

CITY OF McMECHEN

Sewer Revenue Bonds, Series 1986

Date of Closing: October 20, 1986

BOND TRANSCRIPT

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10/12/86
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CITY OF McMECHEN
SEWER REVENUE BONDS, SERIES 1986

BOND ORDINANCE

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CITY OF McMECHEN

ORDINANCE

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF PUBLIC SEWERAGE FACILITIES OF THE CITY OF McMECHEN AND THE PERMANENT FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$750,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1986, PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF McMECHEN:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

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

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

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

B. The Issuer presently owns and operates a municipal sewage treatment and collection system and has undertaken the acquisition and construction of certain additions, betterments and improvements thereto (the "Project") which system constitute properties for the collection and transportation of liquid or solid wastes, sewage or industrial wastes (the existing system, the

Project, and any further additions thereto or extensions thereof is herein called the "System") at an estimated cost of \$2,593,830, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Governing Body.

C. The Issuer has heretofore issued its Sewerage System Bond Anticipation Notes, Series 1985, dated May 1, 1985 (the "Notes"), in the aggregate principal amount of \$725,000 pursuant to a bond and notes ordinance enacted March 25, 1985, a supplemental resolution adopted April 23, 1985 (collectively, the "Prior Ordinance"), and a Trust Indenture dated as of May 1, 1985, by and between the Issuer and Security National Bank & Trust Co., as trustee (the "Indenture"), to temporarily finance costs of construction and acquisition of the Project pending issuance of the within-described Bonds.

D. The estimated revenues to be derived in each year after the enactment hereof from the operation of the System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on the Bonds (as hereinafter defined) and all Sinking Fund, Reserve Account and other payments provided for herein.

E. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds, Series 1986, in the aggregate principal amount of not more than \$750,000 (the "Bonds"), to pay, at the maturity thereof, a portion of the Notes representing the Issuer's "local share" of the Costs and costs of issuance of the Bonds. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Notes and the Bonds prior to and during construction or acquisition and for 6 months after completion of construction of the Project; engineering, 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, commitment fees, discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Bonds and such other expenses as may be necessary or incident to the financing herein authorized, the construction or acquisition of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Bonds or the repayment of indebtedness incurred by the Issuer for such purposes, shall be deemed Costs of the Project, as hereinafter defined.

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

G. It is in the best interests of the Issuer that its Original Bonds (as hereinafter defined) be sold to the Authority (as hereinafter defined) pursuant to the terms and provisions of a loan agreement dated March 21, 1985 (the "Loan Agreement"), heretofore entered into between the Issuer and the Authority, in form satisfactory to the Issuer and the Authority.

H. The Sanitary Board of the Issuer has presented a petition to the Issuer for enactment of this Bond Legislation.

I. Upon deposit of the proceeds of the Bonds in the BAN Debt Service Fund established by the Indenture simultaneously with the issuance of the Bonds, the Notes will be defeased in accordance with the Indenture. Thereafter, there will not be outstanding any obligations of the Issuer which will rank prior to or on a parity with the Bonds as to lien or source of and security for payment.

J. The Issuer 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 Bonds, or will have so complied prior to issuance of any thereof, including, among other things, the obtaining of a Certificate of Convenience and Necessity from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired.

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

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

"Act" means Chapter 16, Article 13 of the West Virginia Code of 1931, as amended and in effect on the date of adoption hereof.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser of the Original Bonds, or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

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

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

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

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

"Bonds" means the Original Bonds and any bonds on a parity therewith authorized to be issued hereunder.

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

"Consulting Engineers" means Holley, Kenney, Schott, a division of Green International, Inc., Sewickley, Pennsylvania, or any engineer or firm of engineers that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System.

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

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

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

"EPA Grant" means the grant from the EPA pursuant to the commitment therefor.

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

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

"Governing Body" means the city council of the Issuer consisting of the Mayor and 10 councilmembers.

"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.

"Grants" means, collectively, the EPA Grant and the Other Grants, as hereinafter defined.

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

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

"Indenture" or "Trust Indenture" means the Trust Indenture between the Issuer and the Trustee dated as of May 1, 1985, relating to the Notes and all supplements or amendments thereto.

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

"Issuer" or "City" means the City of McMechen, in Marshall County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer, the Sanitary Board, and any other commission, board or department established by the Issuer to operate and maintain the System.

"Loan Agreement" means, the loan agreement dated March 21, 1985, heretofore entered into between the Authority and the Issuer providing for the purchase of the Original Bonds from the Issuer by the Authority, the form of which shall have been approved,

and the execution and delivery by the Issuer authorized by, this Ordinance or an ordinance or resolution adopted by the Issuer prior to the enactment of this Ordinance.

"Mayor" means the Mayor of the Issuer.

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

"Notes" means the \$725,000 in aggregate principal amount of Sewerage System Bond Anticipation Notes, Series 1985, heretofore issued by the Issuer to pay a portion of the Costs of Project pending receipt of the proceeds of the Bonds.

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

"Original Bonds" "Series 1986 Bonds" or "Bonds originally authorized hereby" or similar phrases means, the not more than \$750,000 in aggregate principal amount of bonds issued for the purpose of paying a portion of the principal of the Notes, and for such other purposes as shall be permitted and authorized hereby.

"Other Grants" means collectively, the WDA Grant, together with any other grant hereafter received by the Issuer to aid in financing any Costs.

"Outstanding," when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being delivered except (i) any Bond cancelled by the 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 Issuer.

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

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

"Prior Ordinance" means the Bond and Notes Ordinance enacted by the Issuer on March 25, 1985, originally authorizing issuance of the Bonds and the Notes.

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

"Project" means the acquisition and construction of additions, betterments and improvements for the existing sewage treatment and collection system of the Issuer, pumping stations and force mains and all necessary appurtenances.

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

- (a) Government Obligations;
- (b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;
- (c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area

Transit Authority;

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

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

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

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

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

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

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

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

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

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

"Reserve Requirement" means, as of any date of calculation the maximum amount of principal and interest which will become due on the Bonds in any Fiscal Year.

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

"Sanitary Board" means the Sanitary Board of the Issuer heretofore established by an ordinance duly enacted by the Issuer, or any successor to the functions thereof.

"Sinking Fund" means the Sinking Fund established by Section 5.02 hereof.

"State" means the State of West Virginia.

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

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Bonds, including the Renewal and Replacement Fund and the Reserve Account.

"System" means the complete properties of the Issuer for the collection and transportation of liquid or solid wastes, sewage or industrial wastes, in its entirety or any integral part thereof, and shall include the existing facilities, the Project and any further additions, betterments and improvements thereto hereafter constructed or acquired for said system from any sources whatsoever.

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

"Trustee" means Security National Bank & Trust Co., Wheeling, West Virginia, the trustee named in the Indenture.

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

ARTICLE II

AUTHORIZATION OF CONSTRUCTION
AND ACQUISITION OF THE PROJECT

Section 2.01. Authorization of Construction and Acquisition of the Project. There is hereby ratified the acquisition and construction of the Project, at an estimated cost of \$2,593,830, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Bonds hereby authorized shall be applied as provided in Article VI hereof.

ARTICLE III

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

Section 3.01. Authorization of Bonds. For the purpose of paying the Notes at their maturity and paying certain costs of issuance and related costs, there shall be issued negotiable Original Bonds of the Issuer, in an aggregate principal amount of not more than \$750,000. Said Bonds shall be designated "Sewer Revenue Bonds, Series 1986," and shall have such terms as set forth hereinafter and in the Supplemental Resolution. Proceeds of the Bonds remaining after capitalization of interest, if any, and payment of the costs of issuance thereof and related costs shall, to be extent necessary to defease the Notes, be deposited in the "BAN Debt Service Fund" established by Section 4.03(A) of the Indenture, and the balance, if any, shall be deposited in the Bond Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Terms of Bonds. The Bonds shall bear interest at such rate or rates, not exceeding 12% per annum, or such other rate as shall then be the legal maximum, payable semiannually on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution. The Bonds shall be payable as to principal at the office of the Commission, through a Paying Agent or Paying Agents, if any, selected by the original purchaser or purchasers thereof, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Bonds shall be paid by check or draft of the Paying Agent mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Original Bonds shall be issued in the form of a single bond fully registered to the Authority representing the aggregate principal amount of the Bonds and shall mature in principal installments, all as provided in the Supplemental Resolution. The Bonds shall be exchangeable at the option and expense of the Holder for other fully registered Bonds in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, may be issued in fully registered form, in the denomination of \$5,000 or any integral multiple thereof, all as determined by a Supplemental Resolution. The Bonds shall be dated as of the date specified in a Supplemental Resolution and shall bear interest from such date.

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

Section 3.04. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.09 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 Bond Legislation. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

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

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

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

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

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

Section 3.07. Bonds not to be Indebtedness of the Issuer.
The Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory

provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No holder or holders of any of the Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay the Bonds or the interest thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of all the Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and to make the payments into the Sinking Fund and the Reserve Account therein and the Renewal and Replacement Fund hereinafter established, are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds as the same become due.

Section 3.09. Form of Original Bonds. The text of the Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

[Form of Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF McMECHEN
SEWER REVENUE BOND, SERIES 1986

No. R-_____

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF McMECHEN, a municipal corporation of the State of West Virginia in Marshall County of said State, (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to 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.

The interest rate on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning _____ 1, 19____. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of Kanawha Valley Bank, N.A., Charleston, West Virginia, 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 upon the terms and conditions prescribed by, and otherwise in compliance with the Loan Agreement between the Issuer and the Authority dated March 21, 1985.

This Bond is issued (i) to refund and pay the entire principal amount of the Sewerage System Bond Anticipation Notes, Series 1985, of the Issuer (the "Notes") issued to temporarily finance part of the costs of acquisition and construction of additions, betterments and improvements for the existing sewage collection and transportation facilities of the Issuer (the "Project") pending issuance of this Bond; 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 West Virginia Code of 1931, as amended (the "Act"), and an Ordinance and Supplemental Resolution, duly enacted and adopted, respectively, by the Issuer on the 16th day of October, 1986 (collectively called the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, moneys in the Reserve Account created under the Bond Legislation for the Bonds (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 Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any fiscal year of principal of and interest on the Bonds and all other obligations secured by or payable from such revenues prior to or on a parity with the Bonds, provided however, that so long as there exists in the Reserve Account an amount at least equal to the maximum amount of principal and interest which will come due on the Bonds in any fiscal year, and there exists in the reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, an amount at least equal to the requirement therefor, such percentage

may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

Subject to such 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 Notes, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owner of this Bond.

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

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

IN WITNESS WHEREOF, the CITY OF McMECHEN has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed hereon and attested by its City Clerk, and has caused this Bond to be dated October 20, 1986.

[SEAL]

Mayor

ATTEST:

City Clerk

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

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

Date: _____

KANAWHA VALLEY BANK, N.A.,
as Registrar

By _____
Its Authorized Officer

EXHIBIT A

(Form of)

ASSIGNMENT

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

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

Dated: _____, _____.

In the presence of:

Section 3.10. Sale of Original Bonds; Execution of Loan Agreement with Authority. The Original Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the Mayor is specifically authorized and directed to execute the Loan Agreement in the form attached hereto as "Exhibit A" and made a part hereof, and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority.

ARTICLE IV

[RESERVED]

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

Within the Sinking Fund, the Reserve Account.

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

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

(2) Thereafter, from the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing 7 months prior to the first date of payment of interest on the 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 1/6th of the amount of interest which will become due on the Bonds on the next ensuing semiannual interest payment date, less any earnings transferred from the Reserve Account and any earnings on sums previously deposited in the Sinking Fund for the purpose of making interest payments on the Bonds; provided, that, in the event the period to elapse between the date of such initial deposit in the Sinking Fund and

the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date.

(3) The Issuer shall also, on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on Bonds on the next ensuing principal payment date, less any earnings transferred from the Reserve Account and any earnings on sums previously deposited in the Sinking Fund for the purpose of making principal payments on the Bonds; provided that, in the event the period to elapse between the date of such initial deposit in the Sinking Fund and the next annual principal payment date is less than 13 months then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(4) The Issuer shall also, on the first day of each month, commencing 13 months prior to the first date of payment of principal of the Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Reserve Account, an amount equal to 1/120 of the Reserve 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 Requirement.

(5) From the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing with the month succeeding the first full calendar month after commencement of operation of the System, transfer to the Renewal and Replacement Fund a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments credited to the Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiency in

the Reserve Account [except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required by Subsection 5.03(A)(4)] shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Bonds as the same shall become due. Moneys in the Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the 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 Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, for deposit in the Revenue Fund and such amount shall be applied in full to the next ensuing interest payment due on the Bonds, and to the extent of any balance, to the next ensuing principal payment due on the Bonds.

Any withdrawals from the Reserve Account which result in a reduction in the balance of the Reserve Account to below the Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments to the Sinking Fund for payment of debt service on the Bonds have been made in full.

As and when additional Bonds ranking on a parity with the Original Bonds are issued, provision shall be made for additional payments into the Sinking Fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the Reserve Account in an amount equal to the maximum provided and required to be paid into the Sinking Fund in any Fiscal Year for account of all the Original Bonds, including such additional Original Bonds which by their terms are payable from the Sinking Fund.

The Issuer 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 the Sinking Fund and Reserve Account are at least equal to the aggregate principal amount of and interest due to maturity on the Bonds then Outstanding.

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

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

Moneys in the Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

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

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

C. The Issuer shall remit from the Revenue Fund to the Paying Agent or the Depository Bank, on such dates as the Paying Agent 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 and the Paying Agent fees then due.

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

E. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates.

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

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

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

ARTICLE VI

BOND PROCEEDS; FUNDS AND ACCOUNTS

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

A. The amount of proceeds, which together with other moneys in the BAN Debt Service Fund is sufficient to pay the entire principal amount of and interest accrued on the Notes at the maturity thereof shall first be deposited with the Trustee in said BAN Debt Service Fund.

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

C. The Depository Bank shall act as a trustee and fiduciary for the Bondholders with respect to the Bond Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond Construction Trust Fund set forth in the Bond Legislation. Moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the Project and until so expended, are hereby pledged as additional security for the Bonds.

Section 6.02. Disbursements from the Bond Construction Trust Fund. Payments for Costs of the Project shall be made monthly.

Disbursements from the Bond Construction Trust Fund, except for the costs of issuance thereof which shall be made upon request of the Issuer, shall be made only after submission to the Depository Bank of a certificate, signed by an Authorized Officer and the Consulting Engineers, stating:

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

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

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

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

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

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

After completion of the Project, as certified by the Consulting Engineers, the Depository Bank shall transfer any moneys remaining in the Bond Construction Trust Fund to the Reserve Account.

ARTICLE VII

COVENANTS OF THE ISSUER

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

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Bonds shall not be or constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay said Bonds or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System. The revenues derived from the System, in an amount sufficient 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 all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided therein, to the payment of the principal of and interest on the Bonds as the same become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the Ordinance of the Issuer enacted April 2, 1985.

Section 7.05. Sale of the System. The System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Bonds Outstanding, or to effectively defease the Bond Legislation in accordance with Section 10.01 hereof. The proceeds from any such sale, mortgage,

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

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$10,000 and not in excess of \$50,000, shall, with the written consent of the Authority, be remitted by the Issuer to the Commission for deposit in the Sinking Fund and shall be applied only to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the par value thereof plus 3% of such par value or otherwise, shall be deposited in the Renewal and Replacement Fund. Such payment of such proceeds into the Sinking Fund or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Bond Legislation. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other

dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay all the Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of over 50% in amount of the Bonds then Outstanding and the Consulting Engineers. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. So long as any of the Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that additional Bonds on a parity with the Bonds may be issued as provided for in Section 7.07 hereof. All obligations issued by the Issuer after the issuance of the Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the Sinking Fund, the 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 Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Bond Legislation, or upon the System or any part thereof.

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

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

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Recorder a written

statement by the Independent Certified Public Accountants, based upon the necessary investigation and certification by the Consulting Engineers, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

- (1) The Bonds then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Ordinance then Outstanding;
- (3) The Parity Bonds then proposed to be issued; and
- (4) Any other obligations secured by or payable from the Net Revenues prior to the Bonds.

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates imposed by the Issuer, the period for appeal of which has expired without appeal 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 Recorder prior to the issuance of such Parity Bonds.

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

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

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. All such Parity 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 Parity Bond of one series over any other Parity Bond of the same series. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

All Parity Bonds shall mature on the day of the years of maturities, and the semiannual interest thereon shall be payable on the days of each year, specified in a Supplemental Resolution.

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 Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Bonds.

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

B. Notwithstanding the foregoing, or any provision of Section 7.06 to the contrary, additional Bonds on parity with the Bonds may be issued solely for the purpose of completing the Project as described in the application to the Authority submitted as of the

date of the Loan Agreement without regard to the restrictions set forth in this Section 7.07.

Section 7.08. Books and Records. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds issued pursuant to this Bond Legislation shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

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

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

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

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

(C) The amount of any Bonds, notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of Bonds and shall file said report with the Authority, or any other original purchaser of the Bonds.

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

Section 7.10. Operating Budget and Audit. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated 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 Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer

shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and to any Holder of any Bonds who shall file his or her address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him or her and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder.

In addition, the Issuer shall annually cause the records of the System to be audited by an independent certified public accountant, the report of which audit shall be submitted to the Authority and which audit report shall include a statement that the Issuer is in compliance with the terms and provisions of this Bond Legislation and the Loan Agreement.

Section 7.11. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with the System.

Section 7.12. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

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

services and facilities of the System, plus reasonable interest penalty charges for the restoration of service, has been fully paid.

Section 7.13. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.14. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as any of the Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily carried with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than \$1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than \$100,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

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

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

Section 7.15. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30 day notice of the availability of the System, pay the rates and charges established therefor.

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

Section 7.16. Completion of Project. The Issuer will complete the Project and operate and maintain the System in good condition.

ARTICLE VIII

INVESTMENT OF FUNDS; NON ARBITRAGE

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

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

Section 8.02. Restrictions as to Arbitrage Bonds. The Issuer hereby covenants, and hereby so instructs the Bond Commission and the Depository Bank that they shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause any Bond to be an "arbitrage bond" as defined in Section 103(c)(2) of the Internal Revenue Code (or any successor provision), and an Authorized Officer shall deliver his certificate, based upon this covenant, with regard thereto to the purchaser of the Original Bonds.

Section 8.03. Rebates of Excess Arbitrage Earnings. The Issuer hereby covenants to pay to the United States Government the excess of the aggregate amount earned from the date of issue of the Bonds on all "nonpurpose obligations" (as such term is defined in the Internal Revenue Code of 1954, as amended, or any successor provision of the Code) in which gross proceeds of the Bonds are invested (other than amounts attributable to the excess described in this paragraph) over the amount which would have been earned if such nonpurpose obligations were invested at a rate equal to the yield (determined on the basis of the issue price) on the Bonds, plus any income attributable to such excess, whether or not such income exceeds the yield on the Bonds (the "Rebate Amount"), determined in accordance with and subject to the exceptions set forth in Section 103(c) of the Code. The amount which is required to be paid to the United States Government shall be paid in installments which are made at least once every 5 years, in amounts and in the manner set forth in Section 103(c).

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. A. 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; or

(B) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Bonds set forth in this Bond Legislation, any supplemental resolution, or in the Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Paying Agent, Depository Bank, any other bank or banking association holding any fund or account hereunder or a Holder of a Bond; or

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

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

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered

by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System on behalf of the Issuer with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

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

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

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

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

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

ARTICLE X

DEFEASANCE

Section 10.01. Defeasance of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

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

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. No material modification or amendment of this Bond Legislation, or of any ordinance or resolution amendatory or supplemental hereto, that would materially and adversely affect the respective rights of Registered Owners of the Bonds shall be made without the consent in writing of the Registered Owners of 66-2/3% or more in principal amount of the Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein respectively pledged therefor without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications.

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

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

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

Section 11.05. Amendments to Maintain Tax Exemption. The Issuer hereby covenants to make any amendment or supplements to this Bond Legislation necessary to enable the interest on the Bonds to remain exempt from federal income taxation, and to preserve and maintain such tax exemption until the maturity or redemption thereof without further consent of the Holders of the Bonds.

Section 11.06. Conflicting Provisions Repealed. All ordinances, orders, indentures, or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed, provided that, until the Notes are paid in full, the provisions of the Indenture relating to the Notes and until the Sewage System Grant Anticipation Notes, Series 1985, dated May 1, 1985, of the Issuer are paid in full, the provisions of the Indenture relating to the Grant Anticipation Notes shall remain in full force and effect.

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

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

Section 11.09. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance, determined by the Issuer to contain sufficient information as to give notice of the contents hereof, shall be published once a week for two successive weeks within a period of fourteen consecutive days, with at least six full days intervening between each publication, in the Wheeling Intelligencer, a newspaper of general circulation in the City of McMechen, no newspaper being published in the City of McMechen, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Notes and Bonds, and that any person interested may appear before the Common Council upon a date certain, not less than ten days subsequent to the date of the first publication of the said abstract and notice, and present protests, and that a certified copy of the Ordinance is on file in the office of the Issuer for review by interested parties during the office hours of the Issuer.

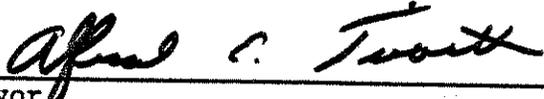
At such hearing, all objections and suggestions shall be heard and the Common Council shall take such action as it shall deem proper in the premises.

Passed on First Reading: September 18, 1986

Passed on Second Reading: September 25, 1986

Effective following public hearing held on: October 16, 1986

[SEAL]



Mayor

ATTEST:

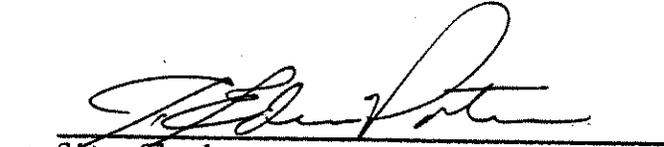
By 

City Clerk

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the City Council of the City of McMechen on this 16th day of October, 1986.

[SEAL]



City Clerk

"EXHIBIT A"

[Please refer to Document No. 3 of Transcript]

10/12/86
MCME2-A

CITY OF McMECHEN

Sewer Revenue Bonds, Series 1986

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO DATE, MATURITY, INTEREST RATE, PRINCIPAL PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1986, OF THE CITY OF McMECHEN; AUTHORIZING, APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS

WHEREAS, the City Council (the "Governing Body") of THE CITY OF McMECHEN (the "Issuer"), upon petition of the Sanitary Board of the Issuer, has duly and officially enacted a bond ordinance effective September 25, 1986 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF PUBLIC SEWERAGE FACILITIES OF THE CITY OF McMECHEN AND THE PERMANENT FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$750,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1986, PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Bond Ordinance provides for the issuance of Sewer Revenue Bonds of the Issuer (the "Bonds"), in an aggregate principal amount ~~of~~ not to exceed \$750,000, and has authorized the execution and delivery of a Loan Agreement (the "Loan Agreement") dated as of March 21, 1985, by and between the Issuer and West Virginia Water Development Authority (the "Authority"), all in accordance with West Virginia Code, Chapter 16, Article 13 (the "Act"); and in the Bond Ordinance, it is provided that the maturity date, interest rate, interest and principal payment dates, sale

price and other terms of the Bonds should be established by a resolution supplemental thereto; and that other matters relating to the Bonds be herein provided for;

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

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

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

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewer Revenue Bonds, Series 1986, of the Issuer, originally represented by a single Bond, numbered R-1, in the principal amount of \$731,000. The Bonds shall be dated the date of delivery thereof (expected to be October 20, 1986), shall finally mature on October 1, 2025, shall bear interest at the rate of 9.75% per annum, payable semiannually on April 1 and October 1 of each year, first interest payable April 1, 1987, shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium provided in the Loan Agreement, as long as the Authority shall be the registered owner of the Bonds, and shall be payable in installments of principal on October 1 of each of the years and in the amounts as set forth in "Schedule X," attached thereto and incorporated therein by reference.

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

Section 3. The Issuer does hereby approve, accept and ratify the Loan Agreement dated March 21, 1985, between the Authority and the Issuer, a copy of which is incorporated herein by reference, and the execution and delivery by the Mayor of the Loan Agreement, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, approved and

directed. The price of the Bonds shall be \$736,514 (100% of par value).

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

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

Section 6. The Issuer does hereby appoint The Bank of McMechen, McMechen, West Virginia, as Depository Bank under the Bond Ordinance.

Section 7. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered on or about October 20, 1986, to the Authority pursuant to the Loan Agreement.

Section 8. The financing of the Project by issuance of the Bonds is in the public interest, serves a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 9. This Supplemental Resolution shall be effective immediately following adoption on second reading hereof.

Adopted on first reading this 25th day of September, 1986.

Adopted on second reading this 16th day of October, 1986.

CITY OF McMECHEN



Mayor

10/11/86
MCME1-C

MAR 25 1985

LOAN AGREEMENT

WATER DEVELOPMENT AUTHORITY

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 City of McMechen, a municipal corporation organized and existing under the laws of the State of West Virginia (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 is authorized and empowered by the statutes of the State to construct, operate and improve such a water development project and to finance the cost of constructing or acquiring the same by borrowing money to be evidenced by revenue bonds issued by such Governmental Agency and, pending the issuance of such revenue bonds, by bond anticipation notes or other short-term indebtedness issued by such Governmental Agency;

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

WHEREAS, the Governmental Agency has completed and filed with the Authority an Application for Loan with attachments and exhibits, dated December 19, 1984 (as revised and supplemented, the "Application"), which Application is incorporated herein by this reference;

WHEREAS, upon review of the Application, the Authority issued the Governmental Agency a letter, dated March 5, 1985 (the "Commitment Letter"), agreeing to lend the Governmental Agency an amount not to exceed \$760,000 through the purchase of revenue bonds of the Governmental Agency with proceeds of the next issue of revenue bonds by the Authority, subject to the

Governmental Agency's satisfaction of certain legal and other requirements of the Authority's water development loan program (the "Program");

WHEREAS, based in part upon the Commitment Letter, the Governmental Agency has issued bond anticipation notes or other short-term indebtedness, which is outstanding as of the date hereof and is anticipated to be paid in whole or in part from the net proceeds of such revenue bonds to be purchased by the Authority;

WHEREAS, the Authority intends to issue West Virginia Water Development Authority Water Development Refunding and Improvement Revenue Bonds (Loan Program), 1985 Series A (the "1985 Series A Bonds"), in accordance with the provisions of the Act and a general resolution to be adopted by the Authority (the "General Resolution") and to be supplemented by a series resolution authorizing the 1985 Series A Bonds;

WHEREAS, pursuant to the Program, the Authority intends to use the proceeds of the 1985 Series A Bonds to purchase the revenue bonds of certain municipalities and public service districts, including the Governmental Agency, which comply with the requirements established by the Authority, subject, however, to the ability of the Authority to sell the 1985 Series A Bonds and to the extent of the availability of the proceeds of such 1985 Series A Bonds; and

WHEREAS, the Authority has made all findings required by Section 5 of the Act with respect to the Project and is willing to make said loan to the Governmental Agency, subject to the terms and provisions hereinafter contained;

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" 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 "EPA" means the United States Environmental Protection Agency and any successor to the functions thereof.

1.4 "Governmental Agency Bonds" means, collectively, the Local Bonds and any Supplemental Bonds, both as hereinafter defined.

1.5 "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.

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

1.7 "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 1985 Series A Bonds, all in accordance with the provisions of this Loan Agreement.

1.8 "Local Statute" means Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended.

1.9 "Notes" means the bond anticipation notes or other short-term indebtedness issued by the Governmental Agency for the purpose of financing a portion of the cost of the Project, all or a portion of which is to be paid from the proceeds of the WDA Loans, as hereinafter defined.

1.10 "Project" means the water development project hereinabove referred to, constructed or being constructed by the Governmental Agency with, among other funds, the net proceeds of the Notes.

1.11 "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.

1.12 "Supplemental Bonds" means the revenue bonds, if any, 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 funds other than the proceeds of its 1985 Series A Bonds, all in accordance with the provisions of this Loan Agreement.

1.13 "Supplemental Loan" means the loan, if any, to be made by the Authority to the Governmental Agency through the purchase of Supplemental Bonds to effect an aggregate cost to the Governmental Agency of borrowing from the Authority lower than the cost of the Loan.

1.14 "System" means the works for the collection and/or treatment, purification and disposal of sewage owned by the Governmental Agency and any extensions, improvements or betterments thereto hereafter constructed or acquired from any sources whatsoever and includes the Project.

1.15 "WDA Loans" means, collectively, the Loan and any Supplemental Loan.

1.16 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, constructed in accordance with plans, specifications and designs prepared for the Governmental Agency by the Consulting Engineers, the Authority having found 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 (to the extent such approval is required) 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 has constructed, or 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 such 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 WDA Loans or of 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 EPA and their respective 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.

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, EPA 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 the water quality standards established by the West Virginia Department of Natural Resources and EPA. 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 WDA Loans; Issuance of Governmental Agency Bonds

3.1 The agreement of the Authority to make the WDA Loans is subject to the Authority's issuing and delivering the 1985 Series A Bonds and subject to the requirements of Section 3.4 hereof and to the fulfillment, to the satisfaction of the Authority, of each and all of those certain conditions precedent on or before the delivery date for the Governmental Agency Bonds, which shall be the date designated at the end of this Loan Agreement as the "Date of WDA Loans Closing"; provided that, if such Governmental Agency Bonds are not delivered on the Date of WDA Loans Closing so designated, the Authority may use such moneys allocated for the purchase of the Governmental Agency Bonds for the purchase of revenue bonds of other governmental agencies in accordance with Section 3.5 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 Governmental Agency Bonds described in Section 3.2 hereof;

(c) The Governmental Agency shall have received bids for the construction of the Project 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 Project shall have been or shall be constructed in accordance with the plans, specifications and designs prepared therefor by the Consulting Engineers and as described in the Application, and the Authority shall have received a certificate of the Consulting Engineer to such effect;

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

(f) The Governmental Agency shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the issuance of the Governmental Agency 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, 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, to such effect;

(g) Such rates and charges for the System shall comply with the provisions of Subsection 4.1(b)(iii) 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

(h) The net proceeds of the Governmental Agency Bonds, together with all moneys on deposit and irrevocably pledged thereto, the proceeds of grants irrevocably committed therefor and the net proceeds of any obligations subordinate, junior and inferior as to lien and source of and security for payment to the Governmental Agency Bonds, issued therefor simultaneously with or prior to the issuance of the Governmental Agency Bonds, shall be sufficient to pay in full the Notes at or prior to the maturity thereof and to pay in full any remaining costs of the Project as the same become due, and the Authority shall have received a certificate, of such person or firm and in form and substance satisfactory to the Authority, to such effect.

3.2 Subject to the terms and provisions of this Loan Agreement, the rules and regulations promulgated by the Authority and the rules, regulations and procedures promulgated from time to time by EPA, it is hereby agreed that the Authority shall make the WDA Loans to the Governmental Agency and the

Governmental Agency shall accept the WDA Loans 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 WDA Loans by purchasing the Governmental Agency Bonds in the respective principal amounts set forth in Schedule X hereto. The aggregate principal amount of the Governmental Agency Bonds shall not exceed the amount set forth in the Commitment Letter, rounded upward if necessary to an integral multiple of \$5,000. The Local Bonds will be purchased by the Authority at the price set forth in Schedule X hereto, and any Supplemental Bonds will be purchased by the Authority at a price equal to one hundred percent (100%) of the principal amount thereof. The Governmental Agency Bonds shall have such further terms and provisions as described in Article IV hereof.

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

3.4 The Governmental Agency hereby covenants and agrees to enact any necessary amendments or supplements to its Local Act, to obtain any additional governmental approvals and to take any other actions that may be required by the issuance of any Supplemental Bonds.

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 sale and the availability of proceeds of the 1985 Series A Bonds at the time the Governmental Agency has fulfilled all of the terms and conditions of this Loan Agreement 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 1985 Series A Bonds.

3.6 In the event the Governmental Agency Bonds are not delivered to the Authority on the designated Date of WDA Loans Closing but, at the sole option of the Authority, as described in said Section 3.1, are delivered to the Authority subsequent to such date, and the earnings on that portion of the proceeds of the 1985 Series A Bonds issued to purchase the Local Bonds are not sufficient to pay the interest accruing on said portion of the 1985 Series A Bonds between such designated Date of WDA Loans Closing and such date of actual delivery, the Governmental Agency agrees to issue additional bonds, in principal amount equal to such deficiency (as determined by the Authority), and to sell such additional bonds to the Authority and assign the proceeds thereof to the Authority, which shall use such proceeds to reimburse itself for such deficiency.

ARTICLE IV

Governmental Agency Bonds; Security for WDA Loans; Repayment of WDA Loans; Interest on WDA Loans; Fees and Charges

4.1 The Governmental Agency shall, as one of the conditions of the Authority to make the WDA Loans, authorize the issuance of and issue the Governmental Agency 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 follows:

(i) to pay Operating Expenses of the System;

(ii) to the extent not otherwise limited by an outstanding local ordinance, indenture or other act or document, as reflected on Schedule X hereto, 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 day 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 a reserve account for the payment of debt service on the Local Bonds (the "Reserve Account") was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof in an amount equal to the maximum amount of principal and interest which will come due on the Local Bonds in any year (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 any Supplemental Bonds in substantially the same manner as set forth

in Paragraph (ii), above, with respect to the Local Bonds, including establishing or maintaining, as the case may be, a reserve account;

(v) to provide debt service on and requisite reserves for any additional bonds issued to the Authority pursuant to Section 6.4 hereof; and

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

The gross revenues of the System shall always be used for purposes of the System.

(b) Covenants substantially as follows:

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

(ii) That any Supplemental Bonds shall be subordinate to the Local Bonds as to lien and source of payment;

(iii) 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 for the Local Bonds is funded (whether by Local Bond proceeds, monthly deposits or otherwise) at least at 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;

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

(v) 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 Governmental Agency Bonds outstanding, with further restrictions on the disposition of portions of the System as are normally contained in such covenants;

(vi) 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 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;

(vii) That the Governmental Agency will carry such insurance as is customarily carried with respect to works and properties similar to the System;

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

(ix) That any bondholder 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 or interest on the Governmental Agency Bonds, the right to obtain the appointment of a receiver to administer the System as provided by law;

(x) 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;

(xi) That it 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;

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

(xiii) That the Governmental Agency shall annually cause the records of the System to be audited by an independent certified public accountant, the report of which audit shall be submitted to the Authority and shall include a statement that the Governmental Agency is in compliance with the terms and provisions of the Local Act and this Loan Agreement;

(xiv) 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;

(xv) 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;

(xvi) That, except to the extent used to refund the Notes, the proceeds of the Governmental Agency Bonds, except for accrued interest and capitalized interest, if any, must be deposited in a construction fund on which the owner of the Governmental Agency Bonds shall have a lien until such proceeds are applied to the construction of the Project; and

(xvii) That, as long as the Authority is the owner of any of the Governmental Agency Bonds, the Governmental Agency shall not authorize redemption thereof 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 enacted 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 Governmental Agency 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 WDA Loans shall be secured by the pledge and assignment by the Governmental Agency, as effected by the Local Act, of all the fees, charges and other revenues of the Governmental Agency from the System remaining after the payment of Operating Expenses and as otherwise provided in the Local Act, subject only to such reservations and exceptions as are described in Schedule X hereto or are otherwise expressly permitted in writing by the Authority.

4.3 The principal of the WDA Loans 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. The Supplemental Loan shall bear no interest. 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 Governmental Agency 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 Program. Such administrative expenses shall be as determined by the Authority and shall include without limitation Program expenses and fees paid to the trustee and paying agents for the 1985 Series A 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 registered owner of any of the Governmental Agency Bonds outstanding, the Governmental Agency shall not redeem such Governmental Agency 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 1985 Series A Bonds and the redemption premium payable on the 1985 Series A Bonds redeemable as a consequence of such redemption of Local Bonds, 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 its 1985 Series A Bonds, and such refunding need not be based upon or result in any benefit to the Governmental Agency.

ARTICLE V

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

5.1 The Governmental Agency hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Governmental Agency hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the WDA Loans, 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)(iii) 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 Governmental Agency 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.

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 in respect of 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 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.

6.3 The Governmental Agency hereby covenants that, to the extent the proceeds of the Governmental Agency Bonds are used to refund Notes, no investment of the proceeds of the Governmental Agency Bonds shall be made that would cause either all or a portion of the Governmental Agency Bonds or the 1985 Series A Bonds to be considered "arbitrage bonds" under the Internal Revenue Code of 1954, as amended, or the United States Treasury Regulations promulgated pursuant thereto, and the Governmental Agency shall deliver to the Authority a certificate of an official responsible for the issuance of the Governmental Agency Bonds and an opinion of bond counsel to such effect.

6.4 At the option of the Authority, the Governmental Agency shall issue and sell to the Authority additional, subordinate bonds to satisfy the obligation of the Governmental Agency described in Section 3.6, above, or to evidence the Governmental Agency's obligation to repay to the Authority any hardship 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, and the Governmental Agency may issue and sell to the Authority additional, subordinate bonds to fund the Reserve Account or to provide additional funds to the Governmental Agency for completion of construction of the Project. The principal amount of any such additional bonds shall be considered in addition to the maximum principal amount described in Section 3.2, above.

6.5 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 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 WDA Loans and receiving the Governmental Agency 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 WDA Loans 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.

ARTICLE VII

Miscellaneous

7.1 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.

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

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

7.4 No waiver by 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.

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

7.6 The 1985 Series A Bonds constitute the next issue of revenue bonds by the Authority contemplated by the Commitment Letter. Accordingly, if the Governmental Agency does not execute this Loan Agreement and return it to the Authority by the date designated below, any obligations of the Authority under the Commitment Letter shall terminate, and the Authority shall have no further obligations to the Governmental Agency.

7.7 By execution and delivery of this Loan Agreement, the Governmental Agency specifically recognizes that it is hereby agreeing to sell its Governmental Agency 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) at the option of the Authority, failure by the Governmental Agency to deliver the Governmental Agency Bonds to the Authority on the Date of WDA Loan Closings designated below;

(ii) termination by the Authority pursuant to Section 6.5 hereof; or

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

Notwithstanding the foregoing, the Governmental Agency may terminate this Loan Agreement by written notice to the Authority within one week after receipt by the Governmental Agency of Schedule X hereto if the interest rate on the Governmental Agency Bonds exceeds ten percent (10%) per annum or the discount on the Governmental Agency Bonds exceeds five percent (5%) (in both cases, calculated as if the Governmental Agency Bonds constituted one issue).

REQUIRED DATE OF RETURN TO AUTHORITY: March 29, 1985

DATE OF WDA LOANS CLOSING (must be the business day on which the Governmental Agency is required to issue its revenue bonds pursuant to the terms of the ordinance authorizing the Notes or, if there is no such specific requirement, one business day prior to the scheduled maturity of the Notes or the earlier redemption date thereof if the Notes are in fact called for redemption, but not later than 27 months from the date the 1985

Series A Bonds are delivered to the original purchasers thereof): October 15, 1986 *

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 Governmental Agency, but this Loan Agreement shall not be binding on the Authority until executed by it.

CITY OF McMECHEN

(SEAL.)

BY Alfred E. Trust
Its Mayor

Attest:

Date: 3-21-85

John J. Anderson
Its City Clerk

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

(SEAL)

BY Edgar N. Henry
Director

Attest:

Date: May 22, 1985

Daniel B. [Signature]
Secretary-Treasurer

*This date may be inserted after March 29, 1985, but prior to April 11, 1985; provided, that the Governmental Agency must still return this Loan Agreement by March 29, 1985, and will be nevertheless bound by it and that, if the Governmental Agency is required to issue its revenue bonds on or prior to a certain date, such certain date shall be considered the day on which such issuance is required.

SCHEDULE X

CITY OF McMECHEN

Description of Governmental Agency Bonds

Principal Amount of Local Bonds	\$731,000
Purchase Price of Local Bonds	\$731,000 (par)

No Supplemental Bonds are to be issued.

Interest on 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 9.75% per annum. Principal of Local Bonds is payable on October 1 in each year as set forth on Exhibit 1 hereof.

Principal Amount of outstanding prior or parity indebtedness as of May 22, 1985: \$-0-

City of McMechen
Debt Service Schedule at 9.75% Borrowing Rate

MATURITY DATE	COUPON	PRINCIPAL	INTEREST	DEBT SERVICE
10/ 1/1987	9.750	1,768.00	67,510.90	69,278.90
10/ 1/1988	9.750	1,940.00	71,100.12	73,040.12
10/ 1/1989	9.750	2,129.00	70,910.97	73,039.97
10/ 1/1990	9.750	2,337.00	70,703.39	73,040.39
10/ 1/1991	9.750	2,565.00	70,475.54	73,040.54
10/ 1/1992	9.750	2,815.00	70,225.45	73,040.45
10/ 1/1993	9.750	3,089.00	69,950.99	73,039.99
10/ 1/1994	9.750	3,390.00	69,649.81	73,039.81
10/ 1/1995	9.750	3,721.00	69,319.28	73,040.28
10/ 1/1996	9.750	4,083.00	68,956.49	73,039.49
10/ 1/1997	9.750	4,482.00	68,558.39	73,040.39
10/ 1/1998	9.750	4,918.00	68,121.40	73,039.40
10/ 1/1999	9.750	5,398.00	67,641.89	73,039.89
10/ 1/2000	9.750	5,924.00	67,115.59	73,039.59
10/ 1/2001	9.750	6,502.00	66,538.00	73,040.00
10/ 1/2002	9.750	7,136.00	65,904.05	73,040.05
10/ 1/2003	9.750	7,832.00	65,208.29	73,040.29
10/ 1/2004	9.750	8,595.00	64,444.67	73,039.67
10/ 1/2005	9.750	9,433.00	63,606.66	73,039.66
10/ 1/2006	9.750	10,353.00	62,686.94	73,039.94
10/ 1/2007	9.750	11,362.00	61,677.53	73,039.53
10/ 1/2008	9.750	12,470.00	60,569.73	73,039.73
10/ 1/2009	9.750	13,686.00	59,353.91	73,039.91
10/ 1/2010	9.750	15,021.00	58,019.52	73,040.52
10/ 1/2011	9.750	16,485.00	56,554.97	73,039.97
10/ 1/2012	9.750	18,092.00	54,947.69	73,039.69
10/ 1/2013	9.750	19,856.00	53,183.72	73,039.72
10/ 1/2014	9.750	21,792.00	51,247.76	73,039.76
10/ 1/2015	9.750	23,917.00	49,123.04	73,040.04
10/ 1/2016	9.750	26,249.00	46,791.13	73,040.13
10/ 1/2017	9.750	28,808.00	44,231.85	73,039.85
10/ 1/2018	9.750	31,617.00	41,423.07	73,040.07
10/ 1/2019	9.750	34,700.00	38,340.41	73,040.41
10/ 1/2020	9.750	38,083.00	34,957.16	73,040.16
10/ 1/2021	9.750	41,796.00	31,244.07	73,040.07
10/ 1/2022	9.750	45,871.00	27,168.96	73,039.96
10/ 1/2023	9.750	50,343.00	22,696.54	73,039.54
10/ 1/2024	9.750	55,252.00	17,788.10	73,040.10
10/ 1/2025	9.750	60,639.00	12,401.03	73,040.03
10/ 1/2026	9.750	66,551.00	6,488.72	73,039.72
		731,000.00	2,186,837.68	2,917,837.68

SMITH BARNEY, HARRIS UPHAM & CO. INCORPORATED
OCTOBER 16, 1986

EXHIBIT A

[Opinion of Bond Counsel for Governmental Agency]

[To Be Dated as of Date of WDA Loans Closing]

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

Gentlemen:

We are bond counsel to the City of McMechen (the "Governmental Agency"), a municipal corporation organized 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 _____, 19__ (the "Loan Agreement"), between the Governmental Agency and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of two separate series of revenue bonds of the Governmental Agency, dated _____, 19__ (the "Governmental Agency Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The series of Governmental Agency Bonds described in the Loan Agreement as Local Bonds is in the principal amount of \$_____, issued in the form of one bond registered as to principal and interest to the Authority, interest payable _____ 1 and _____ 1 of each year, beginning _____ 1, 19__, at the respective rate or rates and with principal payable in installments on _____ 1 in each of the years, all as follows:

<u>Year</u>	<u>Installment</u>	<u>Interest Rate</u>
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The series of Governmental Agency Bonds described in the Loan Agreement as the Supplemental Bonds is 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 _____ 1 in each of the years, as follows:

Year

Installment

The Governmental Agency 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 Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended (the "Local Statute"), under which the Governmental Agency Bonds are issued, and the Loan Agreement that has been undertaken, including all schedules and exhibits to the Loan Agreement. The Governmental Agency Bonds have been authorized by a bond ordinance (the "Local Act") duly enacted by the Governmental Agency, which contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement. The Governmental Agency 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 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 municipality, 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 Governmental Agency 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 and resolutions in connection with the issuance and sale of the Governmental Agency Bonds.

5. The Governmental Agency 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 Governmental Agency Bonds and the Local Act, and have been duly issued and delivered to the Authority.

6. The Governmental Agency has reserved the right to issue additional bonds ranking on a parity with the Local Bonds, as provided in the Local Act.

7. The Governmental Agency Bonds are, by statute, exempt from taxation by the State of West Virginia or any county, municipality or political subdivision or agency thereof, 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 enforceability of remedies with respect to the Governmental Agency Bonds under any applicable bankruptcy, insolvency, moratorium or other laws affecting creditors' rights.

We have examined executed Local Bond numbered R-1 and Supplemental Bond numbered S-1, and in our opinion the form of said bonds and their execution are regular and proper.

Very truly yours,



PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: April 10, 1985

CASE NO. 84-698-S-CN

CITY OF McMECHEN, a municipal corporation, Marshall County. Application for a certificate of convenience and necessity to renovate the present sewage treatment plant to upgrade to a secondary treatment system at McMechen, Marshall County.

FINAL

4-15-85

*By Comm Order Entered
4/10/85*

HEARING EXAMINER'S RECOMMENDED DECISION

PROCEDURE

On October 19, 1984 the City of McMechen, a municipal corporation, Marshall County, filed an application, duly verified, for a certificate of convenience and necessity to renovate and upgrade its present sewage treatment plant to furnish secondary public sewage service at McMechen, Marshall County. Specifically, the City of McMechen proposes to add a secondary treatment process by high rate trickling filter (Loch Media) after the existing primary treatment system, with refurbishment of the existing facility, at an estimated cost of \$1,860,000 to be financed by a United States Environmental Protection Agency Grant in the amount of \$1,245,000. ¹

¹The project, as originally filed with the Commission, was estimated to cost \$1,860,000, with a grant from the Environmental Protection Agency in the amount of \$1,245,000. However, at the present time the project is currently estimated to cost \$2,661,500, with an increase in the amount of the Environmental Protection Agency grant to \$1,782,670. (See, Staff Exhibit 1, pp. 1-2 and Stipulation Exhibit No. 4, Part B application).

By order entered on October 19, 1984, the City of McMechen was ordered to give notice of the filing of the application by publishing a copy of the Commission's order one time in a newspaper, duly qualified by the Secretary of State, published and of general circulation in Marshall County, making due return to the Commission of proper certification of publication immediately thereafter. Anyone desiring to make objection, in writing, to said application was given leave to do so within thirty (30) days after the publication of said notice. It was further ordered 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 McMechen, based upon the evidence submitted with the application and its review thereof.

On November 1, 1984, the City of McMechen submitted its affidavit of publication, indicating that notice of the filing of the application was given, as required, by publication on October 25, 1984, in the Moundsville Daily Echo.

By order entered on March 15, 1985, this matter was set for hearing to be held on Wednesday, April 3, 1985, at 10:30 a.m., at which time and place the City of McMechen was ordered to appear and prosecute its application. Leave was granted to anyone interested to file objection to the application at any time on or before the day of hearing. It was further ordered that the City give notice of the filing of the application and of the time and place of hearing thereon by publishing a copy of the Commission's order in a newspaper, duly qualified by the Secretary of State, published and of general circulation in Marshall County, at least two times between the date of the order and April 3, 1985, making due return to the Commission of proof of publication on or before the day of hearing.

The hearing was held as scheduled with Ronald Ruttenberg and Daniel W. Dickinson, Jr., appearing on behalf of the City of McMechen, and Am. Lecocq, of the Legal Division, appearing on behalf of Commission Staff. No one appeared at the hearing to protest the application. The City presented the testimony of five witnesses and introduced five exhibits into evidence. Commission Staff presented the testimony of one witness and introduced one exhibit into evidence. Additionally, seven exhibits were stipulated into the record by mutual consent and agreement of Commission Staff and the City of McMechen. Further, the City submitted proof of proper publication of the notice of hearing order through publishers certificates from the Moundsville Daily Echo and The Wheeling Intelligencer, indicating that notice was given of the date of hearing on March 21 and 28, 1985, in the Moundsville Daily Echo and on March 22 and March 29, 1985, in The Wheeling Intelligencer. At the close of hearing this matter was submitted for a decision pending receipt of the transcript. Neither Commission Staff nor the City of McMechen desired to file briefs in this matter.

EVIDENCE

The first witness presented by the City was Conrad W. Bramley, of the Division of Water Resources of the West Virginia Department of Natural Resources. Mr. Bramley testified that his agency's role has been to approve the plans and specifications for the project and to provide funding for Steps 2 and 3 of the project. (Tr., p. 6). The Division of Water Resources of the Department of Natural Resources has determined that there is a need for the McMechen sewer project. Presently the City has a

treatment plant which provides primary treatment only. In March of 1985, the City was issued a new NPDES (National Pollutant Discharge Elimination System) permit which requires the City to upgrade its treatment plant to secondary treatment. (Id.). Additionally, Chapter 20, Article 5A of the West Virginia Code requires the upgrading of the primary treatment facility to secondary treatment and the Federal Clean Water Act also requires all municipalities to upgrade their treatment facilities to secondary treatment by 1987. (Tr., pp. 6-7). The NPDES permit was admitted into the record as City Exhibit No. 1. The permit states that the facility is designed to serve a maximum of 3,000 people in the City of McMechen and also specifies the facilities to be added and upgrading which is to take place to comply with the permit. The issuance of the NPDES permit mandates the construction of the McMechen sewer project. (Tr., p. 8).

Mr. Bramley also testified as to the source of funds committed by the Federal Government to the project. At the present time the Environmental Protection Agency has awarded a Step 3 grant to the City of McMechen in the amount of \$1,975,000; however, with Part B approval and a requested decrease in the grant amount, the grant will be reduced to \$1,782,670. (Tr., pp. 8-9). Currently, the project must be under construction by April 5, 1985, in order to receive the EPA grant money. However, the City has requested a time deviation from the Environmental Protection Agency, which will take something in the neighborhood of 45 to 60 days to process. (Tr., p. 9). The deviation was requested by the Mayor of the City of McMechen by letter dated March 15, 1985. The deviation request has been reviewed and approved by the Department of Natural Resources and sent on to the Environmental Protection Agency District Office in Philadelphia,

Pennsylvania. (Id.). (Tr., p. 9). Once the District Office in Philadelphia has approved it, the deviation must be sent to the Environmental Protection Agency headquarters in Washington, D.C., for final approval. (Id.). According to Mr. Bramley, it has been the experience of the Department of Natural Resources that, when it recommends approval of a deviation to the Environmental Protection Agency, the deviation is usually granted. (Tr., p. 11).

The next witness to testify on behalf of the City was Donald W. Bertram, Vice President in charge of the Municipal Services Division of Green International, Inc., a consulting engineering firm. Mr. Green prepared, or had prepared under his direction, various engineering studies regarding the upgrading of the City of McMechen's sewage treatment plant. According to Mr. Bertram, the project initially was part of a regional concept which included the City of Benwood and Public Service District No. 1, as well as the City of McMechen, until the City of Benwood elected to withdraw from the project. (Tr., p. 14). In order to meet the compliance requirements of the State of West Virginia and the Environmental Protection Agency for effluent discharges, the City decided to investigate the upgrading of its plant from primary treatment to secondary treatment and had an update of its facilities plan prepared which was approved by the Department of Natural Resources in April of 1984. (Tr., p. 14). The final design plans were completed, submitted to the Department of Natural Resources and approved by the Department of Natural Resources in October of 1984, and the City was authorized to receive bids at that time. (Tr., p. 15). The main components that are being added to the system to provide secondary treatment are the rock bed trickling filter, two new secondary clarifiers and new chlorine compact tanks and chlorination facilities, as

well as sludge handling facilities, sludge dewatering and lime stabilization and several other improvements such as the replacement of pumps (Tr., p. 16). Two pump stations will also be replaced but the existing collection system will not be changed. (Tr., p. 16). The design capacity of the new treatment plant is 300,000 gallons per day, with a maximum flow capacity of 560,000 gallons per day, designed to serve a population of 3,000 people. (Tr., p. 17). In Mr. Bertram's estimation, based upon the current population, the development of the City and the area to be served, the design of the new treatment plant is sufficient to meet McMechen's future needs for sanitary sewer treatment. (Tr., p. 18). The area to be served by the project is the area within the corporate limits of the City of McMechen. (Id.).

According to Mr. Bertram, contingencies in the amount of \$116,000 have been built into the financial package for the project which, in his opinion, is a reasonable contingency amount. (Tr., p. 18). Mr. Bertram is unaware of any other funding requirements, other than those which have already been committed. (Tr., p. 19). The project was advertised for bids and bids were received on December 12, 1984. (Tr., p. 19). The low bidder on the project is S.I. Industries, Inc., from Bridgeville, Pennsylvania, with a low bid of \$1,888,000. (Tr., p. 19). The original bid was good for 90 days but the City has requested and received an extension of that bid until May 20, 1985. (Tr., p. 19). The bid extension from S.I. Industries, Inc., signed by Karl Boehm, Vice President of S.I. Industries, Inc., signed March 27, 1985, was admitted into evidence as City Exhibit No. 2. Based upon the last deviation request, Mr. Bertram anticipates that construction will begin on or before May 20, 1985, and will be completed approximately 12 month later, or May of 1986. (Tr., p.

21). Mr. Bertram also discussed the City's request for an extension from the Environmental Protection Agency for its grant, to May 21, 1985. (Tr. p. 21). Mr. Bertram has prepared a revised task schedule from the advertisement for bids that contemplates the granting of the 45-day extension by the Environmental Protection Agency and the City is currently proceeding under that revised task schedule. (Tr., p. 22). The revised task schedule was admitted into evidence as City Exhibit No. 3.

The bids that were received were all higher than the original project estimates, which accounts for the increase in the total cost of the project from the date of the original application before the Public Service Commission and for the revision in the amount of funding from the Environmental Protection Agency. (Tr., pp. 24-25). Mr. Bertram and his firm have reviewed all of the bids and are of the opinion that the bids submitted do reflect current conditions. (Tr., pp. 24-25).

Mr. Bertram also sponsored, as City Exhibit No. 4, the facilities plan for the project (Secondary Sewage Treatment Process and Cost Analysis, dated October 19, 1983 and revised January 6, 1984). (Tr., p. 25). There are now approximately 918 customers but the City currently has under construction 22 additional low income family housing units which would be on line by the time the project is completed. (Tr., p. 26).

The next witness to testify on behalf of the City of McMechen was Michael F. Pearl, a Certified Public Accountant employed by the City of McMechen to undertake its accounting work for the sewer project, as well as for the water and sewer departments of the City. (Tr., pp. 29-30). Mr. Pearl was asked to determine the consumption figures for the current sewage system. (Tr., p. 30). Mr. Pearl explained that the sewage consumption is a function of the water consumption in the City and that

there are some water customers who are not sewage customers. (Tr., p 31). Mr. Pearl used the fiscal year ending on June 30, 1984, and, b review of the billing consumption cards maintained by the City, determine that the actual sewage consumption for that period was 49,441,800 gallons (Tr., p. 32 and City Exhibit No. 5). The amount of sewer usage for which the City bills requires a different calculation and results in a figure of 54,182,400 gallons. (Tr., p. 33 and City Exhibit No. 5). Mr. Pearl's calculations are detailed in full in City Exhibit No. 5, which is a letter from him to Staff Attorney Amy Lecocq, dated March 28, 1985. Mr. Pearl also indicated that he had reviewed the memorandum which was subsequently introduced into evidence as Staff Exhibit No. 1 and he indicated that he had no problems with any of the numbers reflected therein. (Tr., pp. 34-35).

The next witness presented by the City was Marie Prezioso, a representative of Young, Moore and Company, Inc., the investment banker for the City of McMechen with regard to this project. (Tr., p. 36). According to Ms. Prezioso, if the Public Service Commission's decision can be final by late April, the first possible date for closing the interim financing would be May 7, 1985, with another possible date being May 16, 1985. (Tr., pp. 36-37). The interim financing schedule is based upon the revised task schedule presented by Mr. Bertram of Green International. (Tr., p. 37).

The final witness presented by the City of McMechen was Raymond C. George, the West Virginia State Coordinator for the United States Environmental Protection Agency. Mr. George testified with regard to the status of the deviation which the City has requested from the Environmental Protection Agency. According to Mr. George, the Philadelphia District

Office has already approved the deviation request from the City of McMechen and has sent it on to Washington for final approval. (Tr., pp 60-61). Mr. George indicated that it seemed likely that final approval of the deviation would be granted because the delays did not appear to be caused as a result of any dilatoriness on the part of the City of McMechen. (Tr., p. 61). Additionally, Mr. George indicated that the Regional Office recommended an even larger deviation than that requested by the City of McMechen, recommending June 21, 1985, rather than May 21, 1985. (Tr., p. 63). Mr. George is confident that, based upon past experience, there is no reason why the deviation request would be denied. (Id.).

As indicated previously, several exhibits were stipulated into the record with the joint consent and agreement of the City of McMechen and Commission Staff. These exhibits are as follows. First, Stipulation Exhibit No. 1 is the City's municipal ordinance referencing the increased rates which will be necessary as a result of this sewage construction project. The rate schedule calls for a flat rate of \$3.19 per 1,000 gallons of water used and a minimum monthly charge of \$9.57. These increased rates and charges will be effective upon certification by the engineer that the system is on line. The ordinance was passed on first reading on March 21, 1985, and on second reading, and effective, as of April 2, 1985. Along with Stipulation Exhibit No. 1, the City submitted an affidavit of publication from the Moundsville Daily Echo, indicating that the municipal ordinance was published as required by state law on March 22 and March 29, 1985. Stipulation Exhibit No. 2 is a copy of the City of McMechen's sewer revenue bond and notes ordinance, which was passed on first reading on March 6, 1985, and on second reading on March

14, 1985. The ordinance was effective following public hearing held on March 25, 1985. Along with Stipulation Exhibit No. 2, the City submitted an affidavit of publication from the Moundsville Daily Echo, indicating that the municipal ordinance on sewer bonds and notes was published as required by state law on March 15 and March 22, 1985. Counsel for the City noted for the record that, at the public hearings held with regard to both the municipal rate ordinance and the municipal bond ordinance, no members of the public appeared to protest the adoption of either ordinance. (Tr., pp. 42-43).

Stipulation Exhibit No. 3 is the Rule 42 Exhibit submitted by the City with its application on October 19, 1984. The Rule 42 exhibit remains unchanged with the exception of the consumption figures which were revised by Mr. Pearl and which are set forth in City Exhibit No. 5. Stipulation Exhibit No. 4 is Part B of the City of McMechen's application for the Environmental Protection Agency grant. Stipulation Exhibit No. 5 is a copy of the Water Development Authority grant to the City of McMechen dated February 7, 1983. Stipulation Exhibit No. 6 is a copy of the Environmental Protection Agency Grant Amendment to the City of McMechen. Stipulation Exhibit No. 7 is a copy of the letter from the Water Development Authority dated March 5, 1985, committing the Authority to buy sewer revenue bonds from the City of McMechen in the amount of \$760,000.

Commission Staff presented the testimony of one witness, Danny Ellis, of the Finance and Special Studies Division of the Public Service Commission. Mr. Ellis' duties were to review the financial aspects of the project, both its reasonableness and its accuracy, primarily with the emphasis on revenue requirements and rate design, to be certain that both of those are reasonable and sufficient for the project. Mr. Ellis

sponsored Staff Exhibit No. 1, which consists of a seven page memorandum prepared by him dated April 1, 1985, with two attached schedules detailing Staff adjustments to the City's estimated annual operation and maintenance expenses and a cash flow analysis at proforma for the first year of operations for the City with the upgraded system. On the record, counsel for the City indicated that the City would stipulate to the entire memorandum.

In reviewing the City's estimated annual operation and maintenance expenses, Staff made four significant adjustments, to the electric power calculation, billing and collecting, vehicle replacement, and the annual lab fees to the City of Wheeling for NPDES permit testing. (Staff Exhibit No. 1, pages 3 through 5). The overall effect of Staff's recommendation to operation and maintenance expenses was a decrease of \$7,194, from \$86,800 to \$78,806. (Staff Exhibit No. 1, p. 5).

According to Mr. Ellis, it is Staff's opinion that the proposed funding package is very reasonable. In addition to the Environmental Protection Agency Grant, the WDA basic and incentive grant and the revenue bonds which totally finance the project, interim financing issuances of \$1,175,000 grant anticipation note and a \$725,000 bond anticipation note are included in the proposed funding package. (Staff Exhibit No. 1, page 2). The assumed coupon rates are 6.75% for the grant anticipation note and 7.50% for the bond anticipation note. The investment rate is presently pegged at 9%. (Id.). The City is proposing to issue one official statement to cover both the grant and bond anticipation note sale which reduces the issuance costs by eliminating one official statement (Id.). According to Mr. Ellis, the financing scenario creates positive cash flow throughout the project period and meets the needs of the

construction draw and the interim financing debt service. (Id.). Should the estimates be reasonably accurate, additional funds of approximately \$20,000 will be generated for use in the sewer system; however, the surplus is contingent on the accuracy of the estimates of issuance costs market spread, construction draw, receipt of EPA and WDA funds and many other factors. (Id.). The bond issuance to the Water Development Authority will involve an interest rate of 10% with annual principal and interest payment to be approximately \$77,784. (Staff Exhibit No. 1, page 3). The required payment to the debt reserve fund will be 10% of that figure, or \$7,778 annually. (Id.).

After a thorough review of the project, Mr. Ellis indicated that the Finance and Special Studies Division recommends approval of the certificate application, subject to seven conditions which are as follows:

1. The extension to May 21, 1985, is approved by the Environmental Protection Agency;
2. The sole contractor on the project, S. I. Industries, Inc., agrees to a similar extension to May 21, 1985;
3. Receipt of proof of legal publication of the reading of the rate ordinance which includes the necessary rate of \$3.19 per 1,000 gallons;
4. Receipt of proof that the proper rate ordinance has had its first and second readings and has been enacted.
5. The Applicant will inform the Commission of the financial details of the sale of the interim financing package as soon as they are known. Of primary importance are the actual bond anticipation note and grant anticipation note coupon rates and the actual investment earnings rate once the proceeds are invested;
6. The Applicant or the investment banker is to supply the Finance and Special Studies Division with a bi-monthly summary of the status of the interim financing;
7. If the cover factor or interest rate proposed in the future Water Development Authority bond issuance is higher than presently estimated, this case will be reopened in order to review the adequacy of the rate. The Applicant should be requested to

inform the Commission of the bond sale and the resulting financial details of those bonds.

Conditions two through four have already been met, as indicated previously in this order. Additionally, Condition No. 1 has been partially met since the District Office of the Environmental Protection Agency has recommended approval of the extension and it appears likely that the extension will be granted by the Environmental Protection Agency main office in Washington. Conditions 5 through 7 are reporting requirements which impose no hardship upon the City and represent information to which the Commission would be entitled on a routine basis anyway and thus should present no obstacle to approval of the project.

DISCUSSION

Through the testimony of Mr. Bramley from the Department of Natural Resources, the Consulting Engineer and Commission Staff, it is clear that there is a definite need for this project. Additionally, from a review of the information submitted by Commission Staff, the Certified Public Accountant for the project and the Engineer for the project, it appears that the project is economically feasible, would be financed primarily through grants, with a reasonable rate increase having already been approved without public protest to cover the debt service resulting from the sale of the revenue bonds to the Water Development Authority to finance the remainder of the project. The project appears to have been adequately financed, in that all costs and contingencies have been covered. Exhibit No. 2 attached to Staff Exhibit No. 1 indicates that the first year of operations with the upgraded plant under the new rates will provide operating revenues of \$172,834, with operation and maintenance expenses of

\$78,806 and cash available for debt service and reserves of \$94,028. Total debt service and reserves total \$89,885, leaving a surplus of \$4,143, or coverage of 121%. The City has properly published and passed a municipal rate ordinance and a municipal bond ordinance, has funding commitments from the Environmental Protection Agency and the Water Development Authority for both the issuance of grants and the purchase of revenue bonds and the project has been thoroughly reviewed by the Public Service Commission Staff to insure that the project is adequate, sufficient and feasible both in engineering and financial design. Therefore, the Hearing Examiner is of the opinion that the application for a certificate of convenience and necessity to upgrade the primary treatment plant for the City of McMechen to secondary treatment is reasonable and should be approved, subject to the conditions set forth by Mr. Ellis in Staff Exhibit No. 1, at pages 6-7.

FINDINGS OF FACT

1. The City of McMechen is required to upgrade its present sewage treatment plant from a primary to a secondary treatment system and to replace the present lift stations as a result of the NPDES permit granted to it by the Division of Water Resources of the Department of Natural Resources for the State of West Virginia and Chapter 20, Article 5A of the West Virginia Code (the Water Pollution Control Act) and the Federal Clean Water Act, Section 301B, Subsections (1)(b) and (c). (Tr., pp. 6-7 and City Exhibit No.1).

2. The City has received financing commitments from the Environmental Protection Agency and the West Virginia Water Development

Authority, which financing commitments fully fund the total project cost of \$2,661,500. (Staff Exhibit 1, pp. 1-2, Stipulation Exhibits 5-7).

3. Public notice of the proposed project, of the Public Service Commission hearing thereon, of the municipal bond ordinance, and of the municipal rate ordinance have all been provided and at no point during any phase of this project has any member of the public appeared to protest the proposed project. (See, certificates of publication submitted at hearing and Tr., pp. 42-43).

4. The City of McMechen has requested and received an extension of the low bid from the contractor on the project and has requested, and is in the process of receiving, an extension of the EPA grant to May 21, 1985. (City Exhibit No. 2 and Tr., pp. 9-10 and 60 and 63).

5. The Staff of the Public Service Commission has reviewed the project and recommends approval subject to certain conditions set forth in Staff Exhibit No. 1. (Staff Exhibit No. 1, pp. 6-7).

CONCLUSIONS OF LAW

1. Because the City of McMechen has established that there is a need for the proposed project, that the project is adequately financed and that the public does not protest the proposed project, it is reasonable to grant a certificate of convenience and necessity to the City of McMechen for the proposed upgrade of its sewage treatment plant from primary to secondary treatment.

2. Because the requested extension of time from the Environmental Protection Agency on the grant awarded to the City of McMechen has not been finally approved, it is reasonable to condition the approval of the

certificate of convenience and necessity upon the granting of that extension of time and to reopen this proceeding if that extension of time is not granted.

ORDER

IT IS, THEREFORE, ORDERED that the application for a certificate of convenience and necessity to upgrade its existing treatment plant from primary to secondary treatment filed by the City of McMechen on October 19, 1984, be, and it hereby is, granted; provided, however, that, if the extension of time requested by the City of McMechen from the Environmental Protection Agency for the grant from the Environmental Protection Agency is not approved, this proceeding shall be reopened for the purpose of determining whether or not the project can proceed and whether or not the project is reasonable without the Environmental Protection Agency funding.

IT IS FURTHER ORDERED that the City of McMechen provide the Commission and Commission Staff with the following information:

A. The financial details of the sale of the interim financing package as soon as such are available, with primary importance being given to the actual bond anticipation and grant anticipation note coupon rates and the actual investment earnings rate once the proceeds are invested;

B. A bi-monthly summary of the status of the interim financing. (This information can be provided by either the Applicant or the investment banker);

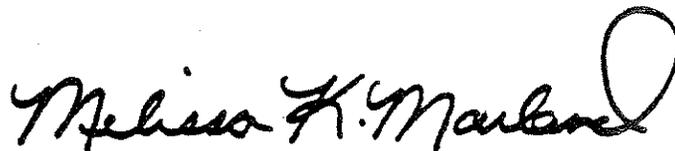
C. All information concerning the Water Development Authority bond sale and the resulting financial details of those bonds so that, should the cover factor or interest rate proposed in the future Water Development Authority bond issuance be higher than presently estimated, this case can be reopened in order to review the adequacy of the City's rates.

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

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

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

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



Melissa K. Marland
Hearing Examiner

MKM:ms

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA, in the City of Charleston on the 10th day of April, 1985.

CASE NO. 84-698-S-CN

CITY OF McMECHEN, a municipal corporation, Marshall County.

Application for a certificate of convenience and necessity to renovate the present sewage treatment plant to upgrade to a secondary treatment system at McMechen, Marshall County.

On October 19, 1984, the City of McMechen, a municipal corporation, Marshall County,

applied to the Public Service Commission for a certificate of convenience and necessity to

renovate the present sewage treatment plant to upgrade to a secondary treatment system

at McMechen, Marshall County.

The Commission, on October 19, 1984, ordered that the City of McMechen, a municipal corporation, Marshall County,

publish a copy of this order of March 15, 1985, in a newspaper of general circulation in Marshall County.

The hearing was held as scheduled on April 8, 1985. The City of McMechen, a municipal corporation, appeared by its proper officials and by counsel Robyn Rustenberg and John

Dickinson, Jr. The Commission's Staff was represented by Amy Laccocq, Legal Director. There were no protestants nor intervenors present. On April 10, 1985, the Commission issued a recommended decision.

On April 10, 1985, Robyn Rustenberg, counsel for the City of McMechen, a municipal corporation, and Amy Laccocq, counsel for the Public Service Commission, filed a Motion to waive the City of McMechen's and the Commission's right to take exception to the recommended decision and requesting the Commission's recommended decision to be final.

The Commission, on April 10, 1985, ordered that the City of McMechen, a municipal corporation, Marshall County,

publish a copy of this order of March 15, 1985, in a newspaper of general circulation in Marshall County.

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Dickinson, Jr. The Commission's Staff was represented by Amy Laccocq, Legal Director. There were no protestants nor intervenors present. On April 10, 1985, the Commission issued a recommended decision.

order of the Commission as soon as possible.

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

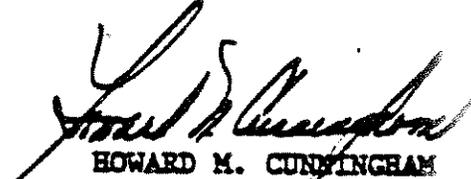
The Commission is therefore of the opinion and belief that said petition of waiver dated April 10, 1985 and received by the Commission on April 10, 1985, should be granted.

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

IT IS FURTHER ORDERED that the Hearing Examiner's Recommended Decision in this matter become final five (5) days after the date of this order.

A TRUE COPY

TESTE:


HOWARD M. CUNNINGHAM
Executive Secretary

CITY OF McMECHEN

Sewer Revenue Bonds, Series 1986

CROSS-RECEIPT FOR BOND AND BOND PROCEEDS

The undersigned, DANIEL B. YONKOSKY, Secretary-Treasurer of West Virginia Water Development Authority, for and on behalf of West Virginia Water Development Authority (the "Authority") and ALFRED E. TRIBETT, Mayor of the City of McMechen (the "Governmental Agency"), hereby certify as follows:

1. On the 20th day of October, 1986, the Authority received the entire original issue of \$731,000 in aggregate principal amount of Sewer Revenue Bonds, Series 1986 of the Governmental Agency (the "Governmental Agency Bonds"). The Governmental Agency Bonds, as so received on original issuance, are dated October 20, 1986, and are issued as one fully registered bond, numbered R-1, in the denomination of \$731,000.

2. At the time of such receipt of the Governmental Agency Bonds upon original issuance, all of the Governmental Agency Bonds had been executed by Alfred E. Tribett, as Mayor of the Governmental Agency, by his manual signature, and by C. Edwin Porter, as City Clerk of the Governmental Agency, by his manual signature, and the official seal of the Governmental Agency had been imprinted upon the Governmental Agency Bonds.

3. The Governmental Agency has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Governmental Agency Bonds, of the proceeds of the Governmental Agency Bonds in the amount of \$731,000 (100% of par), there being no interest accrued thereon.

IN WITNESS WHEREOF, Daniel B. Yonkosky duly signed and delivered this receipt on behalf of West Virginia Water Development Authority and the City of McMechen has caused this receipt to be executed by its Mayor, as of the 20th day of October, 1986.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By Daniel B. Yonkosky
Its Secretary-Treasurer

CITY OF McMECHEN

By April E. Tressett
Its Mayor

10/16/86
MCME1-J

CITY OF McMECHEN

Sewer Revenue Bonds, Series 1986

DIRECTION TO AUTHENTICATE AND DELIVER BOND

Kanawha Valley Bank, N.A.
Charleston,
West Virginia

Gentlemen:

There are delivered to you herewith:

(1) Bond No. R-1, constituting the entire original issue of the City of McMechen Sewer Revenue Bonds, Series 1986, dated October 20, 1986, in the aggregate principal amount of \$731,000 (the "Governmental Agency Bonds") executed by the Mayor and City Clerk of the City of McMechen (the "Governmental Agency") and bearing the official seal of the Governmental Agency, authorized to be issued under and pursuant to a Bond Ordinance and Supplemental Resolution duly enacted and adopted by the Governmental Agency (collectively, the "Local Act");

(2) A copy of the Local Act authorizing the above Governmental Agency Bond issue, duly certified by the City Clerk of the Governmental Agency;

(3) An executed counterpart of the Loan Agreement dated March 21, 1985, by and between the West Virginia Water Development Authority (the "Authority") and the Governmental Agency (the "Loan Agreement");

(4) A signed opinion of nationally recognized bond counsel regarding the validity of the Loan Agreement and Governmental Agency Bonds.

You are hereby requested and authorized to deliver the Governmental Agency Bonds to the Authority upon payment to the account of the Governmental Agency of the sum of \$731,000, representing the agreed purchase price of the Governmental Agency Bonds. Prior to such delivery of the Governmental Agency Bonds, you will please cause the Governmental Agency Bonds to be authenticated

by an authorized officer, as Registrar, in accordance with the form
of Certificate of Authentication and Registration thereon.

Dated this 20th day of October, 1986.

CITY OF McMECHEN

By Paul E. Sweet
Its Mayor

10/11/86
MCME1-K



(SPECIMEN BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF McMECHEN
SEWER REVENUE BOND, SERIES 1986

No. R-1

\$731,000

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF McMECHEN, a municipal corporation of the State of West Virginia in Marshall County of said State, (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to West Virginia Water Development Authority (the "Authority") or registered assigns the sum of Seven Hundred Thirty-one Thousand Dollars (\$731,000), in installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit A.

The interest rate on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning April 1, 1987. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of Kanawha Valley Bank, N.A., Charleston, West Virginia, 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 upon the terms and conditions prescribed by, and otherwise in compliance with the Loan Agreement between the Issuer and the Authority dated March 21, 1985.

This Bond is issued (i) to refund and pay the entire principal amount of the Sewerage System Bond Anticipation Notes, Series 1985, of the Issuer (the "Notes") issued to temporarily finance part of the costs of acquisition and construction of additions, betterments and improvements for the existing sewage collection and transportation facilities of the Issuer (the "Project") pending issuance of this Bond; 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 West Virginia Code of 1931, as amended (the "Act"), and an Ordinance and Supplemental Resolution, duly enacted and adopted, respectively, by the Issuer on the 16th day of October, 1986 (collectively called the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, moneys in the Reserve Account created under the Bond Legislation for the Bonds (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 Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any fiscal year of principal of and interest on the Bonds and all other obligations secured by or payable from such revenues prior to or on a parity with the Bonds, provided however, that so long as there exists in the Reserve Account an amount at least equal to the maximum amount of principal and interest which will come due on the Bonds in any fiscal year, and there exists in the reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, an amount at least equal to the requirement therefor, such percentage

may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

Subject to such 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 Notes, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owner of this Bond.

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

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

IN WITNESS WHEREOF, the CITY OF McMECHEN has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed hereon and attested by its City Clerk, and has caused this Bond to be dated October 20, 1986.

[SEAL]

Mayor

ATTEST:

City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

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

Date: October 20, 1986

KANAWHA VALLEY BANK, N.A.,
as Registrar

By _____
Its Authorized Officer

EXHIBIT A

City of McMechen
Debt Service Schedule at 9.75% Borrowing Rate

MATURITY DATE	COUPON	PRINCIPAL	INTEREST	DEBT SERVICE
10/ 1/1987	9.750	1,768.00	67,510.90	69,278.90
10/ 1/1988	9.750	1,940.00	71,100.12	73,040.12
10/ 1/1989	9.750	2,129.00	70,910.97	73,039.97
10/ 1/1990	9.750	2,337.00	70,703.39	73,040.39
10/ 1/1991	9.750	2,565.00	70,475.54	73,040.54
10/ 1/1992	9.750	2,815.00	70,225.45	73,040.45
10/ 1/1993	9.750	3,089.00	69,950.99	73,039.99
10/ 1/1994	9.750	3,390.00	69,649.81	73,039.81
10/ 1/1995	9.750	3,721.00	69,319.28	73,040.28
10/ 1/1996	9.750	4,083.00	68,956.49	73,039.49
10/ 1/1997	9.750	4,482.00	68,558.39	73,040.39
10/ 1/1998	9.750	4,918.00	68,121.40	73,039.40
10/ 1/1999	9.750	5,398.00	67,641.89	73,039.89
10/ 1/2000	9.750	5,924.00	67,115.59	73,039.59
10/ 1/2001	9.750	6,502.00	66,538.00	73,040.00
10/ 1/2002	9.750	7,136.00	65,904.05	73,040.05
10/ 1/2003	9.750	7,832.00	65,208.29	73,040.29
10/ 1/2004	9.750	8,595.00	64,444.67	73,039.67
10/ 1/2005	9.750	9,433.00	63,606.66	73,039.66
10/ 1/2006	9.750	10,353.00	62,686.94	73,039.94
10/ 1/2007	9.750	11,362.00	61,677.53	73,039.53
10/ 1/2008	9.750	12,470.00	60,569.73	73,039.73
10/ 1/2009	9.750	13,686.00	59,353.91	73,039.91
10/ 1/2010	9.750	15,021.00	58,019.52	73,040.52
10/ 1/2011	9.750	16,485.00	56,554.97	73,039.97
10/ 1/2012	9.750	18,092.00	54,947.69	73,039.69
10/ 1/2013	9.750	19,856.00	53,183.72	73,039.72
10/ 1/2014	9.750	21,792.00	51,247.76	73,039.76
10/ 1/2015	9.750	23,917.00	49,123.04	73,040.04
10/ 1/2016	9.750	26,249.00	46,791.13	73,040.13
10/ 1/2017	9.750	28,808.00	44,231.85	73,039.85
10/ 1/2018	9.750	31,617.00	41,423.07	73,040.07
10/ 1/2019	9.750	34,700.00	38,340.41	73,040.41
10/ 1/2020	9.750	38,083.00	34,957.16	73,040.16
10/ 1/2021	9.750	41,796.00	31,244.07	73,040.07
10/ 1/2022	9.750	45,871.00	27,168.96	73,039.96
10/ 1/2023	9.750	50,343.00	22,696.54	73,039.54
10/ 1/2024	9.750	55,252.00	17,788.10	73,040.10
10/ 1/2025	9.750	60,639.00	12,401.03	73,040.03
10/ 1/2026	9.750	66,551.00	6,488.72	73,039.72
		731,000.00	2,186,837.68	2,917,837.68

SMITH BARNEY, HARRIS UPHAM & CO. INCORPORATED
OCTOBER 16, 1986

ASSIGNMENT

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

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

Dated: _____, _____.

In the presence of:

10/12/86
MCME1-T

STEPTOE & JOHNSON

ATTORNEYS AT LAW

SIXTH FLOOR

UNION NATIONAL CENTER EAST

P. O. BOX 2190

CLARKSBURG, W. VA. 26302-2190

(304) 624-8000

TELECOPIER (304) 622-2676

CHARLESTON OFFICE

715 CHARLESTON NATIONAL PLAZA

P. O. BOX 1588

CHARLESTON, W. VA. 25326

(304) 342-2191

October 20, 1986

City of McMechen

Sewer Revenue Bonds, Series 1986

CLARKSBURG

RALPH BOHANNON
ERNEST C. SWIGER
HERBERT G. UNDERWOOD
JACKSON L. ANDERSON
ROBERT G. STEELE
JAMES M. WILSON
PATRICK D. DEEM
ROBERT M. STEPTOE, JR.
ANNE R. WILLIAMS
JAMES D. GRAY
VINCENT A. COLLINS
JAMES A. RUSSELL
FRANK E. SIMMERMAN, JR.
WILLIAM T. BELCHER
MICHAEL L. BRAY
DAVID C. CLOVIS
J. GREG GOODYKOONTZ
IRENE M. KEELEY
EVANS L. KING, JR.
WALTER L. WILLIAMS
SUSAN S. BREWER
RONALD H. HANLAN
C. DAVID MORRISON
HARRY P. WADDELL
CLEMENT D. CARTER III
W. HENRY LAWRENCE IV
WILLIAM E. GALEOTA
GORDON H. COPLAND
RANDALL C. LIGHT
RICHARD M. YURKO, JR.
GARY W. NICKERSON
W. RANDOLPH FIFE

CHARLESTON

CHARLES W. YEAGER
CARL F. STUCKY, JR.
OTIS L. O'CONNOR
WAYNE A. SINCLAIR
JAMES R. WATSON
DANIEL R. SCHUDA
SPRAGUE W. HAZARD
HERSCHEL H. ROSE III
CHRISTOPHER P. BASTIEN
STEVEN P. MCGOWAN
MARTIN R. SMITH, JR.

OF COUNSEL

ROBERT W. LAWSON, JR.
EDWARD W. EARDLEY
EUGENE G. EASON

WRITER'S DIRECT DIAL NUMBER

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

Gentlemen:

We are bond counsel to the City of McMechen (the "Governmental Agency"), a municipal corporation and political subdivision organized 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 March 21, 1985 (the "Loan Agreement"), between the Governmental Agency and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of revenue bonds of the Governmental Agency, dated October 20, 1986 (the "Governmental Agency Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Governmental Agency Bonds are in the principal amount of \$731,000, issued in the form of one bond registered as to principal and interest to the Authority, interest payable April 1 and October 1 of each year, beginning April 1, 1987, at the rate of 9.75% per annum, and with principal installments payable on October 1 in each of the years 1987 through 2025, inclusive, all as set forth in "Schedule X," attached to the Loan Agreement.

The Governmental Agency Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Local Statute") for the purposes of paying, on November 1, 1986, the Governmental Agency's Sewerage System Bond Anticipation Notes, Series 1985, dated May 1, 1985 (the "Notes"), and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of the Local Statute, under which the Governmental Agency Bonds are issued, and the Loan Agreement that has been undertaken, including all schedules and exhibits to the Loan Agreement. The Governmental Agency Bonds have been authorized by a bond ordinance and a supplemental resolution (collectively, the "Local Act") duly enacted and adopted by the Governmental Agency, which contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement. The Governmental Agency 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:

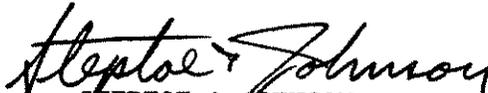
1. The Loan Agreement has been duly authorized by and executed on behalf of the Governmental Agency and is a valid and binding obligation of the Governmental Agency enforceable in accordance with the terms thereof.
2. The Loan Agreement inures to the benefit of the Authority and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Governmental Agency without the consent of the Authority.
3. The Governmental Agency is a duly organized and presently existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Governmental Agency Bonds, all under the Local Statute and other applicable provisions of law.
4. The Governmental Agency has legally and effectively enacted and adopted the Local Act and all other necessary ordinances and resolutions in connection with the issuance and sale of the Governmental Agency Bonds.
5. The Governmental Agency 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 Governmental Agency Bonds and the Local Act, and have been duly issued and delivered to the Authority.
6. The Governmental Agency Bonds are, under the Local Statute, exempt from taxation by the State of West Virginia and any county, municipality, political subdivision or agency thereof, 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 and is exempt from personal income taxes imposed directly thereon by the State of West Virginia; provided that no opinion is expressed

with respect to application of the alternative minimum tax to the interest on the Local Bonds as part of the untaxed reported profit of corporations.

Please be further advised that the rights of the holders of the Local Bonds and the enforceability of remedies with respect to the Local Bonds, the Local Act and the Loan Agreement may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights (to the extent constitutionally applicable) and that the enforcement thereof may also be subject to the exercise of judicial discretion in appropriate cases.

We have examined the executed 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,


STEPTOE & JOHNSON

10/12/86
MCME1-L

STEPTOE & JOHNSON

ATTORNEYS AT LAW

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CHARLESTON OFFICE

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GARY W. NICKERSON
W. RANDOLPH FIFE

October 20, 1986

City of McMechen
Sewer Revenue Bonds, Series 1986

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

Gentlemen:

We have examined a transcript of proceedings relating to the issuance of \$731,000 aggregate principal amount of Sewer Revenue Bonds, Series 1986 (the "Governmental Agency Bonds") of the City of McMechen (the "Governmental Agency"), and a Certificate as to Arbitrage executed by the Mayor of the Governmental Agency on this date.

We are of the opinion that the facts, estimates and circumstances set forth in the Certificate as to Arbitrage are sufficient to satisfy the requirements of Section 148 of the Internal Revenue Code of 1986, to support the conclusion that the Governmental Agency Bonds are not "arbitrage bonds" as therein defined. No matters have come to our attention which make unreasonable or incorrect the representations made in said Certificate.

Accordingly, it is our opinion that, under existing statutes, regulations, rulings and court decisions, the Governmental Agency Bonds will not be "arbitrage bonds" as so defined.

Very truly yours,

Stephoe & Johnson
STEPTOE & JOHNSON

10/11/86
MCMEL-M

Robinson & Dickinson

ATTORNEYS AT LAW

77 TWELFTH STREET

WHEELING, WEST VIRGINIA 26003

October 20, 1986

AREA CODE 304
233-5200

JACOB M. ROBINSON
DANIEL W. DICKINSON, JR.

ROBYN RUTTENBERG

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

Steptoe & Johnson
P.O. Box 2190
Clarksburg, West Virginia 26301

RE: City of McMechen
Sewer Revenue Bonds, Series 1986

Gentlemen:

I am Special Counsel to the City of McMechen (Sewer Project), in Marshall County, West Virginia (the "Governmental Agency"). As such counsel, I have examined copies of the approving opinion of Steptoe & Johnson, as bond counsel, the Loan Agreement by and between the West Virginia Water Development Authority (the "Authority") and the Governmental Agency, dated March 21, 1985, the Local Act (as defined therein) and other documents relating to the above-captioned Governmental Agency Bonds of the Governmental Agency. Terms used in said opinions, Local Act and Loan Agreement and not otherwise defined herein, have the same meanings herein.

I am of the opinion that:

1. The Loan Agreement has been duly authorized, executed, and delivered by the Governmental Agency and, assuming due authorization, execution and delivery by the Authority, constitutes a valid and binding agreement of the Governmental Agency in accordance with its terms.
2. The members of the city council of the Governmental Agency have been duly and properly elected, have taken the requisite oaths, and are authorized to act on behalf of the Governmental Agency.
3. The Local Act has been duly enacted and adopted by the Governmental Agency and is in full force and effect.

4. The execution and delivery of the Governmental Agency Bonds and the Loan Agreement and the consummation of the transactions contemplated by the 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 Governmental Agency a breach of or default under any agreement or other instrument to which the Governmental Agency is a party or any existing law, regulation, court order or consent decree to which the Governmental Agency is subject.

5. The Governmental Agency has received all the permits, licenses, approvals and authorizations necessary for the issuance of the Governmental Agency Bonds, construction of the Project, operation of the System and imposition of rates and charges, and has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance as to such rates and charges and the receipt of all requisite orders and approvals from the Public Service Commission of West Virginia. The time for appeal of the ordinance enacting such rates and charges has expired prior to the date hereof.

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

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

Very truly yours,
ROBINSON & DICKINSON

Robyn Rutenberg
Robyn Rutenberg

CITY OF McMECHEN

Sewer Revenue Bonds, Series 1986

GENERAL CERTIFICATE OF GOVERNMENTAL AGENCY ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. CERTIFICATION OF COPIES OF DOCUMENTS
6. INCUMBENCY AND OFFICIAL NAME
7. LAND AND RIGHTS-OF-WAY
8. MEETINGS, ETC.
9. CONTRACTORS' INSURANCE, ETC.
10. GRANTS
11. LOAN AGREEMENT
12. RATES
13. SIGNATURES AND DELIVERY
14. GOVERNMENTAL AGENCY BONDS PROCEEDS
15. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE
16. PRIVATE USE OF FACILITIES
17. SPECIMEN GOVERNMENTAL AGENCY BONDS

We, the undersigned MAYOR and the undersigned CITY CLERK of the City of McMechen in Marshall County, West Virginia (the "Governmental Agency"), and the undersigned SPECIAL COUNSEL for the Governmental Agency, hereby certify in connection with the \$731,000 aggregate principal amount the City of McMechen Sewer Revenue Bonds, Series 1986 (the "Governmental Agency Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined shall have the same meaning as in the Bond Ordinance of the Governmental Agency enacted October 16, 1986, and a Supplemental Resolution adopted concurrently therewith (collectively, the "Local Act").

2. NO LITIGATION: No controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Governmental Agency Bonds, receipt of the Grant Receipts or the Gross Revenues, or in any way contesting or affecting the validity of the Governmental Agency Bonds or the Grants or any proceedings of the Governmental Agency taken with respect to the issuance or sale of the Governmental Agency Bonds, the pledge or application of the

Net Revenues or any other moneys or security provided for the payment of the Governmental Agency Bonds or the existence or the powers of the Governmental Agency insofar as they relate to the authorization, sale and issuance of the Governmental Agency Bonds, receipt of the Grant Receipts or such pledge or application of moneys and security or the collection of the Gross Revenues or pledge of the Net Revenues.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable approvals and certificates required by law for construction of the Project, operation of the System and issuance of the Governmental Agency Bonds have been 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 Official West Virginia Code of 1931, as amended, which bids remain in full force and effect.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Governmental Agency since the approval and execution and delivery by the Governmental Agency of the Loan Agreement and the Governmental Agency has met all conditions prescribed in all previous loan agreements, if any, entered into between the Governmental Agency and the Authority. There are no outstanding debt obligations of the Governmental Agency, or obligations for which full and irrevocable provision for payment has not been made, which are secured by revenues or assets of the System, except for the Governmental Agency's Sewerage System Grant Anticipation Notes, Series 1985, dated May 1, 1985, which are payable primarily from Grant Receipts, but residually from Surplus Revenues. The Governmental Agency's Sewerage System Bond Anticipation Notes, Series 1985, dated May 1, 1985, will be defeased in accordance with the Indenture authorizing such Notes simultaneously with the issuance and delivery of the Governmental Agency Bonds.

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

Charter of the City of McMechen.

Ordinance Creating Sanitary Board.

Petition of Sanitary Board.

Bond Ordinance.

Supplemental Resolution.

Rate Ordinance.

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

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

Loan Agreement.

EPA Grant Agreement, as amended.

WDA Grant Agreement.

State of West Virginia Grant Commitment.

Public Service Commission Final Order
entered April 10, 1985.

6. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Governmental Agency is "City of McMechen" and it is a municipal corporation in Marshall County and presently existing under the laws of, and a political subdivision of, the State of West Virginia. The governing body of the Governmental Agency is its Council consisting of 10 members and a Mayor whose names and dates of commencement and termination of current terms of office are as follows:

<u>Name</u>	<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
Mayor A. E. Tribett	July 1, 1986	June 30, 1990
George Bilich	July 1, 1986	June 30, 1990
Robert F. Jones	July 1, 1986	June 30, 1990
Robert Green	July 1, 1986	June 30, 1990
William Kern	July 1, 1986	June 30, 1990
Robert Mull	July 1, 1986	September 18, 1986 (resigned)
Harry Patterson	July 1, 1986	June 30, 1990
Fred Porter	July 1, 1986	June 30, 1990
Ralph Taylor	July 1, 1986	June 30, 1990
James Weekly	July 1, 1986	June 30, 1990
Joseph Urbanek	July 1, 1986	June 30, 1990

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

Chairman	-	Alfred E. Tribett
Member	-	Paul Maxwell
Member	-	George Billich

The duly appointed and acting City Clerk is C. Edwin Porter. The duly appointed and acting Special Counsel to the Governmental Agency for matters relating to the sewer system financing is Robyn Ruttenberg, Esquire, Wheeling, West Virginia.

7. 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 operation and maintenance of the System have been acquired or can and will be acquired by purchase, or, if necessary, by condemnation by the Governmental Agency and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which may have to be acquired by condemnation are, in the opinion of all the undersigned, within the ability of the Governmental Agency to pay for the same without jeopardizing the security of or payments on the Governmental Agency Bonds.

8. MEETINGS, ETC.: All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the Governmental Agency in any way connected with the construction, acquisition, operation and financing of the Project or the System were authorized or adopted at regular or special meetings of the Governing Body of the Governmental Agency duly and regularly called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes, including Chapter 6, Article 9A, of the Official West Virginia Code of 1931, as amended, and a quorum of duly elected, qualified and acting members of the Governing Body was present and acting at all times during all such meetings.

9. CONTRACTORS' INSURANCE, ETC.: All contractors have been required to maintain Worker's Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Local Act.

10. GRANTS: As of the date hereof, the Grants are committed and in force and effect as follows:

EPA Grant	\$1,782,670
WDA Grant	118,830
Marshall County Commission Grant	25,000
West Virginia Small City Block Grant	<u>500,000</u>
Total:	<u>\$2,426,500</u>

11. LOAN AGREEMENT: As of the date hereof, (i) the representations of the Governmental Agency 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; and (iii) to the best knowledge of the undersigned, no event affecting the Governmental Agency has occurred since the date of the Loan Agreement which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information in the Loan Agreement not misleading.

12. RATES: The Governmental Agency has duly enacted an Ordinance on April 2, 1985, setting rates and charges for the services of the System. Such ordinance is presently in full force and effect.

13. SIGNATURES AND DELIVERY: On the date hereof, the undersigned Mayor did officially sign all of the Governmental Agency Bonds of the aforesaid issue, all dated October 20, 1986, by his manual signature, and the undersigned City Clerk did officially cause the official seal of the Governmental Agency to be imprinted upon each of said Governmental Agency Bonds and to be attested by his manual signature, and the Registrar did officially authenticate and deliver the Governmental Agency Bonds to a representative of the Authority as the original purchaser of the Governmental Agency Bonds under the Loan Agreement. Said official seal is also impressed above the signatures appearing on this certificate.

14. GOVERNMENTAL AGENCY BONDS PROCEEDS: On the date hereof the Governmental Agency received from the Authority the agreed purchase price of the Governmental Agency Bonds, being \$731,000 (100% of par value), there being no interest accrued thereon.

15. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE: Upon adoption of the Bond Ordinance, an abstract thereof, determined by the Governing Body to contain sufficient information as to give notice of the contents thereof, was published once each week for 2 successive weeks, with not less than 6 full days between each publication, the first such publication occurring not less than 10 days before the date stated below for the public hearing, in a newspaper of general circulation of the City of McMechen, together with a notice to all persons concerned, stating that the Bond Ordinance had been adopted and that the Issuer contemplated the issuance of the Bonds described in the Ordinance, stating that any person interested may appear before the Council at the public hearing held at a public meeting of Council on the 16th day of October, 1986, at 7:30 p.m., in the Council Chambers of the City Hall of the City of McMechen and present protests, and stating that a certified copy of the Bond Ordinance was on file with the Council for review by interested parties during the office hours of the City Clerk. At such hearing all objections and suggestions were heard by the Governing Body and there being no public protests, written or oral, the Bond Ordinance became finally adopted, enacted and effective as of the date of such public hearing, and remains in full force and effect.

16. PRIVATE USE OF FACILITIES: Less than 10% of the facilities constituting the System will be available for use by any single private entity, and such facilities will at all times be available to serve all members of the general public within the service area on an equal basis.

17. SPECIMEN GOVERNMENTAL AGENCY BOND: Delivered concurrently herewith is a true and accurate specimen of the Governmental Agency Bond.

WITNESS our signatures and the official seal of the CITY OF McMECHEN on this 20th day of October, 1986.

[CORPORATE SEAL]

SIGNATURE

OFFICIAL TITLE

Alfred C. Truett

Mayor

[Signature]

City Clerk

[Signature]

Special Counsel for Governmental Agency

Robinson & Dickinson /

10/16/86

MCME1-N

CITY OF McMECHEN

Sewer Revenue Bonds, Series 1986

CERTIFICATE AS TO ARBITRAGE

I, ALFRED E. TRIBETT, Mayor of the City of McMechen, in Marshall County, West Virginia (the "Governmental Agency"), being one of the officials of the Governmental Agency duly charged with the responsibility for the issuance of \$731,000 Sewer Revenue Bonds, Series 1986, of the Governmental Agency dated October 20, 1986 (the "Governmental Agency Bonds"), hereby certify as follows:

1. This certificate is being executed and delivered pursuant to Section 148 of the Internal Revenue Code of 1986 (the "Code") and regulations expected to be promulgated thereunder. I am one of the officers of the Governmental Agency charged with the responsibility of issuing the Governmental Agency Bonds. I am familiar with the facts, circumstances, and estimates herein certified and am duly authorized to execute and deliver this certificate on behalf of the Governmental Agency.

2. This certificate may be relied upon as the certificate of the Governmental Agency.

3. The Governmental Agency 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 Governmental Agency or that there is any disqualification of the Governmental Agency by the Internal Revenue Service because a certification made by the Governmental Agency contains a material misrepresentation.

4. This certificate is based upon facts, circumstances, estimates and expectations of the Governmental Agency in existence on October 20, 1986, the date on which the Governmental Agency Bonds are to be physically delivered in exchange for the issue price thereof, and to the best of my knowledge and belief, the expectations of the Governmental Agency set forth herein are reasonable.

5. In the Ordinance pursuant to which the Governmental Agency Bonds are issued, the Governmental Agency has covenanted to make no use of the proceeds of the Governmental Agency Bonds which would cause the Governmental Agency Bonds to be "arbitrage bonds" within the meaning of the said Section 148 of the Code.

6. The Governmental Agency Bonds were sold on October 20, 1986, to the West Virginia Water Development Authority (the "Authority") for a purchase price of \$731,000.

7. The Governmental Agency Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of paying the costs of issuance of the Governmental Agency Bonds and refunding a portion of the Sewerage System Bond Anticipation Notes, Series 1985, of the Governmental Agency, dated May 1, 1985, which mature on November 1, 1986 (the "Notes"), and which were issued to temporarily finance a portion of the costs of construction of certain sanitary sewage facilities (the "Project"). The net proceeds of the Governmental Agency Bonds, together with the other moneys available therefor, will be sufficient to pay in full the Notes at or prior to the maturity thereof and to pay in full any remaining costs of the Project as the same become due.

8. The Governmental Agency has, prior to delivery of the Notes and Governmental Agency Bonds, entered into agreements which require the Governmental Agency to expend in excess of \$100,000 on the Project. Construction of the Project has commenced and the Governmental Agency expects that such construction will proceed with due diligence to completion. All of the proceeds from the sale of the Governmental Agency Bonds will be spent on or before December 1, 1986.

9. The total cost of the Project is estimated at \$2,593,830. The amount of Project costs not expected to be reimbursed or paid from grants and tap fees is estimated to be at least \$731,000. Except for such grants and tap fees, no other funds of the Governmental Agency will be available to meet costs of the Project, and no balances are available to meet such costs in any account which may, without legislative or judicial action, be invaded to pay such expenditures without a legislative, judicial or contractual requirement that such account be reimbursed.

10. Pursuant to Article IV of the Local Act, the following special funds or accounts have been created:

- (1) Bond Construction Trust Fund.
- (2) Renewal and Replacement Fund.
- (3) Sinking Fund, and within the Sinking Fund:
 - (a) Reserve Account.

The amount of proceeds (\$ 721,326.27), which together with other moneys in the BAN Debt Service Fund is sufficient to pay

the entire principal amount of and interest accrued on the Notes at the maturity thereof shall first be deposited with the Trustee in said BAN Debt Service Fund.

The remaining moneys (\$ 9,673.73), derived from the sale of the Bonds shall be deposited with the Depository Bank in the Bond Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 6.02 of the Ordinance.

11. All moneys in the Sinking Fund (including any income earned thereon) will be held for the payment of the interest to accrue on the Governmental Agency Bonds on or prior to the maturity thereof. Moneys held in the Sinking Fund will be used solely to pay principal of and interest on the Governmental Agency Bonds and will not be available to meet costs of construction of the Project.

12. Except for the Sinking Fund, there are no other funds or accounts established or held by the Governmental Agency which are reasonably expected to be used to pay debt service on the Governmental Agency Bonds or which are pledged as collateral for the Governmental Agency Bonds and for which there is a reasonable assurance that amounts therein will be available to pay debt service on the Governmental Agency Bonds, if the Governmental Agency encounters financial difficulties.

13. The Governmental Agency expects that no part of the Project financed by the Notes and Bonds will be sold or otherwise disposed of prior to the last maturity date of the Governmental Agency Bonds.

14. At least 95% of the spendable proceeds of the Governmental Agency Bonds will be expended on the Project (or to pay the Notes or other construction borrowings of the Governmental Agency, the proceeds of which were expended on the Project) on November 1, 1986.

15. Any money deposited in the Sinking Fund for payment of the principal of or interest on the Governmental Agency Bonds (other than the Reserve Account) will be spent within a 13-month period beginning on the date of receipt.

16. The Governmental Agency shall pay to the United States the excess of the aggregate amount earned from the date of issue of the Governmental Agency Bonds on all nonpurpose obligations in which gross proceeds of the Governmental Agency Bonds are invested (other than amounts attributable to the excess described in this paragraph) over the amount which would have been earned if such nonpurpose obligations were invested at a rate equal

to the yield (determined on the basis of the issue price) on the Governmental Agency Bonds, plus any income attributable to such excess, whether or not such income exceeds the yield on the Governmental Agency Bonds (the "Rebate Amount"), determined in accordance with and subject to the exceptions set forth in Section 103(c) of the Code. The amount which is required to be paid to the United States shall be paid in installments which are made at least once every 5 years, in an amount and in the manner set forth in Section 103(c). The Rebate Amount shall be zero if the gross proceeds of the Governmental Agency Bonds are expended for the governmental purpose for which the Governmental Agency Bonds were issued by no later than the date which is 6 months after the date of issuance of the Governmental Agency Bonds, as set forth in Section 103(c).

At least once a year beginning on the date of issue of the Governmental Agency Bonds and upon retirement of the last obligation of the Governmental Agency Bonds, the Governmental Agency covenants to make a determination of the Rebate Amount. The first determination of the Rebate Amount shall be made the date which is 1 year after the date of issue of the Governmental Agency Bonds. The determination of the Rebate Amount for each succeeding year shall be made on the date which is 1 year after the date of the previous determination of the Rebate Amount. The determination of the Rebate Amount made each year shall be computed for the period beginning on the date of issue of the Governmental Agency Bonds to the date on which the determination of the Rebate Amount is made.

The Governmental Agency shall, in accordance with applicable Treasury Regulations, make installment payments in an amount at least equal to 90% of the Rebate Amount, as of the close of the computation period.

Records of the determinations of the Rebate Amount shall be retained by the Governmental Agency until 6 years after the retirement of the last obligation of the Governmental Agency Bonds.

Each installment payment of the Rebate Amount shall be filed with the Internal Revenue Service office designated in applicable Treasury Regulations and accompanied by a statement summarizing the Governmental Agency's determination of the Rebate Amount.

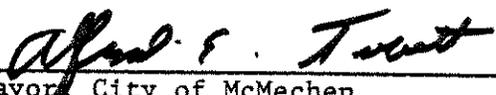
17. The Governmental Agency reasonably expects to issue less than \$5,000,000 in aggregate principal amount of bonds during the current calendar year.

18. The Governmental Agency will take all further actions necessary to comply with the Internal Revenue Code of 1986, and Treasury Regulations to be promulgated thereunder.

19. The original proceeds of the Governmental Agency Bonds will not exceed the amount necessary for the purposes of the issue.

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

IN WITNESS WHEREOF, I have set my hand this 20th day of October, 1986.



Mayor, City of McMechen

10/12/86
MCME1-0

CITY OF McMECHEN

Sewer Revenue Bonds, Series 1986

ENGINEER'S CERTIFICATE

I, Harvey L. Barnes, Registered Professional Engineer, West Virginia License No. 9339 of Green International, Inc., Consulting Engineers, Sewickley, Pennsylvania, hereby certify as follows:

1. My firm is engineer for the construction and acquisition of certain public service properties for the collection and transportation of sewage and industrial wastes (the "Project") for the City of McMechen (the "Governmental Agency"). Certain costs of such construction and acquisition are being permanently financed in part by proceeds of the above-captioned bonds (the "Governmental Agency Bonds") and out of certain grant proceeds from the United States Environmental Protection Agency ("EPA") and others.

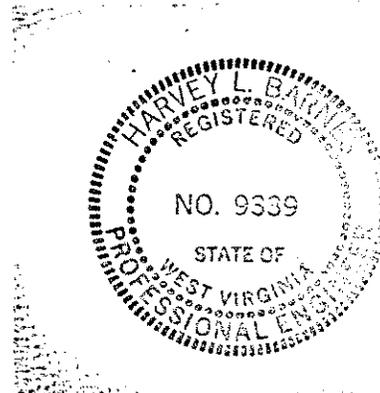
2. The undersigned hereby certifies that (i) the Project completed to date, and that yet to be completed, has been, or will be, constructed in accordance with the approved plans, specifications and designs prepared by my firm, as described in the Application submitted to the West Virginia Water Development Authority (the "Application") and approved by all necessary governmental bodies and is situate wholly or chiefly within the boundaries of the City of McMechen; (ii) the Project is adequate for the purpose for which it was designed and all necessary governmental approvals and permits for the construction thereof have been obtained; (iii) my firm has examined and reviewed all plans, specifications, bid documents and construction contracts relating to the Project and all bids for construction of the Project have been received in an amount and are otherwise compatible with the plan of financing described in the Application and my firm has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified by my firm for accuracy and completeness; (iv) the Governmental Agency has obtained all permits required by the laws of the State of West Virginia and the United States of America necessary for construction of the Project and operation of the System, including permits from the EPA and the West Virginia Department of Natural Resources; (v) the construction and funding for the Project should proceed to a successful conclusion within the time schedules proposed; (vi) the useful life of the

facilities constituting the Project is not less than 40 years; (vii) the rates and charges for the sewerage system of the Governmental Agency comply with the applicable provisions of 4.1(b) of the Loan Agreement by and between West Virginia Water Development Authority and the Governmental Agency; and (viii) the net proceeds of the Governmental Agency Bonds, together with all other monies on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay in full the Bond Anticipation Notes at or prior to the maturity thereof and to pay in full any remaining Costs of the Project as the same shall become due and payable.

WITNESS my signature on this 20th day of October 1986.

GREEN INTERNATIONAL, INC.

By Harvey L. Barnes
Harvey L. Barnes, P.E.



Pearl, File & Company

CERTIFIED PUBLIC ACCOUNTANTS
409 MARKET STREET, SUITE 100
PARKERSBURG, WEST VIRGINIA 26101
(304) 428-1886

MICHAEL F. PEARL, CPA

RICHARD A. FILE, CPA

October 20, 1986

City of McMechen
Sewer Revenue Bonds, Series 1986

West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25605

Gentlemen:

Based upon the rates and charges as set forth in the Ordinance of the City of McMechen enacted April 2, 1985, and projected operation and maintenance expenses as furnished to us by Green International, Inc., and based upon the June 30, 1985 financial statements and anticipated customer usage of the City of McMechen's public sewerage system, upon which our audit report was dated June 6, 1986, it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the sewerage system of the City of McMechen, will pay all repair, operation and maintenance expenses and leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on the Sewer Revenue Bonds, Series 1986 to be issued to Water Development Authority and all other obligations secured or payable from the revenues of the System prior to or on a parity with such Sewer Revenue Bonds, Series 1986.

Very truly yours,

PEARL, FILE & COMPANY


Michael F. Pearl, CPA

10/20/86
MCME1-F

CITY OF McMECHEN

Sewer Revenue Bonds, Series 1986

TRUSTEE'S CERTIFICATION OF DEFEASANCE OF BOND ANTICIPATION NOTES

Security National Bank & Trust Co., a national banking association with principal office in the City of Wheeling, West Virginia, as trustee (the "Trustee") under that certain trust indenture dated as of May 1, 1985, by and between the City of McMechen and the Trustee (the "Indenture") securing the Sewerage System Bond Anticipation Notes, Series 1985 of the City of McMechen, dated as of May 1, 1985, in the aggregate principal amount of \$725,000, which mature November 1, 1986 (the "Notes") hereby certifies that it has received the sum of \$731,000 and has deposited such sum in the BAN Debt Service Fund established by the Indenture, and that such sum, together with other moneys now on deposit in said BAN Debt Service Fund is sufficient to pay, at maturity, the entire principal amount of and interest to accrue on the Bond Anticipation Notes. Said moneys in the BAN Debt Service Fund shall be used for no other purpose, and the Bond Anticipation Notes are thereby defeased in accordance with the Indenture.

Dated this 20th day of October, 1986.

SECURITY NATIONAL BANK & TRUST CO.

By *Mark A. McKee*
Its Administrative Assistant

11/04/86
MCME1-H

A BILL amending and re-enacting chapter twelve of the acts of One Thousand Nine Hundred and Five, entitled "An act incorporating the City of McMechen, in the county of Marshall, fixing its corporate limits and prescribing and defining the powers and duties thereof," and chapter three of the acts of One Thousand Nine Hundred and Fifteen, regular session, municipal charters, amending and re-enacting sections two, four, five, eleven, thirteen, sixteen, twenty-four, twenty-six, twenty-eight, twenty-nine, thirty, thirty-one, thirty-three, thirty-four, thirty-six, thirty-seven, and forty-two of the chapter twelve of the acts of One Thousand Nine Hundred and Five, entitled "An act incorporating the City of McMechen, in the county of Marshall, fixing its corporate limits, and prescribing and defining the powers and duties thereof."

That chapter twelve of the acts of One Thousand Nine Hundred and Five, entitled "An act incorporating the City of McMechen, in the county of Marshall, fixing its corporate limits and prescribing and defining the powers and duties thereof," and chapter three of the acts of One Thousand Nine Hundred and Fifteen, regular session, municipal charters, amending and re-enacting sections two, four, five, eleven, thirteen, sixteen, twenty-four, twenty-six, twenty-eight, twenty-nine, thirty, thirty-one, thirty-three, thirty-four, thirty-six, thirty-seven, and forty-two of chapter twelve of the acts of One Thousand Nine Hundred and Five, entitled "An act incorporating the City of McMechen, in the county of Marshall, fixing its corporate limits, and prescribing and defining the powers and duties thereof."

Section 1. The inhabitants of Marshall County, in this state, and now and hereinafter residing within the boundaries prescribed in the next section hereof, shall be and they are hereby constituted a body politic and corporate, by and under the name of the "City of McMechen," and as such and by and in the name shall have perpetual succession and a common seal, and may sue and be sued, contract and be contracted with, purchase, lease, hold, and use real and personal property

necessary for corporate purposes, and grant, sell, convey, transfer, let and assign the same; and generally shall have the rights, powers and franchises belonging or appertaining to municipal corporations in this state; and shall have and succeed to all the powers, franchises, rights, privileges, and immunities, and be subject to all responsibilities, which were conferred upon, or belonging or appertaining to the City of McMechen, by virtue of chapter twelve of the acts of legislature of this state, passed February Twenty-fourth, One Thousand Nine Hundred and Five.

Boundaries

Sec. 2. The boundaries of said city shall be as follows: Commencing at the southwest corner of the corporation of the City of Benwood, the same being on the west edge of the Ohio river, in the Ohio state line, where it crosses the mouth of Pinch run, thence with the south corporation lines of the City of Benwood, north eight-one degrees fifteen minutes east, crossing the river at a point in the mouth of McMechen's run; thence up the same with its meanders, north sixty-nine and one-half degrees, east one hundred and seventy-eight feet; north eight-eight and one-fourth degrees east one hundred and forty feet; north eight-eight and one-fourth degrees east one hundred and seventy-nine and five-tenths feet; south seventy-eight degrees east two hundred and twelve feet; south sixty-four and one-half degrees east one hundred and seventy feet; north eight-eight feet; north fifty-two degrees east one hundred and eight feet; north seventy-four and three-fourths degrees east one hundred and sixteen feet; north sixty-eight and three-fourths degrees east two hundred and nine and five-tenths feet; north seventy and one-fourth degrees east one hundred and thirty-two feet to a point on the north side of the run, located south twenty-one and one-fourth degrees east seven and one-half feet from a large sycamore witness, standing on the north bank of the run; thence, leaving the corporation line of the City of Benwood, north seventy and one-half degrees east two hundred and eight-five feet to a point at the forks of the run; thence up the south fork south seventy-seven and three-fourths degrees

east two hundred and twenty feet; north twenty-seven and one-half degrees east sixty-nine feet; south seventy-nine and one-half degrees east eight-five feet to a point in the run, located north fourteen and one-half degrees east thirty-eight feet from the northwest corner of a small frame house standing between the run and the McMechen cemetery fence; thence up the run south sixty-six degrees east one hundred and fifty-nine feet to a point in the original easterly corporation line of McMechen; thence with said line, leaving the run, south sixteen degrees east two hundred and fifty-one and ninety-five one-hundredths feet to a stake in a field located north seventy-three and one-half degrees east one hundred and three and twelve one-hundredths feet from a gum tree stump south of the cemetery fence, the said stake being also located south five and one-half degrees west eighty feet from the extreme easterly corner of the McMechen cemetery fence; then from said stake with the original easterly corporation line of McMechen, south thirteen degrees west six thousand one hundred and seventy-one feet to a point in the old bed of Jim's run, south of the present bed, and located south seventy-five degrees east seven hundred and ninety-two feet from the center of the Baltimore & Ohio railroad stone bridge; thence leaving the original corporation line of McMechen, south eleven degrees east one hundred and forty-six and six-tenths feet to a point in the east line of the "First addition to Riverview" thence with said east line south twenty-three degrees forty minutes west four hundred and eighty-five feet to the north side of Twenty-third street; thence, following said north seventy-seven degrees five minutes west fifty and eight-tenths feet to the southwest corner of Lot No. 262; north eighty-three fifty minutes west; three hundred fifty feet more or less with the north line of Twenty-third street; and that line extended across Marshall street to the east property line of the Baltimore & Ohio railroad company's right of way, thence with said east line, in a southwesterly direction, eleven hundred feet more or less to the point of intersection of the said right of way line with the eastward extension of the north line of Twenty-seventh street, which

street lies on the north side of an addition called "Riverview addition," situated between the right of way of the Baltimore & Ohio railroad company's Ohio river division, thence with the north line of Twenty-seventh street, and its extension north seventy-five degrees thirty minutes west to, and across the Ohio river, to the Ohio state line, thence up the river along the water's edge, following the said state line to the beginning.

Wards

Sec. 3. The territory of said city is hereby divided into four wards as follows:

All that part of said city lying north of Sixth street, and the line of Sixth street extended to corporate lines, shall constitute the first ward of said city; that part lying between said Sixth and Tenth streets and lines of said streets extended to corporate limits, shall constitute the second ward, and all that part of said city lying between Tenth and Thirteenth streets and lines of said streets extended to corporate limits, shall constitute the third ward, and all that part of said city south of Thirteenth street and the line of Thirteenth street extended to corporate limits, shall constitute the fourth ward of said city. The council of said city may change the boundaries of the different wards, but regard shall be had to equality of population of the several wards.

Officers

Sec. 4. The officers of said city shall be a mayor, clerk, marshal, treasurer, solicitor, health officer, street commissioner, city engineer, and two councilmen from each ward. The mayor shall be elected by the qualified voters of said city. The clerk, marshal, health officer, street commissioner, treasurer, solicitor and city engineer shall be appointed by the council, and the councilmen shall be elected by the qualified voters of their respective wards. No person shall be eligible to any elective office unless he is a qualified voter thereof, nor unless he has resided therein for at least six months before his election; and in case of a councilman,

unless he is a bona fide resident of the ward from which he is elected, and a freeholder of said city; and the removal of a councilman from the ward in which he was elected, or his ceasing to be a freeholder in said city, shall vacate his office.

The council may by ordinance or resolution appoint one person to perform the duties herein provided to be performed by one or more of the above named officers, define the duties to be performed by such officers, and fix the compensation therefore.

Sec. 5. The municipal authorities of said city shall consist of the mayor and councilmen, who together shall form a common council, and all the corporate powers of said corporation shall be exercised by said council or under its authority, except where otherwise provided.

Term of Officers

Sec. 6. The term of office of the mayor shall begin on the first Monday in April, next succeeding his election and shall be for the term of two years, and until his successor shall have been elected and qualified, the clerk, marshal, treasurer, health officer, street commissioner, solicitor, and city engineer, shall be appointed by the council and shall hold their office during the pleasure of the council. The same person shall not be appointed for two consecutive terms unless he shall have fully settled up the business of his former term or terms. At the first election provided in section eight of this act there shall be elected a mayor, whose term of office shall begin on the first Monday in April next succeeding their election, the one thereof receiving the highest number of votes shall hold his office for the term of four years, and the one receiving the next highest number of votes shall hold his office for the term of two years, and until their successors are elected and qualified. On the same day each succeeding two years one councilman from each ward shall be elected and shall hold office for four years from the first Monday in April next succeeding their election and until their successors are elected and qualified.

Sec. 7. Every person elected or appointed to any office in said city shall within twenty days after his election or appointment and before entering upon the discharge of the duties thereof, take and subscribe the oath of office prescribed by law for officers generally, which may be done before the mayor or clerk and said city, or before any person authorized by law to administer oaths; and the same, together with the certificate of the officer administering the oath, shall be filed with the clerk of the city.

Elections

Sec. 8. The first election hereunder shall be held on the first Tuesday in March, One Thousand Nine Hundred and Twenty, and bi-annually thereafter. Every person who has been a bona fide resident of the city for three months next preceeding any election, and has paid all municipal taxes levied and assessed against him for the preceeding tax year, and otherwise a qualified voter under the constitution and laws of the state, shall be entitled to vote at such election in the ward in which he resides. The election shall be held, conducted and the results thereof be ascertained, returned and determined under such rules and regulations as may be prescribed by the council, which shall not be inconsistent with the general laws of state governing municipal elections, and shall conform as nearly as practicable to such laws. Contested elections shall be heard and decided by council, and the proceedings therein shall conform as nearly as may be to similar proceedings in the case of contested elections of county and district officers. The council shall be the judge of the election, return and qualification of its own members. In case two or more persons received an equal number of votes for the same office, if such number be the highest cast for such office, the city council shall decide by vote which of them shall be returned elected, and shall make their return accordingly.

Council

Sec. 9. The council shall prescribe the powers and define

the duties of all officers by it appointed, except so far as the same are by this act defined; shall fix their compensation, and may require and take from them respectively, bonds payable to the city in its corporate name with such sureties and in such penalties as may be deemed proper, conditioned for the faithful performance of their duties.

Sec. 10. The council shall require and take from all officers elected or appointed as aforesaid, whose duty it shall be to receive funds, assets or property belonging to the city, or have charge of the same, such bonds, obligations or other writings as may be deemed necessary and proper to secure the faithful performance of their several duties. All bonds, obligations or other writings taken in pursuance of any of the provisions of this act shall be made payable to "The City of McMechen," with such sureties and in such penalties as may be deemed proper, conditioned for the faithful performance of their duties and for the accounting for and paying over, as required by law, all monies coming into their hands by virtue of their offices, and the respective persons and their heirs, executors and assigns bound thereby, shall be subject to the same proceedings on said bonds, obligations and other writings, for enforcing the conditions of the terms thereof, by motion or otherwise, before any court of competent jurisdiction held in and for the county of Marshall, that collectors of county levies and other sureties are or shall be subject to on their bonds for enforcing the payment of the county levies.

Sec. 11. The council shall have the authority to remove from office any elected officer of the city for misconduct or neglect of duty, by an affirmative vote of three-fourths of the members of the council, but only after reasonable notice to such officer, and a hearing of the charges preferred; and any vacancy in office, however occasioned, may be filled by the council for the unexpired term.

Sec. 12. The council shall fix the place and times of holding its regular meetings; may provide for special and adjourned meetings; shall have power to compel the attendance

of its members; and may prescribe rules and regulations, not inconsistent herewith, for the transaction of business and for its own guidance and government. Councilmen shall receive compensation of Two Dollars (\$2.00) for each regular or special meeting of the council which they attend, provided, however, that compensation shall not be allowed for more than six (6) special meetings in one (1) fiscal year. The council shall be presided over at its meetings by the mayor, or in his absence by the clerk, or in the absence of both the mayor and clerk, then by one of the councilmen selected by a majority of the council present, who may vote on any question as member of the council. The mayor shall have a vote only in case of a tie and in no case shall the presiding officer have more than one vote. A majority of the council shall be necessary to constitute a quorum for the transaction of business. No member of the council shall vote upon or take part in the consideration of any proposition in which he is or may be interested otherwise than a resident of said city.

Sec. 13. The council shall cause to be kept by the clerk in a well bound book to be called the "minute book" an accurate record of all its proceedings, ordinances, acts, orders and resolutions, and in another to be called the "ordinance book" accurate copies of all the ordinances adopted by the council, both of which shall be fully indexed and open to the inspection of any one required to pay taxes to the city, or who may be otherwise interested. All oaths and bonds of officers of the city and all papers of the council shall be endorsed, filed and securely kept by the clerk, except the bond of the clerk, which shall be filed with the mayor. All printed copies of such ordinances purporting to be published under authority of the council and transcripts of such ordinances, acts, orders and resolutions, certified by the clerk under the seal of the city, shall be deemed prima facie correct, when sought to be used as evidence in any court or before any justice.

Sec. 14. At each meeting of the council, the proceedings

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of the last meeting shall be read, and if erroneous, corrected, and signed by the presiding officer for the time being. Upon the call of any member, the yeas and nays on any question shall be taken and recorded in the minute book.

Sec. 15. No ordinance or by-law, and no resolution or measure for the expenditure of money other than to defray the current and incidental expenses of the city, shall be deemed passed or adopted unless it shall have been fully read at two consecutive meetings of the council, and shall have received a majority of the votes of the members present, when it shall stand and be declared adopted and not otherwise.

Sec. 16. The council of said city shall have power to lay off, vacate, close, open, alter, grade and keep in good repair the roads, streets, alleys, pavements, sidewalks, cross-walks, drains and gutters therein for the use of the citizens or of the public, and to improve and light the same, and to keep the same free from obstruction of every kind; to regulate the width of pavements and sidewalks on the streets and alleys, and to order the pavements, sidewalks, footways, drains and gutters to be kept in good order, free and clean, by the owners or occupants of the real property next adjacent thereto; to establish and regulate markets, prescribe the times of holding the same, provide suitable and convenient buildings therefor, and prevent the forestalling or regulating of such markets; to prevent injury or annoyance to the public or to individuals from anything dangerous, offensive or unwholesome; to prohibit or regulate slaughterhouses and soap factories within the city limits; or the exercise of any unhealthy or offensive business, trade or employment; to abate all nuisances within the city limits, or to require and compel the abatement or removal thereof, by or at the expense of the person causing the same, or at the expense of the owner or occupant of the ground on which they are placed or found; to cause to be filled up, raised or drained by or at the expense of the owner, any city lot or tract of land covered or subject to be covered by stagnant water; to prevent horses, hogs, dogs, cattle,

sheep, or other animals, and fowls of all kinds from going or being at large in such city, and as one means of prevention, to provide for impounding and confining such animals and fowls and upon failure to reclaim, for the sale thereof; to protect places of divine worship and to preserve order in and about the premises where and when such worship is held; to regulate the keeping of gunpowder and other inflammable or dangerous substances; to provide and regulate the building of houses or other structures and for the making and maintaining or division fences by the owners of adjoining premises, and for the proper drainage of city lots or other parcels of land, by or at the expense of the owner or occupant thereof; to provide against damage or danger by fire; to punish for assaults and batteries; to arrest, convict and punish any person for gambling or keeping gaming tables, commonly called a, b, c, or e, o, table or faro bank or keno table, or table of like kind, under any denomination, whether the game or table be played with cards, dice or otherwise, or shall be a partner, or concerned in interest, in the keeping or exhibiting such table or bank, or keeping or maintaining any gaming house or place, or betting or gambling for money or anything of value; to suppress houses of ill-fame and to arrest and punish persons loitering in, or visiting them, or loitering at wharves or upon the streets; to prevent lewd and lascivious conduct; the sale or exhibition of indecent pictures or other representations, the desecration of the Sabbath Day; profane swearing; to protect the persons of those residing or being within said city; to appoint when necessary or advisable a police force, permanent or temporary, to assist the chief of police in the discharge of his duties; to build or purchase, or lease and to use, a suitable place within or near said city for the safe keeping or punishment of persons charged with or convicted of the violation of ordinances; to provide for the employment of persons convicted of the violation of ordinances or who may be committed in default of the payment of fines, penalties or costs: and who are otherwise unable to discharge the same, by putting them to work for the

benefit of the city, and to use such means to prevent their escape while at work, as they may deem expedient; to erect, or authorize or prohibit the erection of gas works, electric light works or water works within the city limits; to prevent injury of such works, or the pollution of any gas or water used or intended to be used by the public or by individuals, and to all things necessary to adequately supply said city and the inhabitants thereof with pure, healthful and wholesome water; to use, generate, distribute, sell and control electricity and gas for heat, light and power and to furnish lights for the streets, houses, building, stores, and other places in and about said city, to provide a sewerage system for said city; to provide for and regulate the weighing and measuring of hay, coal, lumber and other articles sold or kept or offered for sale, within said city; to establish and construct wharves and docks, and to repair, alter or remove any landing, wharf, or dock which has been or shall be so constructed and to establish and collect rates and charges for the use thereof; to regulate the running and speed of automobiles, motorcycles, vehicles, engines and cars within the said city; to organize one or more fire companies and provide necessary apparatus, tools, implements, engines or any of them for their use, and in their discretion to organize a paid fire department; to make regulations with respect to the erection and location of all pipes, conduits, and telephone, telegraph, electric light or other poles within said city, and the extension of any wires, lines and poles by any individuals or corporation; to create by ordinances such committees on boards, and delegate such authority thereto as may be deemed necessary or advisable; to provide for the annual assessment of the taxable property therein, including dogs kept in said city, and to provide a revenue for the city for municipal purposes, and to appropriate such revenue to its expense, and generally to take such measures as may be deemed necessary or advisable to protect the property, public and private, within the city, to preserve and promote the

health, safety, comfort and well being of the inhabitants thereof.

The council of said city shall have power and authority to control and regulate the construction and repairs of all houses and other buildings within the said city, to provide for the granting of building permits; to cause the removal of unsafe walls or buildings and may prohibit the erection of any such street, or in any such square, of any building or of any addition to any building unless the outer walls thereof be made of brick and mortar or other fireproof material; and to provide for the removal of any building or addition which shall have been erected contrary to such prohibition, at the expense of the owner or owners thereof.

The said council of said city shall have any and all additional power and authority granted to cities, towns and villages by chapter forty-seven of the code, or any additional powers hereafter granted to municipal corporations by the legislature of this state.

Sec. 17. The council of said city shall have the power to contract with persons, private or municipal corporations, for furnishing to said city, through and over the streets, alleys, and public grounds of said city, water for domestic, fire and other purposes, for use by the inhabitants of said city and persons and corporations in the vicinity thereof, and said city by its council may provide for the sale of said water to the consumer thereof upon such terms and conditions as it may deem proper, provided, however, that no contract for such water shall be made by the city for a longer period than ten years.

Sec. 18. Before the council of said city shall accept the dedication to public uses, any highway, avenue, streets or alleys within said city, the highways, avenues, streets and alleys so dedicated for highways purposes shall be constructed to a proper grade to be approved by council, and the dedication of such streets, highways, avenues and alleys shall be for usual highway purpose and without reservation or restriction.

Sec. 19. To carry into effect these enumerated powers and

all others by this act or by general law conferred, or which may hereafter be conferred upon the said city or its council or any of its officers, the said council shall have and possess full authority to make, pass and adopt all needful ordinances, by-laws, orders and resolutions not repugnant to the constitution and laws of the United States or of this state; and to enforce any or all of such ordinances, by-laws, orders or resolutions by prescribing for a violation thereof, fines and penalties and imprisonment in either the county jail of Marshall County, or the city prison if there be one; but no fines shall exceed One Hundred Dollars (\$100.00), and no term of imprisonment shall exceed ninety days (90). Such fines and penalties shall be imposed and recovered, and such imprisonment inflicted and enforced, by and under the judgment of the mayor of said city, or in case of absence or inability to act, of the clerk of said city, or in case of absence or inability to act of both of said officers, of one of the councilmen, appointed for that purpose by the council.

Said city is hereby authorized to work its prisoners on the public streets and other improvements of said city or to hire its prisoners to the county court of Marshall County to work on the public roads, and other improvements of said county, on such terms and conditions as may be agreed upon; without making such work a part of the judgment against such prisoners; but credit shall be allowed any prisoner for the value of such work as fixed by council, and when the fine and costs are fully paid by work, the prisoner shall be discharged from custody.

Franchises

Sec. 21. Franchises may be granted by the city council to persons or corporations allowing such occupancy of portions of the streets and alleys as may be necessary for works of public utility and service, but no such franchise shall hereafter be granted except under the following restrictions and

conditions; no ordinance shall be passed granting any franchise for the use of any of the streets or alleys of the city for any of the purposes above named, until the same shall have been filed with the clerk at least thirty days (30) prior to the time when it is to be acted upon by the council, and notice of such application, stating the object of such franchise, and when the same will be considered by the council, shall have been given thirty days (30) notice in some newspaper of general circulation published in Marshall County.

Nor shall any franchise be hereafter granted by council for a longer period than twenty-five years (25), provided, that the council shall have the power to renew any such franchise for the term of ten years (10), when the same shall have expired. No franchise hereafter granted for a longer term than twenty-five years (25) shall be of any force or validity. No gran. of any such franchise shall be made without at the time of making it providing the grantee, its successors or assigns, shall indemnify the city against all damages caused by the construction and maintenance of such works.

Any person or corporation to whom a franchise has been or may hereafter be granted by said city, who shall fail or refuse to comply with the conditions of the ordinance granting the same within thirty days (30) after receiving notice of such failure, shall forfeit all rights and privileges conferred by said franchise unless said failure be waived by resolution of the council of said city.

Power to Condemn

Sec. 21. The council shall have the right to institute proceedings, in the name of the city, for the condemnation of real estate for streets, alleys, avenues, sewers, drains, market grounds, landings, wharves, city prison, or other work or purposes of public utility; such proceedings shall conform to the provisions of chapter forty-two of the code of West Virginia, and costs thereof shall be borne by the city, except that in contests involving a hearing in the circuit court, costs shall be recovered by the prevailing party.

Levy

Sec. 22. The council shall cause to be made up annually, and spread upon its minute book, an accurate estimate of all sums which are or may become lawfully chargeable against the city, and which ought to be paid within one year, and it shall order at a meeting to be held by it in the month of August of each year, as provided by law, a levy of so much as will, in its judgment, be necessary to pay the same; such levy shall be upon all the real estate and personal property otherwise subject to state and county taxes, and an annual capitation tax of One Dollar (\$1.00) upon each male inhabitant of said city who has attained the age of twenty-one years; provided, that such levy shall not exceed the sum of fifty-cents (0.50) upon each Hundred Dollars (\$100.00) of the ascertained value of the real and personal property; and, provided, further, that an additional special levy of ten cents (0.10) upon each One Hundred Dollars (\$100.00) of such valuation may be levied for the purpose only of paying the principal and interest of the bonds of said city now outstanding.

Lien for Taxes

Sec. 23. There shall be a lien on real estate within said city for the city taxes assessed thereon, and for all fines and penalties assessed to, or imposed upon the owners thereof, by the authorities of such city, from the time the same are so assessed or imposed, which shall have the priority over all other liens, except the lien for taxes due the state, county and district; and which may be enforced by the council in the same manner provided by law for the enforcement of the lien for county taxes. If any real estate within said city be returned delinquent for the non-payment of the delinquent taxes thereon, a copy of such delinquent list may be certified by the council to the auditor, and the same may be sold for the city taxes, interest and commission thereon, in the same manner, at the same time and by the same officer as real estate is sold for the non-payment of state taxes.

Distress for Taxes

Sec. 24. If any person against whom, or upon whose property any taxes shall be lawfully assessed for the benefit of said city shall not wholly pay such tax on or before the first day of January after the same shall have become due, it shall be lawful for the officer authorized to collect such tax to take reasonable distress of any personal property in said city, belonging to said delinquent, in which he or she shall have the right or interest, and sell such property, right, or interest at public auction in said city, having given ten days' notice of the time and place of sale, by advertisement posted in such other manner as may be prescribed by ordinance of said city, if council shall by ordinance require any other or more ample advertisement, and out of the proceeds of such sale after defraying all expense, to pay said city the said tax, or as much thereof as shall be delinquent, and return the remainder, if any, to the owner of the property so levied and sold.

Other Remedies

Sec. 25. In addition to all other means for the collection thereof, all taxes, as well as all other demands due to the said city, may be recovered by any appropriate suit or proceeding in the name of the city before any justice of Marshall County, if the amount be within his jurisdiction, or in the circuit court of said county if the amount be within the jurisdiction of said court, and any judgment so obtained may be enforced as other judgment liens are enforced.

Licenses Generally

Sec. 26. The council shall have the authority to require a city license as follows: For anything to be done, carried on or exhibited within the city, for which a state license is now or may hereafter be required, for the keeping of hacks, carriages, carts, wagons, and other vehicles for hire within the city, and for keeping of dogs within the city and the council may provide for the killing of all dogs, the keeping of which is not so licensed. And upon all such licenses the council may impose a reasonable tax for the use of the city.

Sec. 27. The council shall prescribe by ordinance the manner in which licenses of all kinds shall be applied for and granted, and shall require the payment of the tax thereon to be made to the marshal of said city before delivery to the person applying therefor and the provisions of sections thirty-nine, forty and forty-one of chapter thirty-two of the Code of West Virginia, One Thousand Nine Hundred and Thirteen, relating to license, shall govern the city in the granting of licenses similar in character to those therein mentioned, except where otherwise herein provided. Licenses for keeping dogs shall also expire on the thirtieth day of June next after they are granted, and all other licenses may be for such times as the council may determine.

Mayor

Sec. 28. The mayor shall be the chief executive officer of the city and shall see that the orders, by-laws, ordinances and regulations of the council thereof are faithfully executed; he shall be ex-officio a justice and conservator of the peace within the city and shall within the same have, possess and may exercise, all the powers and perform all the duties whether in civil or criminal proceedings, vested by law in a justice of the peace. Any summons, warrant or other process, issued by him, may be executed at any place within the county; he shall have power during the recess of the regular meeting of council to appoint special police officers when he shall deem it necessary, and it shall be his duty to see that the peace and good order of the city are preserved, and that persons and property therein are protected, and to this end he may arrest and detain, or cause the arrest and detention, of all riotous and disorderly persons before taking other proceedings in the case; he shall from time to time recommend to the council such measures as he may deem needful for the welfare of the city; he shall not receive any money due or belonging to the state or corporation or to individuals, unless and until he shall have given the bond and security required of a justice of the peace by chapter fifty of the Code of West Virginia; and all the provisions of said chapter relating to monies received by

justices shall apply to monies received by him in like cases.

The mayor shall receive a salary of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) per annum, such salary shall be in lieu of the fees which would otherwise accrue to him in proceedings for the enforcement of ordinances, but all such fees shall be collected when practicable, and accounted for to the city, and he may tax such costs against any person or corporation found guilty of the violation of any ordinance of the city, as are provided to be taxed and recovered by justices of said county in criminal cases.

The process in proceedings to enforce any ordinances prescribing a fine or imprisonment, or a fine and imprisonment, for the violation thereof, shall be summons in the name of the City of McMechen as plaintiff, directed to the marshal, to one of the regular police officers of the city, or to any constable of any district within the said city, requiring him to summon the person accused of such violation, and who shall thereafter be designated as defendant, to appear before the mayor at the time and place therein named to make answer to such accusation and be dealt with according to law; such summons shall contain such statement of the facts alleged as will inform such person of the general nature of the offense against the city of which he stands charged, and except in cases of arrest upon view, shall be issued only upon the complaint, on oath, of some credible person. But the mayor, for good cause appearing, by endorsement on the summons, may order the person so accused to be forthwith apprehended and brought before him for a hearing of the charge. The clerk of said city, as well as the mayor, shall have authority to receive any complaint in writing of the violation of any ordinance, and to sign and issue the proper summons based upon such complaint. The mayor shall have, possess and may exercise the power and authority belonging to a justice under section two hundred and twenty-four and two hundred and twenty-five of chapter fifty of the Code of West Virginia, in summoning and enforcing the attendance and examination o

witnesses, in punishing for contempt, in granting continuances, and in securing and enforcing the further attendance of the accused with a view to a trial or hearing. If any recognizance be taken for such further attendance, and is forfeited, the mayor may record the default, and an action be maintained in the name of the city, before the mayor, or any justice having jurisdiction, against the accused and his sureties, if any, to recover the penalty thereof.

Sec. 29. The mayor shall have the power to issue an execution for any fine and cost imposed by him, for the violation of any ordinance, or he may at the time of rendering judgment therefore, or at any time thereafter and before satisfaction of such judgment, by his order in writing, require the immediate payment thereof, and in default of such payment he may cause the person so in default to be apprehended and brought before him, and commit him to the jail of Marshall County or in his discretion to the prison of said city, if one shall have been provided, until the fine and costs are fully paid; but such imprisonment shall not exceed ninety days.

Sec. 30. The jail of Marshall County may be used as a lockup for said city. The jailor of said county shall take and receive into his custody any person authorized to be confined therein by any ordinance of the city, or sentenced to imprisonment therein, or committed thereto, for non-payment of a fine or costs, or for failure to enter into a recognizance by the judgment or order of the mayor, in proceedings for the violation of an ordinance; and the expense of maintaining such persons while so in confinement shall if such person be found guilty of such violation, be charged to such person as part of the costs, but whether collected from such person or not, such expense shall be paid to said jailor by the city.

Mayors Docket

Sec. 31. A book well bound and indexed, to be denominated the "docket" shall be kept in the office of the mayor, in which shall be noted each case brought or tried by him, together with

the proceedings therein, including a statement of complaint, the summons, the return, the fact of appearance or non-appearance the defense, the hearing, the judgment, the costs, and in case the judgment be one of conviction, the action taken to enforce the same; the record of such case shall be signed by the mayor or other person acting in his stead; and the original papers thereof, if no appeal be taken, shall be kept together and preserved in his office.

Appeal

Sec. 32. In any case for the violation of an ordinance of the said city, in which there is a judgment by the mayor of imprisonment, or for a fine of more than Ten Dollars, (\$10.00) an appeal shall lie at the instance of the person against whom such judgment is rendered to the circuit court of Marshall County. Such appeal shall not be granted by the mayor unless within ten days from the date of the judgment, such person shall enter into a recognizance, with security deemed sufficient, in a penalty double the amount of fine and costs; with condition that the person appearing will appear before the said court on the first day of the next term thereof, to answer for the offense against the city with which he stands charged, and not thence depart without leave of said court, and will perform and satisfy any judgment which may be rendered against him by the circuit court on appeal. The provisions of chapter one hundred and sixty-two of the Code of West Virginia, relating to recognizance in criminal cases, shall be applicable to the recognizance contemplated by this section, except where herein otherwise provided; but any money recovered thereon or by virtue thereof shall insure to the said city.

Sec. 33. If such appeal be taken the mayor shall forthwith deliver to the clerk of said court the complaint in writing, if any, the summons, a transcript of the record including the judgment, the recognizance, and any other papers belonging to the case; and such clerk shall receive and file the same, and place the case upon the trial docket of the next succeeding term of said court, and said court shall proceed to try the

same in its order.

Sec. 34. If the appellant be found guilty of a violation of the ordinance in question, whether upon the verdict of a jury or otherwise, the court shall ascertain by its judgment the fine or imprisonment or the fine and imprisonment to be paid or suffered by such defendant, having regard to the punishment prescribed by such ordinance, and shall include in any such judgment the costs incurred by said city, as well in the proceedings before the mayor as those in court, including a fee to the attorney for the city of Ten Dollars (\$10.00), and the fees, if any, of the jailor or the keeper of the city prison; and the proceedings to enforce the collection of any such fine and costs, may be as provided in sections ten, eleven and twelve of chapter thirty-six of the Code of West Virginia, except that the writ mentioned in the tenth section may be issued by the clerk upon the order of the mayor of the city, and the notice contemplated by the eleventh section shall be given to such officer.

Sec. 35. From all judgments by the mayor in cases other than for violation of ordinances, appeals shall be allowed as in similar cases before justices.

Solicitor

Sec. 36. The city solicitor shall prosecute and defend all suits for or against the city, and when requested so to do, shall give his opinion in writing to the mayor, the council, or any standing committee of council, upon such legal question as may be referred to him, affecting the city's interest. For his services he shall receive such compensation as the council may allow.

Marshal

Sec. 37. It shall be the duty of the marshal to preserve order and quiet in said city, and to see that all subordinate police officers faithfully perform their official duties, and he may for good cause appearing to him for neglect of duty or insubordination, suspend any such officer from duty, and report his action and his reason therefore to the next regular meeting

of council for action thereon; he shall collect the fines and costs; licenses; and fees which may become due the city, and pay the same to the treasurer as herein provided; the said marshal shall receive all taxes on licenses and receipt to the party paying the same by endorsement upon the permit granted by order of the council and shall report same to the council at the next regular meeting thereafter the amount so received and pay the same over to the treasurer; he shall be present in the police court whenever the same shall be in session, and see that all its orders and requirements are properly executed; he shall with the consent of the council entered of record, but not otherwise, appoint one or more policemen, as the council may determine; he shall before entering upon the discharge of his duties, execute a bond conditioned for the faithful performance by him of the duties of his office, and for the accounting for any paying over, as required by law, all money which may come into his hands by virtue of his office, with sureties satisfactory to the council, in a penalty of not less than Three Thousand Five Hundred Dollars (\$3,500.00) nor more than Ten Thousand Dollars (\$10,000.00), as the council prescribe; he shall receive such salary as may be fixed by council, which shall be at the rate of not less than One Thousand Dollars (\$1,000.00) nor more than Eighteen Hundred Dollars (\$1,800.00) per annum.

Each policeman appointed as prescribed by this section shall, before entering upon the discharge of his duties, execute a bond conditioned for the faithful performance by him of the duties of his office and as is required by law, and for the accounting for and paying over, as is required by law, all money which may come into his hands by virtue of his office, with sureties satisfactory to the council, in a penalty of not less than One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) as the council may prescribe.

Sec. 38. In case a violation of any ordinances of said city is committed in the presence, or within view of the marshal or other police officer, the offender may be forth-

with apprehended and taken before the mayor, and a complaint under oath, stating such violation, there lodged and filed; and thereupon such offender may be tried and dealt with according to law, without summons. The marshal shall execute, within the county of Marshall, when directed to him, any proper process issued by the mayor in proceedings for the enforcement of ordinances; and shall collect by levy of execution, or otherwise, and duly account for, all fines assessed and costs imposed in such proceedings. He shall also have all the rights and powers within said city, in regard to the arrest of persons, the collection of claims, and the execution and return of process, that are or may be lawfully exercised by a constable of a district within the same, and shall be entitled to the same compensation therefor; and he and his sureties shall be liable to all the fines, penalties and forfeitures that a constable is liable, for any dereliction of duty in office, to be recovered in the same manner, and in the same courts, that such fines, penalties and forfeitures are recovered against constables.

Clerk

Sec. 39. It shall be the duty of the city clerk to keep a journal of the proceedings of the city council and have charge of and preserve the records, papers, contracts and other documents belonging to the city; he shall keep regular books of account of the financial transaction of the city; he shall enter all judgments rendered by the mayor within a reasonable time after the same are rendered; he shall, in case of sickness or disability of the mayor to act, or in case of his absence from the city, or during any vacancy in the office of the mayor perform the duties of mayor, and shall be vested with all powers necessary for the performance of such duties; he shall also perform such other duties pertaining to the fiscal affairs of the city, or otherwise, as may be required of him by this act or by the council. He shall be paid such compensation as may be provided by council, which shall be at the rate of not less

than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) per year. Such clerk shall give bond with security to be approved by the council in a penalty of not less than Five Hundred Dollars (\$500.00), payable to said city, conditioned for the faithful performance of his duties as such clerk.

The officer whose duty is to make out the land books for Marshall County, or such other person as the council may appoint, shall, annually, at such compensation as agreed upon with council, not later than the fifth day of August, furnish to the clerk, showing in separate amounts, the aggregate value of all the personal property and the aggregate value of all the real estate in the city, as ascertained from the land and personal property books of said county for the current year; upon receiving said statement the clerk shall present the same to council at a meeting to be held not later than the first Tuesday in August, for the purpose of determining the rate of levy in said city for the current year; upon receiving said statement the clerk shall present the same to council at a meeting to be held not later than the first Tuesday in August, for the purpose of determining the rate of levy in said city for the current year; as soon as the rate of levy shall have been fixed by council, the clerk shall furnish the officer whose duty it is to make out the land and personal property books, a certified copy of the order of the council, fixing the rate of tax, and such officer shall thereupon extend the tax against the property situated in the city in the land and personal property books in separate columns in said books.

All license taxes shall be payable on the first day of July of each year or at such time as such license may be issued.

Sec. 41. The said clerk shall receive all taxes, assessments, and other money due the city authorized by this act, or by any ordinance of the said city, to be paid to the city, and shall receipt for same; he shall keep an accurate account of all money paid to him for the use of said city, showing under separate accounts the amount received for account of

taxes, sewer purposes, street pavement, and of other matters pertaining to his office, which books shall at all times be open to the inspection of the council or any committee appointed by it for such purposes; he shall pay over promptly all money which he may receive, within five days after the receipt thereof, into the hands of the treasurer of the said city, showing an itemized statement of the several funds included in said payment, taking the treasurer's receipt therefore; he shall keep his office at the office of the mayor, unless otherwise ordered by the council; he shall on or before the last day of March and September of each year, and oftener if directed by council, present to the council a full, complete and detailed statement of all money with which he is chargeable, or that has been received by him from all sources up to the time, together with a statement of all money paid to the treasurer, and proper receipts therefor, and he shall at such times return a list of all taxes, levies, assessments and other claims in his hands for collection which he shall not have been able to collect by reason of insolvency, removal, or other cause, to which list he shall append an affidavit that he has used due diligence to collect the several items therein mentioned, but has been unable to do so, and if the council should be satisfied as to the correctness of said list, it shall allow him a credit for said claim, but any thereafter take such lawful measures to collect the same as shall be by it prescribed. He shall, upon the expiration of his term of office or upon the order of council, turn over to his successor all money, books of account and other property of said city in his possession.

Sec. 42. The clerk of said city shall be chargeable with, and it shall be his duty to collect, the city taxes, levies and assessments under such regulations as may be prescribed by law and the ordinances of the city, and in case the same are not paid within one month after they are placed in his hands for collection, he may distrain and sell therefore in like manner and have the same power and authority possessed by the officer with the collection of state taxes.

If the clerk shall fail to collect, account for any pay over to the treasurer of said city any or all the money with which he may be chargeable, belonging to the said city, according to the conditions of his bond and orders of council, it shall be lawful for the council to recover the same by action or by motion, upon ten days' notice, in the corporate name of the city, in the circuit court of Marshall County, against him and his sureties, or any or either of them, or his or their executors or administrators.

In addition to the compensation as provided in section thirty-nine of this act, the said clerk or other person designated by council to collect the city taxes, levies, fees and assessments shall receive compensation for such service at the rate of two per centum on all such monies collected by him and paid to the treasurer of said city as herein provided.

Health Officer

Sec. 43. The health officer shall perform such duties as may be provided by any ordinance of said city, or by resolution of the council, and shall receive a salary at the rate of not more than Three Hundred Dollars (\$300.00) per year. He shall receive no compensation from said city, other than the salary fixed by council.

Treasurer

Sec. 44. The treasurer may be any citizen, a bank or trust company of said city, and shall be selected by council and may hold office during the pleasure of the council. All money due the city shall be paid to the person designated by council, or by this act and be by him deposited with the treasurer. The money deposited with the treasurer shall be disbursed only upon direction of council. The treasurer shall receipt to the clerk or marshal for all money paid by either of them and shall keep regular books or account, showing the amount of the several funds paid or deposited with the treasurer by said clerk or marshal and shall make report to the council once a month or at such other time as the council may direct, showing

the receipts and disbursements of the funds of the city, and the treasurer shall produce his books of account to the council or any committee of the same for inspection, upon the order of the council.

The treasurer shall give bond, with security to be approved by the council, in a sum not less than Five Thousand Dollars, (\$5,000.00) with condition that the said treasurer shall account and pay over all money received for the account of said city, as may be directed by the council. The said treasurer shall receive such compensation as the council may fix, which shall not be more than at the rate of Two Hundred Dollars (\$200.00) per annum. Any bank or trust company of said city is hereby authorized to act as treasurer of said city, and the same shall be liable for all money deposited therein.

Street Commissioner

Sec. 45. The street commissioner shall perform such duties in regard to construction and repair of streets and alleys, and removal of garbage as are now, or which may hereafter be imposed upon him by any ordinance of said city, and shall perform such other duties as may be required by council. He shall receive such compensation as may be fixed by council, which shall at the rate of not less than One Thousand Dollars (\$1,000.00) nor more than One Thousand Eight Hundred Dollars (\$1,800.00) per annum.

City Engineer

Sec. 46. The city engineer shall be selected by the council, and shall hold office during the pleasure of the council; he shall perform such duties as may be required on him by the council or provided by ordinance of said city, and his compensation therefor shall be fixed by the council.

Fiscal Year

Sec. 47. The fiscal year of said city shall begin on the first day of April and end on the thirty-first day of March of each year.

Property Subject to Taxation

Sec. 48. All property, real and personal, within said city, which is subject to taxation under the constitution and laws of the state of West Virginia, shall be assessed for and subject to taxation for the benefit of said city.

Sidewalks

Sec. 49. After having caused a proper grade to be established at the expense of said city, the council may require sidewalks, footways or sidewalks and gutter combined, on the streets, avenues or alleys of the said city to be paved with concrete, brick, stone or other suitable materials as the council may determine, under the direction of the street commissioner, by the owners respectively of the lots, or the fractional parts of lots, facing or abutting on such sidewalk or footway, and if the owner of any such sidewalk or footway of the real property next adjacent thereto, shall fail or refuse to pave the same in manner or within the time required by the council, it shall be the duty of the council to cause the same to be done at the expense of the city, and to assess the amount of such expense upon such owner, and the clerk shall notify the owner of said lot the amount of such assessment, giving said owner notice of the time the council will hear and determine any objection which may be made to such assessment, and the council shall proceed to hear such objections, if any, and if in the opinion of the council such assessment should be made, such fact, with the amount of the same shall be recorded in the "minute books" of the council, and if the said assessment be not paid within thirty days (30) from the date of such hearing the clerk shall cause a memorandum showing the same of the owner of said lot, a description of the lot, and the amount of such assessment, to be filed in the office of the clerk of the county court of Marshall County, which shall be entered of record in the judgment lien docket in his office, and the same shall constitute a lien on such property, which may be enforced by a suit in equity in the name of the city, in the circuit court of Marshall County, as other

liens against real estate are enforced, and upon the payment of said assessment the clerk shall issue to the person entitled thereto a release of said lien; provided, however, that reasonable notice shall first be given to said owners that they are required to construct such sidewalks or footways, and in case the owner is a non-resident of the State, the notice aforesaid may be given by publication for four successive weeks in a newspaper published in Marshall County, West Virginia. The provisions of this section shall also be applicable to needed repairs to any of the pavements of the city, and to the substitution of new pavements for any which may have been heretofore, or which may be hereafter laid and completed, and which may be deemed insufficient.

Street Paving

Sec. 50. (a) The council of the City of McMechen may order and cause any avenue, street, road or alley therein to be graded, curbed, or recurbed with stone, concrete or other suitable material; or paved or repaved between the curbs, with brick, wooden blocks, asphalt or other suitable materials, or to be graded and curbed or recurbed, and paved and repaved as aforesaid, or to be macadamized or to be otherwise permanently improved or repaired, under such supervision as may be directed by ordinance or resolution, upon the best bid to be obtained by advertising for proposals therefor, except the city may do the work without letting it by contract as hereinafter provided, and may purchase or condemn land for opening or widening avenues, streets, roads or alleys. The entire costs, or any part thereof, designated by said council, or such grading, curbing, paving or macadamizing or other permanent improvements, of any of the avenues, streets, roads or alleys as aforesaid, from and including the curb of either thereof to the middle thereof, and the cost or any part thereof, of condemning or purchasing land as aforesaid for street purposes, may be assessed to and be required to be paid on the fifty-fifty (50-50) basis by the owners of the land, lots or fractional parts of the lots, fronting or bounding on such avenue, street,

road or alley so improved, except as otherwise provided in subsection (c)

(b) Payment is to be made by all land owners on either side of such portion of any avenue, street, road or alley so paved, opened, widened or improved in such proportion to the total cost (less the portion, if any, chargeable to the street or other railroad company), as the frontage in feet of this abutting land bears to the total frontage of all the land so abutting on said avenue, street, road or alley, or portions thereof opened, widened, paved or improved as aforesaid; but the cost of such paving or improving of said avenue, street, road or alley shall not include any portion or amount paid for the paving or improvement of intersections of avenues, streets, roads or alleys, unless the work be done and the payment made therefor, as especially provided for in (c).

(c) Provided, the council of said City of McMechen, may order and cause any of the work to be done, and improvements to be made, as set out in subsection (a), of this section, and in addition to the assessment provided for in subsection, (a) of this section, may assess proportionately the property abutting or bounding on such avenue, street, road or alley so improved with the total costs of the paving, grading, curbing or macadamizing or other permanent improvements of the intersections of said avenue, street, road or alley so paved or otherwise permanently improved. And, provided, further, that when such payment as herein proportioned shall have been made by the said abutting property owners in accordance with their several respective interests therein, the the obligation of said property owners to pay for said paving, grading, curbing, macadamizing or other permanent improvements in said city shall be completed and said property owners shall not be liable for the payment of any improvements of like kind or character in any other part of said city.

Provided, further, that if said council proposes to order or cause such improvements to be made as provided in section,

it shall first enact an ordinance or resolution setting forth the work and improvement to be done, the extend of said improvement and the manner of paying for the same, which said ordinance or resolution shall be published once each week for two consecutive weeks in two newspapers of opposite politics published and of general circulation in said city, or if no such newspapers are published in said city, then said ordinance or resolution shall be published in two newspapers of opposite politics published in Marshall County, but if said council shall decide not to have such publication, then notice thereof shall be given by posting written notices containing said ordinance or resolution at the city building and at five other public places, in said city, for a period of fourteen days (14). In said publication of said ordinance or resolution, or in said notice so posted, should that be the manner publicity decided upon, said council shall set a date of at least ten days(10)from the date of the first publication, or posting of said notice, at which objection or protest may be made against the proposed improvement as aforesaid by all the property owners against whom said assessment is proposed to be made, and if, at or before such time so fixed by the council, the bona fide owners of more than three-fifths ($3/5$) in lineal feet, of all the property abutting upon said avenue, street, road or alley proposed to be improved as aforesaid, shall file separately or jointly with the council their protest in writing setting forth the facts, under, oath, that they are the bona fide owners of said property, objecting to and protesting against the work to be done and the improvement proposed to be made under this section, then the council shall proceed no further hereunder, but shall make a record of said protest in its record book, and direct the discontinuance of such proposed work and improvements as heretofore planned under this section of the said charter. But if the owners of said three-fifths ($3/5$) of said property, in lineal feet, do not file said objection or protest as herein provided, then said council shall immediately by ordinance or resolution order said work and improvement to be done as heretofore set forth,

and the costs of said improvements shall be assessed against said property in the manner hereinafter set forth, and when so assessed the same shall be a charge or lien against property until paid, the same as taxes or any other properly authorized assessment made against said property.

(d) Immediately upon the completion and acceptance of any such paving, the council shall direct the city clerk to cause a notice to be posted in the mayor's office, which shall name and describe the avenue, street, road or alley so paved, giving the name or names of each lot owner abutting thereon, and the number of feet of such paving so charged against his said property, as well as the assessed amount so charged against the said respective lots or parcels of land so abutting upon the said improved avenue, street, road or alley. At anytime within thirty days (30) after the posting of said notice any property owner may file any objection or complaint he may have against said assessment so made with the council, and all complaints shall be heard and determined by the council, with the right of appeal to the circuit court of Marshall County at any time within thirty days (30) after said matter shall have been finally determined by said council.

Payment of said assessed charge against said property owners, or any of them, can be made in full immediately after said amount so payable has been determined. But if the property owner so elect, one-fifth ($1/5$) of the amount assessed against the property owner for the cost of such paving shall be paid in one year after the completion and acceptance of the work, and the remaining four-fifths ($4/5$) thereof shall be payable in four equal annual installments, with legal interest, payable annually during the months of October and November to the city clerk.

But a lien upon any real estate created by virtue of this section shall be void as to any purchasers of said real estate unless the city shall, within sixty days (60) after the completion and acceptance of said paving by the city, cause to be recorded in the office of the clerk of the county

court of Marshall County an abstract of such assessment, giving the location of the real estate affected, the name of the owner and the date and amount of the said assessment, which recordation shall be in a well-bound book to be furnished by the city and to be preserved in said clerk's office. The cost of recording said abstracts of lien shall be paid by the city.

Sec. 51. In addition to the method provided in the next preceeding section for improving the streets, avenues, alleys, wharves and public grounds of said city, the council may by resolution passed by a vote of three-fifths (3/5) of all the members thereof, provide that certain streets, avenues, alleys, wharves and public grounds of said city shall be paved or otherwise improved, or that sewers shall be constructed in certain streets, avenues, alleys, wharves and public grounds of said city, under the provisions of chapter eight of the acts of the legislature of this state for the year One Thousand Nine Hundred and Eight, extra session, without submitting the adoption of said chapter to a vote of the qualified voters of said city as provided in section seventeen of said chapter, eight shall be adopted for the purpose contained in said resolution, and the council may proceed with the improvement according to the provisions of said chapter the same as though the provisions thereof were incorporated in this act.

Bonds Additional Levy

Sec. 52. The municipal authorities of said city shall have the power and authority to issue and make sale of the bonds of the said city and to apply the proceeds thereof to the payment for any general improvement therein, or to any debt or obligation of the said city as provided in chapter forty-seven of the Code of West Virginia, One Thousand Nine Hundred and Thirteen, or may submit to the voters of said city the question of making an addition levy, and if three-fifths (3/5) of the votes cast therein be in favor such increase levy the council may levy the same.

Sec. 53. The City of McMechen, shall succeed to all the rights, powers and liabilities, and be vested with, the title

to all property of the City of McMechen, as heretofore existing and all officers of said City of McMechen as such at the time this enactment takes effect shall continue to exercise the powers, perform the duties, and receive the compensation heretofore granted, prescribed and allowed by former charter, by general law or by ordinances of said city, until the first Monday in April, One Thousand Nine Hundred and Twenty, or until their successors, the officers herein mentioned, are elected or appointed and qualified, and all ordinances in force at the time this act becomes operative shall continue to have full force and effect until amended, repealed or superseded by the council of said city.

Sec. 54. All acts and parts of acts coming within the purview of this act, and inconsistent herewith, are hereby repealed.

CITY OF McMECHEN

ORDINANCE CREATING A SANITARY BOARD
OF THE CITY OF McMECHEN

WHEREAS, the City of McMechen now contemplates the issuance of its Sewer Revenue Bonds and Sewerage System Construction Notes, to finance the acquisition, construction and operation of a sewerage system, and/or additions, extensions and improvements thereto (the "System"), pursuant to Article 13 of Chapter 16 of the Official West Virginia Code of 1931, as amended (the "Act"); and

WHEREAS, the Act requires that a Sanitary Board be established in connection with the issuance of sewer revenue bonds, as aforesaid, and in connection with the custody, administration, operation and maintenance of such a sewer system by a municipal corporation;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF McMECHEN AS FOLLOWS:

Section 1. That the Council of the City of McMechen does hereby create and establish a Sanitary Board, with all powers and duties as provided in and pursuant to the Act.

Section 2. Composition; Chairman; Appointment of Members. The Sanitary Board shall be composed of the Mayor of the City of McMechen, and two persons appointed by the Council, 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 System has been completed, the engineer may be succeeded by a person not an engineer. 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, 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. No officer or employee of the City of McMechen, 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.

Section 3. Organizational Meetings; Vice Chairman, Secretary, Treasurer; Official Bonds. As soon as may be practicable following the appointment of a new member of the Sanitary Board, the Board shall hold an organizational meeting and choose a vice

chairman from among its members, and a secretary and treasurer, who may be one person and need not be a Board member, and such officers shall hold office at the will of the Board. No bond shall be required of the Board members as such, but the treasurer, whether a member of the Board or not, shall give bond in the penalty of two thousand dollars for the proper application of all money received by him as treasurer of the Board, and otherwise conditioned according to law.

Section 4. Compensation and Expenses of Board Members.

The members of the Sanitary Board as such shall be paid ~~no~~ compensation. All members of the Board shall be reimbursed from sewage works funds for all necessary expenses incurred in the discharge of their duties, but there shall be no liability upon the town for any salary or expenses so incurred. ~~15.000~~

Section 5. Powers, Duties and Limitations.

A. The Sanitary Board shall have the supervision and control of the custody, administration, operation and maintenance of any and all works for the collection, treatment and disposal of sewage, which are now owned or may hereafter be acquired by the City of McMechen.

B. The Sanitary 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 the powers granted to such Board by this chapter and under and by virtue of Article 13, of Chapter 16, of the Code of West Virginia, as the same now exists and may hereafter be amended; but the powers of the Sanitary Board shall be subject to all restrictions and limitations contained in said Article 13 as the same now exists or may hereafter be amended.

C. The Sanitary Board may employ engineers, architects, inspectors, superintendents; a manager, collectors, attorneys and such other personnel 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 said Article 13 shall be paid solely and only from funds provided under the authority or power given it so as to bind the Board or the town beyond the extent to which money shall have been or may be provided under the authority of said Article 13. No contract or agreement with any contractor or contractors for labor or material exceeding in amount the sum of one thousand dollars shall be made without advertising for bids, which bids shall be publicly opened and award made to the best bidder, with power in the Board to reject any and all bids.

D. 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 the Sanitary Board.

E. After the construction, installation and completion of such works the Sanitary 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 made available as provided by law, 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 to do all things necessary or expedient for the successful operation thereof, and the Board shall have in addition hereto any and all powers granted to it by said Article 13, or which may be granted to it by amendments to said Article 13, hereafter made, subject to any and all restrictions and limitations therein contained.

Section 6. Duty of Board to Restore Property Damaged by its Activities. All public ways or public works damaged or destroyed by the Sanitary Board in carrying out its authority under this chapter shall be restored or repaired by the Board and placed in their original condition, as nearly as practicable, if requested so to do by the proper authorities, out of the funds provided pursuant to the provisions of Article 13, Chapter 16 of the Code of West Virginia.

Section 7. Publication of Financial Statement. The Sanitary Board shall prepare a financial statement and cause it to be published as a Class I legal advertisement in compliance with the provisions of Article 3, Chapter 59 of the Code of West Virginia, and the publication area for such publication shall be the 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. The statement shall be sworn to by the chairman and secretary and treasurer of the Board.

Section 8. Procedure for Disbursement of Funds. All funds under the supervision of the Sanitary Board shall be disbursed, as disbursements are required, by check drawn upon the proper fund or account, and such checks shall be properly signed by the authorized officer or agent of the Board. All such disbursements shall be approved by the Board.

Section 9. Bonding of Employees Who Handle Money. The Sanitary Board may from time to time, in its discretion, require any of its employees to furnish a good and suitable indemnity bond, with a recognized and reputable surety, conditioned upon the faithful discharge of their duties as such, and to deliver up and pay over all money as provided by law. The Board shall require all persons who collect or otherwise handle funds of the Board to furnish a good and proper bond, with a recognized and reputable corporate surety conditioned upon the faithful performance of their duties and for the proper handling and care of said funds in their hands. Such bond shall be in an amount equal to the sum of money which might at any one time be in the hands of such person or persons, as may be determined by the Board.

Alfred E. Smith
Mayor

ATTEST:

John Michael Jordan
Recorder

First Reading:

November 15, 1984

Enacted on Second Reading:

December 6, 1984

11/01/84
MECH1-B

PETITION

The Sanitary Board of the City of McMechen, on motion duly passed at its meeting on the 18th day of September, 1986, respectfully petitions the Council of the City of McMechen to enact an ordinance directing that revenue bonds of the municipality be issued pursuant to the provisions of Chapter 16, Article 13 of the West Virginia Code, in an aggregate amount not to exceed \$750,000 for the purpose of paying the City's outstanding Sewerage System Bond Anticipation Notes, Series 1985, and thus providing permanent financing of a portion of the costs of acquisition and construction of new sewage treatment and collection facilities, and paying costs of issuance of such Bonds.

All as required by Chapter 16, Article 13 of the West Virginia Code.

SANITARY BOARD OF THE CITY OF McMECHEN

By *Alfred E. Truitt*
Mayor and Chairman -
McMechen Sanitary Board

10/12/86
MCME1-B



PO BOX 369
MOUNDSVILLE
WV 26041

AFFIDAVIT OF PUBLICATION

STATE OF WEST VIRGINIA,
COUNTY OF MARSHALL, to wit:

I, Alleah Fahey, being first duly sworn upon my oath, do depose and say:

- that I am Legal Advertising Manager of the MOUNDSVILLE DAILY ECHO, an independent Democratic newspaper;
- that I have been duly authorized by the publisher, Samuel Shaw, to execute this affidavit;
- that such newspaper has been published for over 93 years, is regularly published afternoons daily except Sundays, for at least fifty weeks during the calendar year, in the municipality of Moundsville, Marshall county, West Virginia;
- that such newspaper is a newspaper of "general circulation" as defined in Art. 3, Chap. 50 of the Code of West Virginia 1931 as amended, within Moundsville and Marshall county;
- that such newspaper averages in length four or more pages, exclusive of any cover, per issue;
- that such newspaper is circulated to the general public at a definite price or consideration;
- that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices;
- and that the annexed notice described as follows:

PARTY(ies) City of McMechen

NATURE (and agency if heard before one) Public hearing on sewer bond ordinance

CERTIF-BILL TO

Stephoe & Johnson
Vincent Collins
PO Box 2190
Clarksburg, WV 26302-2190

WAS PUBLISHED IN SAID NEWSPAPER AS FOLLOWS:

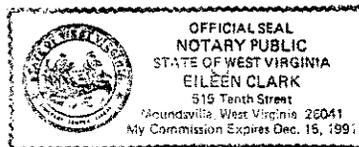
TIMES	DATES
2	Sept. 26, Oct. 3, 1986

By WORDS	OR By INCHES	PUBLICATION CHARGES
	12	\$44.64

(signed) Alleah Fahey

NOTARIZATION

Taken, sworn to and subscribed before me this _____ day of _____, 1986.



Eileen Clark
Notary public

**LEGAL NOTICE
CITY OF McMECHEN
NOTICE OF PUBLIC
HEARING ON SEWER BOND
ORDINANCE**

A public hearing will be held on the following entitled Ordinance at a regular meeting of the Council of the City of McMechen to be held on October 18, 1986, at 7:30 p.m. in the Council chambers at the McMechen City Hall, and at such hearing all objections and suggestions shall be heard by the Council and it shall then take such action as it shall deem proper in the premises upon an Ordinance entitled:

**ORDINANCE
AUTHORIZING THE
ACQUISITION AND CON-
STRUCTION OF PUBLIC
SEWERAGE FACILITIES OF
THE CITY OF McMECHEN
AND THE PERMANENT
FINANCING OF THE COST,
NOT OTHERWISE
PROVIDED, THEREOF
THROUGH THE ISSUANCE BY
THE CITY OF NOT MORE
THAN \$750,000 IN
AGGREGATE PRINCIPAL
AMOUNT OF SEWER
REVENUE BONDS, SERIES
1986, PROVIDING FOR THE
RIGHTS AND REMEDIES OF
AND SECURITY FOR THE
REGISTERED OWNERS OF
SUCH BONDS; AUTHORIZING
THE SALE AND PROVIDING
FOR THE TERMS AND
PROVISIONS OF SUCH BONDS
AND ADOPTING OTHER
PROVISIONS RELATING
THERE TO.**

The above-entitled Ordinance was adopted by the Council of the City of McMechen upon petition of the Sanitary Board of the City on September 25, 1986.

The above quoted title of the Ordinance describes generally the contents thereof and the purposes of the Bond issue contemplated thereby. The

Bonds are to provide permanent financing of a portion of the costs of acquisition and construction of new sewage treatment and collection facilities for the City of McMechen (the "Project"). The Bonds are payable solely from revenues derived from the ownership and operation of the sewerage system of the City. No taxes may at any time be levied for the payment of the Bonds or the interest thereon.

A certified copy of the above-entitled Ordinance is on file at the office of the City Clerk of the City of McMechen for review by interested parties during regular office hours.

Following the said public hearing, the City Council intends to enact said Ordinance upon final reading.

Dated September 26, 1986.

s-s A. E. Tribett
Mayor

Publish: Sept. 26, Oct. 3, 1986.

19

copy

AN ORDINANCE ESTABLISHING AND FIXING RATES,
FEES, CHARGES AND DELAYED PAYMENT PENALTY
CHARGES FOR SERVICE TO CUSTOMERS OF THE
SEWERAGE SYSTEM OF THE CITY OF McMECHEN

THE CITY COUNCIL OF THE CITY OF McMECHEN HEREBY
ORDAINS:

The following schedule of rates, fees, charges and delayed pay-
ment penalty charges are hereby fixed and determined as the
rates, fees, charges and delayed payment penalty to be charged
to customers of the sewerage system of the City of McMechen
throughout the territory served.

SECTION 1. SCHEDULE OF RATES

APPLICABILITY

Applicable in entire area served.

AVAILABILITY OF SERVICE

Available for sanitary sewer service.

RATE (Based upon the metered amount of water supplied)

Flat Rate - \$3.19 per 1,000.00 gallons of water used

MINIMUM MONTHLY CHARGE

The minimum monthly charge to any user of the sewerage
system shall be \$9.57.

DELAYED PAYMENT PENALTY

A ten percent (10%) penalty shall be added to all
charges not paid within twenty (20) days from the date of the
billing. This delayed payment is not interest and is only to
be collected once for each bill where it is appropriate.

SECTION 2. EFFECTIVE DATE

The rates, fees, charges and delayed payment penalty
charges provided herein shall be effective upon certification
by the Engineers that the new system is on line.

SECTION 3. SEPARABILITY: REPEAL OF CONFLICTING ORDINANCES

The provisions of this Ordinance are separable, and if any clause, provision or section hereof be held void or unenforceable by any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. All resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflicts, hereby repealed; and to the extent that the provisions of this Ordinance do not touch upon the provisions of prior resolutions, orders or parts thereof, the same shall remain in full force and effect.

SECTION 4. STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the City Clerk shall publish a copy of this Ordinance once a week for two successive weeks within a period of 14 consecutive days, with at least 6 full days intervening between each publication, in Moundsville Daily Echo, being the only newspaper published and of general circulation in Marshall County, and The Intelligencer, being a newspaper not published within the City, but of general circulation in the City and of opposite politics, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council on the 2nd day of April, 1985, at 7:30 o'clock, P.M., which date is not less than 10 days subsequent to the date of the first publication of the Ordinance and notice, and present protests. At such hearing all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper in the premises.

Passed on First Reading 3/21/85, 1985

Passed on Second Reading Following
Public Hearing 4/2/85, 1985

Effective as of 4/2/85, 1985

(SEAL)

Alfred E. Truett
Mayor

ATTEST:

J. M. [Signature]
City Clerk

APPROVED
10/2/86

Council Meeting
9/18/86

Present were Mayor Tribett, City Clerk Ed Porter and attorney Mark Karl.

Councilmen Kern, Patterson, Green, Taylor, Weekly, Porter Urbanek & Mull. Absent, George Bilich attending firemens convention, Bob Jones, illness.

Meeting opened at 7:30 P.M., Min. of the reg. meeting of 9/4/86 were approved on a motion by Mull, seconded by Taylor, min. of special meeting of 9/11/86 were approved on a motion by Green, seconded by Porter. Attorney Robyn Ruttenberg informed council that it will be necessary for the Mayor and the City Clerk to meet with State officials in Dunbar on Oct. 20, 1986 to sign the permanent financing for the sewage project this was approved on a motion by Kern, seconded by Patterson. The first reading of the ordinance for the permanent financing was read and approved on a motion by Green, seconded by Porter, the second reading will be at a special meeting on 9/25/86. Don Mason, a candidate for County Commissioner addressed council seeking their support in the general election in Nov. Don Bertram the project engineer for the sewage project informed council that the project should be completed including the landscaping by Nov. 1st. He requested that requisition # 17 be paid this consisted of \$41,420.41 to S & I Ind., Bel-O-Mar \$816.81, Green Int. \$69,327.80, the sewage had made a recommendation that this be paid, it was approved on a motion by Urbanek, seconded by Weekly. \$17,390.31 of this will come from the Bans and \$51,937.40 from the Gans. Paul Maxwell, chairman of the sewage board reported that the legal problem with Power City over the \$7,739 in overruns on the water project in now before an arbitrator. On a motion by Mull, seconded by Patterson it was approved for the Lions Club to hold a white cane day on Oct. 3rd., on a motion by Urbanek, seconded by Taylor, it was approved to write the checks for \$500 each to the boys basball association and the girls softball association, this had been budgeted for the fiscal year starting July 1, 1986. On a motion by Taylor, seconded by Patterson it was approved for Dan McSwords, Jr. to distribute flyers on a new computer business he is starting. The Mayor announced there will be a Rev. Sharing bidget meeting on Sept. 25th at 12:30 P.M. in the City Clerks office. Mayor Tribett read a letter from Del. Larry Weidebusch about the cleaning of the creek and that he had contacted State Road Commissioner Wm. Ritchie about 35 ft. of 48 in. culvert for Koontz Run. A Proclamation from the D.A.R. proclaiming the week of Sept. 17 to the 23rd as Constitution week was read and signed by Mayor Tribett. On a motion by Kern, seconded by Patterson it was approved to send both Shirley and Patty to the State tax seminar if they are both still working, if not send one. Mayor Tribett read a letter form the McMechen V.F.D. to Congressman Robert Mollohan urging him to continue revenue sharing. The matter of Halloween was tabled until the next meeting.

BOARD

Committee Reports:

Taxation & Finance: Outstanding bills were approved for payment on a motion by Kern, seconded by Patterson. On a motion by Green, seconded by Weekly it was approved to charge the McMechen Mart one half of their normal B. & tax for the first year and instructed attorney Mark Karl to re-work the present ordinance so it will more clearly difine the tax break for new business

Council Meeting
9/18/86

Kern voted no. The first reading renewing the cable franchise with Capital Radio was approved on a motion by Kern, seconded by Urbanek. On a motion by Green, seconded by Mull attorney Karl was instructed to prepare an ordinance for the exchange of property with Calabrese, attorney Karl also was instructed to prepare a deed for the exchange on a motion by Urbanek, seconded by Taylor. On a motion by Green, seconded by Weekly, attorney Karl was instructed to prepare a deed for the property on Caldwell St. that was sold by bid to the Wilkersons.

Library: No report

Health & Sanitation: Green reported that the Benwood Truck is in bad shape, Clerk Porter informed council that the bids for a new garbage truck would be ready for the Oct. 1st. Council meeting.

City Offices & Property: Councilman Bob Mull submitted his resignation effective 9/18/86 because he is moving from the city, his resignation was accepted on a motion by Taylor, seconded by Urbanek. Mayor Tribett expressed his regret that Mull resigned, stating he has been a councilman for more than eight years and has worked hard for the City, Councilman Kern also expressed his regret, stating, he had worked on several committees with Mull and found him to be hard working and to have the best interest of the City in mind.

Streets, Alleys & Grades: Councilman Porter reported that the weeds on railroad property behind Russ Yost's house need cut, the Mayor said he would have it looked into. Patterson reported the catch basins at 6th & Grant and 6th & Logan are in bad need of repair, the Mayor said he would have Albert Workman check them.

Recreation: Nothing to report.

Meeting adjourned on a motion by Mull, seconded by Kern.

APPROVED
10/21/86
J.P.P.

SPECIAL COUNCIL MEETING
9/25/86

Present were Mayor Tribett, Clerk Ed Porter, Councilmen Green, Patterson, Kern, Urbanek, Weekly, Porter.

Also present were attorney's Robyn Buttenberg and Vince Collins.

The meeting opened at 7:30 P.M.

On a motion by Urbanek, seconded by Weekly with Kern voting no the second reading of the ordinance authorizing the acquisition and construction of public sewerage facilities of the city of McMechen and the permanent financing of the cost, not otherwise provided, thereof through the issuance by the City of not more than \$750,000 in aggregate principal amount of sewer revenue bonds series 1986, providing for the rights and remedies of and security for the registered owners of such bonds; authorizing the sale and providing for the terms and provisions of such bonds and adopting other provisions relating thereto, was passed.

The first reading of the supplemental resolution providing as to date, maturity, interest rate, principal payment schedule, sale price and other terms of the sewer revenue bonds, series 1986, of the city of McMechen; authorizing, approving and ratifying a loan agreement relating to such bonds and the sale and delivery of such bonds to West Virginia Water Development Authority; designating a registrar, paying agent and depository bank; and making other provisions as to the bonds, was passed on a motion by Urbanek, seconded by Patterson. With Kern voting no.

Meeting adjourned on a motion by Urbanek, seconded by Patterson

COUNCIL MEETING 10/16/86

MEETING OPENED AT 7:30 P.M.

PRESENT WERE MAYOR TRIBETT, CLERK ED PORTER, ATTORNEY MARK KARL, COUNCILMEN KERN, PATTERSON, GREEN, WEEKLY, URBANEK, TAYLOR, BILICH PORTER & JONES.

MINUTES OF THE PREVIOUS MEETING WERE APPROVED ON A MOTION BY PATTERSON, SECONDED BY WEEKLY. MAYOR TRIBETT PRESENTED LARRY WEIDEBUSCH WITH A PLAQUE IN RECOGNITION OF THE HELP HE HAS GIVEN THE CITY WHILE HE HAS BEEN A MEMBER OF THE HOUSE OF DELEGATES.

DON BERTRUM GAVE A REPORT ON THE SEWAGE PROJECT, HE SAID THE PLANT WENT ON LINE ON OCT. 2nd, WITH THE FINAL INSPECTION TO BE EARLY IN NOV., BILLS FOR S & I IND. IN THE AMOUNT OF \$ 59,531.75, BEL-O-MAR FOR \$868.17, GREEN INT. IN THE AMOUNT OF \$10,427.81, THESE WERE APPROVED ON A MOTION BY PATTERSON, SECONDED BY BILICH, WITH KERN VOTING NO. CHANGE ORDER ON SCREENING DEVICES IN THE AMOUNT OF \$31,654, ELECTRICAL REVISIONS IN THE AMOUNT OF \$42,600, TWENTY-FIRST STREET LIFT STATION IN THE AMOUNT OF \$63,346 WERE APPROVED ON A MOTION BY PATTERSON SECONDED BY TAYLOR. UNDER THE SUPERVISION OF ATTORNEY DAN DICKINSON A PUBLIC HEARING WAS HELD ON THE SWEAGE ORDINANCE, THERE BEING NO PUBLIC COMMENTS THE ORDINANCE WAS PASSED ON A MOTION BY URBANEK SECONDED BY GREEN, ATTORNEY DICKINSON HELD THE SECOND READING OF THE SUPPLEMENTAL RESOLUTION PROVIDING AS TO DATE, MATURITY, INTEREST RATE, PRINCIPAL PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1986, OF THE CITY OF MCMECHEN: AUTHORIZING, APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO SUCH BONDS TO WEST VIRGINIA WATER DEVELOPMENT AUTHORITY: DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK: AND MAKING OTHER PROVISIONS AS TO THE BONDS, THIS WAS PASSED ON A MOTION BY URBANEK, SECONDED BY GREEN

MAYOR TRIBETT READ A LETTER FROM GOV. MOORE STATING THE CHECK FOR THE SECOND PART OF THE GRANT FOR THE SEWAGE IN THE AMOUNT OF \$275.000 HAD BEEN SENT TO THE CITY. A LETTER FROM GEORGE SIDEROPOLIS OF THE HOUSING AUTHORITY WAS READ ABOUT YOUTHS LOAFING AROUND THE HOUSING DEVELOPMENT AND BOTHERINT ELDERLY PEOPLE, THE MAYOR INSTRUCTED THE POLICE TO LOOK INTO IT. THE MAYOR ANNOUNCED THAT A LETTER WOULD GO OUT WITH THE NOV. WATER BILLS EXPLAINING THE NEW SEWAGE RATES. A LETTER ANNOUNCING THAT THE NAVAL RESERVE WILL DEDICATE THEIR NEW CENTER ON NOV. 1st AT 1:00 P.M.

TAXATION & FINANCE: KERN REPORTED THERE IS A BALANCE IN THE GENERAL FUND OF \$ 22,476.47, HE CAUTIONED THAT WE WILL HAVE TO WATCH EXPENDITURES, THE BILLS WERE APPROVED FOR PAYMENT ON A MOTION BY KERN SECONDED BY PATTERSON. KERN REPORTED THAT THE NEW GARBAGE TRUCK COULD BE FINANCED AT THE BANK OF MCMECHEN AT 8% INTEREST, ATTORNEY KARL CAUTIONED THAT THE COUNCIL CANNOT PLEDGE FUTURE REVENUE, FINANCING WOULD HAVE TO BE DONE ON AN ANNUAL BASIS. ON A MOTION BY KERN SECONDED BY PATTERSON THE GARBAGE FEE WILL BE RAISED BY \$1.00 PER MONTH EFFECTIVE DECEMBER 1, 1986, THIS WILL MAKE THE MONTHLY FEE \$5.00, JONES VOTED NO.

RULES & ORDINANCES: ON A MOTION BY URBANEK, SECONDED BY BILICH, APPROVAL WAS GIVED TO ATTORNEY KARL TO PREPARE THE DEED FOR THE PROPERTY EXCHANGE WITH CALABRESE. THE MAYOR AND THE CITY CLERK SIGNED THE DEED TO TRANSFER THE PROPERTY THAT NINA WILLISON PURCHASED

COUNCIL MEETING 10/16/86

AT 1622 CALDWELL ST.

LIABRARY: URBANEK REPORTED THAT ADULT EDUCATION CLASSES WILL BE STARTING AT THE LIABRARY.

HEALTH & SANITATION: NOTHING TO REPORT

FIRE WATER & LIGHT : NOTHING TO REPORT

CITY OFFICES & PROPERTY: KERN REPORTED THE COST TO DUMP AT THE BELMONT COUNTY LAND FILL IS \$9.15 PER TON, WHEELING CHARGES \$7.00 PER TON IT WAS APPROVED, IN ORDER TO SAVE WEAR & TEAR ON THE TRUCK WHICH WILL MAKE UP FOR THE DIFFERENCE IN THE PRICE, IT WAS APPROVED ON A MOTION BY PATTERSON, SECONDED BY JONES TO START DUMPING AT THE BELMONT COUNTY LAND FILL. PATTERSON PRESENTED COUNCIL WITH TWO APPLICATIONS FOR THE VACANT POSITION FOR COUNCILMAN IN THE FOURTH WARD, GEARGE STEWART AND VICTOR NOVIC. A ROLL CALL VOTE PRODUCED THE FOLLOWING RESULTS. KERN---STEWART, PATTERSON---STEWART, GREEN---STEWART, WEEKLY---STEWART, URBANEK---STEWART, TAYLOR---STEWART, BILICH---STEWART, PORTER---STEWART, JONES---STEWART.

STREETS, ALLEYS & GRADES: NOTHING TO REPORT.

RECREATION: NOTHING TO REPORT

BUDGET REVISIONS: \$983.00 GENERAL FUND TO POOL, APPROVED ON A MOTION BY GREEN, SECONDED BY TAYLOR. \$17,000 REVENUE SHARING \$7,000 contractual, \$10,000 CAPITOL APPROVED ON A MOTION BY PATTERSON SECONDED BY KERN. \$600 FROM GENERAL CONTINGENCY, \$200 TO CONTRACTUAL \$400 TO CONTRACTUAL.

MEETING ADJOURNED ON A MOTION BY TAYLOR SECONDED BY URBANEK



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

841 Chestnut Building
Philadelphia, Pennsylvania 19107

APR 30 1985

In Reply Refer To: 3WM21

Mr. Vince Collins
Steptoe & Johnson
P. O. Box 2190
Clarksburg, West Virginia 26301

Dear Mr. Collins:

The following information is provided to assist the City of McMechen in bond closing. The Part B grant amendment request for the referenced project in the amount of \$1,782,670 is in the process of being approved. The revised costs will be reflected in a grant amendment that will be issued by this office in the near future.

Sincerely,

R. Fenton Roudabush, Chief
Virginia/West Virginia Section
Construction Grants Branch

0540284020

COPY

CHECK APPLICABLE ITEM(S)

DATE OF AWARD (Obligation date)

SEP 28 1979

GRANT AGREEMENT
 TYPE OF ACTION
 CONTINUATION

PART I-GENERAL INFORMATION

1. PROGRAM Municipal Sewer Treatment Works
 2. STATUTE REFERENCE 33 USC 1281 et. seq.
 3. REGULATION REFERENCE 40 CFR Parts 30 & 35

GRANTEE ORGANIZATION

C. ADDRESS
 P. O. Box 98
 McMechen, West Virginia 26040

PROJECT MANAGER (Grantee Contact)

D. ADDRESS
 City of McMechen
 P. O. Box 98
 McMechen, West Virginia 26040

PROJECT OFFICER (EPA Contact)

D. ADDRESS
 Environmental Protection Agency
 Water Division
 Curtis Building
 6th & Walnut Streets
 Philadelphia, Pa. 19106

DESCRIPTION OF TITLE AND DESCRIPTION
 Construction of a collection system and lift station to serve the City of McMechen. This is a public project includes associated allowable costs as defined in 40 CFR 101.11 up to amounts shown in Part II of the Grant Agreement.

PROJECT STEP (NWT)
 III

DURATION

PERIOD (Dates)
 September, 1979 - July, 1981
 BUDGET PERIOD (Dates)
 N/A

DOLLAR AMOUNTS

TOTAL PROJECT COSTS	\$3,400,000	EPA GRANT AMOUNT	XXXXXXXXXXXXXXXXXX \$1,975,500
TOTAL ELIGIBLE COSTS (NWT)	\$2,634,000	UNEXPENDED PRIOR YR. BAL. (EPA Funds)	N/A
TOTAL UNEXPENDED COSTS	N/A	TOTAL ACTION THIS OBLIGATION AMOUNT	\$1,975,500

ACCOUNTING DATA

PROJECT NO.	DOC CONTROL NO.	ACCOUNT NO.	REV. CLASS.	AMOUNT CHARGED
880103.E	W79010	9879036006	11	\$1,975,500

12. PAYEE (Name and mailing address. Include ZIP Code)
 City of McMechen
 P. O. Box 98
 McMechen, West Virginia 26040

Financial Management Br.

PART III - GRANT CONDITIONS

August 1979
Step III

1. General Conditions:

The grantee covenants and agrees that it will expeditiously initiate and timely complete the project work for which assistance has been awarded under this grant, in accordance with all applicable provisions of 40 CFR Chapter I, Subpart B. The grantee 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 grant agreement or any grant amendment pursuant to 40 CFR 30.425.

Special Conditions:

The grantee's attention is particularly directed to certain following special considerations and also to the following discussion of provisions contained in 40 CFR, Chapter I, Subchapter B, Part 35, Subpart E dated September 27, 1978:

Provisions Affecting Federal Grant Payments

- (a) The grantee's procurement practices shall be in conformance with 40 CFR 35.935-2 and 35.939.
- (b) In accordance with 40 CFR 35.935-12(c), payment shall not be made for more than 50 percent of the Federal share of the project unless the grantee has furnished a draft operation and maintenance manual for review, or adequate evidence of timely development of such draft, or (2) more than 50 percent of such Federal share unless the grantee has furnished a satisfactory final operation and maintenance manual.
- (c) In accordance with 40 CFR 35.935-16, payment shall not be made for more than 80 percent of the Federal share of the project, unless the Regional Administrator has approved the grantee's sewer use ordinance, and the grantee is complying with any sewer system evaluation and rehabilitation schedule as may be incorporated in this Grant Agreement. Other requirements may pertain to segmented or multiple facility projects within 35.935-16.
- (d) Final payment shall be made in accordance with 40 CFR 35.935-14 and 35.945(e).

Discharge Permits

The grantee shall obtain any necessary discharge permits for the treatment works in accordance with Section 402 of the 1972 Amendments to the Federal Water Pollution Control Act and as further amended by the Clean Water Act of 1977 (PL 95-217).

Advertisement for Bids

The grantee shall not advertise or place on the market for bidding any portion of this project until the final plans and specifications have been approved in writing by the appropriate state water pollution control agency and the EPA Project Officer and authorization to advertise has been given.

Special Conditions (Continued):Contract Award

The grantee agrees that construction contracts including those for the purchase of equipment and materials shall not be awarded until written approval is obtained from the EPA Project Officer, except that for certain contracts less than \$10,000 the provisions of 40 CFR 35.936-19 (small purchases) apply.

Permits and Rights-of-way

The grantee shall submit an acceptable legal opinion that the necessary sites and easements and/or rights-of-way have been obtained and that they are free of any liens or encumbrances that might restrict their use for the purpose intended. The opinion shall be submitted to EPA not later than the time at which the grantee requests approval to award construction contracts.

Operation and Maintenance of Related Existing Facilities

The grantee shall construct the additions described herein in such a manner as to cause a minimum of interference with proper and efficient operation of existing facilities.

Flood Insurance

The grantee agrees to acquire and maintain any flood insurance made available to it under the National Flood Insurance Act of 1968, as amended. The insurance shall be in an amount at least equal to the total eligible project costs excluding cost of land and uninsurable improvements, or to the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended, whichever is less, for the entire useful life of the project.

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. This condition shall not be applicable if the project location is outside the boundary of a special flood hazard area delineated on a Flood Hazard Boundary Map or Flood Insurance Rate Map which has been issued by the Department of Housing and Urban Development, Federal Insurance Administration. This condition shall not be applicable if the total value of improvements insurable under the National Flood Insurance Act is less than \$10,000.

Payment/Retention of Payment

The grantee agrees to make a payment to its contractor promptly after receipt of Federal payments due under this grant and to retain only such amounts as may be justified by specific circumstances and provisions of this grant or the construction contract. Retained amounts shall be limited, except where greater retention is necessary under specific circumstances specially provided for in the construction contract, to the levels stipulated in 40 CFR 35.938-7.

Special Conditions (Continued):

(5) 40 CFR 35.938-7 is as follows:

Retention from progress payments

(a) The grantee may retain a portion of the amount otherwise due the contractor through its State law otherwise applicable, in the amount the grantee retains, to be limited to the following: (1) Withholding of not more than 10 percent of the payments claimed until 90 percent complete.

(2) In 30 percent completion, the grantee may withhold 20 percent of the cash due on all work remaining completed to date. (3) If the contractor is making satisfactory progress and there is no specific cause for greater withholding, the amount the grantee is withholding shall be reduced or beneficial conditions which its amount shall

be further reduced below 5 percent to only that amount necessary to assure completion.

(4) The grantee may reinstate up to 10 percent withholding if the grantee determines, at its discretion, that the contractor is not making satisfactory progress or there is other specific cause for such withholding.

(5) The grantee may accept securities negotiable without recourse, condition or restriction, a release of retainer bond, or an irrevocable letter of credit provided by the contractor instead of all or part of the cash retentions.

(b) The foregoing retention policy shall be implemented with respect to all step 3 projects for which plans and specifications are approved after March 1, 1978. Appropriate provision

to assure compliance with this policy must be included in the bid documents for such projects initially or by addendum before the bid submission date, and as a special condition in the grant agreement or in a grant amendment. For all previous active projects, the grantee may implement the foregoing policy through contract amendment upon written request to the grantee by the contractor upon consideration that the grantee deems adequate.

(c) Under §30.620-3 of this subchapter, a grantee who delays disbursement of grant funds will be required to credit to the United States all interest earned on those funds.

(6) The grantee agrees to report to the EPA Project Officer and promptly credit to the contractor share due under this grant the full amount of any interest earned, or if no such interest is earned, an imputed amount of interest at the prevailing rate, upon Federal payments paid to the grantee, if payment to the contractor is unjustifiably delayed by the grantee, its employees or representatives.

(7) The grantee agrees to include appropriate provisions in each Step 3 construction contract to implement this prompt payment requirement.

Buy American

The grantee shall give preference to use of domestic construction materials in the performance of this grant, pursuant to Section 215 of the Federal Water Pollution Control Act, as amended, and EPA implementing regulations and guidelines. Notwithstanding any other provision of law, no grant for which application is made after February 1, 1973, shall be made under this title for any treatment works unless only such unmanufactured articles, materials and supplies as have been mined or produced in the United States, and only such manufactured articles, materials and supplies as have been manufactured in the United States, substantially all from articles, materials or supplies mined, produced, or manufactured, as the case may be, in the United States will be used in such treatment works. This section shall not apply in any case where the Administrator determines, based upon those factors the Administrator deems relevant, including the available resources of the agency, it to be inconsistent with the public interest (including intergovernmental procurement agreements) or the cost to be unreasonable, or if articles, materials or supplies of the class or kind to be used or the articles, materials or supplies from which they are manufactured are not mined, produced or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

Special Conditions (Continued):

Plan of Operation

The grantee agrees to prepare a plan of operation in accordance with 40 CFR 35.935-12(a) and (b) and obtain State and EPA approval of the plan not later than the date by which the 50% grant payment is made for this project.

Minority Business Enterprise

This grant is subject to the Policy for Increased Use of Minority Consultants and Construction Contractors published in the Federal Register on December 1, 1978. The application for this project did not contain the documentation required by that policy. The Grantee, therefore, must submit for EPA review within 60 days of the acceptance of this award, a Minority Business Enterprise Program. The Program shall clearly define Grantee goals for all disciplines contracted for in the work proposed under this grant. The Grantee is required to communicate his MBE goals in any bid advertisement and/or request for proposals and to take positive action to ensure adequate MBE participation on contracts which have been awarded previously in connection with this grant project. See enclosed information.

Compliance with Step 3 Services

This grant is awarded subject to compliance with the following requirements within 90 days after the date of grant acceptance:

- (a) The City of McMechen agrees to renegotiate the consulting engineering agreement dated August 24, 1979 with Holley, Kenney, Schott, Division of Babcock Contractors Inc., to a cost plus fixed fee type of contract.
- (b) The City of McMechen, in accordance with 40 CFR 35.937-9(c), agrees that the provisions of Appendix C-1 to 40 CFR, Part 35, Subpart E, published in the September 27, 1978 Federal Register shall be incorporated, as applicable, in all subagreements (as defined in 40 CFR 35.936-1(b)), and that such provisions shall supersede any conflicting provisions in said subagreements.
- (c) Copies of proposed subagreements shall be submitted to the EPA Project Officer within the said 90 days.
- (d) Work performed under a subagreement which has not been revised in conformance with the above requirements will be ineligible for Federal participation. Accordingly, grant payments will not be made for such work until compliance with said requirements has been obtained.
- (e) Pursuant to 40 CFR 35.937-6, the grantee shall obtain a completed copy of EPA Form 5700-41, Cost Or Price Summary Format Under U. S. EPA Grants, summarizing the proposed subagreement costs applicable to the consulting engineering agreement. In the event subagreements are in excess of \$100,000, a copy of the EPA Form 5700-41 shall be submitted to the EPA Project Officer for review.

Special Conditions (continued):

Service Agreement:

The City of McMechen shall submit to EPA within 60 days from the date of grant award acceptance an approvable Service Agreement with the City of Benwood to conform with EPA, Region III's Guidance on Service Agreements, a copy of which is attached hereto and made a part hereof. The Service Agreement shall include, but not be limited to, conformance with the following requirements:

Specification of the flow contribution allocated to each user jurisdiction.

Assurance of treatment of wastes adequate to comply with the NPDES permit for the treatment facility.

Assurance of flow monitoring for both quantity and quality by the jurisdiction having treatment responsibility.

Assurance of compliance with user charge and industrial cost recovery system requirements.

Assurance of compliance with infiltration/inflow requirements.

Assurance of compliance with grantee's sewer use ordinance if applicable, or assurance of adoption of a comparable ordinance.

Assurance of reporting to the jurisdiction having treatment responsibility of toxic or incompatible industrial wastes at least six months prior to their acceptance into the sewerage system.

The City of McMechen agrees that until said Service Agreement has been approved by EPA as required above: (1) no payments whatsoever shall be made under this grant agreement; and (2) the grantee shall not advertise for bids. In no event shall such advertisement be made until authorized in writing by the EPA Project Officer.

Industrial Cost Recovery System

The grantee agrees to develop and maintain an industrial cost recovery system which shall require all present and future industrial users to pay that portion of the grant amount allocable to the treatment of wastes from such users in conformance with all applicable Federal requirements.

Grant Payment (Outlay Management) Requirements

When requesting any payment under the grant, the grantee shall submit to EPA, for its approval, a project schedule. The minimum information required is as follows:

- a. Project identification.

- b. Project schedule (start and completion dates).
- c. Quarterly payment schedule for EPA share.
- d. Comments on whether project schedule will result in compliance with NPDES Permit, if applicable.

It is a further requirement that approved project outlay schedule must be updated whenever it is apparent the actual grant payments will vary beyond -5% and +10% from the approved schedule. Grant payments may be limited to those specified in the approved project payment schedule. Also, the grantee shall confirm annually the project outlay schedules by each July 1st, during the active phase of the project.

PART IV

NOTE: The Grant Agreement must be completed in duplicate and the Original returned to the Grants Administration Division for Headquarters grant awards and to the appropriate Grants Administration 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 immediate withdrawal of the grant offer by the Agency. Any change to the Grant Agreement by the grantee subsequent to the document being signed by the EPA Grant Award Official which the Grant Award Official determines to be material after the Grant Agreement shall void the Grant Agreement.

OFFER AND ACCEPTANCE

The United States of America, acting by and through the U.S. Environmental Protection Agency (EPA), hereby offers grant/amendment to the City of McMechen for 75 % of all approved costs incurred up to and not exceeding \$ 1,975,500 for the support of approved budget period effort described in application (including all application modifications) C-540284-02, City of McMechen, 9/11/79 included herein by reference.

ISSUING OFFICE (Grants Administration Office)		AWARD APPROVAL OFFICE	
ORGANIZATION ADDRESS Environmental Protection Agency Virginia/West Virginia Branch Curtis Building 6th & Walnut Streets Philadelphia, Pa. 19106		ORGANIZATION ADDRESS Environmental Protection Agency Water Division Curtis Building 6th & Walnut Streets Philadelphia, Pa. 19106	
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY			
NAME OF AWARD OFFICIAL <i>Greene A. Jones</i>		TYPED NAME AND TITLE Greene A. Jones, Director Water Division	DATE SEP 28 1979

This Grant Agreement is subject to applicable U.S. Environmental Protection Agency statutory provisions and grant regulations. In accepting this award/amendment and any payments made pursuant thereto, (1) the undersigned represents that he is duly authorized to act on behalf of the grantee organization, and (2) the grantee agrees (a) that the grant 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 GRANTEE ORGANIZATION		
TYPED NAME AND TITLE <i>[Signature]</i> HARRY HOWARD, MAYOR		DATE 10/30/79



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

841 Chestnut Building
Philadelphia, Pennsylvania 19107

*F3
McMechen*

JUN 18 1985

CERTIFIED MAIL

Re: C-540284-02
City of McMechen

RECEIVED

Honorable Alfred Tribett
City of McMechen
47 Ninth Street
McMechen, West Virginia 26040

City of McMechen

Dear Mayor Tribett:

You were advised by mailgram on 03/05/85, that the bidding procedures for Contract Number 1 of the referenced project were approved and that the contract could be awarded to the low responsive bidder as indicated by the proposal you submitted.

In addition, EPA Form 5780-1B is approved as submitted.

As the revised eligible project cost is \$2,376,900, the grant has been decreased with the concurrence of the West Virginia Department of Natural Resources to an amount not to exceed \$1,782,670. The original and one copy of the Assistance Amendment reflecting the decrease in Federal obligation are enclosed. Please execute the amendment and return the original, within twenty-one days of your receipt, to Ms. Catherine Mastropieri, Chief, Grants Management Section. The copy should also be signed and retained for your files.

When the contract has been awarded, one executed copy of the construction agreement, performance and payment bonds, and the Notice-to-Proceed should be promptly submitted to this office, and one similar set forwarded to the West Virginia Department of Natural Resources. Payments will not be made by this office for construction until our receipt of these items.

The Assistance Agreement for the project has conditions which require the submission and approval of certain documents to satisfy regulatory requirements of the program and which are enforced through the grant payment process. In order to assure timely processing of payment requests, these documents must be submitted through the State Agency in advance of the payment milestones specified in the Assistance Agreement.

Honorable Alfred Tribett
City of McMechen
Page 2

We are enclosing information sheets outlining the procedures to be followed in making contract modifications and for submitting partial payment requests.

Sincerely,

Alvin R. Morris, Director
Water Management Division

Enclosures (2)

cc: Mr. Mike Johnson, WVDNR /
Mr. Edgar Henry, WDA
Green International

U.S. ENVIRONMENTAL PROTECTION AGENCY
 EPA ASSISTANCE ~~XX~~ **EMEND/AMENDMENT**
 PART I - ASSISTANCE NOTIFICATION INFORMATION

1. ASSISTANCE ID NO. C 0284-02-1
 2. LOG NUMBER Three - C - 151
 3. DATE OF AWARD 6/18/85
 4. MAILING DATE 6/18/85

5. AGREEMENT TYPE		6. PAYMENT METHOD	
Cooperative Agreement		<input type="checkbox"/> Advance <input checked="" type="checkbox"/> Reimbursement <input type="checkbox"/> Letter of Credit	
Grant Agreement		Send Payment Request To:	
Assistance Amendment		X Grants Management Section	
8. RECIPIENT		9. PAYEE	
City of McMechen 47 Ninth Street McMechen, West Virginia 26040		City of McMechen 47 Ninth Street McMechen, West Virginia 26040	
EIN NO.		CONGRESSIONAL DISTRICT	
		1st	
11. PROJECT MANAGER AND TELEPHONE NO.		12. CONSULTANT (WWT Construction Grants Only)	
Alfred E. Tribett, Mayor (304) 231 -3140 232-3140		Green International, Incorporated 504 Beaver Street Sewickley, Pennsylvania 15143 (412) 741-8650	
13. ISSUING OFFICE (City/State)		14. EPA PROJECT/STATE OFFICER AND TELEPHONE NO.	
Philadelphia, Pennsylvania		R. Fenton Roudabush, Chief Virginia/West Virginia Section (215) 597-9131	
15. EPA CONGRESSIONAL LIAISON & TEL. NO.		16. STATE APPL ID (Clearinghouse)	
Patricia Gaskins/ 202-382-5184			
17. FIELD OF SCIENCE		18. PROJECT STEP (WWT CG Only)	
N/A		III	
19. STATUTORY AUTHORITY		20. REGULATORY AUTHORITY	
Clean Water Act, Title III		40 CFR Parts 30 & 35	
21. STEP 2 + 3 & STEP 3 (WWT Construction Only)			
a. Treatment Level			3
b. Project Type			INT
c. Treatment Process			3
d. Sludge Design			5
22. PROJECT TITLE AND DESCRIPTION			
Change in scope due to revisions of Regional concept. Upgrade of existing primary plant to a 0.30 MGD trickling filter secondary treatment plant and renovation of two pumping stations. Decrease action based on receipt of actual bids.			
23. PROJECT LOCATION (Areas Impacted by Project)			
City/Place		County	State
McMechen		Marshall	WV
		Congressional District	
		1st	
24. ASSISTANCE PROGRAM (CFDA Program No. & Title)		25. PROJECT PERIOD	
66.418		09/79 - 05/86	
26. BUDGET PERIOD			
N/A			
27. COMMUNITY POPULATION (WWT CG Only)		28. TOTAL BUDGET PERIOD COST	
3,007		N/A	
29. TOTAL PROJECT PERIOD COST			
\$2,376,900			
30. EPA Amount This Action			
FORMER AWARD		THIS ACTION	
1,975,500		- 192,830	
AMENDED TOTAL			
1,782,670			
31. EPA In-Kind Amount			
32. Unexpended Prior Year Balance			
33. Other Federal Funds			
34. Recipient Contribution			
35. State Contribution			
36. Local Contribution			
37. Other Contribution			
38. Allowable Project Cost			
2,634,000		- 257,100	
2,376,900			
39. FISCAL			
Program Element	FY	Appropriation	Doc. Control No.
ABA879	79	68X0103.B	
Account Number	Object Class	Obligation/Deoblig. Amount	
9879036006	41.11	-\$192,830	

TABLE A - SUBJECT 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	Legal & Fiscal	62,000
2. EXTRACURRICULAR EXPENSES	Core Borings	7,000
3. LAND STRUCTURES, RIGHT-OF-WAY		
4. ARCHITECTURAL ENGINEERING BASIC FEES	2	84,361
5. OTHER ARCHITECTURAL ENGINEERING FEES	329,500	162,362
6. PROJECT INSPECTION FEES	326,612	79,889
7. LAND DEVELOPMENT		
8. RELOCATION EXPENSES		
9. RELOCATION PAYMENTS TO INDIVIDUALS AND BUSINESSES		
10. DEMOLITION AND REMOVAL		
11. CONSTRUCTION AND PROJECT IMPROVEMENT		1,887,000
12. EQUIPMENT		
13. MISCELLANEOUS		
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		94,288
19. TOTAL (Share: Recipient 25% Federal 75%)		2,376,900
20. TOTAL APPROVED ASSISTANCE AMOUNT	\$	1,782,670

PART III-AWARD CONDITIONS

a. 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.

b. SPECIAL CONDITIONS:

(For cooperative agreements include identification or summarization of EPA responsibilities that reflect or contribute to substantial involvement.)

A. Part III, Special Condition Number 15, Grant Payment Requirement, is hereby deleted in its entirety and the following is substituted in lieu thereof:

"15. Revised Schedule of Grant Payments

The Grantee may submit requests for payments for allowable costs incurred in accordance with the following schedule:

<u>Payment No.</u>	<u>Date</u>	<u>Payment</u>	<u>Cumulative Amount</u> (not to be exceeded)
1 - 27	Previously Paid		125,300
28	07/85	205,200	401,000
29	08/85	175,000	576,000
30	09/85	235,000	811,000
31	10/85	225,000	1,036,000
32	11/85	170,000	1,206,000
33	12/85	148,800	1,354,800
34	01/86	86,565	1,441,365
35	02/86	75,000	1,516,365
36	03/86	30,000	1,546,365
37	04/86	58,045	1,604,410
38	05/86	178,260	1,782,670 "

B. Part III, Special Conditions, is hereby amended to include the following:

" 16. Award Restrictions

The grantee agrees that no portion of this award will be used for lobbying or propaganda purposes as prohibited by 18 U.S.C. Section 1913 or Section 607 (a) of Public Law 96-74.

17. Cost Increases

Cost increases caused by initiation of construction after May 20, 1985 will not be eligible for Federal participation."

All other terms and conditions remain unchanged.

b. 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 McMechen

for 75 % of all approved costs incurred up to and not exceeding \$ 1,782,670 ASSISTANCE AMOUNT
 for the support of approved budget period effort described in application (including all application modifications)
C-540284-02 City of McMechen 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 <i>Alvin R. Morris</i>	TYPED NAME AND TITLE Alvin R. Morris, Director Water Management Division	JUN 18 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
-----------	----------------------	------



STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

ARCH A. MOORE, JR.
GOVERNOR

October 3, 1986

The Honorable Alfred Tribett
Mayor

City of McMechen
47 Ninth Street
McMechen, West Virginia 26040

Dear Mayor Tribett:

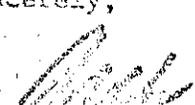
On August 30, 1985, I awarded the City of McMechen Small Cities Block Grant funds in the amount of \$225,000 for sewage treatment plant improvements. In making this award, I recognized the desperate conditions of community facilities in many West Virginia communities.

In order to most effectively utilize the limited dollars available at the time, I committed \$225,000 from our FY'85 Small Cities allocation with an additional commitment to evaluate the progress made on the project and provide the remaining \$275,000 from future funding.

I am pleased to announce my approval of the remaining \$275,000 from the Small Cities Block Grant Program for a total commitment of \$500,000 to allow for the completion of this project. A representative from my Community Development Division will contact you to assist with completing the change necessary to amend your contract.

It is with great pleasure that I have been able to work with you on this very worthwhile project which will benefit all the residents of McMechen.

Sincerely,


Arch A. Moore, Jr.
Governor

AAMjr:in

MARSHALL COUNTY COMMISSION

MEMBERS
Howard L. Byard
President
J. DONALD KRUPICA
COUNTY CLERK
NORMA J. GLOVER

P. O. DRAWER
459



1835
MOUNDSVILLE, W. VA. 26041

REGULAR SESSIONS
FIRST TUESDAY
JANUARY
APRIL
JULY
OCTOBER

TELEPHONE
845-8660

October 17, 1986

The Honorable Alfred E. Tribett
Mayor of McMechen
City of McMechen
47 Ninth Street
McMechen, WV 26040

Dear Mayor Tribett:

Pursuant to your request, this letter is hereby to confirm the Marshall County Commission's previous commitment of financial support totaling \$25,000 on the McMechen Sewage System Improvement Project. For the record, the County Commission approved its award to the City fo McMechen at the June 10, 1986 meeting of the Marshall County Commission, and a check for the full amount of the award was issued to the City on June 17, 1986.

Sincerely,

A handwritten signature in cursive script that reads "Howard L. (Biccie) Byard".

Howard L. Byard
President, Marshall Co. Commission

HLB/ik



STATE OF WEST VIRGINIA
WATER DEVELOPMENT AUTHORITY
1201 DUNBAR AVENUE
DUNBAR, WV 25064

(304) 348-3612

April 29, 1985

The Honorable Alfred Tribett
Mayor, City of McMechen
47 Ninth Street
McMechen, WV 26040

A basic grant of \$131,700 from the WDA to the City of McMechen was based on information contained in the EPA grant document dated September 28, 1979, with eligible costs of \$2,634,000. Part B costs which are based on project bid information indicate eligible project costs of \$2,377,000 which would reduce the WDA grant of 5 percent of total eligible costs to \$118,850. In the event final audit of the project, upon completion, results in a change in eligible costs, the WDA grant will be adjusted accordingly.

As of April, 1985, the WDA has paid \$95,000 of its grant to McMechen. In turn, McMechen has repaid some \$84,335 in loans previously made for local costs of Step I and Step II projects.

Edgar N. Henry
EDGAR N. HENRY, PE - DIRECTOR

bbm

c Vince Collins
Samme Gee
Harry Moore

February 7, 1983

CERTIFIED MAIL

The Honorable Alfred Tribett
Mayor, City of McMechen
47 Ninth Street
McMechen, WV 26040

Your letter of February 2 was received recently. You requested that all future correspondence concerning the McMechen sewage project be sent to Mr. Bernard P. Twigg. A copy of this letter is being sent to him.

As to the McMechen sewer system, it is understood that preliminary information concerning the alternate approach to the system (i.e., not involved in the Benwood or Eanwood-Marshall County PSD system) shows an average user charge (sewer bill) of considerably less than \$19.75 per month (see attached sheet - \$11.75 monthly bill).

In reviewing the WDA loan and grant activities with the City of McMechen, it is noted that the Step I (\$3,750) and Step II (\$79,750) loans have been repaid to the WDA. In addition, a basic grant of \$131,700 was made to the City of McMechen; some \$95,000 of this amount has been conveyed to the City by the WDA. The Step I and Step II loans were paid from this initial payment. In addition to the basic grant of \$131,700, the WDA awarded a \$310,000 hardship grant to McMechen; however, the hardship grant was based on an average monthly sewer bill in excess of \$19.75 and was intended to reduce the average monthly sewer bill to that level.

With the information currently available to the WDA, it intends to:

- (1) Maintain the basic grant to McMechen at the current level of \$131,700 and to hold the remaining amount of \$36,700 available to the City.
- (2) Terminate the hardship grant of \$310,000 since the City of McMechen appears to no longer be eligible for a hardship grant.

As you probably know, the hardship grant funds have been held inactive for a considerable amount of time. With the current need for funds by communities qualifying for hardship grants, the WDA is attempting to find all available

unused funds to assist those communities. In the case of the City of McMechen, the funds are certainly unused and, furthermore, the eligibility for the funds will not exist under the proposed sewer system. In the event future conditions indicate an eligibility for a hardship grant, the City may reapply at that time.

If you have any questions or if we can be of service in this matter, please let us know.

ORIGINAL SIGNED BY
EDGAR N. HENRY

EDGAR N. HENRY, PE - DIRECTOR

cc
Attachment

- c Tom Goodwin, ENR
- Bernard P. Twigg
- Ralph Goolsby

RECEIVED

DEC 9 1980

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

INCENTIVE GRANT AGREEMENT

WATER DEVELOPMENT AUTHORITY

1. GRANT RECIPIENT (NAME AND ADDRESS):

COUNTY: Marshall

City of McMechen
P. O. Box 98
McMechen, WV 26040

2. GRANT RECIPIENT REPRESENTATIVE (NAME, TITLE AND ADDRESS):

The Honorable Harry Howard
Mayor, City of McMechen
P. O. Box 98
McMechen, WV 26040

3. GRANT PAYEE (NAME AND ADDRESS):

City of McMechen
P. O. Box 98
McMechen, WV 26040

4. APPROVED AMOUNT OF GRANT: \$ 65,850.00

5. PAYMENTS WILL USUALLY BE INITIATED BY THE WDA UPON RECEIPT OF A COPY OF THE EPA APPROVED GRANT PAYMENT REQUEST IN AMOUNTS PROPORTIONATELY SIMILAR TO PAYMENTS MADE BY THE EPA.

ALL GRANTS ARE SUBJECT TO STATE APPROPRIATION AND AVAILABILITY OF FUNDS. CONTRACT SHALL EXTEND UNTIL JUNE 30, 1981, AND IS SUBJECT TO RENEWAL.

6. TYPE OF ACTIVITY FOR WHICH GRANT FUNDS ARE TO BE USED:

Construction of a collection system and lift station to serve the City of McMechen.

7. TOTAL COSTS	\$ <u>3,400,000</u>
ELIGIBLE COSTS	\$ <u>2,634,000</u>
FEDERAL (EPA) GRANT AMOUNT (% OF ELIGIBLE COSTS <u>75</u>)	\$ <u>1,975,500</u>
STATE (WDA) INCENTIVE GRANT AMOUNT (% OF ELIGIBLE COSTS <u>2.5</u>)	\$ <u>65,850</u>

8. GRANT OFFER AND ACCEPTANCE:

THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY HEREBY OFFERS AN INCENTIVE GRANT TO City of McMechen, SUCH GRANT NOT TO EXCEED \$ 65,850 FOR SUPPORT OF COSTS DESCRIBED IN THIS AGREEMENT AND ITS APPLICATION WHICH IS HEREBY MADE A PART OF THIS AGREEMENT.

REPAYMENT OF LOANS. THE GRANT RECIPIENT AGREES TO PROVIDE IMMEDIATE PAYMENT IN FULL OF ANY LOANS OR SERVICE CHARGES DUE THE WATER DEVELOPMENT AUTHORITY IN ACCORDANCE WITH REGULATIONS OF THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY.

TERMINATION: THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY RESERVES THE RIGHT TO TERMINATE THIS AGREEMENT UPON GIVING THE RECIPIENT ORGANIZATION NOT LESS THAN SIXTY (60) DAYS PRIOR WRITTEN NOTICE. THE RECIPIENT ORGANIZATION MAY TERMINATE THIS AGREEMENT BY GIVING THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY SIXTY (60) DAYS PRIOR WRITTEN NOTICE. IN THE EVENT THIS AGREEMENT IS TERMINATED BY THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, OR IN THE EVENT THIS AGREEMENT IS TERMINATED BY THE RECIPIENT ORGANIZATION, THE ELIGIBLE PROJECT COSTS INCURRED PRIOR TO THE DATE OF COMPLETION OF THE WORK ON THE APPROVED PROJECT OR THE DATE OF SUCH TERMINATION, WHICHEVER IS EARLIER, SHALL BE PAID BY THE RECIPIENT ORGANIZATION OR ITS CONSTITUENTS. ANY MONEYS PAID BY EITHER PARTY PURSUANT TO THE AGREEMENT WHICH BECOMES THE OBLIGATION OF THE OTHER PARTY UNDER THE PROVISIONS OF THIS AGREEMENT SHALL BE REPAYED IN NOT MORE THAN THREE (3) YEARS AFTER TERMINATION.

THIS GRANT AGREEMENT IS SUBJECT TO ALL STATUTORY PROVISIONS, ALL GRANT REGULATIONS OF THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY AND ALL PROVISIONS OF THIS AGREEMENT AND FURTHER IS SUBJECT TO THE CONDITIONS SET FORTH IN GRANT AGREEMENT NO. C-540284-02 CONSUMMATED BETWEEN THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND City of McMechen OFFERED ON September 28, 1979, AND ACCEPTED ON October 30, 1979.

THE RECIPIENT ORGANIZATION AGREES THAT FUNDS AWARDED UNDER THIS AGREEMENT WILL BE USED SOLELY FOR THE PURPOSES OF THE PROJECT AS APPROVED.

9. NAME AND TITLE OF AWARD OFFICIAL: Edgar N. Henry
TITLE: Director
SIGNATURE: Edgar N. Henry
DATE: November 19, 1980

STATE OF WEST VIRGINIA, COUNTY OF KANAWHA.

TAKEN, SUBSCRIBED AND SWORN TO BEFORE ME THIS 19th DAY OF November, 1980.

NOTARY: Barbara A. Butcher

COMMISSION EXPIRES: January 3, 1984

10. NAME AND TITLE OF RECIPIENT ORGANIZATION REPRESENTATIVE: The Honorable Harry Howard
TITLE: Mayor
SIGNATURE: Harry Howard
DATE: 12-3-80

STATE OF WEST VIRGINIA COUNTY OF Marshall.

TAKEN, SUBSCRIBED AND SWORN TO BEFORE ME THIS 3rd DAY OF December, 1980.

NOTARY: Barbara A. Butcher MY COMMISSION EXPIRES APR 9, 1990

COMMISSION EXPIRES: MY COMMISSION EXPIRES MAY 1, 1989

NOTE: THE GRANT AGREEMENT MUST BE COMPLETED IN DUPLICATE AND RETURNED WITHIN 30 DAYS AFTER RECEIPT OR AS PROVIDED IN ANY TIME EXTENSION ARRANGED WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY. RECEIPT OF WRITTEN REFUSAL OR FAILURE TO RETURN WITHIN THE 30-DAY PERIOD WILL RESULT IN TERMINATION OF THE GRANT OFFER. NO AMENDMENTS MAY BE MADE TO THE AGREEMENT SUBSEQUENT TO SIGNING BY THE AUTHORITY.

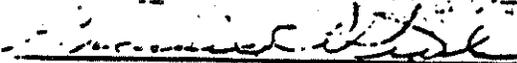
ALL CORRESPONDENCE CONCERNING THIS OFFER AND AGREEMENT SHOULD BE ADDRESSED TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, 1201 DUNBAR AVENUE, DUNBAR, WV 25064.

R E S O L U T I O N

I hereby certify that on a motion of Donald Krupica seconded by Ernest Bonitatibus, the Water Pollution Control Board of the City of McMechen, West Virginia unanimously selected Harry Howard to be the City's Authorized Representative and to execute and file all Grant and Loan Applications and any other documents required to complete the federally funded sewage project C-540264-03. Harry Howard is also to serve as the contact person with regard to such grant and loan applications to the Environmental Protection Agency and the State of West Virginia

Water Developer. This resolution was taken

By the Board on August 27, 1979.

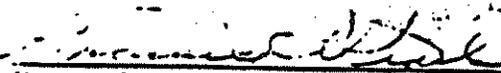

Secretary Francis Pearl
Water Pollution Control Board

R E S O L U T I O N

I hereby certify that on a motion of Donald Krupica seconded by Ernest Bonitatibus, the Water Pollution Control Board of the City of McMechen, West Virginia unanimously selected Harry Howard to be the City's Authorized Representative and to execute and file all Grant and Loan Applications and any other documents required to complete the Federally funded sewage project C-540264-03. Harry Howard is also to serve as the contact person with regard to such grant and loan applications to the Environmental Protection Agency and the State of West Virginia

Water Development Authority. This motion was taken

by the Board on August 27, 1979.


Secretary Francis Pearl
Water Pollution Control Board

COPY

RECEIVED

FEB 14 1980

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

BASIC GRANT AGREEMENT

WATER DEVELOPMENT AUTHORITY

1. GRANT RECIPIENT (NAME AND ADDRESS):

COUNTY: Marshall

City of McMechen
P. O. Box 98
McMechen, WV 26040

2. GRANT RECIPIENT REPRESENTATIVE (NAME, TITLE AND ADDRESS):

The Honorable Harry Howard
Mayor, City of McMechen
P. O. Box 98
McMechen, WV 26040

3. GRANT PAYEE (NAME AND ADDRESS):

City of McMechen
P. O. Box 98
McMechen, WV 26040

4. APPROVED AMOUNT OF GRANT: \$ 65,850

5. PAYMENTS WILL USUALLY BE INITIATED BY THE WDA UPON RECEIPT OF A COPY OF THE EPA APPROVED GRANT PAYMENT REQUEST IN AMOUNTS PROPORTIONATELY SIMILAR TO PAYMENTS MADE BY THE EPA.

ALL GRANTS ARE SUBJECT TO STATE APPROPRIATION AND AVAILABILITY OF FUNDS. CONTRACT SHALL EXTEND UNTIL JUNE 30, 1980, AND IS SUBJECT TO RENEWAL.

6. TYPE OF ACTIVITY FOR WHICH GRANT FUNDS ARE TO BE USED:

The project consists of construction of a collection system and lift station to serve the City of McMechen

7. TOTAL COSTS	\$ <u>3,400,000</u>
ELIGIBLE COSTS	\$ <u>2,634,000</u>
FEDERAL (EPA) GRANT AMOUNT (% OF ELIGIBLE COSTS <u>75</u>)	\$ <u>1,975,500</u>
STATE (WDA) BASIC GRANT AMOUNT (% OF ELIGIBLE COSTS <u>2.5</u>)	\$ <u>65,850</u>

8. GRANT OFFER AND ACCEPTANCE:

THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY HEREBY OFFERS A BASIC GRANT TO City of McMechen, SUCH GRANT NOT TO EXCEED \$ 65,850 FOR SUPPORT OF COSTS DESCRIBED IN THIS GRANT AGREEMENT AND ITS APPLICATION WHICH IS HEREBY MADE A PART OF THIS AGREEMENT.

REPAYMENT OF LOANS. THE GRANT RECIPIENT AGREES TO PROVIDE IMMEDIATE PAYMENT IN FULL OF ANY LOANS OR SERVICE CHARGES DUE THE WATER DEVELOPMENT AUTHORITY IN ACCORDANCE WITH REGULATIONS OF THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY.

TERMINATION. THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY RESERVES THE RIGHT TO TERMINATE THIS AGREEMENT UPON GIVING THE RECIPIENT ORGANIZATION NOT LESS THAN SIXTY (60) DAYS PRIOR WRITTEN NOTICE. THE RECIPIENT ORGANIZATION MAY TERMINATE THIS AGREEMENT BY GIVING THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY SIXTY (60) DAYS PRIOR WRITTEN NOTICE. IN THE EVENT THIS AGREEMENT IS TERMINATED BY THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, OR IN THE EVENT THIS AGREEMENT IS TERMINATED BY THE RECIPIENT ORGANIZATION, THE ELIGIBLE PROJECT COSTS INCURRED PRIOR TO THE DATE OF COMPLETION OF THE WORK ON THE APPROVED PROJECT OR THE DATE OF SUCH TERMINATION, WHICHEVER IS EARLIER, SHALL BE PAID BY THE RECIPIENT ORGANIZATION OR ITS CONSTITUENTS. ANY MONEYS PAID BY EITHER PARTY PURSUANT TO THE AGREEMENT WHICH BECOMES THE OBLIGATION OF THE OTHER PARTY UNDER THE PROVISIONS OF THIS AGREEMENT SHALL BE REPAYED IN NOT MORE THAN THREE (3) YEARS AFTER TERMINATION.

THIS GRANT AGREEMENT IS SUBJECT TO ALL STATUTORY PROVISIONS, ALL GRANT REGULATIONS OF THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY AND ALL PROVISIONS OF THIS AGREEMENT AND FURTHER IS SUBJECT TO THE CONDITIONS SET FORTH IN GRANT AGREEMENT NO. C-540234-02 CONSUMMATED BETWEEN THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND City of McMechen OFFERED ON September 28, 1979 AND ACCEPTED ON October 30, 1979.

THE RECIPIENT ORGANIZATION AGREES THAT FUNDS AWARDED UNDER THIS AGREEMENT WILL BE USED SOLELY FOR THE PURPOSES OF THE PROJECT AS APPROVED.

9. NAME AND TITLE OF AWARD OFFICIAL: Edgar N. Henry
TITLE: Director
SIGNATURE: *Edgar N. Henry*
DATE: January 16, 1980

STATE OF WEST VIRGINIA, COUNTY OF KANAWHA.

TAKEN, SUBSCRIBED AND SWORN TO BEFORE ME THIS 16th DAY OF January 1980.

NOTARY: *Barbara A. Butcher*

COMMISSION EXPIRES: January 3, 1984

10. NAME AND TITLE OF RECIPIENT ORGANIZATION REPRESENTATIVE: The Honorable Harry Howard
TITLE: Mayor, City of McMechen
SIGNATURE: *Harry Howard*
DATE: 2/13/80

STATE OF WEST VIRGINIA, COUNTY OF Marshall

TAKEN, SUBSCRIBED AND SWORN TO BEFORE ME THIS 13 DAY OF February 1980.

NOTARY: *Ron Main Baker*

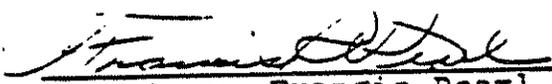
COMMISSION EXPIRES: August 11, 1985

NOTE: THE GRANT AGREEMENT MUST BE COMPLETED IN DUPLICATE AND RETURNED WITHIN 30 DAYS AFTER RECEIPT OR AS PROVIDED IN ANY TIME EXTENSION ARRANGED WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY. RECEIPT OF WRITTEN REFUSAL OR FAILURE TO RETURN WITHIN THE 30-DAY PERIOD WILL RESULT IN TERMINATION OF THE GRANT OFFER. NO AMENDMENTS MAY BE MADE TO THE AGREEMENT SUBSEQUENT TO SIGNING BY THE AUTHORITY.

ALL CORRESPONDENCE CONCERNING THIS OFFER AND AGREEMENT SHOULD BE ADDRESSED TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, 1201 DUNBAR AVENUE, DUNBAR, WV 25064.

R E S O L U T I O N

I hereby certify that on a motion of Donald Krupica seconded by Ernest Bonitatibus, the Water Pollution Control Board of the City of McMechen, West Virginia unanimously selected Harry Howard to be the City's Authorized Representative and to execute and file all Grant and Loan Applications and any other documents required to complete the federally funded sewage project C-540284-03. Harry Howard is also to serve as the contact person with regard to such grant and loan applications to the Environmental Protection Agency and the State of West Virginia Water Development Authority. This action was taken by the Board at a regular meeting on Aug 28, 1979.


Secretary Francis Pearl
Water Pollution Control Board

CITY OF McMECHEN

Sewer Revenue Bonds, Series 1986

ACCEPTANCE OF DUTIES OF REGISTRAR

KANAWHA VALLEY BANK, N.A., a national banking association with principal office in the City of Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the City of McMechen Sewer Revenue Bonds, Series 1986, dated October 20, 1986, in the aggregate principal amount of \$731,000 and agrees to perform all duties of Registrar in connection with such Bonds, all as set forth in the Local Act authorizing issuance of the Bonds.

Dated this 20th day of October, 1986.

KANAWHA VALLEY BANK, N.A.

By

Charlotte S. Morgan
Its ASSISTANT CORPORATE TRUST
Officer

10/12/86
MCME1-P



CITY OF McMECHEN

Sewer Revenue Bonds, Series 1986

ACCEPTANCE OF DUTIES OF DEPOSITORY BANK

THE BANK OF McMECHEN, a national banking association with principal office in the City of McMechen, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Ordinance and Supplemental Resolution of the City of McMechen enacted and adopted October 16, 1986, authorizing issuance of the District's Sewer Revenue Bonds, Series 1986, dated October 20, 1986, in the aggregate principal amount of \$731,000 (the "Governmental Agency Bonds") and agrees to perform all duties of Depository Bank in connection with such Governmental Agency Bonds, all as set forth in said Ordinance and Supplemental Resolution.

Dated this 20th day of October, 1986.

THE BANK OF McMECHEN

By Michael P. Moay
Its PRESIDENT

11/04/86
MCME1-G

CITY OF McMECHEN

Sewer Revenue Bonds, Series 1986

CERTIFICATE OF REGISTRATION OF BONDS

I, CHARLOTTE S. MORGAN ASSIST. CORPORATE TRUST OFFICER of Kanawha Valley Bank, N.A., as Registrar under the Local Act and Registrar's Agreement providing for the \$731,000 aggregate principal amount of Sewer Revenue Bonds, Series 1986, of the City of McMechen (the "Governmental Agency"), hereby certify that on the 20th day of October, 1986, the single fully registered Series 1986 Bond of the Governmental Agency in the principal amount of \$731,000 designated "Sewer Revenue Bond, Series 1986," numbered R-1, and ~~was~~ registered as to principal and interest on the date hereof in the name of "West Virginia Water Development Authority" in the books of the Governmental Agency kept for that purpose at our office, by a duly authorized officer on behalf of the Kanawha Valley Bank, N.A., as Registrar.

WITNESS my signature as of this 20th day of October, 1986.

KANAWHA VALLEY BANK, N.A.

By

Its

CHARLOTTE S. MORGAN
ASSIST. CORPORATE TRUST OFFICER

10/12/86
MCME1-Q

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 20th day of October, 1986, by and between the CITY OF McMECHEN, a municipal corporation and political subdivision of the State of West Virginia (the "Governmental Agency"), and KANAWHA VALLEY BANK, N.A., a national banking association (the "Registrar").

WHEREAS, the Governmental Agency has, contemporaneously with the execution hereof, issued and sold its \$731,000 aggregate principal amount of Sewer Revenue Bonds, Series 1986, in fully registered form (the "Governmental Agency Bonds"), pursuant to a Bond Ordinance and a Supplemental Resolution, enacted and adopted October 16, 1986 (collectively, the "Local Act");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Local Act, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Local Act provides for an appointment by the Governmental Agency of a Registrar for the Governmental Agency Bonds; and

WHEREAS, the Governmental Agency desires to appoint, and by the Local Act and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Local Act and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the 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 Governmental Agency Bonds, all as set forth in the Local Act, such duties including, among other things, the duties to authenticate, register and deliver Governmental Agency 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 Governmental Agency 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. The Governmental Agency hereby agrees to indemnify the Registrar against any loss, liability or expense incurred by the Registrar other than liability arising by reason of the bad faith, negligence or willful misconduct of the Registrar, and the Registrar hereby agrees to indemnify the Governmental Agency against any loss, liability or expense incurred by the Governmental Agency by reason of the bad faith, negligence or willful misconduct of the Registrar. Such expense, in either case, shall include the costs and expenses of defending against any claim or liability. Neither the Governmental Agency nor the Registrar shall be liable under or held in breach of this Registrar's Agreement if prevented, hindered or delayed in the performance or observance of any provision of this Registrar's Agreement by reason of any act of God, strikes, lockouts, riots, acts of war, epidemics, government action or regulation imposed after the fact, judicial order, earthquakes, floods, fires or other causes beyond their reasonable control.

5. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Governmental Agency hereby agrees to pay to the Registrar, from time to time, the compensation for services rendered as provided in the annexed schedule and reimbursement for reasonable expenses incurred in connection therewith.

6. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Local Act with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Local Act, the terms of the Local Act shall govern.

7. 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 Local Act will violate any order, decree or agreement to which it is a party or by which it is bound.

8. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER: City of McMechen
City Hall
47 Ninth Street
McMechen, West Virginia 26040
Attention: Mayor

AGENT: Kanawha Valley Bank, N.A.
One Valley Square
Post Office Box 1793
Charleston, West Virginia 25301
Attention: Corporate Trust Department

9. The Registrar is hereby requested and authorized to authenticate and deliver the Governmental Agency Bonds in accordance with the Local Act.

IN WITNESS WHEREOF, the CITY OF McMECHEN and KANAWHA VALLEY BANK, N.A. have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

CITY OF McMECHEN

By *Allen E. Trent*
Its Mayor

KANAWHA VALLEY BANK, N.A.

By *Charles S. Morgan*
Its ASSIST. CORPORATE TRUST
OFFICER

10/12/86
MCME1-R

EXHIBIT A

[Included in Transcript as Document No. 1]

CITY OF MCMECHEN
OFFICE OF THE MAYOR
MCMECHEN, WV

DATE: OCTOBER 20, 1986

UNITS	ITEM DESCRIPTION	TOTAL
	CITY OF MCMECHEN, WV SEWER REVENUE BONDS 1986 SERIES FEE TO SERVE AS REGISTRAR (ONE TIME FEE)	\$500.00

SEND REMITTANCE TO: KANAWHA VALLEY BANK, N.A.
CORPORATE TRUST DEPARTMENT
P.O. BOX 1793
CHARLESTON, W.VA. 25326-1793

ASSIGNMENT SEPARATE FROM BOND

FOR VALUE RECEIVED, the West Virginia Water Development Authority hereby sells, assigns and transfers unto Kanawha Valley Bank, N.A., Charleston, West Virginia, the Sewer Revenue Bond, Series 1986, of the City of McMechen in the principal amount of \$731,000, No. R-1, standing in the name of West Virginia Water Development Authority on the books of said Governmental Agency.

Dated: October 20, 1986.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

Daniel B. Zuposky
Authorized Representative

10/12/86
MCME1-S