Subordinate Bonds during the construction of the Project; and (3) $9,200 for expenses incurred in connection with the issuance of the Bonds.

3. The Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purpose of providing funds to pay a portion of the costs of acquisition and construction of the Project, to capitalize interest on the Subordinate Bonds during the construction period, and to pay the costs of issuance of the Bonds. The remainder of such costs are expected to be paid with a grant from the United States Environmental Protection Agency (the "EPA") awarded in the amount of $1,846,510, of which $814,773 is allocable to first phase of the overall project, and interest earnings during construction in the amount of $8,808.

4. The total cost of the Project is estimated to be $1,599,501. The amount of Project costs not expected to be reimbursed or paid from the other sources described in Paragraph 3, above, is estimated to be at least $775,920. Except for the proceeds of the EPA grant and interest earnings during construction, as described above, no other funds of the City will be available to meet costs of the Project, and no balances are available to meet such costs in any account which may, without legislative or judicial action, be invaded to pay such expenditures without a legislative, judicial or contractual requirement that such account be reimbursed. $814,773 is the maximum amount available to the City from the EPA grant, absent change orders increasing the costs of the Project elegible for EPA participation, which change orders are not expected to occur.

5. The Authority, as the original purchaser of the Bonds, requires the City to fund and maintain its Reserve Account at the maximum amount of principal and interest which will mature and come due on the Bonds in any year (the "Reserve Account Requirement").

6. Pursuant to Article V of the Ordinance, the following special funds or accounts have been created or are being maintained with respect to the Bonds:

(1) Revenue Fund;

(2) Renewal and Replacement Fund;

(3) Bond Construction Trust Fund; and

(4) Sinking Fund, and, within the Sinking Fund, the Reserve Account.

(5) Supplemental Sinking Fund and, within the Supplemental Sinking Fund, the Supplemental Reserve Account.

7. Pursuant to Article VI of the Ordinance, the proceeds of the Subordinate Bonds will be deposited in the Sinking Fund in a sufficient amount to pay interest on the Subordinate Bonds to and including March, 1988, and the remaining money will be deposited in the Bond Construction Trust Fund and applied solely to payment of the Costs of the Project, including costs of issuance of the Bonds.

8. All moneys in the Sinking Fund described in Paragraph 6(4) above will be held for the payment of the principal due and the interest to accrue on the Subordinate Bonds on or prior to the maturity thereof. All moneys in the Supplemental Sinking Fund described in Paragraph 6(5) above will be held for the payment of the principal due on the

Supplemental Bonds on or prior to the maturity thereof. Except for interest earned during the construction period for the Project, which will be at least annually transferred to the Bond Construction Trust Fund, moneys held in the Sinking Funds will be used solely to pay principal of and interest on the Bonds and will not be available to meet the Costs of the Project.

9. Except for the Sinking Funds described in Paragraphs 6(4) and (5) above (including the Reserve Accounts established therein), there are no other funds or accounts established or held by the City 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 City encounters financial difficulties.

10. Any money deposited in the Sinking Funds, other than in the Reserve Accounts therein, will be spent within a thirteen-month period beginning on the date of receipt, and any money received from the investment of the amounts held in the Sinking Funds, other than in the Reserve Accounts therein, will be spent within a one-year period beginning on the date of receipt. Such funds are designed to achieve a proper matching of the City's revenues and debt service on the Bonds within each bond year. Investment earnings on the Reserve Account will be transferred, not less than once each year, to the Bond Construction Trust Fund prior to completion of the Project and, thereafter, to the Revenue Fund.

11. The City will enter into binding obligations in excess of $1,330,095 for construction of the Project prior to October 31, 1987, and work on the Project will proceed with due diligence to completion. All of the proceeds of the Bonds will be expended within three years of May 22, 1986, except for the amounts deposited in the Sinking Fund as described in Paragraph 10 above. The City reasonably expects all Bond proceeds to be spent by April 1, 1988.

12. Except as provided in the Ordinance, the Project will not be sold or otherwise disposed of in whole or in part before the maturity of the Bonds.

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

14. The City 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 City or that there is any disqualification of the City by the Internal Revenue Service

because a certification made by the City contains a material misrepresentation.

15. The City has covenanted in the Ordinance to make no use of the proceeds of the Bonds which would cause the Bonds to be "arbitrage bonds" within the meaning of the Treasury Regulations or Section 148 of the Internal Revenue Code of 1986 (the "Code").

16. The City will take all further actions necessary to comply with the Code.

17. The City has general taxing powers to finance operations of or facilities of the nature of the System, and the City and all subordinate entities reasonably expect to issue less than $5,000,000 of tax exempt bonds during the calendar year in which the Bonds are to be issued and has issued no other tax-exempt obligations during the current calendar year.

18. To the best of my knowledge, information and belief, the above expectations are reasonable. I am one of the officers of the City charged by the City in the Ordinance with responsibility for issuance of the Bonds, and, as such, I am an official whose certification may be relied upon as the certification of the City.

IN WITNESS WHEREOF, I have hereunto set my hand as of this 25th day of September, 1987.

THE CITY OF LOGAN, WEST VIRGINIA

By: Thomas E. Esposito

Thomas E. Esposito, Mayor

5872B

THE CITY OF LOGAN

$623,087 Subordinate Sewerage System
Revenue Bonds, Series 1987

$152,833 Supplemental Subordinate Sewerage System
Revenue Bonds, Series 1987

ENGINEER'S CERTIFICATE

I, Eugene Michael Pyles, Registered Professional Engineer, West Virginia License No. 7663, of Kelley, Gidley, Blair & Wolfe, Inc., Charleston, West Virginia, hereby certify that my firm is engineer for the construction and acquisition of extensions, improvements and betterments to the existing public sewerage system (herein called the "Project") (the phase of the Project being financed with the proceeds of the above-referenced bonds is herein called the "Phase I Project") of The City of Logan, West Virginia (the "City"), to be constructed in Logan, West Virginia. The construction and acquisition of the Phase I Project are being financed in part by the above-captioned bonds of the City (the "Bonds"). Capitalized words not defined herein shall have the meanings set forth in an Ordinance passed by the Council of the City on August 11, 1987, and supplemented on September 8, 1987 (collectively the "Ordinance") and the Loan Agreement and Supplemental Loan Agreement, both dated August 21, 1987, by and between the City and the West Virginia Water Development Authority.

1. The Phase I Project is estimated to cost $1,599,501 and is being funded by a United States Environmental Protection Agency (the "EPA") grant in the amount of $1,846,510, of which $814,773 has been allocated to the Phase I Project, interest earnings in the amount of $8,808 and $775,920 from the proceeds of the sale of the Bonds to the Authority.

2. The undersigned hereby certifies that (i) the Phase I Project will be constructed in accordance with the plans, specifications and designs prepared by my firm, or approved amendments thereto prepared by us and approved by the City and DNR, and as described in the application, as amended, submitted to the Authority requesting the Authority to purchase the Bonds (the "Application"), and approved by all necessary governmental bodies; (ii) the Phase I Project is consistent

7ith the "201" Facilities Plan as administered by EPA/DNR approved by all necessary governmental bodies and is consistent with the standards set by the West Virginia Water Resources Board; (iii) the Phase I Project is adequate for the purpose for which it was designed; (iv) the City has received a bid for the construction of the Phase I Project which is in an amount and otherwise compatible with the plan of financing described in the Application; (v) my firm has ascertained or will prior to award ascertain that the contractor has made required provisions for all insurance and payment and performance bonds and has verified or will prior to award verify such insurance policies or binders and such bonds for accuracy; (vi) the City has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Phase I Project, including but not limited to permits from the EPA and the West Virginia Department of Natural Resources and, specifically, the National Pollutant Discharge Elimination System permit; (vii) the EPA has awarded $1,846,510 to the City for a two phase Project with no specific division between Phase I and Phase II, and, accordingly, there will be no amendment of the EPA Assistance Agreement based upon the bids received for the Phase I Project; (viii) the rates and charges for the System established by the rate ordinance passed by the Council of the City on July 28, 1987 (the "Rate Ordinance") are sufficient to comply with the provisions of Subsection 4.1(b)(ii) of the Loan Agreements; (ix) my firm anticipates giving a notice of completion of the Phase I Project no later than March 1, 1988; (x) the net proceeds of the Subordinate Bonds and the Supplemental 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 Phase I Project as set forth in the Application.

WITNESS my signature as of this 25th day of September 1987.

E. MICHAEL PYLES, P.E. REGISTERED 7683 STATE OF WEST VIRGINIA PROFESSIONAL ENGINEER

KELLEY, GIDLEY, BLAIR & WOLFE, INC.

By: Eugene Michael Pyles

7195B

THE CITY OF LOGAN, WEST VIRGINIA

$623,087 Subordinate Sewerage System
Revenue Bonds, Series 1987
$152,833 Supplemental Subordinate Sewerage System
Revenue Bonds, Series 1987

ACCOUNTANT'S CERTIFICATE

The undersigned, on behalf of Vallet and Associates, CPA, independent certified public accountants, Logan, West Virginia, hereby certifies that, based upon the rates and charges set forth in the ordinance enacted by the Council of The City of Logan, West Virginia (the "City"), on July 28, 1987, (the "Rate Ordinance") and the Schedules "X" attached to the Loan Agreement and the Supplemental Loan Agreement, both dated August 21, 1987, between the City and the West Virginia Water Development Authority (the "Loan Agreements"), the rates and charges for the sewerage system of the City are sufficient to comply with the provisions of Subsections 4.1(b)(ii) of the Loan Agreements. I further certify that the amount set aside for capitalized interest on the above-referenced bonds for the period specified in the ordinance passed by Council of the City on August 11, 1987 and supplemented on September 8, 1987 is sufficient and that one month prior to the end of said period the rates and charges specified in the Rate Ordinance will be in effect.

WITNESS my signature this 25th day of September, 1987.

VALLET AND ASSOCIATES, CPA

By: C. Jeffrey Vallet

5986B

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 25th day of September, 1987, by and between THE CITY OF LOGAN, a municipal corporation and political subdivision of the State of West Virginia (the "Governmental Agency"), and ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association (the "Registrar").

WHEREAS, the Governmental Agency has contemporaneously with the execution hereof issued and sold its $623,087 in aggregate principal amount of Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Subordinate Bonds"), in the form of one bond numbered R-1, and its $152,833 in aggregate principal amount of Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Supplemental Bonds"), in the form of one bond numbered SR-1, and both in fully registered form (collectively, the "Bonds"), pursuant to the Ordinance, passed by the Council of the City on August 11, 1987, as supplemented on September 8, 1987 (the "Ordinance");

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 Ordinance, a copy of which has been received by the Registrar and is incorporated herein by reference;

WHEREAS, the Ordinance provides for the appointment by the Governmental Agency of a Registrar for the Bonds; and

WHEREAS, the Governmental Agency desires to appoint, and by the Ordinance and this Registrar's Agreement does appoint, the Registrar to act as registrar under the Ordinance and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Governmnetal Agency 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 Ordinance, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exemption of interest on the Subordinate Bonds from federal income taxation, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory

bodies as the Governmental Agency advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Governmental Agency with appropriate records of all transactions carried out by it as Registrar and to furnish the Governmental Agency 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 Governmental Agency 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 Governmental Agency.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Governmental Agency hereby agrees to pay $500 to the Registrar upon the execution of tis Registrar's Agreement and from time to time reimbursement for reasonable expenses incurred in connection therewith.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Ordinance with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Ordinance, the terms of the Ordinance shall govern.

6. The Governmental Agency 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 Ordinance 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 address:

GOVERNMENTAL AGENCY

The City of Logan
City Hall, Dingess Street
Logan, West Virginia 25601
Attention: Mayor

REGISTRAR:

One Valley Bank, National Association
Summers and Lee Streets
Box 1793
Charleston, West Virginia 25326
Attention: Corporate Trust Department

IN WITNESS WHEREOF, THE CITY OF LOGAN 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.

THE CITY OF LOGAN

By: Thomas E. Esposito
Thomas E. Esposito, Mayor

ONE VALLEY BANK,
NATIONAL ASSOCIATION

By: Charlotte A. Morgan
Its: Corporate Trust Administrative Officer

7341B

THE CITY OF LOGAN, WEST VIRGINIA

$623,087 Subordinate Sewerage System
Revenue Bonds, Series 1987

$152,833 Supplemental Subordinate Sewerage
System Revenue Bonds, Series 1987

ACCEPTANCE OF DUTIES OF DEPOSITORY BANK

The National Bank of Logan, a national banking association, with its principal office in The City of Logan (the "City"), hereby accepts appointment as Depository Bank in connection with the Ordinance, passed by the Council of the City on August 11, 1987, as supplemented on September 8, 1987 (the "Ordinance"), authorizing issuance of the above-referenced bonds, and agrees to perform any and all duties of the Depository Bank all as set forth in said Ordinance, a copy of which has been delivered to the undersigned bank.

Witness my signature as of the 25th day of September, 1987.

THE NATIONAL BANK OF LOGAN

By: Evelyn Worley

Its: Assistant Vice President

5876B

REQUISITION AS TO LOAN TO GOVERNMENTAL AGENCY

TO: ONE VALLEY BANK, NATIONAL ASSOCIATION, Trustee

A. Name of Governmental Agency to which payment is to be made: The City of Logan, West Virginia

B. Total Amount to be paid: $623,087

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 August 21, 1987, said Governmental Agency has sold its Local Bonds 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 Bonds Payments 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 Bonds Payments will be sufficient to pay interest on and Principal Installments of the Bonds, the proceeds of which were used to fund the Loan Obligation, as such interest and Principal Installments come due.

The above certifications comply with Subsections 6.06(2)(a)(ii) and (v) of the General Resolution.

Edgar N. Henry

Authorized Representative
West Virginia Water Development
Authority

DATE: September 25, 1987

ASSIGNMENT SEPARATE FROM BOND

FOR VALUE RECEIVED, the West Virginia Water Development Authority hereby sells, assigns and transfers unto One Valley Bank, National Association, Charleston, West Virginia, the Subordinate Sewerage System Revenue Bond, Series 1987, numbered R-1, of The City of Logan, West Virginia, in the principal amount of $623,087 and standing in the name of the West Virginia Water Development Authority on the books of said Governmental Agency.

Dated: September 25, 1987

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

Edgar N. Henry

Authorized Representative

7381B

THE CITY OF LOGAN, WEST VIRGINIA

$623,087 Subordinate Sewerage System
Revenue Bonds, Series 1987

$152,883 Supplemental Sewerage System
Revenue Bonds, Series 1987

REQUEST AND AUTHORIZATION AS TO AUTHENTICATION
AND DELIVERY OF THE BONDS

September 25, 1987

One Valley Bank, National Association
Summers & Lee Streets
Box 1793
Charleston, West Virginia 25326
Attention: Corporate Trust Department

Ladies and Gentlemen:

We herewith hand to you, duly executed, the entire issue of $623,087 in aggregate principal amount of Subordinate Sewerage System Revenue Bonds, Series 1987, in the form of one bond numbered R-1, and the entire issue of $152,833 in aggregate principal amount of Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987, in the form of one bond numbered SR-1 (together, the "Bonds"), of The City of Logan, West Virginia (the "City"), authorized to be issued under and pursuant to the Ordinance, passed by the Council of the City on August 11, 1987, and supplemented on September 8, 1987 (the "Ordinance").

You are hereby requested and authorized to authenticate the Bonds and to register and deliver the Bonds on behalf of the City to the West Virginia Water Development Authority in exchange for payment to the City therefor.

THE CITY OF LOGAN

By Thomas E. Esposito
Thomas E. Esposito, Mayor

(SEAL)

Attest:

Violet Miller
Violet Miller, Clerk

5984B

THE CITY OF LOGAN, WEST VIRGINIA

$623,087 Subordinate Sewerage System Revenue Bonds, Series 1987

$152,833 Supplemental Subordinate Sewerage Revenue Bonds, Series 1987

CERTIFICATE OF REGISTRATION AND DELIVERY OF BONDS

I, Charlotte Morgan, Trust Officer of One Valley Bank, National Association, as Registrar under the ordinance providing for the issuance of the Subordinate Sewerage Revenue Bonds, Series 1987 (the "Subordinate Bonds"), and the Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Supplemental Bonds") (collectively, the "Bonds"), of the The City of Logan, West Virginia (the "City"), hereby certify that on the 25th day of September, 1987, the fully registered Subordinate Bonds in the principal amount of $623,087 and in the form of one bond numbered R-1, and the Supplemental Bonds in the principal amount of $152,833 and in the form of one bond numbered SR-1, both dated of the date hereof, were duly authenticated, were registered as to principal and the Subordinate Bonds were registered as to interest in the name of "West Virginia Water Development Authority" in the books of the City kept for that purpose at our office, and were delivered to the West Virginia Water Development Authority upon the request of the City, all of which actions were taken by a duly authorized officer or officers on behalf of One Valley Bank, National Association, as Registrar.

WITNESS my signature as of the 25th day of September, 1987.

ONE VALLEY BANK,
National Association

By: Charlotte S. Morgan

Its: ~~Assistan~~t Corporate Trust Officer

7373B

THE CITY OF LOGAN, WEST VIRGINIA

$623,087 Subordinate Sewerage System
Revenue Bonds, Series 1987
$152,833 Supplemental Subordinate Sewerage System
Revenue Bonds, Series 1987

RECEIPT FOR BONDS

The undersigned, EDGAR N. HENRY, Director of the West Virginia Water Development Authority, for and on behalf of the West Virginia Water Development Authority (the "Authority"), hereby certifies as follows:

1. On the date hereof, in Dunbar, West Virginia, the Authority received the entire original issue of $623,087 in aggregate principal amount of Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Subordinate Bonds"), of The City of Logan, West Virginia (the "City"), and the entire original issue of $152,833 in aggregate principal amount of the City's Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Supplemental Bonds") (collectively, the "Bonds"). Said Bonds were dated the date hereof, and were issued in the form of one bond per issue, fully registered to the Authority, and numbered R-1 and SR-1, respectively.

2. At the time of receipt of such Bonds, they had been executed by Thomas E. Esposito, as Mayor of the City, by his manual signature, and attested by Violet Miller, as City Clerk by her manual signature, and the official seal of the City had been impressed upon each Bond.

IN WITNESS WHEREOF, Edgar N. Henry, Director, duly signed and delivered this receipt on behalf of the West Virginia Water Development Authority on the 25th day of September, 1987.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By: Edgar N. Henry
Director

5988B

THE CITY OF LOGAN, WEST VIRGINIA

$623,087 Subordinate Sewerage System
Revenue Bonds, Series 1987
$152,833 Supplemental Subordinate Sewerage System
Revenue Bonds, Series 1987

RECEIPT FOR BOND PROCEEDS

The undersigned Thomas E. Esposito, Mayor of The City of Logan, West Virginia (the "City"), hereby certifies as follows:

1. The City has received and hereby acknowledges receipt from the West Virginia Water Development Authority (the "Authority"), as original purchaser of the City's $623,087 in aggregate principal amount of Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Subordinate Bonds"), of the proceeds of the Subordinate Bonds in the amount of $623,087 (100% of par value), with no interest having been accrued thereon.

2. The City has received and hereby acknowledges receipt from the Authority, as original purchaser of the City's $152,833 in aggregate principal amount of Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987 (the "Supplemental Bonds") of the proceeds of the Supplemental Bonds in the amount of $152,833 (100% of par value).

IN WITNESS WHEREOF, The City of Logan has caused this receipt to be executed by its Mayor on this 25th day of September,
1987.

THE CITY OF LOGAN, WEST VIRGINIA

By: Thomas E. Esposito
Thomas E. Esposito, Mayor

5987B

REQUISITION FORM

The National Bank of Logan
755 Stratton Street
Logan, West Virginia 25601

Re: The City of Logan, West Virginia
$623,087 Subordinate Sewerage System
Revenue Bonds, Series 1987

$152,833 Supplemental Subordinate Sewerage
System Revenue Bonds, Series 1987

Ladies and Gentlemen:

You are authorized to make the following disbursements from the Bond Construction Trust Fund created pursuant to the Ordinance, as supplemented, authorizing the above-noted Bonds, a copy of which has been previously delivered to you:

The expenses listed above have been incurred as Costs of the Project and have not been the basis of any previous disbursement.

THE SANITARY BOARD,
THE CITY OF LOGAN

By: _____
Chairman

KELLEY, GIDLEY, BLAIR & WOLFE, INC.

By: _____

DATE: _____

Form **8038-G**
(December 1986)
Department of the Treasury
Internal Revenue Service

Information Return for Tax-Exempt Governmental Bond Issues

▶ Under Section 149(e)
(Use Form 8038-GC if issue price is under $100,000.)

OMB No. 1545-0720
Expires 12-31-89

Part I Reporting Authority

Check box if **Amended Return** ▶ ☐

1 Issuer's name: The City of Logan
2 Issuer's employer identification number: 556000199
3 Number and street: Dingess Street
4 Report number: G198 7 - 1
5 City or town, state, and ZIP code: Logan, West Virginia 25601
6 Date of issue: 9/25/87

Part II Type of Issue (check box(es) that applies)

7 Check box if bonds are tax or other revenue anticipation bonds ▶ ☐
8 Check box if bonds are in the form of a lease or installment sale ▶ ☐

		Issue Price
9	☐ Education	
10	☐ Health and hospital	
11	☐ Transportation	
12	☐ Public safety	
13	☒ Environment (including sewage bonds)	$775,920.00
14	☐ Housing	
15	☐ Utilities	
16	☐ Other. Describe (see instructions) ▶	

$623,087 Subordinate Sewerage System Revenue Bonds Series 1987, and $152,833 Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987 ("Supplemental Bonds")

Part III Description of Bonds

	(a) Maturity date	(b) Interest rate	(c) Issue price	(d) Stated redemption price at maturity	(e) Weighted average maturity	(f) Yield	(g) Net interest cost
17 Final maturity	10/1/2026	* %	$54,577.84	$54,577.84		**	
18 Entire issue			$775,920.00	$775,920.00	27.28 years	**	7%

Part IV Uses of Original Proceeds of Issue (including underwriters' discount)

19 Proceeds used for accrued interest	19	-0-
20 Proceeds used for bond issuance costs (including underwriters' discount)	20	$9,200.00
21 Proceeds used for credit enhancement	21	-0-
22 Proceeds allocated to reasonably required reserve or replacement fund	22	-0-
23 Proceeds used to refund prior issues	23	-0-
24 Nonrefunding proceeds of the issue (subtract lines 20, 21, 22, and 23 from line 18, column (c))	24	$776,720.00

Part V Description of Refunded Bonds (complete this part only for refunding bonds)

25 Enter the remaining weighted average maturity of the bonds to be refunded ▶ _____ years
26 Enter the last date on which the refunded bonds will be called ▶ _____
27 Enter the date(s) the refunded bonds were issued ▶ _____

Part VI Miscellaneous

28 Enter the amount (if any) of the state volume cap allocated to this issue ▶ N/A
29 Arbitrage rebate:
a Check box if the small governmental unit exception to the arbitrage rebate requirement applies ☒
b Check box if the 6-month temporary investment exception to the arbitrage rebate requirement is expected to apply ☐
c Check box if you expect to earn and rebate arbitrage profits to the U.S. ☐
30 Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(ii) ▶ _____
31 Pooled financings:
a Check box if any of the proceeds of this issue are to be used to make loans to other governmental units ▶ ☐ and enter the amount ▶ _____
b Check box if this issue is a loan made from the proceeds of another tax-exempt issue ▶ ☒ and enter the name of the issuer ▶ WV Water Development Authority and the date of the issue ▶ 5/22/86

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.

Thomas Carpenter — Signature of officer
9/25/87 — Date
Mayor — Title

For Paperwork Reduction Act Notice, see page 1 of the Instructions.

Form **8038-G** (12-86)

*Bonds bear interest at 8.38% and Supplemental Bonds bear no interest
**Not Computed

JACKSON, KELLY, HOLT & O'FARRELL
(IN KENTUCKY, JACKSON, KELLY, WILLIAMS & PALMORE)
ATTORNEYS AT LAW
1600 LAIDLEY TOWER
P. O. BOX 553
CHARLESTON, WEST VIRGINIA 25322

TELEPHONE 304-340-1000 TELECOPIER 304-340-1130

WRITER'S DIRECT DIAL NO.

340-1307

MORGANTOWN OFFICE
618 MONONGAHELA BUILDING
MORGANTOWN, WEST VIRGINIA 26505
TELEPHONE 304-292-7311

LOUISVILLE OFFICE
600 MEIDINGER TOWER
LOUISVILLE, KENTUCKY 40202
TELEPHONE 502-589-6600

LEXINGTON OFFICE
175 EAST MAIN STREET
LEXINGTON, KENTUCKY 40507
TELEPHONE 606-255-8500

FRANKFORT OFFICE
202 WEST MAIN STREET
FRANKFORT, KENTUCKY 40601
TELEPHONE 502-227-4000

November 10, 1987

CERTIFIED - RETURN
RECEIPT REQUESTED

Internal Revenue Service Center
Philadelphia, PA 19255

Re: The City of Logan, West Virginia
$623,087 Subordinate Sewerage System Revenue Bonds, Series 1987
$152,833 Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987

Gentlemen:

Enclosed are two copies of Form 8038-G, Information Return for Tax-Exempt Governmental Bond Issues, relative to the above-described bond issue. Please file one copy and return one copy marked "Filed" to the undersigned in the enclosed stamped self-addressed envelope.

Very truly yours,

Kathleen S. Gross

Kathleen S. Gross

KSG:kw
Enclosures
0708B

P 587 312 025

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to IRS Center	
Street and No.	
P.O., State and ZIP Code Phil. PA	
Postage	$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to whom and Date Delivered	
Return receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	$
Postmark or Date	

PS Form 3800, Feb. 1982 ★ U.S.G.P.O. 1983-403-517

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:
IRS Center
Philadelphia, PA
19255

4. Article Number
P 587-312-025

Type of Service:
☐ Registered ☐ Insured
☑ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee
X

6. Signature — Agent
X

7. Date of Delivery

8. Addressee's Address *(ONLY if requested and fee paid)*

RECEIVED
NOV 20 1987
28
PSC PHILA. PA
78

PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

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September 25, 1987

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

The City of Logan
City Hall
Dingess Street
Logan, West Virginia 25601

Ladies and Gentlemen:

We are bond counsel to The City of Logan, West Virginia (the "Governmental Agency"), a municipal corporation created and existing under the laws of the State of West Virginia.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement, dated August 21, 1987 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 subordinate sewerage system revenue bonds of the Governmental Agency, dated September 25, 1987 (the "Subordinate Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Subordinate Bonds are in the principal amount of $623,087, 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 April 1, 1988, at the rate of 8.38 percent per annum, and with principal payable in installments on October 1 in each of the years 1989 through 2026, inclusive, all as set forth in Exhibit A incorporated in and made a part of the Subordinate Bonds.

The Subordinate Bonds are junior, subordinate and inferior as to lien and source of and security for payment to the Governmental Agency's Sewer Revenue Bonds, dated March 1, 1964 (the "Prior Bonds").

The Subordinate Bonds are issued for the purpose of acquiring and constructing certain extensions, improvements and betterments to the sewerage system of the Governmental Agency (the "Project"), paying interest on the Subordinate Bonds during construction of the Project and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended (the "Local Statute"), the bond and note ordinance duly passed by the Governmental Agency on August 11, 1987, as supplemented on September 8, 1987 (the "Local Act"), pursuant to and under which Local Statute and Local Act the Subordinate Bonds are authorized and issued, and the Loan Agreement that has been undertaken. The Subordinate 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 municipal corporation created and existing under the laws 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 Subordinate 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 ordinances, resolutions and orders in connection with the issuance and sale of the Subordinate 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 Subordinate 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 second lien on and pledge of the net revenues of said System, all in accordance with the terms of the Subordinate Bonds and the Local Act, and have been duly issued and delivered to the Authority. Said lien and pledge is junior, subordinate and inferior to that created for the Prior Bonds.

6. The Subordinate Bonds and the interest thereon are, by statute, exempt from taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof. Under existing statutes and court decisions of the United States of America, as presently written and applied, the interest on the Subordinate Bonds is excludable from gross income for the purposes of federal income taxation; we call your attention to the fact that interest on the Subordinate Bonds will be taken into account in determining the book income or adjusted current earnings of a corporation to the extent the applicable portion of such book income or current earnings exceeds such corporation's alternative minimum taxable income as otherwise determined for purposes of computing alternative minimum tax imposed on corporations by the Internal Revenue Code of 1986, as amended (the "Code") in taxable years beginning after 1986, and the environmental tax imposed by the Superfund Revenue Act of 1986 in taxable years beginning after 1986 and prior to 1992. We also call your attention to the fact that interest on the Subordinate Bonds may become includable in gross income for the purposes of federal income taxes retroactively to their date of issue if certain requirements established by the Code, including those regarding

use, expenditure and investment of bond proceeds are not met. The Governmental Agency has covenanted in the Local Act to comply with such requirements, and, in rendering the opinion in this Paragraph 6, we have assumed compliance with such covenants. Please be advised that this opinion does not address and we express no opinion with respect to certain other provisions contained in the Code that would result in collateral federal income tax consequences to certain investors as a result of adjustments in the computation of tax liability as a consequence of tax-exempt interest.

7. No opinion is given herein as to the effect upon enforceability of the Subordinate Bonds under any applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or in the exercise of judicial discretion or principles of equity in appropriate cases.

8. We have examined the executed and authenticated Subordinate 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,

Jackson, Kelly, Holt & O'Farrell

5882B

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September 25, 1987

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

The City of Logan
City Hall
Dingess Street
Logan, West Virginia 25601

Ladies and Gentlemen:

We are bond counsel to The City of Logan, West Virginia (the "Governmental Agency"), a municipal corporation created and existing under the laws of the State of West Virginia.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement, dated August 21, 1987, including all schedules and exhibits attached thereto (the "Supplemental Loan Agreement"), between the Governmental Agency and the West Virginia Water Development Authority (the "Authority"), and (ii) the issue of a series of supplemental subordinate sewerage system revenue bonds of the Governmental Agency, dated September 25, 1987 (the "Supplemental Bonds"), to be purchased by the Authority in accordance with the provisions of the Supplemental Loan Agreement. The Supplemental Bonds are in the principal amount of $152,833, issued in the form of one bond registered as to principal to the Authority, without interest thereon, with principal payable in installments of approximately $4,022.00 on October 1 in each of the years 1989 through 2026, inclusive.

The Supplemental Loan Agreement is supplemental to a loan agreement dated August 21, 1987, also between the Governmental Agency and the Authority (the "Loan Agreement"). The Supplemental Bonds are junior, subordinate and inferior as to lien and source of and security for payment to the bonds issued pursuant to the Loan Agreement (the "Subordinate Bonds"), which Subordinate Bonds are issued simultaneously herewith, and to the Governmental Agency's Sewer Revenue Bonds, dated March 1, 1964 (the "Prior Bonds").

The Supplemental Bonds are issued, together with the Subordinate Bonds, for the purpose of acquiring and constructing certain extensions, improvements and betterments to the sewerage system of the Governmental Agency (the "Project"), and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended (the "Local Statute"), the bond and note ordinance duly passed by the Governmental Agency on August 11, 1987, as supplemented on September 8, 1987 (the "Local Act"), pursuant to and under which Local Statute and Local Act the Supplemental Bonds are authorized and issued, and the Supplemental Loan Agreement that has been undertaken. The Supplemental 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 Supplemental 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 Supplemental 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 Supplemental 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 created and existing under the laws 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 Supplemental Loan Agreement and to issue and sell the Supplemental 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 ordinances, resolutions and orders in connection with the issuance and sale of the Supplemental Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Supplemental Loan Agreement.

5. The Supplemental 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 third lien on and pledge of the net revenues of said System, all in accordance with the terms of the Supplemental Bonds and the Local Act, and have been duly issued and delivered to the Authority. Said lien and pledge are junior, subordinate and inferior to those created for the Prior Bonds and the Subordinate Bonds.

6. The Supplemental Bonds are, by statute, exempt from taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

No opinion is given herein as to the enforceability of the Supplemental Bonds under any applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or in the exercise of judical discretion or principles of equity in appropriate cases.

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

Very truly yours,

5877

Jackson, Kelly, Holt & O'Farrell

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September 25, 1987

The City of Logan
City Hall
Dingess Street
Logan, West Virginia 25601

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

RE: The City of Logan, West Virginia
$623,087 Subordinate Sewerage System
Revenue Bonds, Series 1987, and
$152,833 Supplemental Subordinate Sewerage System
Revenue Bonds, Series 1987

Ladies and Gentlemen:

We have examined a record of proceedings relating to the issuance of the above-referenced bonds, (together, the "Bonds"), of The City of Logan, West Virginia (the "City"), a municipal corporation organized and existing under the laws of the State of West Virginia, and a Certificate as to Non-Arbitrage executed by Thomas E. Esposito, Mayor of the City, on this date. In the Certificate as to Non-Arbitrage, the City represented that (i) the City has general taxing powers to finance operations of or facilities of the nature of the Project; (ii) the City and all subordinate entities reasonably expect to issue less than $5,000,000 of tax-exempt bonds during the calendar year 1987, being the calendar year in which the Bonds were issued; and (iii) the City has issued no other tax-exempt obligations during such calendar year.

We are of the opinion that the facts, estimates and circumstances set forth in the Certificate as to Non-Arbitrage are sufficient to satisfy the requirements of Section 148 of the Internal Revenue Code of 1986 (the "Code") to support the conclusion that the Bonds are not "arbitrage bonds" as therein defined. No matters have come to our attention which make unreasonable or incorrect such statements, expectations or representations.

Accordingly, it is our opinion that, under existing statutes and court decisions, the Bonds are not "arbitrage bonds" as so defined. It is our further opinion, based upon such Certificates as to Non-Arbitrage, that the proceeds of the Bonds are not subject to the arbitrage rebate requirement set forth in Section 148(f) of the Code. We express no opinion herein as to the taxability of the interest on the Bonds in the event of the failure to comply with the other requirements and restrictions of Section 148 of the Code or any regulations promulgated thereunder or under any predecessor thereto.

Very truly yours,

Jackson, Kelly, Holt & O'Farrell

5867B

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EDWARD I. EILAND
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TELEPHONE 752-2275
AREA CODE 304

September 25, 1987

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

Jackson, Kelly, Holt & O'Farrell
P. O. Box 553
Charleston, WV 25322

Re: The City of Logan, West Virginia $623,087 Subordinate Sewerage System Revenue Bonds, Series 1987

$152,833 Supplemental Subordinate Sewerage System Revenue Bonds, Series 1987

Ladies and Gentlemen:

I am City Attorney for The City of Logan, West Virginia (the "City"). As City Attorney, I have examined copies of the approving opinions of Jackson, Kelly, Holt & O'Farrell, as bond counsel, relating to the above-captioned bonds of the City (the "Bonds"), the Loan Agreement and Supplemental Loan Agreement by and between the West Virginia Water Development Authority (the "Authority") and the City, both dated August 21, 1987, and the Ordinance passed by the Council of the City on August 11, 1987, as supplemented by a resolution adopted on September 8, 1987 (the "Ordinance"), and other documents relating to the Bonds. Terms used in said opinion, the Loan Agreement, Supplemental Loan Agreement and Ordinance and not otherwise defined herein have the same meanings herein.

I am of the opinion that:

1. The Loan Agreement and Supplemental Loan Agreement have been duly authorized, executed and delivered by the City and, assuming due authorization, execution and delivery by the Authority, constitute valid and binding agreements of City in accordance with their terms.

2. The mayor, city clerk, and the members of the Council were duly and properly elected or appointed, have given the required oaths, and are thereby authorized to act on behalf of the City.

3. The Ordinance has been duly enacted by the City and is in full force and effect.

4. The City has obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the issuance of the Bonds, construction of the Project, operation of the System, including a Certificate of Convenience and Necessity dated August 25, 1987, and imposition of the rates and charges and has taken any and all other action required with the exception of the notice on monthly statements which will be timely given, for the imposition of such rates and charges including without limitation, the enactment of an ordinance on July 28, 1987 prescribing such rates and charges. The rate ordinance was duly enacted and the times for appeal of such rate ordinance, and the orders and approval of the PSC, have expired prior to the date hereof without any appeal. Under the terms of the Act, the City has full authority to establish rates and to pledge the net revenues from said rates to the payment of the Bonds.

5. The execution and delivery of the Bonds and the Loan Agreement and Supplemental Loan Agreement and the consummation of the transactions contemplated by the Loan Agreement or the Supplemental Loan Agreement, 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 City a breach of or default under any agreement or other instrument to which the City is a party or any existing law, regulation, court order or consent decree to which the City is subject.

6. The City has received all the necessary permits, licenses, approvals and authorizations that are presently required to construct the Project and to operate the System.

7. There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Loan Agreement or the Supplemental Loan Agreement, construction of the Project, operation of the System, the validity of the Bonds or the collection or pledge of the Net Revenues to the payment of the Bonds.

Very truly yours,

Edward I. Eiland

Edward I. Eiland
City Attorney

5911B